

Senate Bill No. 296–Committee on
Human Resources and Education

CHAPTER.....

AN ACT relating to children; revising the provisions governing the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child; authorizing an employer to obtain under certain circumstances certain information concerning whether a person has been found to have abused or neglected a child; requiring certain persons to notify an agency which provides child welfare services of newborn infants who are identified as being affected by illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure and to refer persons responsible for the welfare of such infants to such agencies for counseling, training and other services; revising the provisions governing when a child is in need of protection because he is affected by alcohol use, illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure; providing a penalty; and providing other matters properly relating thereto.

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

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

As used in this section and NRS 432.100 to 432.130, inclusive, “Central Registry” means the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100.

Sec. 2. NRS 432.100 is hereby amended to read as follows:

432.100 1. There is hereby established a Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child. This Central Registry must be maintained by ~~[and in the Central Office of]~~ the Division.

2. The Central Registry must contain:

(a) The information in any *substantiated* report of child abuse or neglect made pursuant to NRS 432B.220 ; ~~[- and the results, if any, of the investigation of the report;]~~

(b) Statistical information on the protective services provided in this State; and

(c) Any other information which the Division determines to be in furtherance of NRS 432.100 to 432.130, inclusive, *and section 1 of this act*, and 432B.010 to 432B.400, inclusive.

3. The Division may ~~[designate a county hospital in each county whose population is 100,000 or more as a regional registry~~

~~for the collection of information concerning the abuse or neglect of a child.]~~ *release information contained in the Central Registry to an employer:*

(a) If the person who is the subject of a background investigation by the employer provides written authorization for the release of the information; and

(b) Either:

(1) The employer is required by law to conduct the background investigation of the person for employment purposes; or

(2) The person who is the subject of the background investigation could, in the course of his employment, have regular and substantial contact with children or regular and substantial contact with elderly persons who require assistance or care from other persons,

↳ but only to the extent necessary to inform the employer whether the person who is the subject of the background investigation has been found to have abused or neglected a child.

4. Except as otherwise provided in this section or by specific statute, information in the Central Registry may be accessed only by an employee of the Division and by an agency which provides child welfare services.

Sec. 3. NRS 432.110 is hereby amended to read as follows:

432.110 ~~[The]~~

1. Except as otherwise provided in subsection 2, the Division shall maintain a record of ~~[the]~~ :

(a) The names and identifying data, dates and circumstances of any persons requesting or receiving information from the ~~[central or regional registries and any]~~ Central Registry; and

(b) Any other information which might be helpful in furthering the purposes of NRS 432.100 to 432.130, inclusive, and section 1 of this act, and 432B.010 to 432B.400, inclusive.

2. The Division is not required to maintain a record of information concerning requests for information from or the receipt of information by employees of an agency which provides child welfare services.

Sec. 4. NRS 432.120 is hereby amended to read as follows:

432.120 1. Information contained in the ~~[central or regional registries or obtained for these registries]~~ Central Registry must not be released unless the right of the applicant to the information is confirmed ~~[and]~~, *the information concerning the report of abuse or neglect of the child has been reported pursuant to NRS 432B.310*, the released information discloses ~~[the nature of]~~ the disposition of the case ~~[or its current status].~~

~~—2. Unless an investigation of a report, conducted pursuant to NRS 432.100 to 432.130, inclusive, and 432B.010 to 432B.400,~~

~~inclusive, reveals some credible evidence of alleged abuse or neglect of a child, all information identifying the subject of a report must be expunged from the central and regional registries at the conclusion of the investigation or within 60 days after the report is filed, whichever occurs first. In all other cases, the record of the substantiated reports] and, if the information is being provided pursuant to subsection 3 of NRS 432.100, the person who is the subject of the background investigation provides written authorization for the release of the information.~~

2. The information contained in the ~~{central or regional registries}~~ *Central Registry concerning cases in which a report of abuse or neglect of a child has been substantiated by an agency which provides child welfare services* must be ~~{sealed no}~~ *deleted from the Central Registry not* later than 10 years after the child who is the subject of the report reaches the age of 18 ~~{ }~~ *years.*

3. The Division shall adopt regulations to carry out the provisions of this section.

Sec. 5. NRS 432.130 is hereby amended to read as follows:

432.130 Any person who willfully releases data or information contained in the ~~{central or regional registries}~~ *Central Registry* to unauthorized persons in violation of NRS 432.120 or 432B.290 is guilty of a misdemeanor.

