

SENATE BILL NO. 184—SENATORS SEEVERS GANSERT, HARDY;
GOICOECHEA, HAMMOND, KIECKHEFER AND SETTELMAYER

FEBRUARY 18, 2019

Referred to Committee on Education

SUMMARY—Revises provisions relating to the protection of children. (BDR 34-668)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to protection of children; providing for the protection of the identity of a child witness to certain alleged acts of child abuse or neglect; requiring an agency which provides child welfare services to provide a parent or guardian of a child with certain information relating to the disposition of a report of child abuse or neglect; allowing a parent or guardian to share such information with an attorney; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an employee or volunteer for a public or private school must report to an agency which provides child welfare services certain abuse, neglect or corporal punishment of a child when the employee or volunteer knows or has reasonable cause to believe the child was subjected to such treatment. (NRS 392.303) Existing law requires the agency which provides child welfare services to keep information related to the report confidential under most circumstances. (NRS 392.315) An agency may make certain information available to the parent or guardian of the child who is the subject of a report. (NRS 392.317) If a report of alleged abuse, neglect or corporal punishment is substantiated by the agency which provides child welfare services, the agency must forward the report to certain entities and governmental agencies, provide notification to the person named in the report as allegedly causing the abuse or neglect and report certain information from the report to the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. (NRS 392.337)

Existing law also authorizes the designee of an agency investigating such a report to interview the child who is the subject of the report and any siblings of the child. (NRS 392.313) **Section 1** of this bill authorizes the designee of such an agency to interview any child who is identified as a witness to the allegations



contained in such a report. **Section 1** also requires the school in which such a child is enrolled to request the consent of the parent or guardian of the child for the school to provide the contact information of the parent or guardian of the child to the agency investigating the report and provide such contact information in certain circumstances. **Sections 1.3-1.7** of this bill provide for the protection of the identity of a child witness to the allegations contained in a report from certain disclosures.

Section 3 of this bill requires an agency which provides child welfare services that has substantiated a report of abuse or neglect to provide a parent or guardian of the child who is the subject of the report with a summary of the outcome of the investigation and a summary of any disciplinary action taken against the person alleged to have committed the abuse or neglect which is known by the agency. **Section 3** also authorizes a parent or guardian to disclose such information to an attorney for the child or the parent or guardian. **Section 1.3** of this bill allows an agency which provides child welfare services to provide certain information to a parent or guardian of a child, in addition to the information the agency provides related to the outcome of an investigation of the report.

Existing law makes it a gross misdemeanor for any person who receives information maintained by an agency which provides child welfare services to disseminate that information but allows certain persons or agencies to disseminate such information for certain purposes. (NRS 392.335) **Section 2** of this bill allows a parent or guardian of a child to disseminate such information to an attorney for the child or the parent or guardian.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 392.313 is hereby amended to read as follows:
392.313 1. A designee of an agency investigating a report made pursuant to NRS 392.303 may, with the consent of the parent or guardian of the child who is the subject of the report, interview the child , ~~[and any sibling of the child,]~~ if an interview is deemed appropriate by the designee, concerning the allegations contained in the report. A designee who conducts an interview pursuant to this subsection must be trained adequately to interview children.

2. *A designee of an agency investigating a report made pursuant to NRS 392.303 may, with the consent of the parent or guardian of a child who is identified as a witness to the allegations contained in the report, interview the child, if an interview is deemed appropriate by the designee, concerning the allegations contained in the report. A designee who conducts an interview pursuant to this subsection must be trained adequately to interview children.*

3. A designee of an agency investigating a report made pursuant to NRS 392.303 may, with the consent of the parent or guardian of a child who is the subject of the report and after informing the parent or guardian of the provisions of subsection

~~[3:]~~ 4:



(a) Take or cause to be taken photographs of the child's body, including any areas of trauma; and

(b) If indicated after consultation with a physician, cause X-rays or medical tests to be performed on the child.

~~[3-]~~ 4. The reasonable cost of any photographs or X-rays taken or medical tests performed pursuant to subsection ~~[2-]~~ 3 must be paid by the parent or guardian of the child if money is not otherwise available.

~~[4-]~~ 5. Any photographs or X-rays taken or records of any medical tests performed pursuant to subsection ~~[2-]~~ 3, or any medical records relating to the examination or treatment of a child pursuant to this section, or copies thereof, must be sent to the agency which provides child welfare services, any law enforcement agency participating in the investigation of the report and the prosecuting attorney's office. Each photograph, X-ray, result of a medical test or other medical record:

(a) Must be accompanied by a statement or certificate signed by the custodian of medical records of the health care facility where the photograph or X-ray was taken or the treatment, examination or medical test was performed, indicating:

(1) The name of the child;

(2) The name and address of the person who took the photograph or X-ray, performed the medical test, or examined or treated the child; and

(3) The date on which the photograph or X-ray was taken or the treatment, examination or medical test was performed;

(b) Is admissible in any proceeding relating to the allegations in the report made pursuant to NRS 392.303; and

(c) May be given to the child's parent or guardian if the parent or guardian pays the cost of duplicating them.

