

ASSEMBLY BILL NO. 236—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 24, 2017

Referred to Committee on Health and Human Services

SUMMARY—Authorizes an agency which provides child welfare services to obtain the education records of certain pupils. (BDR 38-838)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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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 child welfare; authorizing certain employees of an agency which provides child welfare services to request the education records of a pupil who is in the custody of the agency; requiring a public or private school or school district to comply with such a request; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing state and federal law prohibits a public school from releasing the
2 education records of a pupil without the written consent of the parent of the pupil,
3 except in certain circumstances. (20 U.S.C. § 1232g; NRS 392.029) Federal law
4 creates an exception to that prohibition for a representative of a state or local child
5 welfare agency who has a right to access a pupil’s case plan. (20 U.S.C. §
6 1232g(b)(1)(L)) **Section 1** of this bill authorizes an employee of an agency which
7 provides child welfare services who has access to the case plan of a child in the
8 custody of the agency to request from a public or private school or school district
9 any records concerning the child. **Section 1** also prohibits an agency or employee
10 who requests such records from disclosing the records except as authorized by law.
11 **Sections 6 and 7** of this bill require a public or private school or school district to
12 comply with such a request, and provide that any willful failure to comply is
13 punishable as a misdemeanor.



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

1 **Section 1.** Chapter 432 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *An employee of an agency which provides child welfare*
4 *services who has access to the case plan maintained for a child in*
5 *the custody of the agency may request from a public or private*
6 *school or school district any records, including, without limitation,*
7 *electronic records, maintained by the school or school district*
8 *concerning the child.*

9 2. *An agency which provides child welfare services or an*
10 *employee thereof who requests records pursuant to subsection 1*
11 *shall not disclose the records except to the extent authorized by*
12 *applicable federal and state laws and regulations, including,*
13 *without limitation, 20 U.S.C. § 1232g and 34 C.F.R Part 99.*

14 3. *As used in this section:*

15 (a) *“Private school” has the meaning ascribed to it in*
16 *NRS 394.103.*

17 (b) *“Public school” has the meaning ascribed to it in*
18 *NRS 385.007.*

19 **Sec. 2.** NRS 432.032 is hereby amended to read as follows:

20 432.032 The Division, in consultation with each agency which
21 provides child welfare services, shall adopt regulations for the
22 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
23 *of this act*, which are binding upon all recipients and local units.

24 **Sec. 3.** NRS 432.035 is hereby amended to read as follows:

25 432.035 1. To safeguard and restrict the use or disclosure of
26 any information concerning applicants for and recipients of services
27 for child welfare to purposes directly connected to the
28 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
29 *of this act*, by the Division, pursuant to the applicable provisions of
30 the Social Security Act, the Division shall, in consultation with each
31 agency which provides child welfare services, establish and enforce
32 reasonable regulations governing the custody, use and preservation
33 of the records, files and communications filed with the Division and
34 any agency which provides child welfare services.

35 2. Whenever, pursuant to the provisions of law or regulations
36 of the Division, names and addresses of, or information concerning,
37 applicants for and recipients of services for child welfare are
38 furnished to or held by an agency which provides child welfare
39 services or any other agency or department of government, that
40 agency or department shall comply with the regulations of the
41 Division prohibiting the publication of information and its use for
42 purposes not directly connected with the administration of



1 NRS 432.010 to 432.085, inclusive, *and section 1 of this act* by the
2 Division.

3 3. Except for purposes directly connected with the
4 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
5 *of this act*, no person may publish, disclose, use or permit or cause
6 to be published, disclosed or used any confidential information
7 pertaining to a recipient of services under the provisions of NRS
8 432.010 to 432.085, inclusive **H**, *and section 1 of this act*.

9 **Sec. 4.** NRS 432.091 is hereby amended to read as follows:

10 432.091 The provisions of NRS 432.010 to 432.085, inclusive,
11 *and section 1 of this act* do not apply to the Program for Child Care
12 and Development administered by the Division of Welfare and
13 Supportive Services of the Department pursuant to chapter 422A of
14 NRS.

15 **Sec. 5.** NRS 239.010 is hereby amended to read as follows:

16 239.010 1. Except as otherwise provided in this section and
17 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
18 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
19 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
20 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,
21 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
22 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
23 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
24 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
25 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
26 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
27 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
28 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
29 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
30 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
31 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
32 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
33 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
34 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
35 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
36 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
37 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
38 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
39 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
40 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
41 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
42 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
43 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
44 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
45 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,



1 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
2 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
3 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
4 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
5 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
6 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
7 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
8 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
9 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
10 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
11 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
12 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
13 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
14 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
15 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
16 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
17 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
18 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
19 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
20 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
21 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
22 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
23 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
24 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
25 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
26 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
27 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
28 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
29 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
30 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
31 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
32 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
33 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
34 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
35 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
36 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
37 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41
38 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter
39 391, Statutes of Nevada 2013 and unless otherwise declared by law
40 to be confidential, all public books and public records of a
41 governmental entity must be open at all times during office hours to
42 inspection by any person, and may be fully copied or an abstract or
43 memorandum may be prepared from those public books and public
44 records. Any such copies, abstracts or memoranda may be used to
45 supply the general public with copies, abstracts or memoranda of the



1 records or may be used in any other way to the advantage of the
2 governmental entity or of the general public. This section does not
3 supersede or in any manner affect the federal laws governing
4 copyrights or enlarge, diminish or affect in any other manner the
5 rights of a person in any written book or record which is
6 copyrighted pursuant to federal law.

