SUMMARY—Revises provisions governing the records of agencies which provide child welfare services. (BDR 38-411)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

Effect on the State Highway Fund: No.

AN ACT relating to child welfare; revising provisions governing the disclosure of information maintained by an agency which provides child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In general, existing law provides that information maintained by an agency which provides child welfare services, including reports and investigations concerning the abuse or neglect of a child, is confidential and must not be released or disseminated unless an exception applies. One such exception authorizes the release or dissemination of such information pursuant to a criminal prosecution relating to the abuse or neglect of a child. (NRS 432B.280) **Section 1** of this bill defines "abuse or neglect" for purposes of this exception to have the meaning ascribed to it in existing criminal law concerning the abuse, neglect or endangerment of a child. (NRS 200.508)

Existing law additionally authorizes an agency which provides child welfare services to disclose information maintained by the agency to certain persons and entities under certain circumstances.

(NRS 432B.290) **Section 2** of this bill limits such disclosure to the information reasonably necessary for the purposes for which the person or entity is authorized to receive the information. Existing law authorizes certain information to be disclosed to a parent or legal guardian of a child and to persons who are the subject of a report. (NRS 432B.290) **Section 2** expands the information that may be disclosed to a parent or legal guardian who is not alleged to have caused the abuse or neglect to include information concerning the nature of the reported abuse or neglect and any safety issues concerning the child. **Section 2** also clarifies that persons who are the subject of a report include a person who, as a child, was the subject of the report and has since reached 18 years of age. Finally, **section 2** makes various nonsubstantive changes to reorganize provisions relating to the disclosure of information in connection with certain guardianship proceedings.

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

Section 1. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.597 and except as otherwise authorized or required pursuant to NRS 432B.290, information maintained by an agency which provides child welfare services, including, without limitation, reports and investigations made pursuant to this chapter, is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases or disseminates such information, except:

(a) Pursuant to a criminal prosecution relating to ~~[the]~~ abuse or neglect ***;*** ~~[of a child;]~~

(b) As otherwise authorized pursuant to NRS 432B.165 and 432B.175;

(c) As otherwise authorized or required pursuant to NRS 432B.290;

(d) As otherwise authorized or required pursuant to NRS 439.597; or

(e) As otherwise required pursuant to NRS 432B.513,

➥ is guilty of a gross misdemeanor.

3. As used in this section, "abuse or neglect" has the meaning ascribed to it in subsection 5 of NRS 200.508.

Sec. 2. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Information maintained by an agency which provides child welfare services 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. Except as otherwise provided in this section and NRS 432B.165, 432B.175 and 432B.513, information maintained by an agency which provides child welfare services may, at the discretion of the agency which provides child welfare services, be made available only to ~~[:]~~ ***the following persons and entities and only to the extent reasonably necessary for the purposes for which the person or entity is authorized to receive the information:***

(a) 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 ***.*** ~~[;]~~

(b) A person authorized to place a child in protective custody, if the person has before him or her a child who the person has reasonable cause to believe has been abused or neglected and the person requires the information to determine whether to place the child in protective custody . ~~[;]~~

(c) An agency, including, without limitation, an agency in another jurisdiction, responsible for or authorized to undertake the care, treatment or supervision of:

(1) The child; or

(2) The person responsible for the welfare of the child . ~~[;]~~

(d) A district attorney or other law enforcement officer who requires the information in connection with an investigation or prosecution of the abuse or neglect of a child . ~~[;]~~

(e) Except as otherwise provided in paragraph (f), 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 . ~~[;]~~

(f) A court, as defined in NRS 159A.015, to determine whether a guardian or successor guardian of a child should be appointed pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive . ~~[;]~~

(g) 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 . ~~[;]~~

(h) The attorney and the guardian ad litem of the child, if the information is reasonably necessary to promote the safety, permanency and well-being of the child . ~~[;]~~

(i) ~~[A person who files or intends to file]~~ ***Any of the following persons in connection with*** a ~~[petition]~~ ***proceeding*** for the appointment of a guardian or successor guardian of a child pursuant

to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child ~~[~~;

~~(j)]~~ ***:***

(1) A person who files or intends to file a petition for the appointment of the guardian or successor guardian;

(2) The proposed guardian or proposed successor guardian ~~[of a child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the]~~ ***;***

(3) The child ~~[;]~~ ***, if the child is 14 years of age or older;***

(4) The attorney for the child; or

(5) A parent or legal guardian of the child.

~~[(k)]~~ ***(j)*** A grand jury upon its determination that access to these records and the information is necessary in the conduct of its official business ***.*** ~~[~~;

~~(l)]~~ ***(k)*** 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 ***.*** ~~[~~;

~~(m)]~~ ***(l)*** A person or an organization that has entered into a written agreement with an agency which provides child welfare services to provide assessments or services and that has been trained to make such assessments or provide such services **.** ~~[~~**,**

~~(n)]~~ ***(m)*** A team organized pursuant to NRS 432B.350 for the protection of a child **.** ~~[~~**,**

~~(o)]~~ ***(n)*** A team organized pursuant to NRS 432B.405 to review the death of a child **.** ~~[~~**,**

~~(p)]~~ ***(o)*** A multidisciplinary team, as defined in NRS 432B.4014 **.** ~~[~~**,**

~~(q)]~~ ***(p)*** A parent or legal guardian of the child and an attorney of a parent or legal guardian of the child, ~~[including, without limitation, the parent or guardian of a child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive,]~~ if the identity of the person responsible for reporting the abuse or neglect of the child to a public agency is 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 **.** ~~[~~**,**

~~(r) The child over whom a guardianship is sought pursuant to chapter 159A of NRS or NRS 432B.466 to 432B.468, inclusive, if:~~

~~(1) The child is 14 years of age or older; and~~

~~(2) The identity of the person responsible for reporting the abuse or neglect of the child to a public agency is kept confidential and the information is reasonably necessary to promote the safety, permanency and well-being of the child;]~~ ***If the parent or legal guardian is not a person named in the report as allegedly causing the abuse or neglect of the child, the information may***

also include information concerning the nature of the reported abuse or neglect and any safety issues concerning the child.