~~[5-]~~ 6. *The school in which a child who is identified as a witness to the allegations contained in a report made pursuant to NRS 392.303 is enrolled shall request consent from the parent or guardian of the child for the school to provide his or her contact information to the agency investigating the report and:*

(a) Upon receiving such consent, the school shall provide the agency investigating the report with that contact information.

(b) If the school is unable to obtain such consent, the school shall provide the agency investigating the report with the contact information of the parent or guardian of the child to the extent not prohibited by federal law.

7. As used in this section, "medical test" means any test performed by or caused to be performed by a provider of health care, including, without limitation, a computerized axial tomography scan and magnetic resonance imaging.



Sec. 1.3. NRS 392.317 is hereby amended to read as follows:

392.317 Except as otherwise provided in NRS 392.317 to 392.337, inclusive, *and in addition to information provided pursuant to NRS 392.337*, information maintained by an agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, may, at the discretion of the agency which provides child welfare services, be made available only to:

1. The child who is the subject of the report, the parent or guardian of the child and an attorney for the child or the parent or guardian of the child, if the identity of the person responsible for reporting the abuse or neglect of the child or the violation of NRS 201.540, 201.560, 392.4633 or 394.366 to a public agency ~~is~~ *and the identity of any child witness are* kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child ~~[and is limited to information concerning that parent or guardian:]~~ *who is the subject of the report;*

2. A physician, if the physician has before him or her a child who the physician has reasonable cause to believe has been abused or neglected or subject to a violation of NRS 201.540, 201.560, 392.4633 or 394.366;

3. An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care or treatment or supervision of the child or investigate the allegations in the report;

4. A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the conduct alleged in the report;

5. A court, other than a juvenile court, for in camera inspection only, unless the court determines that public disclosure of the information is necessary for the determination of an issue before it;

6. A person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to the person;

7. A grand jury upon its determination that access to these records and the information is necessary in the conduct of its official business;

8. A federal, state or local governmental entity, or an agency of such an entity, or a juvenile court, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect and violations of NRS 201.540, 201.560, 392.4633 or 394.366 or similar statutes in another jurisdiction;

9. A person or an organization that has entered into a written agreement with an agency which provides child welfare services to



1 provide assessments or services and that has been trained to make
2 such assessments or provide such services;

3 10. A team organized pursuant to NRS 432B.405 to review the
4 death of a child;

5 11. Upon written consent of the parent, any officer of this State
6 or a city or county thereof or Legislator authorized by the agency or
7 department having jurisdiction or by the Legislature, acting within
8 its jurisdiction, to investigate the activities or programs of an agency
9 which provides child welfare services if:

10 (a) The identity of the person making the report is kept
11 confidential; and

12 (b) The officer, Legislator or a member of the family of the
13 officer or Legislator is not the person alleged to have engaged in the
14 conduct described in the report;

15 12. The Division of Parole and Probation of the Department of
16 Public Safety for use pursuant to NRS 176.135 in making a
17 presentence investigation and report to the district court or pursuant
18 to NRS 176.151 in making a general investigation and report;

19 13. A public school, private school, school district or
20 governing body of a charter school or private school in this State or
21 any other jurisdiction that employs a person named in the report,
22 allows such a person to serve as a volunteer or is considering
23 employing such a person or accepting such a person as a volunteer;

24 14. The school attended by the child who is the subject of the
25 report and the board of trustees of the school district in which the
26 school is located or the governing body of the school, as applicable;

27 15. An employer in accordance with subsection 3 of NRS
28 432.100; and

29 16. The Committee to Review Suicide Fatalities created by
30 NRS 439.5104.

31 **Sec. 1.5.** NRS 392.325 is hereby amended to read as follows:

32 392.325 1. An agency which provides child welfare services
33 investigating a report made pursuant to NRS 392.303 shall, upon
34 request, provide to a person named in the report as allegedly causing
35 the abuse or neglect of a child or violating the provisions of NRS
36 201.540, 201.560, 392.4633 or 394.366:

37 (a) A copy of:

38 (1) Any statement made in writing to an investigator for the
39 agency by the person; or

40 (2) Any recording made by the agency of any statement
41 made orally to an investigator for the agency by the person; or

42 (b) A written summary of the allegations made against the
43 person. The summary must not identify the person who made the
44 report , *any child witnesses to the allegations contained in*
45 *the report* or any collateral sources and reporting parties.



