

Amendment No. 848

Assembly Amendment to Senate Bill No. 108 First Reprint	(BDR 5-549)
Proposed by: Assemblywoman Benitez-Thompson	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 108 R1 (§ 1).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 108—COMMITTEE ON JUDICIARY

FEBRUARY 9, 2021

(ON BEHALF OF THE NEVADA YOUTH LEGISLATURE)

Referred to Committee on Judiciary

SUMMARY—Establishes provisions relating to ~~juvenile justice;~~ juveniles.
(BDR 5-549)

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

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 ~~juvenile justice;~~ juveniles; requiring any person who during the scope of his or her employment has regular and routine contact with juveniles who are involved in the juvenile justice system in this State to complete periodic training relating to implicit bias and cultural competency; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations concerning such training; authorizing the Nevada Supreme Court to adopt additional court rules concerning such training for any magistrate, judge, master or employee in the juvenile court system who regularly and routinely comes into contact with such juveniles; authorizing in certain circumstances certain institutions, agencies and facilities that serve children to waive the requirement to terminate the employment of certain employees after a background investigation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various provisions relating to juvenile justice in this State. (Title 5 of NRS) **Section 1** of this bill requires any person who during the scope of his or her employment has regular and routine contact with juveniles who are involved in the juvenile justice system in this State to complete, in addition to any other required training and generally at least once every 2 years, training relating to implicit bias and cultural competency. **Section 1** also requires that such training include certain specific instruction relating to implicit bias and cultural competency. Additionally, **section 1:** (1) requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations concerning such training; and (2) authorizes the Division of Child and

Family Services to consult with any person whose assistance the Division of Child and Family Services determines will be helpful when adopting such regulations. **Section 1** also authorizes the Nevada Supreme Court to adopt additional court rules concerning such training for any magistrate, judge, master or employee in the juvenile court system who regularly and routinely comes into contact with such juveniles.

Existing law requires public or private institutions and agencies to which a juvenile court commits a child to conduct background investigations of the employees of such institutions and agencies. (NRS 62B.270) Existing law also requires agencies which provide child welfare services to conduct background investigations of applicants for employment with, and the employees of, such agencies. (NRS 432B.198) Existing law additionally requires certain facilities which provide residential mental health treatment to children to conduct background investigations of the employees of such facilities. (NRS 433B.183) Such background investigations are conducted for the purpose of determining whether an applicant or employee has been convicted of certain specified crimes and, with respect to agencies which provide child welfare services, whether an applicant or employee has charges pending against him or her for any such crime. (NRS 62B.270, 432B.198, 433B.183) If the results of a background investigation correctly provide that an applicant or employee has been convicted of any such crime, the application for employment or the employment of the person must be denied or terminated, respectively. (NRS 62B.275, 432B.199, 433B.185) Additionally, if the results of a background investigation conducted by an agency which provides child welfare services correctly provide that an applicant or employee has charges pending against him or her for any such crime, the application for employment or the employment of the person may be denied or terminated, respectively. (NRS 432B.199)

Section 4 of Senate Bill No. 21 of this session authorizes agencies which provide child welfare services to waive the prohibition on hiring an applicant who has been convicted of a specified crime if the agency adopts and applies an objective weighing test pursuant to which certain factors are considered relating to the applicant and the crime committed. Section 4 of Senate Bill No. 21 of this session requires such an agency to track certain data regarding each applicant to whom the objective weighing test is applied and review the data at least once every 2 years to determine the efficacy of the test and whether the data indicates the presence of implicit bias. Section 4 of Senate Bill No. 21 of this session also provides that: (1) the prohibition on hiring an applicant who has been convicted of a specified crime may not be waived through the use of the objective weighing test if the specified crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed; and (2) the hiring determination made by the agency after applying the objective weighing test to an applicant is final.

Sections 2.3, 2.5 and 2.7 of this bill authorize public or private institutions and agencies to which a juvenile court commits a child, agencies which provide child welfare services and certain facilities which provide residential mental health treatment to children, respectively, to waive the requirement to terminate the employment of an employee who has been convicted of a specified crime in accordance with the provisions set forth in section 4 of Senate Bill No. 21 of this session that allow agencies which provide child welfare services to waive the prohibition on hiring an applicant who has been convicted of a specified crime. However, sections 2.3, 2.5 and 2.7 additionally provide that such a requirement can be waived only for the first background investigation concerning an employee that such an institution, agency or facility conducts.

