

ASSEMBLY BILL NO. 42—COMMITTEE ON HEALTH
AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILDREN, YOUTH AND FAMILIES)

PREFILED FEBRUARY 4, 2005

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning protection of
children from abuse and neglect. (BDR 38-670)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the protection of children; establishing a presumption that it is in the best interests of a child who is in need of protection to be placed together with his siblings; authorizing a court to join a governmental entity which fails to provide certain legally required care, treatment or services to a child who is in need of protection as a party in a proceeding concerning the protection of the child to enforce such legal duties under certain circumstances; requiring an agency which provides child welfare services to include with its report to the court concerning the placement of a child in need of protection certain information concerning the placement of the child in relation to his siblings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, if a court determines that a child is in need of protection, it
- 2 may place the child in the custody of a relative or other suitable person or place the
- 3 child in the custody of a public or private agency or institution. In determining the
- 4 placement of the child, the court must give preference to placing the child with
- 5 certain relatives and, if practicable, together with his siblings. (NRS 432B.550) The
- 6 court may also order the child to undergo any medical, psychiatric, psychological
- 7 or other care or treatment as the court determines to be in the best interests of the



child. (NRS 432B.560) Existing law requires an agency which provides child welfare services to submit a report to any court reviewing the placement of a child. The report must include an evaluation of the progress of the child and his family and any recommendations for further supervision, treatment or rehabilitation. (NRS 432B.580)

This bill establishes a presumption that it is in the best interests of a child who is in need of protection to place the child together with his siblings. This bill authorizes a court to enforce a legal obligation of a governmental entity to provide certain medical or psychological care or other care, treatment or services to a child under certain circumstances. This bill makes changes to the requirements for the report submitted to a reviewing court by an agency which provides child welfare services. The report must include information concerning the placement of the child with his siblings. If the child has not been placed with his siblings, the agency must include in the report the reasons for the separation and a plan for the child to visit his siblings. If the plan is approved by the court, the agency must request a court order for the visitation. If a person refuses to comply with or disobeys the court order, he may be punished for being in contempt of court.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

If a governmental entity has a legally enforceable obligation to provide care or treatment to a child pursuant to subsection 1 of NRS 432B.560 or to provide any supervision, custody, maintenance, support or other service otherwise ordered by the court to a child who the court determines is in need of protection and the governmental entity fails to provide such care, treatment or service, the court may issue an order to join the governmental entity as a party in any proceeding concerning the protection of the child to enforce the legal obligation if, before issuing the order, the court provides notice and an opportunity to be heard to the governmental entity.

Sec. 2. NRS 432B.440 is hereby amended to read as follows:

432B.440 The agency which provides child welfare services shall assist the court during all stages of any proceeding in accordance with NRS 432B.410 to 432B.590, inclusive ~~§~~ , and *section 1 of this act.*

Sec. 3. NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:



1 (a) Permit the child to remain in the temporary or permanent
2 custody of his parents or a guardian with or without supervision by
3 the court or a person or agency designated by the court, and with or
4 without retaining jurisdiction of the case, upon such conditions as
5 the court may prescribe;

6 (b) Place him in the temporary or permanent custody of a
7 relative or other person who the court finds suitable to receive and
8 care for him with or without supervision, and with or without
9 retaining jurisdiction of the case, upon such conditions as the court
10 may prescribe;

11 (c) Place him in the temporary custody of a public agency or
12 institution authorized to care for children, the local juvenile
13 probation department, the local department of juvenile services or a
14 private agency or institution licensed by the Department of Human
15 Resources or a county whose population is 100,000 or more to care
16 for such a child; or

17 (d) Commit him to the custody of the Superintendent of the
18 Northern Nevada Children's Home or the Superintendent of the
19 Southern Nevada Children's Home, in accordance with chapter 423
20 of NRS.

21 ➤ In carrying out this subsection, the court may, in its sole
22 discretion and in compliance with the requirements of chapter 159
23 of NRS, consider an application for the guardianship of the child. If
24 the court grants such an application, it may retain jurisdiction of the
25 case or transfer the case to another court of competent jurisdiction.

26 2. If, pursuant to subsection 1, a child is placed other than with
27 a parent:

28 (a) The parent retains the right to consent to adoption, to
29 determine the child's religious affiliation and to reasonable
30 visitation, unless restricted by the court. If the custodian of the child
31 interferes with these rights, the parent may petition the court for
32 enforcement of his rights.

33 (b) The court shall set forth good cause why the child was
34 placed other than with a parent.

35 3. If, pursuant to subsection 1, the child is to be placed with a
36 relative, the court may consider, among other factors, whether the
37 child has resided with a particular relative for 3 years or more before
38 the incident which brought the child to the court's attention.

39 4. Except as otherwise provided in this subsection, a copy of
40 the report prepared for the court by the agency which provides child
41 welfare services must be sent to the custodian and the parent or legal
42 guardian. If the child was delivered to a provider of emergency
43 services pursuant to NRS 432B.630 and the location of the parent is
44 unknown, the report need not be sent to that parent.



5. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of his parents or guardian ~~[- preference]~~ :

(a) It must be presumed to be in the best interests of the child to be placed together with his siblings.

