Senate Bill No. 197–Senators Wiener, Rawson, Townsend,

Titus, Mathews, Care, Porter and Schneider

CHAPTER.....

AN ACT relating to public health; creating the advisory subcommittee on fetal alcohol syndrome of the advisory board on maternal and child health and providing its duties; requiring the health division of the department of human resources to develop and carry out certain programs relating to the prevention and treatment of fetal alcohol syndrome; making various other changes relating to fetal alcohol syndrome; and providing other matters properly relating thereto.

WHEREAS, The occurrence of birth defects, mental retardation, attention deficit disorder and other genetic disorders is significantly increased in the children of women who consume alcohol during pregnancy; and

WHEREAS, The incidence of fetal alcohol syndrome in this state is 2 1/2 times greater than the incidence of Down's syndrome; and

WHEREAS, The residents of this state are becoming increasingly concerned about the effects relating to fetal alcohol syndrome and its associated costs to mothers, children and society as a whole; and

WHEREAS, In addition to the medical problems associated with fetal alcohol syndrome there are tremendous social costs, including increased expenditures for social services, education, the system of juvenile justice, law enforcement agencies and the prison system; and

WHEREAS, There has been a significant national increase in the use of alcohol by pregnant women in the past decade; and

WHEREAS, The State of Nevada has the highest percentage in the nation of women who report chronic alcohol abuse, the second highest percentage in the nation of women who report binge drinking and the highest rate in the nation of teenage pregnancy; and

WHEREAS, Fetal alcohol syndrome is a lifelong condition; and

WHEREAS, Fetal alcohol syndrome frequently occurs in more than one child born to the same mother and is more likely to occur in the children of a woman who has suffered from fetal alcohol syndrome; and

WHEREAS, Fetal alcohol syndrome is entirely preventable and, even if a woman has consumed alcohol during her pregnancy, preventing further consumption of alcohol may reduce the harmful consequences to her child; and

WHEREAS, Because there are multiple problems associated with fetal alcohol syndrome and with parenting a child who suffers from fetal alcohol syndrome, a variety of integrated services, including health, educational and social services, are necessary to address those problems; and

WHEREAS, Existing services are limited in their effectiveness in preventing and treating fetal alcohol syndrome because those services are inadequate and there is a lack of coordination among the agencies that provide those services; now, therefore,

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Secs. 2 and 3. (Deleted by amendment.)

Sec. 4. ***As used in sections 4 to 21, inclusive, of this act, unless the context otherwise requires, "subcommittee" means the advisory subcommittee on fetal alcohol syndrome of the advisory board on maternal and child health.***

Sec. 5. ***1. The advisory subcommittee on fetal alcohol syndrome of the advisory board on maternal and child health is hereby created. The subcommittee consists of 12 members, as follows:***

(a) The chairman of the advisory board shall appoint:

(1) One member who:

(I) Is a member of the advisory board and is a member of the state board of health; or

(II) Is a member of the advisory board if no member of the advisory board is a member of the state board of health;

(2) One member who is an employee of the division of child and family services;

(3) One member who is a physician certified by the American Board of Obstetrics and Gynecology, or an equivalent organization;

(4) One member who represents persons who operate community-based programs for the prevention or treatment of substance abuse;

(5) One member who is a judge of a juvenile or family court in this state;

(6) One member who represents a statewide organization in this state for the prevention of perinatal substance abuse; and

(7) One member who represents a national organization that provides advocacy and representation for mentally retarded persons. To the extent possible, the member appointed must be nominated by a statewide organization in this state that is affiliated with such a national organization or, if no such statewide organization exists, by a majority of the local affiliates in this state of such a national organization.

(b) The Nevada Hospital Association shall appoint one member who is an administrator of a hospital.

(c) The Nevada Association of Health Plans shall appoint one member as its representative.

(d) The dean of the University of Nevada School of Medicine shall appoint one member who is a member of the faculty of the department of pediatrics of the University of Nevada School of Medicine.

(e) The chief of the bureau of alcohol and drug abuse of the rehabilitation division of the department of employment, training and

rehabilitation shall appoint one member who is an employee of the bureau.

