
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; requiring an agency which provides child welfare services to train certain employees concerning the legal rights of persons who are responsible for a child's welfare; revising the provisions concerning the pamphlet developed and distributed to persons responsible for a child's welfare; requiring an agency which provides child welfare services to inform persons who are responsible for a child's welfare and who are the subject of an investigation of alleged abuse or neglect of a child of the allegations against them and their legal rights at the time of initial contact by the agency; 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:

Under existing law, if a court determines that a child is in need of protection, it may place the child in the custody of a relative or other suitable person or place the child in the custody of a public or private agency or institution. In determining the placement of the child, the court must give preference to placing the child with certain relatives and, if practicable, together with his siblings. (NRS 432B.550) The court may also order the child to undergo any medical, psychiatric, psychological 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 person or 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 fails to comply with the court order, he may be punished for being in contempt of court.

Under existing law, the Division of Child and Family Services of the Department of Human Resources is required to adopt regulations regarding programs for the prevention of the abuse and neglect of children. In carrying out these responsibilities, the Division must develop a pamphlet detailing certain information regarding the procedures for taking a child for placement in protective custody and the legal rights of persons who are parties to certain proceedings. (NRS 432B.190)

This bill requires an agency which provides child welfare services to provide training to persons employed by the agency and who provide child welfare services concerning the legal rights of certain persons who are the subject of investigations of alleged abuse or neglect of a child. This bill requires such an agency, at the time of initial contact, to provide certain information regarding legal rights to any person who is alleged to have caused the abuse or neglect of a child. This bill also expands the requirements for the content of the pamphlet which must be developed and distributed by the Division.

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 the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *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. 3. *An agency which provides child welfare services shall provide training to each person who is employed by the agency and who provides child welfare services. Such training must include, without limitation, instruction concerning the state and federal constitutional and statutory rights of a person who is responsible for a child's welfare and who is:*

1. The subject of an investigation of alleged abuse or neglect of a child; or

2. A party to a proceeding concerning the alleged abuse or neglect of a child pursuant to NRS 432B.410 to 432B.590, inclusive.

Sec. 4. NRS 432B.190 is hereby amended to read as follows:
432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

- (a) Child welfare services provided in this State;
- (b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;
- (c) The development of local councils involving public and private organizations;
- (d) Reports of abuse or neglect, records of these reports and the response to these reports;
- (e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;
- (f) The management and assessment of reported cases of abuse or neglect;
- (g) The protection of the legal rights of parents and children;
- (h) Emergency shelter for a child;
- (i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;



(j) Evaluating the development and contents of a plan submitted for approval pursuant to NRS 432B.395;

(k) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that *is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and* sets forth ~~the~~ :

(I) *Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;*

(2) *The* procedures for taking a child for placement in protective custody ~~and the~~ ; and

(3) *The state and federal* legal rights of ~~persons~~ :

(I) *A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and*

(II) *Persons* who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

(l) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child; and

2. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~it~~ , and *section 3 of this act.*

Sec. 5. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:



- 1 (a) The child is 5 years of age or younger;
- 2 (b) There is a high risk of serious harm to the child; or
- 3 (c) The child is living in a household in which another child has
- 4 died, or the child is seriously injured or has visible signs of physical
- 5 abuse.

6 3. Except as otherwise provided in subsection 2, upon receipt
7 of a report concerning the possible abuse or neglect of a child or
8 notification from a law enforcement agency that the law
9 enforcement agency has received such a report, an agency which
10 provides child welfare services shall conduct an evaluation not later
11 than 3 days after the report or notification was received to determine
12 whether an investigation is warranted. For the purposes of this
13 subsection, an investigation is not warranted if:

- 14 (a) The child is not in imminent danger of harm;
- 15 (b) The child is not vulnerable as the result of any untreated
- 16 injury, illness or other physical, mental or emotional condition that
- 17 threatens his immediate health or safety;
- 18 (c) The alleged abuse or neglect could be eliminated if the child
- 19 and his family receive or participate in social or health services
- 20 offered in the community, or both; or
- 21 (d) The agency determines that the:

22 (1) Alleged abuse or neglect was the result of the reasonable
23 exercise of discipline by a parent or guardian of the child involving
24 the use of corporal punishment, including, without limitation,
25 spanking or paddling; and

26 (2) Corporal punishment so administered was not so
27 excessive as to constitute abuse or neglect as described in
28 NRS 432B.150.

29 4. If the agency determines that an investigation is warranted,
30 the agency shall initiate the investigation not later than 3 days after
31 the evaluation is completed.

