

SENATE BILL NO. 393—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SHERIFFS  
AND CHIEFS ASSOCIATION)

MARCH 18, 2003

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for release of certain records of pupils under certain circumstances. (BDR 5-318)

FISCAL NOTE: Effect on Local Government: No.  
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 children; providing for the release of certain records of pupils under certain circumstances; and providing other matters properly relating thereto.

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

- 1     **Section 1.** Chapter 62 of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     1. *A juvenile probation officer may inspect the education*  
4     *records of a child, including, without limitation, records of*  
5     *discipline maintained by a school, to conduct a preliminary*  
6     *inquiry pursuant to NRS 62.128 when a juvenile probation officer*  
7     *receives a complaint that the child:*  
8     (a) *Has committed a delinquent offense; or*  
9     (b) *Is in need of supervision.*  
10    2. *Upon receipt of information pursuant to this section, a*  
11    *juvenile probation officer shall certify in writing to the school that*  
12    *the information received will not be disclosed to any other person*  
13    *except as otherwise provided by state law without the prior written*  
14    *consent of the parent or guardian of the child.*  
15    3. *As used in this section “education records” has the*  
16    *meaning ascribed to it in 20 U.S.C. § 1232g(a)(4).*



1     **Sec. 2.** NRS 386.655 is hereby amended to read as follows:

2     386.655 1. The Department, the school districts and the  
3 public schools, including, without limitation, charter schools, shall,  
4 in operating the statewide automated system of information  
5 established pursuant to NRS 386.650, comply with the provisions  
6 of:

7     (a) For all pupils, the Family Educational Rights and Privacy  
8 Act, 20 U.S.C. § 1232g, and any regulations adopted pursuant  
9 thereto; and

10    (b) For pupils with disabilities who are enrolled in programs of  
11 special education, the provisions governing access to education  
12 records and confidentiality of information prescribed in the  
13 Individuals with Disabilities Education Act, 20 U.S.C. § 1417(c),  
14 and the regulations adopted pursuant thereto.

15    2. Except as otherwise provided in 20 U.S.C. § 1232g(b) ,  
16 ~~and~~ any other applicable federal law ~~and~~ *and the laws of this state*,  
17 a public school, including, without limitation, a charter school, shall  
18 not release the education records of a pupil to a person or an agency  
19 of a federal, state or local government without the written consent of  
20 the parent or legal guardian of the pupil.

21    3. In addition to the record required pursuant to 20 U.S.C. §  
22 1232g(b)(4)(A), each school district shall maintain within the  
23 statewide automated system of information an electronic record of  
24 all persons and agencies who have requested the education record of  
25 a pupil or obtained access to the education record of a pupil, or both,  
26 pursuant to 20 U.S.C. § 1232g. The electronic record must be  
27 maintained and may only be disclosed in accordance with the  
28 provisions of 20 U.S.C. § 1232g. A charter school shall provide to  
29 the school district in which the charter school is located such  
30 information as is necessary for the school district to carry out the  
31 provisions of this subsection, regardless of the sponsor of the charter  
32 school.

33    4. The right accorded to a parent or legal guardian of a pupil  
34 pursuant to subsection 2 devolves upon the pupil on the date on  
35 which he attains the age of 18 years.

36    5. As used in this section, unless the context otherwise  
37 requires, “education records” has the meaning ascribed to it in 20  
38 U.S.C. § 1232g(a)(4).

39     **Sec. 3.** NRS 388.5315 is hereby amended to read as follows:

40     388.5315 1. A denial of rights of a pupil with a disability  
41 pursuant to NRS 388.521 to 388.5315, inclusive, must be entered in  
42 the pupil’s cumulative record and a confidential file maintained for  
43 that pupil. Notice of the denial must be provided to the board of  
44 trustees of the school district ~~and~~ *, the pupil’s individualized*



1 *education program team and the parent or guardian of the pupil.*  
2 *A law enforcement agency or district attorney may:*

3 (a) *Upon request of a parent or guardian of a pupil, investigate*  
4 *the denial of rights of the pupil pursuant to NRS 388.521 to*  
5 *388.5315, inclusive; and*

6 (b) *Upon consent of a parent or guardian of a pupil, receive a*  
7 *copy of the notice of denial of rights of the pupil.*

8 2. If the board of trustees of a school district receives notice of  
9 a denial of rights pursuant to subsection 1, it shall cause a full report  
10 to be prepared which must set forth in detail the factual  
11 circumstances surrounding the denial. A copy of the report must be  
12 provided to the Department.