(f) The superintendent of public instruction is an ex officio member of the subcommittee and may, if he wishes, designate a person to serve on the subcommittee in his place or to attend a meeting of the subcommittee in his place.

2. If any of the appointing entities listed in subsection 1 cease to exist, the appointments required by subsection 1 must be made by the successor in interest of the entity or, if there is no successor in interest, by the chairman of the advisory board.

3. The subcommittee may appoint one or more persons who have special expertise relating to fetal alcohol syndrome to assist the subcommittee in the performance of its duties.

Sec. 6. *1. At the first meeting of the subcommittee and each year thereafter, the subcommittee shall elect a chairman and vice chairman from among its members. If a vacancy occurs in the chairmanship or vice chairmanship, the subcommittee shall elect a member to serve the remainder of the unexpired term.*

2. Except for the ex officio member, the term of office of each member of the subcommittee is 2 years. Each appointed member shall continue in office until his successor is appointed. An appointed member of the subcommittee may be reappointed. A vacancy in an appointed position must be filled by appointment for the unexpired term in the same manner as the original appointment.

Sec. 7. *1. The subcommittee shall meet at the call of the chairman as often as required to perform its duties.*

2. A majority of the subcommittee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any action taken by the subcommittee.

3. The health division shall provide necessary staff to assist the subcommittee in performing its duties.

Sec. 8. *1. Each member of the subcommittee serves without compensation.*

2. While engaged in the business of the subcommittee, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the subcommittee who is an officer or employee of this state or a local government thereof must be paid by the state agency or the local government of this state that employs him; and

(b) Any other member of the subcommittee must be paid by the health division.

3. Each member of the subcommittee who is an officer or employee of this state or a local government must be relieved from the duties of his employment without loss of his regular compensation so that he may perform his duties on the subcommittee in the most timely manner

practicable. A state agency or local government shall not require an officer or employee who is a member of the subcommittee to make up the time he is absent from work to fulfill his obligations as a member, and shall not require the member to take annual leave or compensatory time for the absence.

Sec. 9. *The advisory board and the subcommittee shall:*

1. Assist the health division in developing the program of public education that it is required to develop pursuant to section 10 of this act, including, without limitation, preparing and obtaining information relating to fetal alcohol syndrome.

2. Assist the University of Nevada School of Medicine in reviewing, amending and distributing the guidelines it is required to develop pursuant to section 12 of this act.

3. Determine, based in part upon the annual report submitted to the advisory board pursuant to section 18 of this act, the most effective methods of:

(a) Preventing fetal alcohol syndrome; and

(b) Collecting information relating to the incidence of fetal alcohol syndrome in this state.

4. Develop and promote guidelines for the prevention of the consumption of alcohol by women during pregnancy. The guidelines must be developed with the goal of increasing the use of programs for the treatment of substance abuse by women before, during and after pregnancy.

5. Develop with the assistance of the University of Nevada School of Medicine, model curricula relating to fetal alcohol syndrome that meet the continuing education requirements applicable to providers of health care and other services.

6. Promote the availability of and distribute the model curricula developed pursuant to subsection 5.

7. Review the statistical data reported to the health division relating to the incidence of fetal alcohol syndrome in this state.

Sec. 10. *1. The health division shall develop and carry out a program of public education to increase public awareness about the dangers of fetal alcohol syndrome and other adverse effects on a fetus that may result from the consumption of alcohol during pregnancy. The program must include, without limitation:*

(a) Educational messages that are directed toward the general public and specific geographical areas and groups of persons in this state that are identified pursuant to subsection 1 of section 19 of this act as having women who are at a high risk of consuming alcohol during pregnancy.

(b) Providing training materials to school personnel to assist them in identifying pupils who may be suffering from fetal alcohol syndrome and offering to provide the parents of those pupils with a referral for diagnostic services and treatment.

(c) If a toll-free telephone service is otherwise provided by the health division, the use of that telephone service for providing information relating to programs for the treatment of substance abuse, providers of health care or other services and other available resources, and referrals to those programs, if appropriate. The telephone number must be disclosed in the educational messages provided pursuant to this section.