7 2. A governmental entity may not reject a book or record
8 which is copyrighted solely because it is copyrighted.

9 3. A governmental entity that has legal custody or control of a
10 public book or record shall not deny a request made pursuant to
11 subsection 1 to inspect or copy or receive a copy of a public book or
12 record on the basis that the requested public book or record contains
13 information that is confidential if the governmental entity can
14 redact, delete, conceal or separate the confidential information from
15 the information included in the public book or record that is not
16 otherwise confidential.

17 4. A person may request a copy of a public record in any
18 medium in which the public record is readily available. An officer,
19 employee or agent of a governmental entity who has legal custody
20 or control of a public record:

21 (a) Shall not refuse to provide a copy of that public record in a
22 readily available medium because the officer, employee or agent has
23 already prepared or would prefer to provide the copy in a different
24 medium.

25 (b) Except as otherwise provided in NRS 239.030, shall, upon
26 request, prepare the copy of the public record and shall not require
27 the person who has requested the copy to prepare the copy himself
28 or herself.

29 **Sec. 6.** NRS 392.029 is hereby amended to read as follows:

30 392.029 1. If a parent or legal guardian of a pupil requests
31 the education records of the pupil, a public school shall comply with
32 the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

33 2. If a parent or legal guardian of a pupil reviews the education
34 records of the pupil and requests an amendment or other change to
35 the education records, a public school shall comply with the
36 provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

37 3. Except as otherwise provided in 20 U.S.C. § 1232g(b), a
38 public school shall not release the education records of a pupil to a
39 person, agency or organization without the written consent of the
40 parent or legal guardian of the pupil.

41 4. If a public school administers a program which includes a
42 survey, analysis or evaluation that is designed to elicit the
43 information described in 20 U.S.C. § 1232h, it must comply with
44 the provisions of that section.



1 5. A right accorded to a parent or legal guardian of a pupil
2 pursuant to the provisions of this section devolves upon the pupil on
3 the date on which the pupil attains the age of 18 years.

4 6. A public school shall, at least annually, provide to each pupil
5 who is at least 18 years of age and to a parent or legal guardian of
6 each pupil who is not at least 18 years of age, written notice of his
7 or her rights pursuant to this section.

8 7. The provisions of this section:

9 (a) Are intended to ensure that each public school complies with
10 the provisions of 20 U.S.C. §§ 1232g and 1232h;

11 (b) Must, to the extent possible, be construed in a manner that is
12 consistent with 20 U.S.C. §§ 1232g and 1232h, and the regulations
13 adopted pursuant thereto;

14 (c) Apply to a public school regardless of whether the school
15 receives money from the Federal Government; and

16 (d) Do not impair any right, obligation or prohibition established
17 pursuant to chapter 432B of NRS.

18 8. The State Board may adopt such regulations as are necessary
19 to ensure that public schools comply with the provisions of this
20 section.

21 9. *As soon as practicable after receiving a request for records*
22 *pursuant to section 1 of this act, a public school or school district*
23 *shall provide the requested records to the employee of the agency*
24 *which provides child welfare services who made the request. A*
25 *member of the board of trustees or employee of a school district*
26 *who willfully fails to take any action necessary for the public*
27 *school or school district to comply with the requirements of this*
28 *subsection is guilty of a misdemeanor.*

29 10. As used in this section ~~[-unless the context otherwise~~
30 ~~requires, "education"]:~~

31 (a) *"Agency which provides child welfare services" has the*
32 *meaning ascribed to it in NRS 432B.030.*

33 (b) *"Education records" has the meaning ascribed to it in 20*
34 *U.S.C. § 1232g(a)(4).*

35 **Sec. 7.** Chapter 394 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

37 1. *As soon as practicable after receiving a request for records*
38 *pursuant to section 1 of this act, a private school shall provide the*
39 *requested records to the employee of the agency which provides*
40 *child welfare services who made the request.*

41 2. *A member of the governing body or employee of a private*
42 *school who willfully fails to take any action necessary for the*
43 *private school to comply with the requirements of subsection 1 is*
44 *guilty of a misdemeanor.*



- 1 **3.** *As used in this section, “agency which provides child*
- 2 *welfare services” has the meaning ascribed to it in NRS 432B.030.*
- 3 **Sec. 8.** This act becomes effective on July 1, 2017.

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