13 3. The Department:

14 (a) Shall receive reports made pursuant to subsection 2;

15 (b) May investigate apparent violations of the rights of pupils  
16 with disabilities; and

17 (c) May act to resolve disputes relating to apparent violations.

18 **Sec. 4.** NRS 392.029 is hereby amended to read as follows:

19 392.029 1. If a parent or legal guardian of a pupil requests  
20 the education records of the pupil, a public school shall comply with  
21 the provisions of 20 U.S.C. § 1232g(a) and 34 C.F.R. Part 99.

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

26 3. ~~Except as otherwise provided in 20 U.S.C. § 1232g(b), a~~ A  
27 public school shall not release the education records of a pupil to a  
28 person, agency or organization without the written consent of the  
29 parent or legal guardian of the pupil ~~;~~ *, except for a release of*  
30 *education records without consent:*

31 (a) *To a juvenile probation officer, law enforcement officer or*  
32 *district attorney who is conducting an investigation of truancy*  
33 *pursuant to chapter 62 or 392 of NRS;*

34 (b) *To a juvenile probation officer, law enforcement officer or*  
35 *district attorney who is conducting an investigation of a threat*  
36 *pursuant to NRS 392.915;*

37 (c) *To a juvenile probation officer conducting a preliminary*  
38 *inquiry pursuant to NRS 62.128; or*

39 (d) *As otherwise authorized by 20 U.S.C. § 1232g(b).*

40 *Upon receipt of information pursuant to this subsection, a person*  
41 *receiving the information shall certify in writing to the public*  
42 *school that the information received will not be disclosed to any*  
43 *other person except as otherwise provided by state law without the*  
44 *prior consent of the parent or guardian of the pupil.*



- 1 4. If a public school administers a program which includes a  
2 survey, analysis or evaluation that is designed to elicit the  
3 information described in 20 U.S.C. § 1232h, it must comply with  
4 the provisions of that section.
- 5 5. A right accorded to a parent or legal guardian of a pupil  
6 pursuant to the provisions of this section devolves upon the pupil on  
7 the date on which he attains the age of 18 years.
- 8 6. A public school shall, at least annually, provide to each pupil  
9 who is at least 18 years of age and to a parent or legal guardian of  
10 each pupil who is not at least 18 years of age, written notice of his  
11 rights pursuant to this section.
- 12 7. The provisions of this section:
- 13 (a) Are intended to ensure that each public school complies with  
14 the provisions of 20 U.S.C. §§ 1232g and 1232h;
- 15 (b) Must, to the extent possible, be construed in a manner that is  
16 consistent with 20 U.S.C. §§ 1232g and 1232h, and the regulations  
17 adopted pursuant thereto;
- 18 (c) Apply to a public school regardless of whether the school  
19 receives money from the Federal Government; and
- 20 (d) Do not impair any right, obligation or prohibition established  
21 pursuant to ~~chapter~~ *chapters 62 and 432B* of NRS.
- 22 8. The State Board may adopt such regulations as are necessary  
23 to ensure that public schools comply with the provisions of this  
24 section.
- 25 9. *A public school or an employee of a public school who, in*  
26 *good faith, releases or fails to release education records pursuant*  
27 *to subsection 3 is immune from civil or criminal liability for*  
28 *releasing or failing to release education records pursuant to*  
29 *subsection 3 unless the public school or employee of the public*  
30 *school acted with gross negligence.*
- 31 10. As used in this section, unless the context otherwise  
32 requires, "education records" has the meaning ascribed to it in 20  
33 U.S.C. § 1232g(a)(4).
- 34 **Sec. 5.** This act becomes effective on July 1, 2003.

