

Amendment No. 332

Assembly Amendment to Assembly Bill No. 227

(BDR 38-187)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 227 (§ 4).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

SLP/KCR



Date: 4/19/2009

A.B. No. 227—Revises provisions relating to the provision of foster care.
(BDR 38-187)



ASSEMBLY BILL NO. 227—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 3, 2009

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the provision of foster care.
(BDR 38-187)FISCAL NOTE: Effect on Local Government: No.
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 public welfare; requiring licensure of certain **foster care** agencies that provide services relating to the placement of children in foster care; requiring licensure of ~~treatment~~ **specialized** foster homes; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-7 of this bill require persons who wish to operate ~~an~~ a **foster care** agency that assists an agency which provides child welfare services in placing or arranging for the placement of children in foster care to obtain a license from the Division of Child and Family Services of the Department of Health and Human Services.

Existing law requires persons who operate a family foster home or group foster home to obtain a license from the appropriate licensing authority. (Chapter 424 of NRS) The Division of Child and Family Services has adopted regulations for family and group foster homes pursuant to this chapter and has also adopted similar standards for treatment homes, which are a specialized type of foster home. (NAC 424.075, 424.650-424.705) Section 3 of this bill defines what constitutes a ~~treatment~~ **specialized** foster home" and sections 8-14 of this bill ~~put into~~ **set forth in** statute the requirement that persons who operate a ~~treatment~~ **specialized** foster home obtain a license from the appropriate licensing authority. (NRS 424.010, 424.014, 424.020, 424.030, 424.0365, 424.040, 424.085)

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ~~["Agency which places children for foster care"]~~ ***"Foster care agency" means a nonprofit corporation, organized pursuant to chapter 82 of NRS and for-profit corporation or sole proprietorship, which is licensed by the Division, that assists an agency which provides child welfare services in the***

placement of children in foster care, including, without limitation, providing ~~[services relating to the screening.]~~ ;

1. Screening, recruiting and training of persons to provide family foster care ~~[The term includes a nonprofit corporation which operates a treatment foster home and places children for care in its treatment foster home.]~~ specialized foster care and group foster care;

2. Case management services;

3. Referral services;

4. Supportive services for persons providing foster care to meet the needs of children in foster care;

5. Coordination of case plans and treatment plans; and

6. Services, or facilitating the provision of such services, to children placed in foster care.

Sec. 3. ~~[Treatment]~~ “Specialized foster home” means a [natural person, partnership, firm, corporation or association providing] family home which provides full-time care and services for one to six children who:

1. Require special care for physical, mental or emotional issues;

2. Are under ~~[18]~~ 21 years of age;

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; ~~and~~

4. Are received, cared for and maintained for compensation ~~for otherwise, including the provision of permanent free care.~~ ; and

5. Are in the custody of and placed in the home by an agency which provides child welfare services.

Sec. 4. The Division shall:

1. Establish reasonable minimum standards for foster care agencies . ~~[which place children for foster care.]~~

2. In consultation with foster care agencies and each agency which provides child welfare services, adopt:

(a) Regulations concerning the operation of ~~[an agency which places children for] a foster care [.]~~ agency, including, without limitation, a foster care agency which provides family foster care, specialized foster care or group foster care for children placed by an agency which provides child welfare services.

(b) Regulations regarding the issuance of nonrenewable provisional licenses to operate a foster care agency. The regulations must provide that a provisional license is valid for not more than 1 year.

(c) Any other regulations necessary to carry out its powers and duties regarding the placement of children for foster care, including, without limitation, such regulations necessary to ensure compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

3. Prescribe a reasonable fee for the issuance of a provisional license and for the issuance and renewal of a license to operate ~~[an agency which places children for] a foster care [.]~~ agency.

Sec. 5. 1. Except as otherwise provided in this section, a person shall not operate a foster care agency or otherwise assist an agency which provides child welfare services in placing or in arranging the placement of any child in foster care without obtaining a license pursuant to section 6 of this act. This subsection applies to agents, servants, physicians and attorneys of the parents or guardians of a child.

2. This section does not prohibit a parent or guardian from placing or arranging the placement of, or assisting in placing or arranging the placement of, his child in foster care.

