

Amendment No. 603

Assembly Amendment to Assembly Bill No. 362 (BDR 34-1144)

Proposed by: Assembly Committee on Judiciary

Amendment Box: Replaces Amendment No. 408.

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 362 (§§ 9, 10).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

KRO/RBL



Date: 4/23/2017

A.B. No. 362—Revises provisions relating to educational personnel.
(BDR 34-1144)



ASSEMBLY BILL NO. 362—ASSEMBLYMEN TOLLES, ~~AND~~ WATKINS; BENITEZ-THOMPSON, KRASNER, OSCARSON, PICKARD, WHEELER, WOODBURY AND YEAGER

MARCH 20, 2017

JOINT SPONSORS: SENATORS GANSERT; AND SPEARMAN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to educational personnel. (BDR 34-1144)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§§ 9, 10)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 education; prohibiting certain persons from assisting certain employees, contractors or agents who work at a public school to obtain new employment; prohibiting a local educational agency or public school from entering into certain agreements; requiring an applicant for employment who may have direct contact with pupils to provide certain information and written authorizations; requiring the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils and certain independent contractors to take certain action regarding persons who may have direct contact with children; requiring certain employers to provide certain information regarding an applicant for employment who may have direct contact with children; ~~authorizing the Department of Education to impose an administrative penalty;~~ providing that an employer who fails to provide certain information regarding an applicant for employment who may have direct contact with children is subject to certain disciplinary action; providing that a teacher or administrator may be subject to disciplinary action for certain violations; requiring the Superintendent of Public Instruction to provide certain notice when an application for a license is denied; requiring the Department of Education to maintain a list of the names of persons whose application for a

license has been denied for certain purposes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 6, 7 and 22** of this bill incorporate in state law certain provisions of federal law
2 designed to prevent persons who have engaged in sexual misconduct with a minor from
3 obtaining new employment.

4 **Section 8** of this bill requires an applicant for employment with a school district, charter
5 school, university school for profoundly gifted pupils and certain independent contractors who
6 may have direct contact with pupils to provide to the prospective employer: (1) information
7 relating to his or her employment history; and (2) written authorization for a current or
8 previous employer to release information relating to his or her employment. **Section 8** also
9 provides that any action brought by such an applicant for employment based upon
10 information obtained about the applicant to determine his or her fitness for employment
11 must be brought in a court in this State and governed by the laws of this State. Finally,
12 section 8 provides that an applicant for employment who knowingly provides false
13 information or willfully fails to disclose information is subject to discipline and is guilty of a
14 misdemeanor.

15 **Section 9** of this bill requires the governing body of a public school, including the board
16 of trustees of a school district, governing body of a charter school and governing body of a
17 university school for profoundly gifted pupils, or an independent contractor who receives the
18 information described in **section 8** to: (1) verify the information received; (2) ensure that the
19 applicant has a license authorizing him or her to teach or perform other educational functions
20 if a license is required; and (3) verify that the Department of Education has not received notice
21 that the applicant is a defendant in a criminal case.

22 **Section 10** of this bill requires the governing body of a public school and an independent
23 contractor to take certain action to obtain additional information if a current or previous
24 employer of an applicant indicates that the applicant is or was the subject of an investigation
25 concerning an alleged sexual offense.

26 **Sections 9 and 10** also provide that any person who is contacted by the governing body
27 of a public school or an independent contractor and asked to provide information, but willfully
28 fails to disclose information is subject to discipline, including a civil penalty. Sections 9 and
29 10 further provide that, in addition to being subject to discipline, including a civil
30 penalty, a private school that willfully fails to disclose any such information is subject to
31 discipline, which may include being placed on a corrective action plan. Sections 9 and 10
32 provide immunity from liability for providing the information and makes the
33 information privileged.

34 **Section 11** of this bill authorizes the governing body of a public school and an
35 independent contractor to: (1) consider the information received pursuant to **sections 8-10**
36 when making an employment decision; and (2) report the information received to certain
37 entities. Section 11 also provides that the board of trustees of a school district, governing
38 body of a charter school, governing body of a university school for profoundly gifted
39 pupils or independent contractor: (1) shall not be held liable for any damages resulting
40 from failure of an entity not subject to the jurisdiction of this State to respond to certain
41 requests for information or any inaccuracy or omission in the information submitted;
42 and (2) is immune from civil or criminal liability for considering the information
43 received pursuant to sections 8-10 when making employment decisions.

44 **Section 12** of this bill requires an independent contractor who employs a person who may
45 have direct contact with pupils to maintain a record for each such employee and, upon request,
46 provide this record to the governing body of the public school at which an employee has been
47 assigned to perform work. **Section 12** also: (1) requires an independent contractor to provide
48 certain information to the governing body of a public school before assigning an employee to
49 perform work at a location; and (2) prohibits an independent contractor from assigning an
50 employee to perform work at a school if the governing body of the school objects to the
51 assignment.