Sec. 6. NRS 432B.160 is hereby amended to read as follows:

432B.160 1. Except as otherwise provided in subsection 2, immunity from civil or criminal liability extends to every person who in good faith:

- (a) Makes a report pursuant to NRS 432B.220;
- (b) Conducts an interview or allows an interview to be taken pursuant to NRS 432B.270;
- (c) Allows or takes photographs or X rays pursuant to NRS 432B.270;
- (d) Causes a medical test to be performed pursuant to NRS 432B.270;
- (e) Provides a record, or a copy thereof, of a medical test performed pursuant to NRS 432B.270 to an agency which provides child welfare services to the child, a law enforcement agency that participated in the investigation of the report ~~{of abuse or neglect of the child}~~ *made pursuant to NRS 432B.220* or the prosecuting attorney's office;
- (f) Holds a child pursuant to NRS 432B.400, takes possession of a child pursuant to NRS 432B.630 or places a child in protective custody pursuant to any provision of this chapter;
- (g) Performs any act pursuant to subsection 2 of NRS 432B.630;
- (h) Refers a case or recommends the filing of a petition pursuant to NRS 432B.380; or

(i) Participates in a judicial proceeding resulting from a referral or recommendation.

2. The provisions of subsection 1 do not confer any immunity from liability for the negligent performance of any act pursuant to paragraph (b) of subsection 2 of NRS 432B.630.

3. In any proceeding to impose liability against a person for:

(a) Making a report pursuant to NRS 432B.220; or

(b) Performing any act set forth in paragraphs (b) to (i), inclusive, of subsection 1,

→ there is a presumption that the person acted in good faith.

Sec. 7. NRS 432B.170 is hereby amended to read as follows:

432B.170 Nothing in the provisions of this chapter or NRS 432.100 to 432.130, inclusive, prohibits an agency which provides child welfare services from sharing information with other state or local agencies if:

1. The purpose for sharing the information is for the development of a plan for the care, treatment or supervision of a child who has been abused or neglected, *or an infant who is born and has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure* or of a person responsible for the child's *or infant's* welfare;

2. The other agency has standards for confidentiality equivalent to those of the agency which provides child welfare services; and

3. Proper safeguards are taken to ensure the confidentiality of the information.

Sec. 8. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection ~~3~~ 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency

other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. *Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.*

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, *clinical social worker*, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State. [§]

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital. [§]

(c) A coroner. [§]

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession. [§]

(e) A social worker and an administrator, teacher, librarian or counselor of a school. [§]

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child. [§]

(g) Any person licensed to conduct a foster home. [§]

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer. ~~§~~

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect. ~~§~~

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met. ~~§~~

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422. ~~§ and~~

(l) Any adult person who is employed by an entity that provides organized activities for children.

~~4~~ 5. A report may be made by any other person.

~~5~~ 6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 9. NRS 432B.230 is hereby amended to read as follows:

432B.230 1. A person may make a report pursuant to NRS 432B.220 by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable.

2. The report must contain the following information, if obtainable:

(a) The name, address, age and sex of the child;

(b) The name and address of the child's parents or other person responsible for his care;

(c) The nature and extent of the abuse or neglect of the child ~~§~~, *the effect of prenatal illegal substance abuse on the newborn infant or the nature of the withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;*

(d) Any evidence of previously known or suspected ~~abuse~~ :

(1) *Abuse* or neglect of the child or the child's siblings; or

(2) Effects of prenatal illegal substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;

(e) The name, address and relationship, if known, of the person who is alleged to have abused or neglected the child; and

(f) Any other information known to the person making the report that the agency which provides child welfare services considers necessary.

Sec. 10. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

(a) The child is 5 years of age or younger;

(b) There is a high risk of serious harm to the child; or

(c) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

(a) The child is not in imminent danger of harm;

(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens his immediate health or safety;

(c) The alleged abuse or neglect ***of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from prenatal drug exposure of the newborn infant*** could be eliminated if the child and his family receive or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving

the use of corporal punishment, including, without limitation, spanking or paddling; and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

↳ If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall ~~expunge~~ delete all references to the matter from its records.

6. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or his family pursuant to subsection 5, the agency shall require the person to notify the agency if the child or his family refuse or fail to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

7. An agency which provides child welfare services that determines that an investigation is not warranted may, at any time, reverse that determination and initiate an investigation.

8. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 11. NRS 432B.290 is hereby amended to read as follows:

432B.290 1. Except as otherwise provided in subsections 2, 5 and 6 and NRS 432B.513, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available only to:

(a) A physician, if the physician has before him a child who he 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 a child who he 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) A 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 person engaged in bona fide research or an audit, but information identifying the subjects of a report must not be made available to him;

(g) The attorney and the guardian ad litem of the child;

(h) A grand jury upon its determination that access to these records is necessary in the conduct of its official business;

(i) A federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse and neglect;

(j) 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;

(k) A team organized pursuant to NRS 432B.350 for the protection of a child;

(l) A team organized pursuant to NRS 432B.405 to review the death of a child;

(m) A parent or legal guardian of the child and an attorney of a parent or guardian of the child, if the identity of the person responsible for reporting the alleged abuse or neglect of the child to a public agency is kept confidential;

(n) The persons who are the subject of a report;

(o) 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;

(p) 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 his family is not the person alleged to have committed the abuse or neglect;

(q) 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;

(r) 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;

(s) The Rural Advisory Board to Expedite Proceedings for the Placement of Children created pursuant to NRS 432B.602 or a local advisory board to expedite proceedings for the placement of children created pursuant to NRS 432B.604; ~~or~~

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

(u) An employer in accordance with subsection 3 of NRS 432.100.

2. Except as otherwise provided in subsection 3, data or information concerning reports and investigations thereof made pursuant to this chapter may be made available to any member of the general public if the child who is the subject of a report dies or is critically injured as a result of alleged abuse or neglect, except that the data or information which may be disclosed is limited to:

(a) The fact that a report of abuse or neglect has been made and, if appropriate, a factual description of the contents of the report;

(b) Whether an investigation has been initiated pursuant to NRS 432B.260, and the result of a completed investigation; and

(c) Such other information as is authorized for disclosure by a court pursuant to subsection 4.

3. An agency which provides child welfare services shall not disclose data or information pursuant to subsection 2 if the agency determines that the disclosure is not in the best interests of the child or if disclosure of the information would adversely affect any pending investigation concerning a report.

4. Upon petition, a court of competent jurisdiction may authorize the disclosure of additional information to the public pursuant to subsection 2 if good cause is shown by the petitioner for the disclosure of the additional information.

5. 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.

6. An agency which provides child welfare services shall disclose the identity of a person who makes a report or otherwise initiates an investigation pursuant to this chapter if a court, after reviewing the record in camera and determining that there is reason to believe that the person knowingly made a false report, orders the disclosure.

7. Any person, except for:

(a) The subject of a report;

(b) A district attorney or other law enforcement officer initiating legal proceedings; or

(c) 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,

↳ who is given access, pursuant to subsection 1 or 2, to information identifying the subjects of a report and who makes this information public is guilty of a misdemeanor.

8. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section.

Sec. 12. NRS 432B.310 is hereby amended to read as follows:

432B.310 **1.** Except as otherwise provided in subsection 5 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

~~1-1~~ (a) Identifying and demographic information on the child alleged to be abused or neglected, his parents, any other person responsible for his welfare and the person allegedly responsible for the abuse or neglect;

~~1-2~~ (b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted and the severity of the injuries; and

~~1-3~~ (c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child.

3. As used in this section, “Central Registry” has the meaning ascribed to it in section 1 of this act.

Sec. 13. NRS 432B.330 is hereby amended to read as follows:

432B.330 1. A child is in need of protection if:

(a) He has been abandoned by a person responsible for his welfare;

~~(b) He is suffering from congenital drug addiction or fetal alcohol syndrome because of the faults or habits of a person responsible for his welfare;~~

~~(c)~~ He has been subjected to abuse or neglect by a person responsible for his welfare;

~~(d)~~ (c) He is in the care of a person responsible for his welfare and another child has died as a result of abuse or neglect by that person;

~~(e)~~ (d) He has been placed for care or adoption in violation of law; or

~~(f)~~ (e) He has been delivered to a provider of emergency services pursuant to NRS 432B.630.

2. A child may be in need of protection if the person responsible for his welfare:

(a) Is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(b) Fails, although he is financially able to do so or has been offered financial or other means to do so, to provide for the following needs of the child:

(1) Food, clothing or shelter necessary for the child’s health or safety;

(2) Education as required by law; or

(3) Adequate medical care; or

(c) Has been responsible for the abuse or neglect of a child who has resided with that person.

3. A child may be in need of protection if the death of a parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

4. A child may be in need of protection if he is identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure.

Sec. 14. NRS 432B.400 is hereby amended to read as follows:

432B.400 A physician treating a child or a person in charge of a hospital or similar institution may hold a child for no more than 24 hours if there is reasonable cause to believe that the child has been abused or neglected *or has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure* and that he is in danger of further harm if released. The physician or other person shall immediately notify a

law enforcement agency or an agency which provides child welfare services that he is holding the child.

Sec. 15. As soon as practicable after October 1, 2005, each county hospital that was designated as a regional registry for the collection of information concerning the abuse or neglect of a child pursuant to NRS 432.100 shall transfer any information that the county hospital collected for that purpose to the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100.

