

ASSEMBLY BILL NO. 346—ASSEMBLYWOMAN JOINER

MARCH 20, 2017

Referred to Committee on Health and Human Services

SUMMARY—Enacts requirements relating to certain providers of child care. (BDR 38-283)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to child care; requiring the operator of a small child care establishment to register with the Division of Welfare and Supportive Services of the Department of Health and Human Services; requiring certain persons who are employed at or otherwise present at a small child care establishment to undergo a criminal background check; authorizing the Division of Public and Behavioral Health of the Department to collect from a child care facility or small child care establishment the costs relating to an investigation of a violation; requiring the licensee of a child care facility to ensure that each child at the child care facility wears a helmet while using certain devices; providing for the inspection of such an establishment; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines the term “child care facility” to mean an establishment that
2 provides child care to five or more children for compensation and certain other
3 child care establishments. (NRS 432A.024) **Section 2** of this bill defines the term
4 “small child care establishment” to mean an establishment that furnishes child care
5 to not more than four children unrelated to the operator for compensation, outside
6 the home and the presence of the parent or guardian of any of the children and on a
7 regular basis for at least 3 weeks. **Section 3** of this bill requires a person or
8 governmental entity that wishes to operate a small child care establishment to
9 register with the Division of Welfare and Supportive Services of the Department of
10 Health and Human Services and submit certain information to the Division
11 concerning employees and certain residents of the establishment. **Section 9** of this
12 bill authorizes the Division of Public and Behavioral Health of the Department to



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13 seek an injunction against any person or governmental entity that operates a small
14 child care establishment without registering with the Division of Welfare and
15 Supportive Services. **Section 10** of this bill makes it a misdemeanor to operate a
16 small child care establishment without registering with the Division of Welfare and
17 Supportive Services.

18 Existing law requires every applicant for and holder of a license to operate a
19 child care facility, employee of such an applicant or licensee and certain adult
20 residents of a child care facility to undergo a criminal background check conducted
21 by the Division at least once every 5 years. (NRS 432A.170, 432A.175) If a
22 criminal background check reveals that such a person has been convicted of certain
23 crimes, the person must be terminated or otherwise prevented from having direct
24 contact with children at the facility. (NRS 432A.1775) **Sections 7.2-7.6** of this bill
25 make these requirements applicable to operators, employees and certain adult
26 residents of small child care establishments. **Section 7.8** of this bill also requires an
27 operator of a small child care establishment to maintain certain records relating to
28 those background checks. **Section 3** prohibits a person who has been convicted of
29 certain crimes from operating a small child care establishment.

30 **Section 7** of this bill authorizes the State Board of Health to adopt regulations
31 to enforce the requirements for registration and background checks and to ensure
32 the safe operation of small child care establishments. The Division of Public and
33 Behavioral Health is authorized to impose a fine against any small child care
34 establishment that violates the requirements or regulations. (NRS 432A.190)

35 **Section 5** of this bill requires the licensee of a child care facility or the operator
36 of a small child care establishment to ensure that each child at the facility or
37 establishment wears a helmet while riding a bicycle, tricycle, skateboard, scooter,
38 roller skates or any other similar device or toy that renders the child mobile.

39 Existing law authorizes any authorized member or employee of the Division to
40 enter and inspect any building or premises of a child care facility or the area of
41 operation of an outdoor youth program at any time to secure compliance with or
42 prevent a violation of applicable law. **Section 8** of this bill extends those inspection
43 provisions to include small child care establishments. If a complaint against a child
44 care facility or small child care establishment is substantiated, **section 4.5** of this
45 bill authorizes the Division to collect from the facility or establishment the costs of
46 the Division relating to the violation, including the costs of any necessary
47 inspection or investigation.

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

1 **Section 1.** Chapter 432A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 5, inclusive,
3 of this act.

