



PUBLIC NOTICE

Notice of Intent to Act Upon Regulations

The Division of Child and Family Services intends to act upon regulations pertaining to Chapter 62H of the Nevada Administrative Code (NAC).

This hearing will be conducted in accordance with NRS 241.020, of Nevada's Open Meeting Law.

DATE: Friday August 12, 2022

TIME: 9:00 am

Zoom Meeting

Video Access: <https://us02web.zoom.us/j/87974018407?pwd=YeTh43I7vPkb-syXENvih5yUjKCYnd.1>

Phone Access: (415) 762-9988

MEETING ID: 879 7401 8407

PASSCODE: 387647

This will be a **virtual only** meeting as authorized pursuant to AB253 (2021). Members of the public may hear and observe the meeting and participate by video or phone. Members of the public may also provide live public comment during the public comments sections of the agenda. If members of the public desire to provide a pre-recorded public comment for this meeting, please contact Leslie Bittleston no later than one (1) business day prior to the meeting, in order to provide pre-recorded comment to be reviewed at the meeting.

As required by Open Meeting Law, this meeting contains this agenda, the meeting will be recorded, and minutes will be completed following the meeting.

AGENDA

1. Call Public Hearing to order
2. Introduction of Administrator of DCFS and presenter/s
3. Public Comment
4. Read regulations (Attachment R056-22)
 - a. Regarding data collection of competency data for competency evaluations ordered by a juvenile court
5. Public Comment
6. DCFS Administrator approval of regulations (R056-22)
7. Adjourn

The purpose of the public hearing is to solicit comments from interested persons on the following general topic that may be addressed in the proposed regulations of the Nevada Revised Statutes:

A copy of all materials relating to the proposal may be obtained at the public hearing or at the following locations:

<u>Youth Parole Services</u> Division of Child and Family Services 751 Ryland St. Reno, NV 89502	<u>Juvenile Services</u> Division of Child and Family Services 4126 Technology Way Carson City, NV 89706
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A reasonable fee for copying may be charged. The agency's small business impact statement is attached. The Notice of Workshop to Solicit Comments on Proposed Regulations has been to all persons on the agency's mailing list for administrative regulations and posted at the following locations.

Members of the public who require special accommodations or assistance at the public hearing are required to notify in writing or by calling the DCFS contact listed below at least five (5) working days prior to the date of the public workshop.

Leslie Bittleston
4126 Technology Way
Carson City, NV 89706
lbittleston@dcfs.nv.gov

A copy of this notice has been posted at the following locations:

1. Division of Child and Family Services, 4126 Technology Way, 3rd Floor, Carson City, NV 89706
2. Nevada Youth Parole Bureau, 751 Ryland Street, Reno, NV 89502
3. Nevada Youth Parole Bureau, 6171 W. Charleston Blvd., Bldg. 15 Las Vegas, NV 89146
4. Grant Sawyer Building, 555 Washington Avenue, Las Vegas, NV 89101
5. Elko Juvenile Court, 665 W. Silver Street, Elko, NV 89801
6. Clark County District Attorney, 601 North Pecos Road, Las Vegas, NV 89101
7. Division of Child and Family Services, 475 W. Haskell St. #7, Winnemucca, NV 89445

Notices are also sent to all Juvenile Probation Departments, Youth Camps, and Youth Correctional Centers

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE DIVISION OF CHILD AND
FAMILY SERVICES OF THE DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

LCB File No. R056-22

June 23, 2022

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

AUTHORITY: §§ 1-5, NRS 62H.200 and 62H.400.

A REGULATION relating to juvenile justice; requiring each department of juvenile services and the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services to submit certain data and information relating to any proceeding to determine the competency of a child to the Division; requiring an expert appointed by the juvenile court to evaluate and report on the competence of a child and to include certain information in the written report; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to establish a standardized system for the reporting, collection, analysis, maintenance and retrieval of information concerning juvenile justice in this State. (NRS 62H.200) Existing law requires each department of juvenile services and the Youth Parole Bureau of the Division to annually submit to the Division certain data and information relating to any proceeding to determine the competency of a child. (NRS 62H.400) **Section 4** of this regulation requires each department of juvenile services and the Youth Parole Bureau to annually submit to the Division: (1) the number of children evaluated for competency, disaggregated by certain demographic information; (2) the most serious delinquent act with which each child was charged on referral; (3) the number of children determined not competent to proceed and the nature of the cause for the determination; (4) the number of children for whom the juvenile court ordered treatment and certain information relating to such treatment; and (5) the number of children determined competent after receiving court-ordered treatment.