52 **Section 13** of this bill authorizes the governing body of a public school to allow
53 provisional employment of a person pending review of the information received pursuant to
54 **sections 8-10** in certain circumstances.

55 **Section 14** of this bill provides that nothing in **sections 2-17** of this bill shall be construed
 56 to: (1) prevent a prospective employer from conducting further investigations of a prospective
 57 employee; (2) prohibit a person from disclosing more information than is required by this bill;
 58 or (3) relieve a person of a duty to report prescribed by state or federal law.

59 **Section 15** prohibits the governing body of a public school or an independent contractor
 60 from entering into any agreement that: (1) has the effect of suppressing information relating to
 61 an investigation concerning a report of suspected abuse or sexual misconduct by a current or
 62 former employee; (2) affects the ability of the governing body or independent contractor to
 63 report suspected abuse or sexual misconduct; or (3) requires the governing body or
 64 independent contractor to expunge certain information from any documents maintained by the
 65 governing body or independent contractor. **Section 15 also requires an employer to**
 66 **maintain certain documents if the agreement requires the removal of the document from**
 67 **an employee's personnel file.**

68 **Sections 16 and 21** provide that any information collected from an applicant for
 69 employment or an employer pursuant to **sections 8-10** is confidential and is not a public book
 70 or record.

71 **Section 17** ~~authorizes the Department of Education to impose an administrative penalty~~
 72 ~~on any person found, after notice and a hearing, to have willfully violated the provisions~~
 73 **provides that any person who willfully violates any provision of sections 2-17, is**
 74 **subject to a civil penalty, which must be recovered in a civil action.** **Section 17** also
 75 prohibits the governing body of a public school from contracting with an independent
 76 contractor who has been found to have willfully violated the provisions of **sections 2-17**.
 77 **Section 19** provides that a teacher or administrator may be subject to disciplinary action for
 78 willfully violating the provisions of **sections 2-17**.

79 Existing law requires the Superintendent of Public Instruction to grant all licenses for
 80 teachers and other educational personnel. (NRS 391.033) **Section 18** requires the
 81 Superintendent to provide notice to a school district or charter school that employs an
 82 applicant whenever an application for a license is denied. **Section 18 also requires the**
 83 **Department of Education to: (1) maintain a list of the names of persons whose**
 84 **application for a license is denied due to conviction of a sexual offense involving a minor;**
 85 **and (2) provide such a list to certain persons upon request.**

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

1 **Section 1.** Chapter 391 of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections 2 to 17, inclusive, of this act.

3 **Sec. 2.** *As used in sections 2 to 17, inclusive, of this act, unless the context*
 4 *otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act*
 5 *have the meanings ascribed to them in those sections.*

6 **Sec. 3.** *“Local educational agency” has the meaning ascribed to it in 20*
 7 *U.S.C. § 7801(30)(A).*

8 **Sec. 4.** *“Sexual misconduct” means any act, including, without limitation,*
 9 *any verbal, nonverbal, written or electronic communication or physical activity,*
 10 *directed toward or with a child, regardless of the age of the child, that is designed*
 11 *to establish a romantic or sexual relationship with the child.*

12 **Sec. 5.** *“Sexual offense” has the meaning ascribed to it in NRS 179D.097.*

13 **Sec. 6.** 1. *Except as otherwise provided in subsection 2, the Department, a*
 14 *local educational agency or an employee, contractor or agent thereof who works*
 15 *at a public school shall not assist an employee, contractor or agent who works at*
 16 *a school to obtain new employment, apart from the routine transmission of*
 17 *administrative and personnel files, if the person or entity ~~knows or~~ has*
 18 *~~probable cause to believe~~ actual or constructive knowledge that such an*

1 *employee, contractor or agent has engaged in sexual misconduct regarding a*
2 *minor or pupil.*

3 2. *The provisions of subsection 1 do not apply if:*

4 (a) *The information giving rise to ~~probable cause~~ actual or constructive*
5 *knowledge has been properly reported to a law enforcement agency with*
6 *jurisdiction over the alleged misconduct and any other authorities required by*
7 *federal, state or local law, including, without limitation, Title IX of the Education*
8 *Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., and any regulations adopted*
9 *pursuant thereto, and the matter has been officially closed, or the District*
10 *Attorney or law enforcement agency with jurisdiction over the alleged misconduct*
11 *has investigated the allegations and notified school officials that there is*
12 *insufficient information to establish ~~probable cause~~ that the employee,*
13 *contractor or agent engaged in sexual misconduct regarding a minor or pupil;*

14 (b) *The employee, contractor or agent has been charged with and acquitted*
15 *or otherwise exonerated of the alleged misconduct; or*

16 (c) *The case or investigation remains open and there have been no charges*
17 *filed against, or indictment of, the employee, contractor or agent within 4 years*
18 *after the date on which the information was reported to a law enforcement*
19 *agency.*

20 3. *The State Board may adopt regulations to enforce the provisions of this*
21 *section.*