4 **Sec. 2.** *“Small child care establishment” means an*
5 *establishment that furnishes care to not more than four children*
6 *under 18 years of age who are not related to the operator of the*
7 *establishment within the fourth degree of consanguinity or*
8 *affinity:*

- 9 1. *For monetary compensation;*
10 2. *Outside the home and the presence of the parents or*
11 *guardians of any of the children; and*



1 3. *For at least 6 hours each day, at least 4 days each week*
2 *and more than 3 consecutive weeks.*

3 **Sec. 3.** *1. A person, state or local government unit or*
4 *agency thereof that wishes to operate a small child care*
5 *establishment must, before furnishing care to any children,*
6 *register the small child care establishment with the Division of*
7 *Welfare and Supportive Services of the Department by submitting*
8 *to the Division of Welfare and Supportive Services on the Internet*
9 *website of the Division of Welfare and Supportive Services the*
10 *following information:*

11 *(a) The name, address and contact information of the*
12 *prospective operator of the small child care establishment;*

13 *(b) The name and address of the small child care*
14 *establishment;*

15 *(c) An affirmation that the operator of the small child care*
16 *establishment is in compliance with subsection 2; and*

17 *(d) Such additional information as the Division of Welfare and*
18 *Supportive Services deems necessary.*

19 2. *A person shall not serve as the operator of a small child*
20 *care establishment if the person has been convicted of a crime*
21 *listed in subsection 2 of NRS 432A.170 or has had a substantiated*
22 *report of child abuse or neglect made against him or her.*

23 **Sec. 4.** (Deleted by amendment.)

24 **Sec. 4.5.** *1. If a complaint against a child care facility, a*
25 *small child care establishment, a person who operates a child care*
26 *facility without a license or a person who operates a small child*
27 *care establishment without registering in accordance with section*
28 *3 of this act is substantiated, the Division may charge and collect*
29 *from the facility, establishment or person the actual cost incurred*
30 *by the Division relating to the violation, including the actual cost*
31 *of conducting an inspection or investigation of the facility,*
32 *establishment or person.*

33 2. *Any money collected pursuant to subsection 1 may be used*
34 *by the Division to administer and carry out the provisions of this*
35 *chapter and the regulations adopted pursuant thereto.*

36 **Sec. 5.** *The licensee of a child care facility or the operator of*
37 *a small child care establishment shall ensure that each child at the*
38 *facility or establishment, as applicable, wears a helmet while using*
39 *a bicycle, tricycle, skateboard, scooter, roller skates or any other*
40 *similar device or toy that renders the child mobile.*

41 **Sec. 6.** NRS 432A.020 is hereby amended to read as follows:

42 432A.020 As used in this chapter, unless the context otherwise
43 requires, the words and terms defined in NRS 432A.0205 to
44 432A.029, inclusive, *and section 2 of this act* have the meanings
45 ascribed to them in those sections.



1 **Sec. 7.** NRS 432A.077 is hereby amended to read as follows:
2 432A.077 1. The Board shall adopt:

3 (a) Licensing standards for child care facilities.

4 (b) In consultation with the State Fire Marshal, plans and
5 requirements to ensure that each child care facility and its staff is
6 prepared to respond to emergencies, including, without limitation:

7 (1) The conducting of fire drills on a monthly basis;

8 (2) The adoption of plans to respond to natural disasters and
9 emergencies other than those involving fire; and

10 (3) The adoption of plans to provide for evacuation of child
11 care facilities in an emergency.

12 (c) *Any regulations necessary to carry out the provisions of*
13 *section 3 of this act or to ensure the safe operation of small child*
14 *care establishments.*

15 (d) Such other regulations as it deems necessary or convenient
16 to carry out the provisions of this chapter.

17 2. The Board shall require that the practices and policies of
18 each child care facility provide adequately for the protection of the
19 health and safety and the physical, moral and mental well-being of
20 each child accommodated in the facility.

21 3. If the Board finds that the practices and policies of a child
22 care facility are substantially equivalent to those required by the
23 Board in its regulations, it may waive compliance with a particular
24 standard or other regulation by that facility.

25 **Sec. 7.2.** NRS 432A.170 is hereby amended to read as
26 follows:

27 432A.170 1. The Division may, upon receipt of an
28 application for a license to operate a child care facility, conduct an
29 investigation into the:

30 (a) Buildings or premises of the facility and, if the application is
31 for an outdoor youth program, the area of operation of the program;

32 (b) Qualifications and background of the applicant or the
33 employees of the applicant;

34 (c) Method of operation for the facility; and

35 (d) Policies and purposes of the applicant.