(b) Preference must be given to placing the child ~~[-~~ :

~~-(a) With]~~ *with* any person related within the third degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

~~[(b) If practicable, together with his siblings.]~~

➤ Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of his home. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

6. Within 60 days after the removal of a child from his home, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

Sec. 4. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes ~~[- and]~~ :

(a) An evaluation of the progress of the child and his family and any recommendations for further supervision, treatment or rehabilitation ~~[-]~~ ; *and*

(b) Information concerning the placement of the child in relation to his siblings, including, without limitation:

(1) Whether the child was placed together with his siblings;



1 (2) Any efforts made by the agency to have the child placed
2 together with his siblings;

3 (3) Any actions taken by the agency to ensure that the child
4 has contact with his siblings; and

5 (4) If the child is not placed together with his siblings:

6 (I) The reasons why the child is not placed together with
7 his siblings; and

8 (II) A plan for the child to visit his siblings, which must
9 be approved by the court.

10 3. Except as otherwise provided in this subsection, a copy of
11 the report submitted pursuant to subsection 2 must be given to the
12 parents, the guardian ad litem and the attorney, if any, representing
13 the parent or the child. If the child was delivered to a provider of
14 emergency services pursuant to NRS 432B.630 and the parent has
15 not appeared in the action, the report need not be sent to that parent.

16 ~~13.1~~ 4. After a plan for visitation between a child and his
17 siblings submitted pursuant to subparagraph (4) of paragraph (b)
18 of subsection 2 has been approved by the court, the agency which
19 provides child welfare services must request the court to issue an
20 order requiring the visitation set forth in the plan for visitation. If
21 a person refuses to comply with or disobeys an order issued
22 pursuant to this subsection, he may be punished as for a contempt
23 of court.

24 5. The court or the panel shall hold a hearing to review the
25 placement, unless the parent, guardian or custodian files a motion
26 with the court to dispense with the hearing. If the motion is granted,
27 the court or panel may make its determination from any report,
28 statement or other information submitted to it.

29 ~~14.1~~ 6. Except as otherwise provided in this subsection and
30 paragraph (c) of subsection 4 of NRS 432B.520, notice of the
31 hearing must be given by registered or certified mail to:

32 (a) All the parties to any of the prior proceedings; and

33 (b) Any persons planning to adopt the child, relatives of the
34 child or providers of foster care who are currently providing care to
35 the child.

36 ➔ Notice of the hearing need not be given to a parent whose rights
37 have been terminated pursuant to chapter 128 of NRS or who has
38 voluntarily relinquished the child for adoption pursuant to
39 NRS 127.040.

40 ~~15.1~~ 7. The court or panel may require the presence of the child
41 at the hearing and shall provide to each person to whom notice was
42 given pursuant to subsection ~~14~~ 6 an opportunity to be heard at the
43 hearing.

44 ~~16.1~~ 8. The court or panel shall review:



(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, his home or placed for adoption or under a legal guardianship.

~~17~~ 9. The provision of notice and an opportunity to be heard pursuant to this section does not cause any person planning to adopt the child, or any relative or provider of foster care to become a party to the hearing.

Sec. 5. NRS 432B.590 is hereby amended to read as follows:

432B.590 1. Except as otherwise provided in NRS 432B.513, the court shall hold a hearing concerning the permanent placement of a child:

(a) Not later than 12 months after the initial removal of the child from his home and annually thereafter.

(b) Within 30 days after making any of the findings set forth in subsection 3 of NRS 432B.393.

➔ Notice of this hearing must be given by registered or certified mail to all the persons to whom notice must be given pursuant to subsection ~~4~~ 6 of NRS 432B.580.

2. The court may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 1 an opportunity to be heard at the hearing.

3. At the hearing, the court shall review any plan for the permanent placement of the child adopted pursuant to NRS 432B.553 and determine:

(a) Whether the agency with legal custody of the child has made the reasonable efforts required by subsection 1 of NRS 432B.553; and

(b) Whether, and if applicable when:

(1) The child should be returned to his parents or placed with other relatives;

(2) It is in the best interests of the child to:

(I) Initiate proceedings to terminate parental rights pursuant to chapter 128 of NRS so that the child can be placed for adoption;

(II) Initiate proceedings to establish a guardianship pursuant to chapter 159 of NRS; or

(III) Establish a guardianship in accordance with NRS 432B.466 to 432B.468, inclusive; or



- 1 (3) The agency with legal custody of the child has produced
2 documentation of its conclusion that there is a compelling reason for
3 the placement of the child in another permanent living arrangement.
4 ➤ The court shall prepare an explicit statement of the facts upon
5 which each of its determinations is based. If the court determines
6 that it is in the best interests of the child to terminate parental rights,
7 the court shall use its best efforts to ensure that the procedures
8 required by chapter 128 of NRS are completed within 6 months after
9 the date the court makes that determination, including, without
10 limitation, appointing a private attorney to expedite the completion
11 of the procedures. The provisions of this subsection do not limit the
12 jurisdiction of the court to review any decisions of the agency with
13 legal custody of the child regarding the permanent placement of the
14 child.
- 15 4. If a child has been placed outside of his home and has
16 resided outside of his home pursuant to that placement for 14
17 months of any 20 consecutive months, the best interests of the child
18 must be presumed to be served by the termination of parental rights.
- 19 5. This hearing may take the place of the hearing for review
20 required by NRS 432B.580.
- 21 6. The provision of notice and an opportunity to be heard
22 pursuant to this section does not cause any person planning to adopt
23 the child, or any relative or provider of foster care to become a party
24 to the hearing.