22 **Sec. 7.** *A local educational agency or a public school shall not enter into*
23 *any agreement with a person convicted of a sexual offense involving a minor to*
24 *keep the conviction or the circumstances surrounding the offense confidential.*

25 **Sec. 8. 1.** *In addition to fulfilling the requirements for employment*
26 *prescribed by NRS 388A.323, 388A.515, 388C.200, 391.104 or 391.281, as*
27 *applicable, or fulfilling the requirements for the issuance of a license prescribed*
28 *by NRS 391.033, any applicant for employment with a school district, charter*
29 *school or university school for profoundly gifted pupils who may have direct*
30 *contact with pupils must, as a condition to employment, submit to the board of*
31 *trustees of the school district, governing body of the charter school or governing*
32 *body of the university school for profoundly gifted pupils with which the*
33 *applicant seeks to obtain employment, on a form prescribed by the Department:*

34 (a) *The name, address and telephone number for the applicant's current*
35 *employer, any former employer of the applicant that was a school or school*
36 *district and any other former employer with whom the applicant was employed in*
37 *a position that involved direct contact with children;*

38 (b) *Any other contact information for the persons described in paragraph (a)*
39 *prescribed by the board of trustees of the school district, governing body of the*
40 *charter school or governing body of the university school for profoundly gifted*
41 *pupils with which the applicant seeks to obtain employment;*

42 (c) *Written authorization for the persons described in paragraph (a) to*
43 *release the information prescribed in section 9 of this act; and*

44 (d) *A written statement indicating whether the person has:*

45 (1) *Except as otherwise provided in this subparagraph, been the subject*
46 *of an investigation concerning an alleged sexual offense by an employer,*
47 *licensing agency, law enforcement agency, agency which provides child welfare*
48 *services, agency which provides child protective services or a similar agency. A*
49 *person is not required to provide the information described in this subparagraph*
50 *if, after investigating the alleged violation, the employer or agency determined*
51 *that the allegations were false ~~or~~ unfounded, unsubstantiated or inconclusive.*

52 (2) *Been discharged, disciplined, had a contract not renewed, asked to*
53 *resign from employment, resigned from employment or otherwise separated from*

1 employment while an investigation concerning an alleged sexual offense was
2 pending or upon conclusion of such an investigation, and was found, upon
3 conclusion of the investigation, to have committed the sexual offense.

4 (3) Had a license or certificate suspended or revoked or has been
5 required to surrender a license or certificate while an investigation concerning
6 an alleged sexual offense was pending or upon conclusion of such an
7 investigation and was found, upon conclusion of the investigation, to have
8 committed the sexual offense.

9 2. Any action brought by an applicant for employment described in
10 subsection 1 which is based upon information obtained by a board of trustees of a
11 school district, the governing body of a charter school or the governing body of a
12 university school for profoundly gifted pupils with which the applicant seeks
13 employment to determine the fitness of the applicant for employment, including,
14 without limitation, an action for defamation, must be brought in a court in the
15 State of Nevada and governed by the laws of this State.

16 3. An applicant for employment with an independent contractor of a school
17 district, charter school or university school for profoundly gifted pupils who may
18 have direct contact with pupils must, before having direct contact with pupils,
19 submit to the independent contractor on a form prescribed by the Department:

20 (a) The information described in paragraphs (a), (c) and (d) of subsection 1;
21 and

22 (b) Any other contact information for the persons described in paragraph (a)
23 of subsection 1 requested by the independent contractor with which the applicant
24 seeks to obtain employment.

25 ~~3.~~ 4. Any applicant for employment described in subsection 1 ~~for 2~~ or 3
26 who knowingly provides false information or willfully fails to disclose any
27 information required by this section:

28 (a) Is subject to discipline, including, without limitation, suspension or
29 revocation of the person's license pursuant to NRS 391.330 or 391.750,
30 termination of employment or a civil penalty ~~prescribed by the Department~~
31 pursuant to section 17 of this act; and

32 (b) Is guilty of a misdemeanor.

33 Sec. 9. 1. Upon receipt of the information required by section 8 of this
34 act, the board of trustees of a school district, governing body of a charter school,
35 governing body of a university school for profoundly gifted pupils or independent
36 contractor shall:

37 (a) Contact each person described in paragraph (a) of subsection 1 of section
38 8 of this act and request that the person provide:

39 (1) The dates of employment of the applicant; and

40 (2) On a form prescribed by the Department, a written statement
41 indicating whether the applicant has:

42 (I) Except as otherwise provided in this sub-subparagraph, been the
43 subject of an investigation concerning an alleged sexual offense by the employer.
44 A person is not required to provide the information described in this sub-
45 subparagraph if, after investigating the alleged violation, the employer
46 determined that the allegations were false ~~+~~, unfounded, unsubstantiated or
47 inconclusive.

48 (II) Been discharged, disciplined, had a contract not renewed, asked
49 to resign from employment, resigned from employment or otherwise separated
50 from employment while an investigation concerning an alleged sexual offense
51 was pending or upon conclusion of such an investigation and was found, upon
52 conclusion of the investigation, to have committed the sexual offense.

