

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

LCB File No. R056-22

August 23, 2023

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 the competency of certain children 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 determined not competent to proceed pursuant to a stipulation between the parties; (2) the number of children evaluated for competency, disaggregated by certain demographic information; (3) the most serious delinquent act with which each child was charged on referral; (4) the number of children evaluated for competency and determined not competent to proceed and the nature of the cause for the determination; (5) the number of children for whom the juvenile court ordered treatment and certain information relating to such treatment; and (6) 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 who were determined not competent to proceed pursuant to a stipulation between the parties that was approved by the court and the nature of the cause for the lack of competency, if known;

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

(c) Of the children described in paragraph (b), 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 most serious delinquent act with which each child described in paragraphs (a) and (b) was charged on referral;

(e) The number of children described in paragraphs (a) and (b) 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

(f) The number of children described in paragraphs (a) and (b) 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 (d) 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.