Existing law provides that if the juvenile court suspends a case to determine whether a child is competent, the juvenile court must appoint an expert to: (1) evaluate the child; and (2) provide a written report on the competence of the child. Existing law also sets forth certain requirements relating to the evaluation and written report. (NRS 62D.155, 62D.160, 62D.165) **Section 5** of this regulation requires an expert who believes that a child is incompetent to indicate in the written report whether the primary reason he or she believes that the child is incompetent is because of: (1) the age or developmental maturity of the child; (2) a mental illness

of the child; (3) a developmental disability of the child; (4) an intellectual disability of the child; or (5) any other factor that affects the competence of the child. **Sections 2 and 3** of this regulation define the terms “intellectual disability” and “mental illness” for purposes of the reporting requirements prescribed by **sections 4 and 5**.

Section 1. Chapter 62H of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Intellectual disability” has the meaning ascribed to it in NRS 435.007.*

Sec. 3. *“Mental illness” has the meaning ascribed to it in NRS 433.164.*

Sec. 4. *1. The data and information required to be submitted pursuant to NRS 62H.400 must include, without limitation, for the immediately preceding 12 months:*

(a) The number of children evaluated for competency, disaggregated by age, race, ethnicity, sex and gender identity or expression;

(b) The most serious delinquent act with which each child was charged on referral;

(c) The number of children determined not competent to proceed and the nature of the cause for the lack of competency, as designated by an expert appointed by the juvenile court pursuant to NRS 62D.155 and section 5 of this regulation, respectively;

(d) The number of children for whom the juvenile court ordered treatment pursuant to NRS 62D.180, the types of services provided to such children and whether such services were provided to such children as an outpatient or inpatient, by commitment to an institution for persons with intellectual disabilities or mental illness pursuant to NRS 62E.160; and

(e) The number of children for whom the juvenile court ordered treatment pursuant to NRS 62D.180 who, after a periodic review conducted pursuant to NRS 62D.185, the juvenile court determined had attained competence.

2. Each department of juvenile services and the Youth Parole Bureau shall report the data and information required by paragraph (b) of subsection 1 using the codes for delinquent acts set forth in NAC 62H.160 to 62H.190, inclusive. If any such act is for:

(a) An attempt to commit a delinquent act, the code must be followed by the letter "A."

(b) Conspiracy to commit a delinquent act, the code must be followed by the letter "C."

(c) An offense which would be a felony if committed by an adult, the code must be followed by the letter "F."

(d) An offense which would be a gross misdemeanor if committed by an adult, the code must be followed by the letter "G."

Sec. 5. *1. If an expert who is appointed by the juvenile court pursuant to NRS 62D.155 believes that a child is incompetent, the expert must indicate in the written report submitted pursuant to subsection 3 of NRS 62D.155 whether the primary reason he or she believes that the child is incompetent is because of:*

(a) The age or developmental maturity of the child;

(b) A mental illness of the child;

(c) A developmental disability of the child;

(d) An intellectual disability of the child;

(e) Any other disability that affects the competence of the child; or

(f) Any other factor that affects the competence of the child.

2. As used in this section, "developmental disability" has the meaning ascribed to it in NRS 435.007.

Steve Sisolak
Governor

Richard Whitley, MS
Director



DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES
Helping people. It's who we are and what we do.



Cindy Pitlock, DNP
Administrator

SMALL BUSINESS IMPACT STATEMENT PURSUANT TO NEVADA ADMINISTRATIVE CODE (NAC) 62B AND 62H

RE: The Division of Child and Family Services Adoption of Regulations pertaining to NAC 62B AND 62H

I, Dr. Cindy Pitlock, Administrator of the Department of Health and Human Services, Division of Child and Family Services, do hereby certify that, to the best of my knowledge or belief:

These regulations do not apply to any small business as there are no privately-operated juvenile detention facilities, privately-operated youth centers, or privately-operated juvenile parole and probation agencies. These regulations only affect state and local governments who operate secure facilities and provide supervision to youth are affected. In Nevada, all juvenile detention facilities, juvenile youth centers, juvenile probation services, and juvenile parole services are government operated and therefore there is no impact on small business. Privately operated residential treatment facilities and acute care hospitals that provide services to youth are not affected by these regulation changes.

The agency did reach out to the Nevada Association of Juvenile Justice Administrators (NAJJA) and the Governor's Juvenile Justice Oversight Commission (JJOC) to inform them of potential changes in policy and/or practice due to these regulations.

If any additional items are needed to submit these rules to the Legislative Committee, please do not hesitate to contact Deputy Administrator Dr. Domonique Rice at (775) 301-7141.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cindy Pitlock".

Dr. Cindy Pitlock
Administrator

March 9, 2022