1 (III) Had a license or certificate suspended or revoked or has been
2 required to surrender a license or certificate while an investigation concerning
3 an alleged sexual offense was pending or upon conclusion of such an
4 investigation and was found, upon conclusion of the investigation, to have
5 committed the sexual offense.

6 (b) Ensure that the applicant has a license authorizing him or her to teach or
7 perform other educational functions at the level and, except as otherwise
8 provided in NRS 391.125, in the field for which he or she is applying for
9 employment, if a license is required, and that the applicant is otherwise eligible
10 for employment.

11 (c) Verify that the Department has not received notice, including, without
12 limitation, notice provided pursuant to NRS 391.055, that the applicant is a
13 defendant in a criminal case.

14 2. A person contacted by a board of trustees of a school district, governing
15 body of a charter school, governing body of a university school for profoundly
16 gifted pupils or independent contractor pursuant to paragraph (a) of subsection
17 1:

18 (a) Shall provide the information requested not later than 20 days after the
19 date on which the board of trustees, governing body or independent contractor
20 contacts the person.

21 (b) Is immune from civil and criminal liability for ~~providing~~ any act
22 relating to the provision of such information, unless the person knowingly
23 provides false information. Such information is privileged and must not be used
24 as the basis for any action against the person or entity that provided the
25 information.

26 3. Except as otherwise prohibited by federal or state law, a person who
27 willfully fails to disclose any information required by subsection 1 is subject to
28 discipline, including, without limitation, a civil penalty ~~prescribed by the~~
29 ~~Department~~ pursuant to section 17 of this act.

30 4. In addition to the penalty set forth in subsection 3, a private school that
31 willfully fails to disclose any information required by subsection 1 is subject to
32 discipline, which may include, without limitation, being placed on a plan of
33 corrective action by the Department.

34 Sec. 10. 1. If a statement provided pursuant to paragraph (d) of
35 subsection 1 of section 8 of this act or paragraph (a) of subsection 2 of section 8
36 of this act indicates that the person meets any of the criteria prescribed in those
37 paragraphs, the board of trustees of a school district, governing body of a charter
38 school, governing body of a university school for profoundly gifted pupils or
39 independent contractor who receives the statement shall request that the
40 employer that conducted the investigation concerning an alleged sexual offense,
41 discharged, disciplined or dismissed the employee or asked the employee to resign
42 from employment provide additional information concerning the matter and all
43 records related to the matter ~~+~~ , including, without limitation, any documents
44 relating to a disciplinary action taken against the employee, disciplinary records
45 or documents used in the decision made by the employer concerning the
46 investigation.

47 2. A person contacted by the board of trustees of a school district, governing
48 body of a charter school, governing body of a university school for profoundly
49 gifted pupils or independent contractor pursuant to subsection 1:

50 (a) ~~Shall~~ Except as otherwise provided in this subsection, shall provide the
51 information requested not later than 60 days after the date on which the board of
52 trustees, governing body or independent contractor contacts the person.

1 (b) Is not required to disclose any information or records held by the school
2 police of the school district, if the school district has school police officers.

3 (c) Is immune from civil and criminal liability ~~for providing such~~
4 ~~information, unless the person knowingly provides false information.~~ to the
5 same extent provided in paragraph (b) of subsection 2 of section 9 of this act.

6 3. Except as otherwise prohibited by federal or state law, a person who
7 willfully fails to disclose any information required by subsection 1 is subject to
8 discipline, including, without limitation, a civil penalty ~~prescribed by the~~
9 ~~Department~~ pursuant to section 17 of this act.

10 4. In addition to the penalty set forth in subsection 3, a private school that
11 willfully fails to disclose any information required by subsection 1 is subject to
12 discipline, which may include, without limitation, being placed on a plan of
13 corrective action by the Department.

14 Sec. 11. The board of trustees of a school district, governing body of a
15 charter school, governing body of a university school for profoundly gifted pupils
16 or independent contractor : ~~may~~

17 1. ~~Consider~~ May consider the information submitted pursuant to sections
18 8, 9 and 10 of this act when deciding whether to employ an applicant or continue
19 to employ a person. ~~and~~

20 2. ~~Report~~ May report the information submitted pursuant to sections 8, 9
21 and 10 of this act to the Department or a licensing agency, law enforcement
22 agency, agency which provides child welfare services, an agency which provides
23 child protective services or a similar agency.

24 3. Shall not be held liable for any damages resulting from the failure of an
25 entity not subject to the jurisdiction of this State to respond to a request for
26 information pursuant to section 9 or 10 of this act or any inaccuracy or omission
27 in the information submitted to the school district, charter school, university
28 school for profoundly gifted pupils or independent contractor pursuant to section
29 9 or 10 of this act.

30 4. Is immune from civil or criminal liability for considering the information
31 submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to
32 employ an applicant or continue to employ a person.