36 2. The Division shall secure from appropriate law enforcement
37 agencies information on the background and personal history of
38 every applicant, licensee ~~or~~, *operator of a small child care*
39 *establishment*, employee of an applicant, ~~or~~ licensee ~~or~~ *or every*
40 *small child care establishment*, resident of a child care facility *or*
41 *small child care establishment* who is 18 years of age or older,
42 other than a resident who remains under the jurisdiction of a court
43 pursuant to NRS 432B.594, or participant in an outdoor youth
44 program who is 18 years of age or older, to determine whether the
45 person has been convicted of:



- 1 (a) Murder, voluntary manslaughter or mayhem;
- 2 (b) Any other felony involving the use of a firearm or other
- 3 deadly weapon;
- 4 (c) Assault with intent to kill or to commit sexual assault or
- 5 mayhem;
- 6 (d) Sexual assault, statutory sexual seduction, incest, lewdness,
- 7 indecent exposure or any other sexually related crime;
- 8 (e) Abuse or neglect of a child or contributory delinquency;
- 9 (f) A violation of any federal or state law regulating the
- 10 possession, distribution or use of any controlled substance or any
- 11 dangerous drug as defined in chapter 454 of NRS;
- 12 (g) Abuse, neglect, exploitation, isolation or abandonment of
- 13 older persons or vulnerable persons, including, without limitation, a
- 14 violation of any provision of NRS 200.5091 to 200.50995,
- 15 inclusive, or a law of any other jurisdiction that prohibits the same
- 16 or similar conduct; or
- 17 (h) Any offense involving fraud, theft, embezzlement, burglary,
- 18 robbery, fraudulent conversion or misappropriation of property
- 19 within the immediately preceding 7 years.

20 3. The Division shall request information concerning every

21 applicant, licensee ~~for~~, *operator of a small child care*

22 *establishment*, employee of an applicant, ~~for~~ licensee ~~for~~ or ~~every~~

23 *small child care establishment*, resident of a child care facility *or*

24 *small child care establishment* who is 18 years of age or older,

25 other than a resident who remains under the jurisdiction of a court

26 pursuant to NRS 432B.594, or participant in an outdoor youth

27 program who is 18 years of age or older, from:

28 (a) The Central Repository for Nevada Records of Criminal

29 History for submission to the Federal Bureau of Investigation for its

30 report pursuant to NRS 432A.175; and

31 (b) The Statewide Central Registry for the Collection of

32 Information Concerning the Abuse or Neglect of a Child established

33 pursuant to NRS 432.100 to determine whether there has been a

34 substantiated report of child abuse or neglect made against any of

35 them.

36 4. The Division may charge each person investigated pursuant

37 to this section for the reasonable cost of that investigation.

38 5. The information required to be obtained pursuant to

39 subsections 2 and 3 must be requested concerning an:

40 (a) Employee of an applicant, ~~for~~ licensee ~~for~~ *or small child*

41 *care establishment*, resident of a child care facility *or small child*

42 *care establishment* who is 18 years of age or older, other than a

43 resident who remains under the jurisdiction of a court pursuant to

44 NRS 432B.594, or participant in an outdoor youth program who is

45 18 years of age or older not later than 3 days after the employee is



1 hired, the residency begins or the participant begins participating in
2 the program, and then at least once every 5 years thereafter.

3 (b) Applicant at the time that an application is submitted for
4 licensure, and then at least once every 5 years after the license is
5 issued.

6 *(c) Operator of a small child care establishment before the*
7 *operator begins operating the establishment, and then at least*
8 *once every 5 years after the establishment begins operating.*

9 6. A person who is required to submit to an investigation
10 required pursuant to this section shall not have contact with a child
11 in a child care facility without supervision before the investigation
12 of the background and personal history of the person has been
13 conducted.

14 **Sec. 7.4.** NRS 432A.175 is hereby amended to read as
15 follows:

16 432A.175 1. Every applicant for a license to operate a child
17 care facility, licensee ~~and~~ , *operator of a small child care*
18 *establishment*, employee of ~~such~~ an applicant , ~~or~~ licensee ~~and~~
19 ~~every~~ *or small child care establishment*, resident of a child care
20 facility *or small child care establishment* who is 18 years of age or
21 older, other than a resident who remains under the jurisdiction of a
22 court pursuant to NRS 432B.594, or participant in an outdoor youth
23 program who is 18 years of age or older, shall submit to the
24 Division, or to the person or agency designated by the Division, to
25 enable the Division to conduct an investigation pursuant to NRS
26 432A.170, a:

27 (a) Complete set of fingerprints and a written authorization for
28 the Division or its designee to forward the fingerprints to the Central
29 Repository for Nevada Records of Criminal History for submission
30 to the Federal Bureau of Investigation for its report;

31 (b) Written statement detailing any prior criminal convictions;
32 and

33 (c) Written authorization for the Division to obtain any
34 information that may be available from the Statewide Central
35 Registry for the Collection of Information Concerning the Abuse or
36 Neglect of a Child established pursuant to NRS 432.100.