2. A person may authorize the release of information maintained by an agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, about himself or herself, but may not waive the confidentiality of such information concerning any other person.

3. An agency which provides child welfare services may provide a summary of the outcome of an investigation of the allegations in a report made pursuant to NRS 392.303 to the person who made the report.

Sec. 1.7. NRS 392.327 is hereby amended to read as follows:

392.327 1. Information maintained by an agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, must be maintained by the agency which provides child welfare services as required by federal law as a condition of the allocation of federal money to this State.

2. Before releasing any information maintained by an agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, an agency which provides child welfare services shall take whatever precautions it determines are reasonably necessary to protect the identity and safety of any person who makes a report pursuant to NRS 392.303 , *to protect the identity of any child witness to the allegations contained in the report* and to protect any other person if the agency which provides child welfare services reasonably believes that disclosure of the information would cause a specific and material harm to an investigation of the allegations in the report or the life or safety of any person.

3. The provisions of NRS 392.317 to 392.337, inclusive, must not be construed to require an agency which provides child welfare services to disclose information maintained by the agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, if, after consultation with the attorney who represents the agency, the agency determines that such disclosure would cause a specific and material harm to a criminal investigation.

4. If an agency which provides child welfare services receives any information that is deemed confidential by law, the agency which provides child welfare services shall maintain the confidentiality of the information as prescribed by applicable law.

5. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of NRS 392.317 to 392.337, inclusive.

Sec. 2. NRS 392.335 is hereby amended to read as follows:

392.335 1. Except as otherwise provided in NRS 392.317 to 392.337, inclusive, any person who is provided with information maintained by an agency which provides child welfare services pursuant to NRS 392.275 to 392.365, inclusive, and who further



disseminates the information or makes the information public is guilty of a gross misdemeanor. This section does not apply to:

(a) A district attorney or other law enforcement officer who uses the information solely for the purpose of initiating legal proceedings;

(b) An employee of the Division of Parole and Probation of the Department of Public Safety making a presentence investigation and report to the district court pursuant to NRS 176.135 or making a general investigation and report pursuant to NRS 176.151; ~~or~~

(c) An employee of a juvenile justice agency who provides the information to the juvenile court ~~or~~; *or*

(d) A parent or guardian of a child who is the subject of a report who provides the information to an attorney for the child or the parent or guardian of the child pursuant to NRS 392.337.

2. As used in this section, "juvenile justice agency" means the Youth Parole Bureau or a director of juvenile services.

Sec. 3. NRS 392.337 is hereby amended to read as follows:

392.337 1. An agency which provides child welfare services investigating a report made pursuant to NRS 392.303 shall, upon completing the investigation, determine whether the report is substantiated or unsubstantiated ~~or~~ *and notify the parent or guardian of the child who is the subject of the report of that determination.*

2. If the report is substantiated, the agency shall:

(a) Forward the report to the Department of Education, the board of trustees of the school district in which the school is located or the governing body of the charter school or private school, as applicable, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.

(b) Provide written notification to the person who is named in the report as allegedly causing the abuse or neglect of the child or violating NRS 201.540, 201.560, 392.4633 or 394.366 which includes statements indicating that:

(1) The report made against the person has been substantiated and the agency which provides child welfare services intends to place the person's name in the Central Registry pursuant to paragraph (a); and

(2) The person may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required by NRS 392.345.

(c) After the conclusion of any administrative appeal pursuant to NRS 392.345 or the expiration of the time period prescribed by that



section for requesting an administrative appeal, whichever is later, report to the Central Registry:

(1) Identifying and demographic information on the child who is the subject of the report, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the conduct alleged in the report;

(2) The facts of the alleged conduct, including the date and type of alleged conduct, a description of the alleged conduct, the severity of any injuries and, if applicable, any information concerning the death of the child; and

(3) The disposition of the case.

(d) Provide to the parent or guardian of the child who is the subject of the report:

(1) A written summary of the outcome of the investigation of the allegations in the report which must not identify the person who made the report, any child witnesses to the allegations in the report or any collateral sources and reporting parties; and

(2) A summary of any disciplinary action taken against the person who is named in the report as allegedly causing the abuse or neglect of the child or violating NRS 201.540, 201.560, 392.4633 or 394.366 which is known by the agency, including, without limitation, whether the name of such person will be placed in the Central Registry.

3. A parent or guardian who receives information pursuant to paragraph (d) of subsection 2 may disclose the information to an attorney for the child who is the subject of the report or the parent or guardian of the child.

Sec. 4. This act becomes effective on July 1, 2019.