33 Sec. 12. 1. An independent contractor of a school district, charter school
34 or university school for profoundly gifted pupils who employs a person who may
35 have direct contact with pupils shall:

36 (a) Maintain a record for each such employee that includes, without
37 limitation, the information submitted pursuant to subsection 2 of section 8 of this
38 act and the information submitted pursuant to subsection 2 of section 9 of this
39 act; and

40 (b) Upon request, provide the record maintained pursuant to paragraph (a)
41 to the board of trustees of the school district, governing body of the charter
42 school or governing body of the university school for profoundly gifted pupils, as
43 applicable, for the school at which an employee has been assigned to perform
44 work.

45 2. Before assigning an employee to perform work at a location where the
46 employee may have direct contact with pupils, an independent contractor shall
47 inform the board of trustees of the school district, governing body of the charter
48 school or governing body of the university school for profoundly gifted pupils, as
49 applicable, with which the employee will be assigned to perform work of any
50 institute known in which the employee:

51 (a) Except as otherwise provided in this paragraph, has been the subject of
52 an investigation concerning an alleged sexual offense by an employer. A person
53 is not required to provide the information described in this paragraph if, after

1 *investigating the alleged violation, the employer determined that the allegations*
2 *were false ~~or~~, unfounded, unsubstantiated or inconclusive.*

3 *(b) Has ever been discharged, disciplined, had a contract not renewed, asked*
4 *to resign from employment, resigned from employment or otherwise separated*
5 *from employment while an investigation concerning an alleged sexual offense*
6 *was pending or upon conclusion of such an investigation and was found, upon*
7 *conclusion of the investigation, to have committed the sexual offense.*

8 *(c) Had a license or certificate suspended or revoked or has been required to*
9 *surrender a license or certificate while an investigation concerning an alleged*
10 *sexual offense was pending or upon conclusion of such an investigation and was*
11 *found, upon conclusion of the investigation, to have committed the sexual*
12 *offense.*

13 *3. An independent contractor may not assign an employee to perform work*
14 *at a public school, charter school or university school for profoundly gifted pupils*
15 *if the board of trustees of the school district in which the school is located,*
16 *governing body of the charter school or governing body of the university school*
17 *for profoundly gifted pupils, as applicable, objects to such an assignment upon*
18 *receiving the notification required by subsection 2.*

19 **Sec. 13.** *The board of trustees of a school district, governing body of a*
20 *charter school or governing body of a university school for profoundly gifted*
21 *pupils may authorize provisional employment of a person for a period not to*
22 *exceed 90 days pending the review of information submitted pursuant to sections*
23 *8, 9 and 10 of this act if the board of trustees or the governing body determines*
24 *the applicant is otherwise qualified and:*

25 *1. The applicant provided the statement described in paragraph (d) of*
26 *subsection 1 of section 8 of this act.*

27 *2. The board of trustees of the school district, governing body of the charter*
28 *school or governing body of the university school for profoundly gifted pupils, as*
29 *applicable, has no knowledge of information pertaining to the applicant that*
30 *would disqualify the applicant from employment.*

31 *3. The applicant swears or affirms that he or she is not disqualified from*
32 *employment.*

33 *4. The applicant is directly supervised by a permanent employee in any*
34 *duties that involve direct contact with pupils. The supervision must be such that*
35 *the applicant is in the immediate location of the permanent employee and is*
36 *readily available during such times as supervision is required.*

37 **Sec. 14.** *Nothing in sections 2 to 17, inclusive, of this act shall be construed*
38 *to:*

39 *1. Prevent a board of trustees of a school district, governing body of a*
40 *charter school, governing body of a university school for profoundly gifted pupils*
41 *or independent contractor from:*

42 *(a) Conducting further investigations of a prospective employee; or*

43 *(b) Requiring an applicant to submit additional information or*
44 *authorizations beyond what is required by sections 8, 9 and 10 of this act.*

45 *2. Prohibit a person from disclosing more information than is required by*
46 *sections 8, 9 and 10 of this act.*

47 *3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any*
48 *other provision of state or federal law.*

49 **Sec. 15.** *1. The board of trustees of a school district, governing body of a*
50 *charter school, governing body of a university school for profoundly gifted pupils*
51 *or the independent contractor of a school district, charter school or university*
52 *school for profoundly gifted pupils shall not enter into an agreement that:*

1 (a) Has the effect of suppressing information relating to an investigation
2 concerning a report of suspected abuse or sexual misconduct by a current or
3 former employee.

4 (b) Affects the ability of the school district, charter school, university school
5 for profoundly gifted pupils or independent contractor to report suspected abuse
6 or sexual misconduct to the appropriate authorities.

7 (c) Requires the school district, charter school, university school for
8 profoundly gifted pupils or independent contractor to expunge information about
9 allegations or findings of suspected abuse or sexual misconduct from any
10 documents maintained by the school district, charter school, university school for
11 profoundly gifted pupils or independent contractor, unless, after investigating the
12 alleged violation, the school district, charter school, university school for
13 profoundly gifted pupils or independent contractor determines that the
14 allegations were false ~~or~~, unfounded, unsubstantiated or inconclusive.