37 2. If an employee of an applicant for a license to operate a
38 child care facility , ~~or~~ licensee ~~or~~ *small child care*
39 *establishment*, a resident of a child care facility *or small child care*
40 *establishment* who is 18 years of age or older, other than a resident
41 who remains under the jurisdiction of a court pursuant to NRS
42 432B.594, or participant in an outdoor youth program who is 18
43 years of age or older, has been convicted of any crime listed in
44 subsection 2 of NRS 432A.170 or has had a substantiated report of
45 child abuse or neglect filed against him or her, the Division shall



1 immediately notify the applicant , ~~for~~ licensee ~~or~~ *or small child*
2 *care establishment* who shall then comply with the provisions of
3 NRS 432A.1755.

4 3. An applicant for a license to operate a child care facility ,
5 ~~for~~ licensee *or operator of a small child care establishment* shall
6 notify the Division as soon as practicable but not later than 24 hours
7 after hiring an employee, beginning the residency of a resident who
8 is 18 years of age or older, other than a resident who remains under
9 the jurisdiction of a court pursuant to NRS 432B.594, or beginning
10 the participation of a participant in an outdoor youth program who is
11 18 years of age or older.

12 4. An applicant for a license to operate a child care facility ,
13 ~~for~~ licensee *or operator of a small child care establishment* shall
14 notify the Division within 2 days after receiving notice that:

15 (a) The applicant, licensee or *operator*, an employee of the
16 applicant , ~~for~~ licensee ~~or~~ *small child care establishment*, a
17 resident of the child care facility *or small child care establishment*
18 who is 18 years of age or older, other than a resident who remains
19 under the jurisdiction of a court pursuant to NRS 432B.594, or
20 participant in an outdoor youth program who is 18 years of age or
21 older, or a facility , *establishment* or program operated by the
22 applicant , ~~for~~ licensee ~~or~~ *operator* is the subject of a lawsuit or
23 any disciplinary proceeding; or

24 (b) The applicant , ~~for~~ licensee ~~or~~ *operator* or an employee,
25 a resident or *a* participant has been charged with a crime listed in
26 subsection 2 of NRS 432A.170 or is being investigated for child
27 abuse or neglect.

28 **Sec. 7.6.** NRS 432A.1755 is hereby amended to read as
29 follows:

30 432A.1755 1. Upon receiving information pursuant to NRS
31 432A.175 from the Central Repository for Nevada Records of
32 Criminal History or the Statewide Central Registry for the
33 Collection of Information Concerning the Abuse or Neglect of a
34 Child established pursuant to NRS 432.100 or evidence from any
35 other source that an employee of an applicant for a license to
36 operate a child care facility , ~~for~~ a licensee ~~or~~ *a small child care*
37 *establishment*, a resident of a child care facility *or small child care*
38 *establishment* who is 18 years of age or older, other than a resident
39 who remains under the jurisdiction of a court pursuant to NRS
40 432B.594, or participant in an outdoor youth program who is 18
41 years of age or older has been convicted of a crime listed in
42 subsection 2 of NRS 432A.170 or has had a substantiated report of
43 child abuse or neglect made against him or her, the applicant , ~~for~~
44 licensee *or operator of the small child care establishment* shall
45 terminate the employment of the employee or remove the resident



1 from the facility *or establishment* or participant from the outdoor
2 youth program after allowing the employee, resident or participant
3 time to correct the information as required pursuant to subsection 2.

4 2. If an employee, resident or participant believes that the
5 information provided to the applicant, ~~the~~ licensee *or operator*
6 pursuant to subsection 1 is incorrect, the employee, resident or
7 participant must inform the applicant, ~~the~~ licensee *or operator*
8 immediately. The applicant, ~~the~~ licensee *or operator* shall give any
9 such employee, resident or participant 30 days to correct the
10 information.

11 3. During any period in which an employee, resident or
12 participant seeks to correct information pursuant to subsection 2, it
13 is within the discretion of the applicant, ~~the~~ licensee *or operator*
14 whether to allow the employee, resident or participant to continue to
15 work for or reside at the child care facility *or small child care*
16 *establishment* or participate in the outdoor youth program, as
17 applicable, except that the employee, resident or participant shall not
18 have contact with a child without supervision during such a period.