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

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person who, during the scope of his or her employment has regular and routine contact with juveniles who are involved in the juvenile justice system in this State, including, without limitation, any prosecuting attorney, public defender, peace officer, probation officer, juvenile correctional officer, employee of a state or local facility for the detention of children, employee of a regional facility for the treatment and rehabilitation of children or employee of a prosecuting attorney's office or public defender's office, shall complete, in addition to any other required training, training relating to implicit bias and cultural competency provided by his or her employer pursuant to the regulations adopted pursuant to subsection 3. Unless the regulations adopted by the Division of Child and Family Services pursuant to subsection 3 provide otherwise, such training relating to implicit bias and cultural competency must be completed at least once every 2 years.

2. The training required by subsection 1 must include, without limitation, instruction that:

(a) Explains what implicit bias is, where implicit bias comes from, the importance of understanding implicit bias and the negative impacts of implicit bias, and offers examples of actions that can be taken to reduce implicit bias;

(b) Provides information regarding cultural competency, including, without limitation, sensitivity to the needs of children, lesbian, gay, bisexual and transgender persons, racial and ethnic minorities, religious minorities and women; and

(c) Provides information regarding:

(1) Socioeconomic conditions in various areas in this State;

(2) Historical inequities in the juvenile justice and criminal justice systems; and

(3) The impact of trauma and adverse child experiences on the decision making and behaviors of children.

3. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section. When adopting such regulations, the Division of Child and Family Services may consult with any person whose assistance the Division of Child and Family Services determines will be helpful.

4. The Nevada Supreme Court may provide by court rule for continuing appropriate training concerning implicit bias and cultural competency, incorporating the elements identified in subsection 2, for any magistrate, judge, master or employee in the juvenile court system who regularly and routinely comes into contact with juveniles who are involved in the juvenile justice system.

5. As used in this section, "cultural competency" means an understanding of how people and institutions can respond respectfully and effectively to people of all cultures, economic statuses, language backgrounds, races, ethnic backgrounds, disabilities, religions, genders, gender identities or expressions, sexual orientations, veteran statuses and other characteristics in a manner that recognizes, affirms and values the worth and preserves the dignity of people, families and communities.

Sec. 2. (Deleted by amendment.)

Sec. 2.3. Section 2 of Senate Bill No. 21 of this session is hereby amended to read as follows:

1 Sec. 2. NRS 62B.275 is hereby amended to read as follows:

2 62B.275 1. Upon receiving information from the Central Repository
3 for Nevada Records of Criminal History pursuant to NRS 62B.270 or
4 evidence from any other source that an employee of a public institution or
5 agency to which a juvenile court commits a child or the licensing authority
6 of a private institution to which a juvenile court commits a child, including,
7 without limitation, a facility for the detention of children:

8 (a) Has criminal charges pending against him or her for a crime listed
9 in paragraph (a) of subsection 1 of NRS 62B.270:

10 (1) The public institution or agency may terminate the employment
11 of the employee after allowing the employee time to correct the information
12 as required pursuant to subsection 2; or

13 (2) The licensing authority of the private institution shall inform
14 the private institution of the receipt of the information or evidence, and the
15 institution may terminate the employment of the employee after allowing
16 the employee time to correct the information as required pursuant to
17 subsection 2; or

18 (b) ~~Has~~ Except as otherwise provided in subsection 4, has been
19 convicted of a crime listed in paragraph (a) of subsection 1 of NRS
20 62B.270:

21 (1) The public institution or agency shall terminate the
22 employment of the employee after allowing the employee time to correct
23 the information as required pursuant to subsection 2; or

24 (2) The licensing authority of the private institution shall inform
25 the private institution of the receipt of the information or evidence, and the
26 institution shall terminate the employment of the employee after allowing
27 the employee time to correct the information as required pursuant to
28 subsection 2.

29 2. If an employee believes that the information provided to the public
30 institution or agency or the licensing authority by the Central Repository
31 pursuant to NRS 62B.270 is incorrect, the employee must inform his or her
32 employing institution or agency immediately. An institution or agency that
33 is so informed shall give the employee a reasonable amount of time of not
34 less than 30 days to correct the information.

35 3. During the period in which an employee seeks to correct
36 information pursuant to subsection 2, it is within the discretion of the
37 employing institution or agency whether to allow the employee to continue
38 to work for the institution or agency, as applicable, except that the
39 employee shall not have contact with a child in the institution or agency
40 without supervision during such period.