15 2. If an agreement requires the removal of a document from the personnel
16 file of an employee, the employer must maintain the document with the
17 agreement.

18 3. Any provisions in an agreement that violate the provisions of this section
19 are void.

20 Sec. 16. Any information collected pursuant to section 8, 9 or 10 of this act
21 is confidential and is not a public book or record within the meaning of NRS
22 239.010.

23 Sec. 17. 1. ~~If any person is found after notice and a hearing to have~~
24 ~~willfully violated,~~ Any person who willfully violates any provision of sections 2 to
25 17, inclusive, of this act, ~~the Department may impose an administrative penalty~~
26 against the person is subject to a civil penalty of not more than \$10,000 for each
27 violation. This penalty must be recovered in a civil action, brought in the name of
28 the State of Nevada by the Attorney General. In such an action, the Attorney
29 General may recover reasonable attorney's fees and costs. If a civil penalty is
30 imposed against an independent contractor for willfully violating any provision of
31 sections 2 to 17, inclusive, of this act, the Attorney General shall, within 30 days
32 after the imposition of the civil penalty, notify the Department of the name of the
33 independent contractor.

34 2. The Department shall maintain a list of any independent contractors who
35 have been found to have willfully violated the provisions of sections 2 to 17,
36 inclusive, of this act and make the list available, upon request, to the board of
37 trustees of a school district, governing body of a charter school or governing body
38 of a university school for profoundly gifted pupils.

39 3. The board of trustees of a school district, governing body of a charter
40 school or governing body of a university school for profoundly gifted pupils shall
41 not contract with an independent contractor who has been found to have willfully
42 violated the provisions of sections 2 to 17, inclusive, of this act.

43 Sec. 18. NRS 391.033 is hereby amended to read as follows:

44 391.033 1. All licenses for teachers and other educational personnel are
45 granted by the Superintendent of Public Instruction pursuant to regulations adopted
46 by the Commission and as otherwise provided by law.

47 2. An application for the issuance of a license must include the social security
48 number of the applicant.

49 3. Every applicant for a license must submit with his or her application a
50 complete set of his or her fingerprints and written permission authorizing the
51 Superintendent to forward the fingerprints to the Central Repository for Nevada
52 Records of Criminal History for its initial report on the criminal history of the
53 applicant and for reports thereafter upon renewal of the license pursuant to

1 subsection 7 of NRS 179A.075, and for submission to the Federal Bureau of
2 Investigation for its report on the criminal history of the applicant.

3 4. The Superintendent may issue a provisional license pending receipt of the
4 reports of the Federal Bureau of Investigation and the Central Repository for
5 Nevada Records of Criminal History if the Superintendent determines that the
6 applicant is otherwise qualified.

7 5. A license must be issued to, or renewed for, as applicable, an applicant if:

8 (a) The Superintendent determines that the applicant is qualified;

9 (b) The reports on the criminal history of the applicant from the Federal
10 Bureau of Investigation and the Central Repository for Nevada Records of Criminal
11 History:

12 (1) Do not indicate that the applicant has been convicted of a felony or any
13 offense involving moral turpitude; or

14 (2) Indicate that the applicant has been convicted of a felony or an offense
15 involving moral turpitude but the Superintendent determines that the conviction is
16 unrelated to the position within the county school district or charter school for
17 which the applicant applied or for which he or she is currently employed, as
18 applicable; and

19 (c) For initial licensure, the applicant submits the statement required pursuant
20 to NRS 391.034.

21 ***6. If the Superintendent denies an application for a license pursuant to this***
22 ***section, the Superintendent must, within 15 days after the date on which the***
23 ***application is denied, provide notice of the denial to the school district or charter***
24 ***school that employs the applicant if the applicant is employed by a school district***
25 ***or charter school. Such a notice must not state the reasons for denial.***

26 ***7. The Department shall:***

27 ***(a) Maintain a list of the names of persons whose application for a license is***
28 ***denied due to conviction of a sexual offense involving a minor;***

29 ***(b) Update the list maintained pursuant to paragraph (a) monthly; and***

30 ***(c) Provide this list to the board of trustees of a school district or the***
31 ***governing body of a charter school upon request.***

32 ***8. As used in this section, "sexual offense" has the meaning ascribed to it in***
33 ***NRS 179D.097.***

34 **Sec. 19.** NRS 391.750 is hereby amended to read as follows:

35 391.750 1. A teacher may be suspended, dismissed or not reemployed and
36 an administrator may be demoted, suspended, dismissed or not reemployed for the
37 following reasons:

38 (a) Inefficiency;

39 (b) Immorality;

40 (c) Unprofessional conduct;

41 (d) Insubordination;

42 (e) Neglect of duty;

43 (f) Physical or mental incapacity;

44 (g) A justifiable decrease in the number of positions due to decreased
45 enrollment or district reorganization;

46 (h) Conviction of a felony or of a crime involving moral turpitude;

