

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 the director of an agency which provides child welfare services or certain designees 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 that the board of trustees of a school district, the governing body of a charter school or the governing body of a private school may be joined as a party in a proceeding concerning the protection of a child for failing to comply with such a request; 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 the director of an agency which
7 provides child welfare services or his or her designee who is responsible for the
8 supervision of the case plan of a child in the custody of the agency to request from
9 a public or private school or school district any education records concerning the
10 child. **Section 1** also prohibits a person who requests such education records from
11 disclosing the records except as authorized by law. If such a request for education
12 records is made, **section 1** requires the agency which provides child welfare



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13 services and the board of trustees of the school district, the governing body of the
14 charter school or the governing body of the private school, as applicable, to enter
15 into a memorandum of understanding which sets forth the terms for use of the
16 education records and any required training concerning federal law governing such
17 use. **Sections 6 and 7** of this bill require a public or private school or school district
18 to comply with such a request, and provide that any failure to comply may result in
19 the board of trustees or governing body, as applicable, being joined as a party in a
20 proceeding concerning the protection of the child.

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. The director of an agency which provides child welfare*
4 *services or a designee thereof who is responsible for the*
5 *supervision of the case plan maintained for a child in the custody*
6 *of the agency may request from a public or private school or*
7 *school district any education records, including, without*
8 *limitation, electronic education records, maintained by the school*
9 *or school district concerning the child.*

10 *2. A person who requests education records pursuant to*
11 *subsection 1 shall not disclose the education records except to the*
12 *extent authorized by applicable federal and state laws and*
13 *regulations, including, without limitation, 20 U.S.C. § 1232g and*
14 *34 C.F.R Part 99.*

15 *3. If education records are requested pursuant to subsection*
16 *1, the agency which provides child welfare services requesting the*
17 *education records and the board of trustees of the school district*
18 *in which the school is located, the governing body of the charter*
19 *school or the governing body of the private school, as applicable,*
20 *must enter into a memorandum of understanding concerning the*
21 *use of such education records which must set forth, without*
22 *limitation:*

23 *(a) The manner in which the education records will be used;*

24 *(b) What constitutes misuse of the education records, which*
25 *would result in revocation of any access by the agency to such*
26 *education records; and*

27 *(c) The required training concerning the Family Educational*
28 *Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any*
29 *regulations adopted pursuant thereto.*

30 *4. As used in this section:*

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



1 (b) "Private school" has the meaning ascribed to it in
2 NRS 394.103.

3 (c) "Public school" has the meaning ascribed to it in
4 NRS 385.007.

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

6 432.032 The Division, in consultation with each agency which
7 provides child welfare services, shall adopt regulations for the
8 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
9 *of this act*, which are binding upon all recipients and local units.

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

11 432.035 1. To safeguard and restrict the use or disclosure of
12 any information concerning applicants for and recipients of services
13 for child welfare to purposes directly connected to the
14 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
15 *of this act*, by the Division, pursuant to the applicable provisions of
16 the Social Security Act, the Division shall, in consultation with each
17 agency which provides child welfare services, establish and enforce
18 reasonable regulations governing the custody, use and preservation
19 of the records, files and communications filed with the Division and
20 any agency which provides child welfare services.

21 2. Whenever, pursuant to the provisions of law or regulations
22 of the Division, names and addresses of, or information concerning,
23 applicants for and recipients of services for child welfare are
24 furnished to or held by an agency which provides child welfare
25 services or any other agency or department of government, that
26 agency or department shall comply with the regulations of the
27 Division prohibiting the publication of information and its use for
28 purposes not directly connected with the administration of
29 NRS 432.010 to 432.085, inclusive, *and section 1 of this act* by the
30 Division.

31 3. Except for purposes directly connected with the
32 administration of NRS 432.010 to 432.085, inclusive, *and section 1*
33 *of this act*, no person may publish, disclose, use or permit or cause
34 to be published, disclosed or used any confidential information
35 pertaining to a recipient of services under the provisions of NRS
36 432.010 to 432.085, inclusive ~~H~~, *and section 1 of this act*.