41 4. Except as otherwise provided in subsection 5, a public or private
42 institution or agency to which a juvenile court commits a child may waive
43 the requirement to terminate the employment of an employee who has
44 been convicted of a crime listed in paragraph (a) of subsection 1 of NRS
45 62B.270 if the institution or agency adopts and applies an objective
46 weighing test in accordance with this subsection. The objective weighing
47 test must include factors the institution or agency will consider when
48 making a determination as to whether to waive such a requirement,
49 including, without limitation:

50 (a) The age, maturity and capacity of the employee at the time of his
51 or her conviction;

52 (b) The length of time since the employee committed the crime;

53 (c) Any participation by the employee in rehabilitative services; and

(d) The relevance of the crime to the position in which the employee is employed.

5. The requirement to terminate the employment of an employee who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 62B.270 may not be waived through the use of the objective weighing test if:

(a) The crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed; or

(b) The information concerning the conviction was obtained pursuant to a second or subsequent background investigation concerning the employee that is conducted by the public or private institution or agency.

6. A public or private institution or agency to which a juvenile court commits a child shall, with regard to each employee to whom the institution or agency applies the objective weighing test pursuant to subsection 4:

(a) Track the age, race and ethnicity of the employee, the position in which the employee is employed and the determination made by the institution or agency; and

(b) Review such data not less than once every 2 years to determine the efficacy of the objective weighing test and whether the data indicates the presence of any implicit bias.

7. The determination made by a public or private institution or agency to which a juvenile court commits a child with regard to an employee to whom the institution or agency applies the objective weighing test is final.

8. For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 of NRS 62B.270 begins and ends as set forth in subsection 8 of that section.

Sec. 2.5. Section 4 of Senate Bill No. 21 of this session is hereby amended to read as follows:

Sec. 4. NRS 432B.199 is hereby amended to read as follows:

432B.199 1. If the report from the Federal Bureau of Investigation forwarded to an agency which provides child welfare services pursuant to subsection 5 of NRS 432B.198, the information received by an agency which provides child welfare services pursuant to subsection 2 of NRS 432B.198 or evidence from any other source indicates that an applicant for employment with the agency, or an employee of the agency:

(a) Has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 432B.198, the agency may deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable; or

(b) Except as otherwise provided in subsection 6, has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198, has had a substantiated report of child abuse or neglect made against him or her or has not been satisfactorily cleared by a central registry described in paragraph (b) of subsection 2 of NRS 432B.198, the agency shall deny employment to the applicant or terminate the employment of the employee after allowing the applicant or employee time to correct the information as required pursuant to subsection 2 or 3, whichever is applicable.

2. If an applicant for employment or an employee believes that the information in the report from the Federal Bureau of Investigation forwarded to the agency which provides child welfare services pursuant to subsection 5 of NRS 432B.198 is incorrect, the applicant or employee must inform the agency immediately. An agency that provides child welfare services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 30 days to correct the information.

3. If an applicant for employment or an employee believes that the information received by an agency which provides child welfare services pursuant to subsection 2 of NRS 432B.198 is incorrect, the applicant or employee must inform the agency immediately. An agency which provides child welfare services that is so informed shall give the applicant or employee a reasonable amount of time of not less than 60 days to correct the information.

4. During the period in which an applicant or employee seeks to correct information pursuant to subsection 2 or 3, the applicant or employee:

(a) Shall not have contact with a child or a relative or guardian of the child in the course of performing any duties as an employee of the agency which provides child welfare services.

(b) May be placed on leave without pay.

5. The provisions of subsection 4 must not be construed as preventing an agency which provides child welfare services from initiating internal disciplinary procedures against an employee during the period in which an employee seeks to correct information pursuant to subsection 2 or 3.

6. Except as otherwise provided in subsection 7, an agency which provides child welfare services may waive the prohibition on hiring an applicant or the requirement to terminate the employment of an employee who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 if the agency adopts and applies an objective weighing test in accordance with this subsection. The objective weighing test must include factors the agency will consider when making a determination as to whether to waive such a prohibition ~~or~~ or requirement, including, without limitation:

(a) The age, maturity and capacity of the applicant or employee at the time of his or her conviction;

(b) The length of time since the applicant or employee committed the crime;

(c) Any participation by the applicant or employee in rehabilitative services; and

(d) The relevance of the crime to the position for which the applicant has applied ~~or in which the employee is employed~~.