19 **Sec. 7.8.** NRS 432A.1785 is hereby amended to read as
20 follows:

21 432A.1785 1. Each applicant for a license to operate a child
22 care facility, ~~and~~ licensee *and operator of a small child care*
23 *establishment* shall maintain records of the information concerning
24 ~~its~~ employees *of the child care facility or small child care*
25 *establishment* and any residents of the child care facility *or small*
26 *child care establishment* who are 18 years of age or older, other
27 than residents who remain under the jurisdiction of a court pursuant
28 to NRS 432B.594, or participants in any outdoor youth program
29 who are 18 years of age or older that is collected pursuant to NRS
30 432A.170 and 432A.175, including, without limitation:

31 (a) A copy of the fingerprints that were submitted to the Central
32 Repository for Nevada Records of Criminal History;

33 (b) Proof that the applicant, ~~the~~ licensee *or operator* submitted
34 fingerprints to the Central Repository for Nevada Records of
35 Criminal History; and

36 (c) The written authorization to obtain information from the
37 Central Repository and the Statewide Central Registry for the
38 Collection of Information Concerning the Abuse or Neglect of a
39 Child established pursuant to NRS 432.100.

40 2. The records maintained pursuant to subsection 1 must be:

41 (a) Maintained for the period of the employee's employment
42 with or the resident's presence at the child care facility *or small*
43 *child care establishment* or the participant's presence in the outdoor
44 youth program; and



1 (b) Made available for inspection by the Division at any
2 reasonable time and copies thereof must be furnished to the Division
3 upon request.

4 **Sec. 8.** NRS 432A.180 is hereby amended to read as follows:

5 432A.180 1. Any authorized member or employee of the
6 Division may enter and inspect any building or premises of a child
7 care facility *or small child care establishment* or the area of
8 operation of an outdoor youth program at any time to secure
9 compliance with or prevent a violation of any provision of this
10 chapter.

11 2. The State Fire Marshal or a designee of the State Fire
12 Marshal shall, at least annually:

13 (a) Enter and inspect every building or premises of a child care
14 facility, on behalf of the Division; and

15 (b) Observe and make recommendations regarding the drills
16 conducted pursuant to NRS 432A.077,

17 ~~to~~ to secure compliance with standards for safety from fire and other
18 emergencies.

19 3. The Chief Medical Officer or a designee of the Chief
20 Medical Officer shall enter and inspect at least annually, every
21 building or premises of a child care facility and area of operation of
22 an outdoor youth program, on behalf of the Division, to secure
23 compliance with standards for health and sanitation.

24 4. The annual inspection of any child care facility which
25 occasionally or regularly has physical custody of children pursuant
26 to the order of a court must include, without limitation, an
27 inspection of all areas where food is prepared and served,
28 bathrooms, areas used for sleeping, common areas and areas located
29 outdoors that are used by children at the child care facility. The
30 Chief Medical Officer shall publish reports of the inspections and
31 make them available for public inspection upon request.

32 **Sec. 9.** NRS 432A.210 is hereby amended to read as follows:

33 432A.210 1. Except as *otherwise* provided in subsection 1 of
34 NRS 432A.131, the Division may bring an action in the name of the
35 State to enjoin any person, state or local government unit or agency
36 thereof from operating or maintaining any ~~child~~ :

37 (a) *Child* care facility ~~;~~

38 ~~(a) Without~~ *without* first obtaining a license therefor ~~;~~ ~~or~~

39 ~~(b) After~~ *or after* his or her license has been revoked or
40 suspended by the Division.

41 (b) *Small child care establishment without registering with the*
42 *Division of Welfare and Supportive Services of the Department*
43 *pursuant to section 3 of this act.*

44 2. It is sufficient in such an action to allege that the defendant
45 did, on a certain date and in a certain place, operate and maintain the



1 facility *or establishment* without a license ~~+~~ *or the proper*
2 *registration, as applicable.*

3 **Sec. 10.** NRS 432A.220 is hereby amended to read as follows:

4 432A.220 Any person who operates a child care facility
5 without a license issued pursuant to NRS 432A.131 to 432A.220,
6 inclusive, *and sections 3, 4.5 and 5 of this act or a small child care*
7 *establishment without registering pursuant to section 3 of this act*
8 is guilty of a misdemeanor.

9 **Sec. 11.** (Deleted by amendment.)

10 **Sec. 12.** This act becomes effective on July 1, 2017.