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

38 432.091 The provisions of NRS 432.010 to 432.085, inclusive,
39 *and section 1 of this act* do not apply to the Program for Child Care
40 and Development administered by the Division of Welfare and
41 Supportive Services of the Department pursuant to chapter 422A of
42 NRS.

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

44 239.010 1. Except as otherwise provided in this section and
45 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,



1 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
2 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
3 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,
4 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
5 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
6 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
7 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
8 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
9 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
10 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
11 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
12 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
13 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
14 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
15 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
16 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
17 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
18 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
19 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
20 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
21 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
22 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
23 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
24 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
25 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
26 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
27 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
28 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
29 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
30 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
31 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
32 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
33 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
34 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
35 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
36 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
37 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
38 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
39 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
40 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
41 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
42 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
43 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
44 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
45 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,



1 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
2 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
3 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
4 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
5 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
6 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
7 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
8 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
9 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
10 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
11 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
12 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
13 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
14 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
15 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
16 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
17 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
18 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
19 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
20 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41
21 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter
22 391, Statutes of Nevada 2013 and unless otherwise declared by law
23 to be confidential, all public books and public records of a
24 governmental entity must be open at all times during office hours to
25 inspection by any person, and may be fully copied or an abstract or
26 memorandum may be prepared from those public books and public
27 records. Any such copies, abstracts or memoranda may be used to
28 supply the general public with copies, abstracts or memoranda of the
29 records or may be used in any other way to the advantage of the
30 governmental entity or of the general public. This section does not
31 supersede or in any manner affect the federal laws governing
32 copyrights or enlarge, diminish or affect in any other manner the
33 rights of a person in any written book or record which is
34 copyrighted pursuant to federal law.

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

37 3. A governmental entity that has legal custody or control of a
38 public book or record shall not deny a request made pursuant to
39 subsection 1 to inspect or copy or receive a copy of a public book or
40 record on the basis that the requested public book or record contains
41 information that is confidential if the governmental entity can
42 redact, delete, conceal or separate the confidential information from
43 the information included in the public book or record that is not
44 otherwise confidential.



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

5 (a) Shall not refuse to provide a copy of that public record in a
6 readily available medium because the officer, employee or agent has
7 already prepared or would prefer to provide the copy in a different
8 medium.

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

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

14 392.029 1. If a parent or legal guardian of a pupil requests
15 the education records of the pupil, a public school shall comply with
16 the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

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

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

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

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

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

36 7. The provisions of this section:

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

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

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

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



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

4 9. *Upon receiving a request for education records pursuant to*
5 *section 1 of this act, a public school or school district shall, within*
6 *10 school days or by the date of a scheduled court hearing which*
7 *affects the child, whichever is earlier, provide the requested*
8 *education records to the person who made the request. The board*
9 *of trustees of a school district or the governing body of a charter*
10 *school, as applicable, may be joined as a party in a proceeding*
11 *concerning the protection of a child pursuant to NRS 432B.4655*
12 *for failure to comply with the requirements of this subsection.*

13 10. As used in this section, ~~unless the context otherwise~~
14 ~~requires.~~ “education records” has the meaning ascribed to it in 20
15 U.S.C. § 1232g(a)(4).

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

18 1. *Upon receiving a request for education records pursuant to*
19 *section 1 of this act, a private school shall, within 10 school days*
20 *or by the date of a scheduled court hearing which affects the child,*
21 *whichever is earlier, provide the requested education records to*
22 *the person who made the request.*

23 2. *The governing body of a private school may be joined as a*
24 *party in a proceeding concerning the protection of the child*
25 *pursuant to NRS 432B.4655 for failure to comply with the*
26 *requirements of subsection 1.*

27 3. *As used in this section, “education records” has the*
28 *meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).*

29 **Sec. 8.** This act becomes effective on July 1, 2017.