7. The ~~prohibition~~:

(a) Prohibition on hiring an applicant who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 may not be waived through the use of the objective weighing test if the crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed.

(b) Requirement to terminate the employment of an employee who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 may not be waived through the use of the objective weighing test if:

(1) The crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed; or

(2) The information concerning the conviction was obtained pursuant to a second or subsequent background investigation concerning the employee that is conducted by the agency.

8. An agency which provides child welfare services shall, with regard to each applicant or employee to whom the agency applies the objective weighing test pursuant to subsection 6:

(a) Track the age, race and ethnicity of the applicant ~~or~~ or employee, the position for which the applicant applied or in which the employee is employed and the ~~finding~~ determination made by the agency; and

(b) Review such data not less than once every 2 years to determine the efficacy of the objective weighing test and whether the data indicates the presence of any implicit bias.

9. The ~~finding~~ determination made by an agency which provides child welfare services with regard to an applicant or employee to whom the agency applies the objective weighing test is final.

10. For the purposes of this section, the period during which criminal charges are pending against an applicant or employee for a crime listed in paragraph (a) of subsection 1 of NRS 432B.198 begins and ends as set forth in subsection 7 of that section.

Sec. 2.7. Section 6 of Senate Bill No. 21 of this session is hereby amended to read as follows:

Sec. 6. NRS 433B.185 is hereby amended to read as follows:

433B.185 1. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to NRS 433B.183 or evidence from any other source that an employee of a division facility that provides residential treatment for children:

(a) Has criminal charges pending against him or her for a crime listed in paragraph (a) of subsection 1 of NRS 433B.183, the administrative officer may terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2; or

(b) ~~Has~~ Except as otherwise provided in subsection 4, has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 433B.183, the administrative officer shall terminate the employment of the employee after allowing the employee time to correct the information as required pursuant to subsection 2.

2. If an employee believes that the information provided to the division facility pursuant to subsection 1 is incorrect, the employee must inform the division facility immediately. A division facility that is so informed shall give the employee 30 days to correct the information.

3. During the period in which an employee seeks to correct information pursuant to subsection 2, it is within the discretion of the administrative officer whether to allow the employee to continue to work for the division facility, except that the employee shall not have contact with a child in the division facility without supervision during such period.

4. Except as otherwise provided in subsection 5, a division facility that provides residential treatment for children may waive the requirement to terminate the employment of an employee who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 433B.183 if the division facility adopts and applies an objective weighing test in accordance with this subsection. The objective weighing test must

include factors the division facility will consider when making a determination as to whether to waive such a requirement, including, without limitation:

(a) The age, maturity and capacity of the employee at the time of his or her conviction;

(b) The length of time since the employee committed the crime;

(c) Any participation by the employee in rehabilitative services; and

(d) The relevance of the crime to the position in which the employee is employed.

5. The requirement to terminate the employment of an employee who has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 433B.183 may not be waived through the use of the objective weighing test if:

(a) The crime was sexually-related and the victim was a child who was less than 18 years of age when the crime was committed; or

(b) The information concerning the conviction was obtained pursuant to a second or subsequent background investigation concerning the employee that is conducted by the division facility.

6. A division facility that provides residential treatment for children shall, with regard to each employee to whom the division facility applies the objective weighing test pursuant to subsection 4:

(a) Track the age, race and ethnicity of the employee, the position in which the employee is employed and the determination made by the division facility; and

(b) Review such data not less than once every 2 years to determine the efficacy of the objective weighing test and whether the data indicates the presence of any implicit bias.

7. The determination made by a division facility that provides residential treatment for children with regard to an employee to whom the division facility applies the objective weighing test is final.

8. For the purposes of this section, the period during which criminal charges are pending against an employee for a crime listed in paragraph (a) of subsection 1 of NRS 433B.183 begins and ends as set forth in subsection 8 of that section.

Sec. 3. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 4. 1. This section becomes effective upon passage and approval.

2. Sections 1, 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) Nine months after the date on which the regulations adopted by the Division of Child and Family Services of the Department of Health and Human Services pursuant to section 1 of this act become effective for all other purposes.

3. Sections 2.3, 2.5 and 2.7 of this act become effective on January 1, 2022.