47 (i) Inadequate performance;

48 (j) Evident unfitness for service;

49 (k) Failure to comply with such reasonable requirements as a board may
50 prescribe;

51 (l) Failure to show normal improvement and evidence of professional training
52 and growth;

1 (m) Advocating overthrow of the Government of the United States or of the
2 State of Nevada by force, violence or other unlawful means, or the advocating or
3 teaching of communism with the intent to indoctrinate pupils to subscribe to
4 communistic philosophy;

5 (n) Any cause which constitutes grounds for the revocation of a teacher's
6 license;

7 (o) Willful neglect or failure to observe and carry out the requirements of this
8 title;

9 (p) Dishonesty;

10 (q) Intentional failure to observe and carry out the requirements of a plan to
11 ensure the security of examinations and assessments adopted pursuant to NRS
12 390.270 or 390.275;

13 (r) An intentional violation of NRS 388.497 or 388.499;

14 (s) Knowingly and willfully failing to comply with the provisions of NRS
15 388.1351;

16 (t) *Knowingly and willfully violating any provision of sections 2 to 17,*
17 *inclusive, of this act;*

18 (u) Gross misconduct; or

19 ~~(v)~~ (v) An intentional failure to report a violation of NRS 388.135 if the
20 teacher or administrator witnessed the violation.

21 2. If a teacher or administrator is found, through an investigation of a testing
22 irregularity, to have willfully breached the security or confidentiality of the
23 questions and answers of the examinations that are administered pursuant to NRS
24 390.105 or 390.600 or the college and career readiness assessment administered
25 pursuant to NRS 390.610, the board of trustees of a school district, governing body of
26 a charter school or governing body of a university school for profoundly gifted
27 pupils, as applicable, shall:

28 (a) Suspend, dismiss or fail to reemploy the teacher; or

29 (b) Demote, suspend, dismiss or fail to reemploy the administrator.

30 3. In determining whether the professional performance of a licensed
31 employee is inadequate, consideration must be given to the regular and special
32 evaluation reports prepared in accordance with the policy of the employing school
33 district and to any written standards of performance which may have been adopted
34 by the board.

35 4. As used in this section, "gross misconduct" includes any act or omission
36 that is in wanton, willful, reckless or deliberate disregard of the interests of a school
37 or school district or a pupil thereof.

38 **Sec. 20.** NRS 391.755 is hereby amended to read as follows:

39 391.755 1. Whenever an administrator charged with supervision of a
40 licensed employee believes it is necessary to admonish the employee for a reason
41 that the administrator believes may lead to demotion or dismissal or may cause the
42 employee not to be reemployed under the provisions of NRS 391.750, the
43 administrator shall:

44 (a) Except as otherwise provided in subsection 3, bring the matter to the
45 attention of the employee involved, in writing, stating the reasons for the
46 admonition and that it may lead to the employee's demotion, dismissal or a refusal
47 to reemploy him or her, and make a reasonable effort to assist the employee to
48 correct whatever appears to be the cause for the employee's potential demotion,
49 dismissal or a potential recommendation not to reemploy him or her; and

50 (b) Except as otherwise provided in NRS 391.760, allow reasonable time for
51 improvement, which must not exceed 3 months for the first admonition.

52 **➤** The admonition must include a description of the deficiencies of the teacher and
53 the action that is necessary to correct those deficiencies.

1 2. An admonition issued to a licensed employee who, within the time granted
2 for improvement, has met the standards set for the employee by the administrator
3 who issued the admonition must be removed from the records of the employee
4 together with all notations and indications of its having been issued. The
5 admonition must be removed from the records of the employee not later than 3
6 years after it is issued.

7 3. An administrator need not admonish an employee pursuant to paragraph (a)
8 of subsection 1 if his or her employment will be terminated pursuant to NRS
9 391.820.

10 4. A licensed employee is subject to immediate dismissal or a refusal to
11 reemploy according to the procedures provided in NRS 391.650 to 391.830,
12 inclusive, without the admonition required by this section, on grounds contained in
13 paragraphs (b), (f), (g), (h), (p), (s) , ~~and~~ (t) *and* (u) of subsection 1 of NRS
14 391.750.

15 **Sec. 21.** NRS 239.010 is hereby amended to read as follows:

16 239.010 1. Except as otherwise provided in this section and NRS 1.4683,
17 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025,
18 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
19 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640,
20 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160,
21 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
22 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
23 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140,
24 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
25 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
26 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,
27 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521,
28 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
29 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
30 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
31 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
32 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105,
33 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
34 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
35 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135,
36 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
37 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
38 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044,
39 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
40 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
41 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167,
42 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
43 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
44 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205,
45 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
46 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330,
47 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164,
48 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
49 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
50 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575,
51 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,
52 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
53 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,

1 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
2 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133,
3 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
4 633.301, 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, 640A.220, 640B.730,
6 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
7 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050,
8 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
9 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947,
10 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130,
11 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
12 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285,
13 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
14 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
15 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538,
16 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320,
17 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 16 of this act*,
18 sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
19 chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be
20 confidential, all public books and public records of a governmental entity must be
21 open at all times during office hours to inspection by any person, and may be fully
22 copied or an abstract or memorandum may be prepared from those public books
23 and public records. Any such copies, abstracts or memoranda may be used to
24 supply the general public with copies, abstracts or memoranda of the records or
25 may be used in any other way to the advantage of the governmental entity or of the
26 general public. This section does not supersede or in any manner affect the federal
27 laws governing copyrights or enlarge, diminish or affect in any other manner the
28 rights of a person in any written book or record which is copyrighted pursuant to
29 federal law.