~~[(s)]~~ ***(q)*** The persons or agent of the persons who are the subject of a report, ***including, without limitation, a person who, as a child, was the subject of the report and has since reached 18 years of age,*** if the information is reasonably necessary to promote the safety, permanency and well-being of the child ***or the safety and well-being of such a person, as applicable,*** and is limited to information concerning those persons ***.*** ~~[;~~

~~(t)]~~ ***(r)*** An agency that is authorized by law to license foster homes or facilities for children or to investigate persons applying for approval to adopt a child, if the agency has before it an application for that license or is investigating an applicant to adopt a child ***.*** ~~[;~~

~~(u)]~~ ***(s)*** Upon written consent of the parent, any officer of this State or a city or county thereof or Legislator authorized by the agency or department having jurisdiction or by the Legislature, acting within its jurisdiction, to investigate the activities or programs of an agency which provides child welfare services if:

(1) The identity of the person making the report is kept confidential; and

(2) The officer, Legislator or a member of the family of the officer or Legislator is not the person alleged to have committed the abuse or neglect ***.*** ~~[;~~

~~(v)]~~ ***(t)*** The Division of Parole and Probation of the Department of Public Safety for use pursuant to NRS 176.135 in making a presentence investigation and report to the district court or pursuant to NRS 176.151 in making a general investigation and report ***.*** ~~[;~~

~~(w)~~ ***(u)*** Any person who is required pursuant to NRS 432B.220 to make a report to an agency which provides child welfare services or to a law enforcement agency **.** ~~;~~

~~(x)~~ ***(v)*** A local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604 **.** ~~;~~

~~(y)~~ ***(w)*** The panel established pursuant to NRS 432B.396 to evaluate agencies which provide child welfare services **.** ~~;~~

~~(z)~~ ***(x)*** An employer in accordance with subsection 3 of NRS 432.100 **.** ~~;~~

~~(aa)~~ ***(y)*** A team organized or sponsored pursuant to NRS 217.475 or 228.495 to review the death of the victim of a crime that constitutes domestic violence **.** ~~;~~

~~(bb)~~ ***(z)*** The Committee on Domestic Violence and Sexual Assault appointed pursuant to NRS 228.470 **.** ~~; or~~

~~(cc)~~ ***(aa)*** The Committee to Review Suicide Fatalities created by NRS 439.5104.

3. An agency investigating a report of the abuse or neglect of a child shall, upon request, provide to a person named in the report as allegedly causing the abuse or neglect of the child:

(a) A copy of:

(1) Any statement made in writing to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(2) Any recording made by the agency of any statement made orally to an investigator for the agency by the person named in the report as allegedly causing the abuse or neglect of the child; or

(b) A written summary of the allegations made against the person who is named in the report as allegedly causing the abuse or neglect of the child. The summary must not identify the person responsible for reporting the alleged abuse or neglect or any collateral sources and reporting parties.

4. Except as otherwise provided by subsection 6, before releasing any information maintained by an agency which provides child welfare services pursuant to this section, 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 reports child abuse or neglect 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 alleged abuse or neglect of a child or the life or safety of any person.

5. The provisions of this section 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 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.

6. A person who is the subject of a report of child abuse or neglect made pursuant to this chapter that is assigned a disposition other than substantiated pursuant to NRS 432B.305 and who believes that the report was made in bad faith or with malicious intent may petition a district court to order the agency which provides child welfare services to release information maintained by the agency which provides child welfare services. The petition must specifically set forth the reasons

supporting the belief that the report was made in bad faith or with malicious intent. The petitioner shall provide notice to the agency which provides child welfare services so that the agency may participate in the action through its counsel. The district court shall review the information which the petitioner requests to be released and the petitioner shall be allowed to present evidence in support of the petition. If the court determines that there is a reasonable question of fact as to whether the report was made in bad faith or with malicious intent and that the disclosure of the identity of the person who made the report would not be likely to endanger the life or safety of the person who made the report, the court shall provide a copy of the information to the petitioner and the original information is subject to discovery in a subsequent civil action regarding the making of the report.

7. 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.

8. Pursuant to this section, a person may authorize the release of information maintained by an agency which provides child welfare services about himself or herself, but may not waive the confidentiality of such information concerning any other person.

9. An agency which provides child welfare services may provide a summary of the outcome of an investigation of the alleged abuse or neglect of a child to the person who reported the suspected abuse or neglect.

10. Except as otherwise provided in this subsection, any person who is provided with information maintained by an agency which provides child welfare services and who further

disseminates the information or makes the information public is guilty of a gross misdemeanor. This subsection 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.

11. An agency which provides child welfare services may charge a fee for processing costs reasonably necessary to prepare information maintained by the agency which provides child welfare services for release pursuant to this section.

12. An agency which provides child welfare services shall adopt rules, policies or regulations to carry out the provisions of this section.

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