2. The subcommittee shall periodically evaluate the program to determine its effectiveness.

Sec. 11. *1. The health division may apply for and accept gifts, grants and contributions from any public or private source to carry out its duties pursuant to the provisions of sections 4 to 21, inclusive, of this act.*

2. The health division shall account separately for the money received from those gifts, grants or contributions. The administrator of the health division shall administer the account, and all claims against the account must be approved by the administrator before they are paid.

3. The money in the account must be used only to carry out the provisions of sections 4 to 21, inclusive, of this act.

4. The subcommittee may make recommendations to the administrator of the health division concerning the use of the money in the account. The administrator shall consider the recommendations of the subcommittee.

Sec. 12. *1. The University of Nevada School of Medicine shall develop guidelines to assist a provider of health care or other services in identifying:*

(a) Pregnant women who are at a high risk of consuming alcohol during pregnancy; and

(b) Children who are suffering from fetal alcohol syndrome.

2. The subcommittee shall review, amend, adopt and distribute the guidelines developed by the University of Nevada School of Medicine pursuant to subsection 1.

Sec. 12.5. *If a pregnant woman is referred to the health division by a provider of health care or other services for information relating to programs for the prevention and treatment of fetal alcohol syndrome, any report relating to the referral or other associated documentation is confidential and must not be used in any criminal prosecution of the woman.*

Sec. 13. (Deleted by amendment.)

Sec. 14. *The division of child and family services of the department or a licensed child-placing agency shall inquire, during its initial contact with a natural parent of a child who is to be placed for adoption, about consumption of alcohol or substance abuse by the mother of the child during pregnancy. The information obtained from the inquiry must be:*

1. Included in the report provided to the adopting parents of the child pursuant to NRS 127.152; and

2. Reported to the health division on a form prescribed by the health division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 15. *1. The division of child and family services of the department shall inquire, during its initial contact with a natural parent of a child who is to be placed in a family foster home, about consumption of alcohol or substance abuse by the mother of the child during pregnancy. The information obtained from the inquiry must be:*

(a) Provided to the provider of family foster care pursuant to NRS 424.038; and

(b) Reported to the health division on a form prescribed by the health division. The report must not contain any identifying information and may be used only for statistical purposes.

2. As used in this section, "family foster home" has the meaning ascribed to it in NRS 424.013.

Sec. 16. *An agency which provides protective services shall inquire, during its initial contact with a natural parent of a child whom a court has determined must be kept in temporary or permanent custody, about consumption of alcohol or substance abuse by the mother of the child during pregnancy. The information obtained from the inquiry must be:*

1. Included in the report the agency is required to make pursuant to NRS 432B.540; and

2. Reported to the health division on a form prescribed by the health division. The report must not contain any identifying information and may be used only for statistical purposes.

Sec. 17. *The health division shall adopt regulations necessary to carry out the provisions of sections 13 to 16, inclusive, of this act.*

Sec. 18. *1. The subcommittee shall identify the most effective methods of:*

(a) Preventing fetal alcohol syndrome; and

(b) Collecting information relating to the incidence of fetal alcohol syndrome in this state.

2. On or before a date specified by the advisory board, the subcommittee shall submit to the advisory board an annual report consisting of its findings.

Sec. 19. *The health division shall develop and maintain a system for monitoring fetal alcohol syndrome, that may include, without limitation, a method of:*

1. Identifying the geographical areas in this state in which women are at a high risk of consuming alcohol during pregnancy and groups of persons in this state that include such women;

2. Identifying and evaluating deficiencies in existing systems for delivering perinatal care; and

3. Collecting and analyzing data relating to systems for delivering perinatal care.

Secs. 20 and 21. (Deleted by amendment.

)

Sec. 22. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. "Advisory board" means the advisory board on maternal and child health.

2. "Department" means the department of human resources.

3. "Director" means the director of the department of human resources.

4. ***"Fetal alcohol syndrome" includes fetal alcohol effects.***

5. "Health division" means the health division of the department of human resources.