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

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

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

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

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

47 **Sec. 22.** NRS 432B.220 is hereby amended to read as follows:

48 432B.220 1. Any person who is described in subsection 4 and who, in his or
49 her professional or occupational capacity, knows or has reasonable cause to believe
50 that a child has been abused or neglected shall:

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

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

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

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

11 (b) An agency which provides child welfare services or a law enforcement
12 agency, the person shall make the report to an agency other than the one alleged to
13 have committed the act or omission, and the investigation of the abuse or neglect of
14 the child must be made by an agency other than the one alleged to have committed
15 the act or omission.

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

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

30 (a) A person providing services licensed or certified in this State pursuant to,
31 without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636,
32 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of
33 NRS.

34 (b) Any personnel of a medical facility licensed pursuant to chapter 449 of
35 NRS who are engaged in the admission, examination, care or treatment of persons
36 or an administrator, manager or other person in charge of such a medical facility
37 upon notification of suspected abuse or neglect of a child by a member of the staff
38 of the medical facility.

39 (c) A coroner.

40 (d) A member of the clergy, practitioner of Christian Science or religious
41 healer, unless the person has acquired the knowledge of the abuse or neglect from
42 the offender during a confession.

43 (e) A person working in a school who is licensed or endorsed pursuant to
44 chapter 391 or 641B of NRS.

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

48 (g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster
49 home.

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

52 (i) Except as otherwise provided in NRS 432B.225, an attorney.

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

4 (k) Any person who is employed by or serves as a volunteer for a youth shelter.
5 As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS
6 244.427.

7 (l) Any adult person who is employed by an entity that provides organized
8 activities for children **H**, *including, without limitation, a person who is employed*
9 *by a school district or public school as defined in NRS 385.007.*

10 5. A report may be made by any other person.

11 6. If a person who is required to make a report pursuant to subsection 1 knows
12 or has reasonable cause to believe that a child has died as a result of abuse or
13 neglect, the person shall, as soon as reasonably practicable, report this belief to an
14 agency which provides child welfare services or a law enforcement agency. If such
15 a report is made to a law enforcement agency, the law enforcement agency shall
16 notify an agency which provides child welfare services and the appropriate medical
17 examiner or coroner of the report. If such a report is made to an agency which
18 provides child welfare services, the agency which provides child welfare services
19 shall notify the appropriate medical examiner or coroner of the report. The medical
20 examiner or coroner who is notified of a report pursuant to this subsection shall
21 investigate the report and submit his or her written findings to the appropriate
22 agency which provides child welfare services, the appropriate district attorney and a
23 law enforcement agency. The written findings must include, if obtainable, the
24 information required pursuant to the provisions of subsection 2 of NRS 432B.230.

25 7. The agency, board, bureau, commission, department, division or political
26 subdivision of the State responsible for the licensure, certification or endorsement
27 of a person who is described in subsection 4 and who is required in his or her
28 professional or occupational capacity to be licensed, certified or endorsed in this
29 State shall, at the time of initial licensure, certification or endorsement:

30 (a) Inform the person, in writing or by electronic communication, of his or her
31 duty as a mandatory reporter pursuant to this section;

32 (b) Obtain a written acknowledgment or electronic record from the person that
33 he or she has been informed of his or her duty pursuant to this section; and

34 (c) Maintain a copy of the written acknowledgment or electronic record for as
35 long as the person is licensed, certified or endorsed in this State.

36 8. The employer of a person who is described in subsection 4 and who is not
37 required in his or her professional or occupational capacity to be licensed, certified
38 or endorsed in this State must, upon initial employment of the person:

39 (a) Inform the person, in writing or by electronic communication, of his or her
40 duty as a mandatory reporter pursuant to this section;

41 (b) Obtain a written acknowledgment or electronic record from the person that
42 he or she has been informed of his or her duty pursuant to this section; and

43 (c) Maintain a copy of the written acknowledgment or electronic record for as
44 long as the person is employed by the employer.

45 **Sec. 23.** The provisions of section 15 of this act do not apply to any
46 agreement entered into before July 1, 2017, until the agreement is extended or
47 renewed.

48 **Sec. 24.** The provisions of NRS 354.599 do not apply to any additional
49 expenses of a local government that are related to the provisions of this act.

50 **Sec. 25.** This act becomes effective on July 1, 2017.