32 5. *If an agency which provides child welfare services*
33 *investigates a report of alleged abuse or neglect of a child*
34 *pursuant to NRS 432B.010 to 432B.400, inclusive, the agency*
35 *shall inform the person responsible for the child's welfare who is*
36 *named in the report as allegedly causing the abuse or neglect of*
37 *the child of any allegation which is made against the person at the*
38 *initial time of contact with the person by the agency. The agency*
39 *shall not identify the person responsible for reporting the alleged*
40 *abuse or neglect.*

41 6. Except as otherwise provided in this subsection, if the
42 agency determines that an investigation is not warranted, the agency
43 may, as appropriate:

- 44 (a) Provide counseling, training or other services relating to
- 45 child abuse and neglect to the family of the child, or refer the family



1 to a person who has entered into an agreement with the agency to
2 provide those services; or

3 (b) Conduct an assessment of the family of the child to
4 determine what services, if any, are needed by the family and, if
5 appropriate, provide any such services or refer the family to a
6 person who has entered into a written agreement with the agency to
7 make such an assessment.

8 ➤ If an agency determines that an investigation is not warranted for
9 the reason set forth in paragraph (d) of subsection 3, the agency
10 shall take no further action in regard to the matter and shall expunge
11 all references to the matter from its records.

12 ~~[6-]~~ 7. If an agency which provides child welfare services
13 enters into an agreement with a person to provide services to a child
14 or his family pursuant to subsection ~~[5-]~~ 6, the agency shall require
15 the person to notify the agency if the child or his family refuse or
16 fail to participate in the services, or if the person determines that
17 there is a serious risk to the health or safety of the child.

18 ~~[7-]~~ 8. An agency which provides child welfare services that
19 determines that an investigation is not warranted may, at any time,
20 reverse that determination and initiate an investigation.

21 ~~[8-]~~ 9. An agency which provides child welfare services and a
22 law enforcement agency shall cooperate in the investigation, if any,
23 of a report of abuse or neglect of a child.

24 **Sec. 6.** NRS 432B.310 is hereby amended to read as follows:

25 432B.310 Except as otherwise provided in subsection ~~[5-]~~ 6 of
26 NRS 432B.260, the agency investigating a report of abuse or neglect
27 of a child shall, upon completing the investigation, report to the
28 Central Registry:

29 1. Identifying and demographic information on the child
30 alleged to be abused or neglected, his parents, any other person
31 responsible for his welfare and the person allegedly responsible for
32 the abuse or neglect;

33 2. The facts of the alleged abuse or neglect, including the date
34 and type of alleged abuse or neglect, the manner in which the abuse
35 was inflicted and the severity of the injuries; and

36 3. The disposition of the case.

37 **Sec. 7.** NRS 432B.440 is hereby amended to read as follows:

38 432B.440 The agency which provides child welfare services
39 shall assist the court during all stages of any proceeding in
40 accordance with NRS 432B.410 to 432B.590, inclusive ~~[1-]~~ , and
41 *section 2 of this act.*

42 **Sec. 8.** NRS 432B.550 is hereby amended to read as follows:

43 432B.550 1. If the court finds that a child is in need of
44 protection, it may, by its order, after receipt and review of the report
45 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.



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

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

6 (b) *Preference* must be given to placing the child ~~[:~~
7 ~~—(a) With]~~ *with* any person related within the third degree of
8 consanguinity to the child who is suitable and able to provide proper
9 care and guidance for the child, regardless of whether the relative
10 resides within this State.

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

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

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

19 (a) Determine whether:

20 (1) The agency which provides child welfare services has
21 made the reasonable efforts required by paragraph (a) of subsection
22 1 of NRS 432B.393; or

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

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

26 **Sec. 9.** NRS 432B.580 is hereby amended to read as follows:

27 432B.580 1. Except as otherwise provided in this section and
28 NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other
29 than with a parent, the placement must be reviewed by the court at
30 least semiannually, and within 90 days after a request by a party to
31 any of the prior proceedings. Unless the parent, guardian or the
32 custodian objects to the referral, the court may enter an order
33 directing that the placement be reviewed by a panel appointed
34 pursuant to NRS 432B.585.

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

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

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

44 (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 ~~[3-]~~ 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 ~~[4-]~~ 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 ~~[5-]~~ 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 ~~[4]~~ 6 an opportunity to be heard at the
43 hearing.

44 ~~[6-]~~ 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.

~~7.1~~ 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. 10. 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 ~~4.1~~ 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



(3) The agency with legal custody of the child has produced documentation of its conclusion that there is a compelling reason for the placement of the child in another permanent living arrangement.

➤ The court shall prepare an explicit statement of the facts upon which each of its determinations is based. If the court determines that it is in the best interests of the child to terminate parental rights, the court shall use its best efforts to ensure that the procedures required by chapter 128 of NRS are completed within 6 months after the date the court makes that determination, including, without limitation, appointing a private attorney to expedite the completion of the procedures. The provisions of this subsection do not limit the jurisdiction of the court to review any decisions of the agency with legal custody of the child regarding the permanent placement of the child.

4. If a child has been placed outside of his home and has resided outside of his home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

5. This hearing may take the place of the hearing for review required by NRS 432B.580.

6. 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. 11. 1. This section becomes effective upon passage and approval.

2. Sections 3 to 6, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on July 1, 2005, for all other purposes.

3. Sections 1, 2 and 7 to 10, inclusive, of this act become effective on October 1, 2005.