6. "Provider of health care or other services" means:

(a) A person who has been certified as a counselor or an administrator of an alcohol and drug abuse program pursuant to chapter 458 of NRS;

(b) A physician or a physician's assistant who is licensed pursuant to chapter 630 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed social worker; or

(g) A holder of a certificate of registration as a pharmacist.

Sec. 22.3. NRS 442.115 is hereby amended to read as follows:

442.115 1. The state board of health, upon the recommendation of the state health officer, shall adopt regulations governing examinations and tests required for the discovery in infants of preventable ***or*** inheritable disorders, including tests for the presence of sickle cell anemia.

2. Any physician, midwife, nurse, maternity home or hospital of any nature attendant on or assisting in any way whatever any infant, or the mother of any infant, at childbirth shall make or cause to be made an examination of the infant, including standard tests, to the extent required by regulations of the state board of health as necessary for the discovery of conditions indicating such disorders.

3. If the examination and tests reveal the existence of such conditions in an infant, the physician, midwife, nurse, maternity home or hospital attendant on or assisting at the birth of the infant shall immediately:

(a) Report the condition to the local health officer of the county or city within which the infant or the mother of the infant resides, and the local health officer of the county or city in which the child is born; and

(b) Discuss the condition with the parent, parents or other persons responsible for the care of the infant and inform them of the treatment necessary for the amelioration of the condition.

4. An infant is exempt from examination and testing if either parent files a written objection with the person or institution responsible for making the examination or tests.

Sec. 22.5. NRS 629.151 is hereby amended to read as follows:

629.151 It is unlawful to obtain any genetic information of a person without first obtaining the informed consent of the person or the person's legal guardian pursuant to NRS 629.181, unless the information is obtained:

1. By a federal, state, county or city law enforcement agency to establish the identity of a person or dead human body;
2. To determine the parentage or identity of a person pursuant to NRS 56.020;
3. To determine the paternity of a person pursuant to NRS 126.121 or 425.384;
4. For use in a study where the identities of the persons from whom the genetic information is obtained are not disclosed to the person conducting the study;
5. To determine the presence of certain ***preventable or*** inheritable disorders in an infant pursuant to NRS 442.115 or a provision of federal law; or
6. Pursuant to an order of a court of competent jurisdiction.

Sec. 22.7. NRS 629.171 is hereby amended to read as follows:

629.171 It is unlawful to disclose or to compel a person to disclose the identity of a person who was the subject of a genetic test or to disclose genetic information of that person in a manner that allows identification of the person, without first obtaining the informed consent of that person or his legal guardian pursuant to NRS 629.181, unless the information is disclosed:

1. To conduct a criminal investigation, an investigation concerning the death of a person **,** or a criminal or juvenile proceeding;
2. To determine the parentage or identity of a person pursuant to NRS 56.020;
3. To determine the paternity of a person pursuant to NRS 126.121 or 425.384;
4. Pursuant to an order of a court of competent jurisdiction;
5. By a physician and is the genetic information of a deceased person that will assist in the medical diagnosis of persons related to the deceased person by blood;
6. To a federal, state, county or city law enforcement agency to establish the identity of a person or dead human body;
7. To determine the presence of certain ~~[~~inheritable~~]~~ preventable ***or inheritable*** disorders in an infant pursuant to NRS 442.115 or a provision of federal law; or
8. By an agency of criminal justice pursuant to NRS 179A.075.

Secs. 23-38. (Deleted by amendment.)

Sec. 38.5. The provisions of this act must be carried out within the limits of available appropriations and other resources.

Sec. 39. 1. The appointment of the members to the advisory subcommittee on fetal alcohol syndrome of the advisory board on maternal

and child health created pursuant to section 5 of this act must be made as soon as practicable after October 1, 1999.

2. The terms of the initial members of the subcommittee expire on October 1, 2001.

Sec. 40. 1. This section and sections 1, 3 and 17 of this act become effective upon passage and approval.

2. Sections 2, 4 to 16, inclusive, and 18 to 39, inclusive, of this act become effective on October 1, 1999.

~