1 **Sec. 6. 1.** *An application for a license to operate ~~an agency which places~~*
2 *~~children for~~ a foster care agency must be in a form prescribed by the Division.*
3 *Such a license is effective for ~~1 year~~ 2 years after the date of its issuance and*
4 *may be renewed ~~annually~~ upon expiration.*

5 2. *An applicant must provide reasonable and satisfactory assurance to the*
6 *Division that the applicant will conform to the standards established and the*
7 *regulations adopted by the Division pursuant to section 4 of this act.*

8 3. *Upon application for renewal, the Division may renew a license if the*
9 *Division determines that the licensee conforms to the standards established and*
10 *the regulations adopted by the Division pursuant to section 4 of this act.*

11 4. *The Division may issue a nonrenewable provisional license in*
12 *accordance with the regulations adopted by the Division pursuant to section 4 of*
13 *this act.*

14 **Sec. 7. 1.** *After notice and hearing, the Division may:*

15 (a) *Deny an application for a license to operate ~~an agency which places~~*
16 *~~children for~~ a foster care agency if the Division determines that the applicant*
17 *does not meet the standards established and comply with the regulations adopted*
18 *by the Division pursuant to section 4 of this act.*

19 (b) *Upon a finding of deficiency, require a foster care agency to prepare a*
20 *plan of corrective action and, within 90 days or a shorter period prescribed by the*
21 *Division, require the foster care agency to complete the plan of corrective action.*

22 (c) *Refuse to renew a license or may revoke a license or provisional license if*
23 *the Division finds that the ~~agency which places children for~~ foster care agency*
24 *has refused or failed to meet any of the established standards or has violated any*
25 *of the regulations adopted by the Division pursuant to section 4 of this act.*

26 2. *A notice of the time and place of the hearing must be mailed to the last*
27 *known address of the applicant or licensee at least 15 days before the date fixed*
28 *for the hearing.*

29 3. *When an order of the Division is appealed to the district court, the trial*
30 *may be de novo.*

31 **Sec. 8.** *NRS 424.010 is hereby amended to read as follows:*

32 424.010 *As used in this chapter, unless the context otherwise requires, the*
33 *words and terms defined in NRS 424.012 to 424.017, inclusive, and sections 2 and*
34 *3 of this act have the meanings ascribed to them in those sections.*

35 **Sec. 9.** *NRS 424.014 is hereby amended to read as follows:*

36 424.014 *"Foster home" includes a family foster home , ~~(treatment)~~*
37 *specialized foster home and group foster home.*

38 **Sec. 10.** *NRS 424.020 is hereby amended to read as follows:*

39 424.020 1. *The Division, in consultation with each licensing authority in a*
40 *county whose population is 100,000 or more, shall adopt regulations to:*

41 (a) *Establish procedures and requirements for the licensure of family foster*
42 *homes , ~~(treatment)~~ specialized foster homes and group foster homes; and*

43 (b) *Monitor such licensure.*

44 2. *The Division, in cooperation with the State Board of Health and the State*
45 *Fire Marshal, shall:*

46 (a) *Establish reasonable minimum standards for family foster homes ,*
47 *~~(treatment)~~ specialized foster homes and group foster homes.*

48 (b) *Prescribe rules for the regulation of family foster homes , ~~(treatment)~~*
49 *specialized foster homes and group foster homes.*

50 3. *All family foster homes , ~~(treatment)~~ specialized foster homes and group*
51 *foster homes licensed pursuant to this chapter must conform to the standards*
52 *established and the rules prescribed in subsection 2.*

Sec. 11. NRS 424.030 is hereby amended to read as follows:

424.030 1. No person may conduct a family foster home , ~~a *treatment*~~ *specialized foster home* or a group foster home without receiving a license to do so from the licensing authority.

2. No license may be issued to a family foster home , ~~a *treatment*~~ *specialized foster home* or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.

3. Any family foster home , ~~*treatment*~~ *specialized foster home* or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which ~~must~~ *may* be in force for ~~1 year~~ *2 years* after the date of issuance. On reconsideration of the standards maintained, the license may be renewed ~~annually~~ *upon expiration*.

4. If a family foster home , ~~a *treatment*~~ *specialized foster home* or a group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home , ~~*treatment*~~ *specialized foster home* or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.

5. The license must show:

(a) The name of the persons licensed to conduct the family foster home , ~~*treatment*~~ *specialized foster home* or group foster home.

(b) The exact location of the family foster home , ~~*treatment*~~ *specialized foster home* or group foster home.

(c) The number of children that may be received and cared for at one time.

(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home , ~~*treatment*~~ *specialized foster home* or group foster home is licensed to provide care.

6. No family foster home , ~~*treatment*~~ *specialized foster home* or group foster home may receive for care more children than are specified in the license.

7. In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of provisional and special licenses.

Sec. 12. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a ~~*treatment*~~ *specialized foster home* or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the home;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and

(h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. NRS 424.040 is hereby amended to read as follows:

424.040 A licensing authority or its designee shall visit every licensed family foster home, ~~a treatment~~ **specialized foster home** and group foster home as often as necessary to ensure that proper care is given to the children.

Sec. 14. NRS 424.085 is hereby amended to read as follows:

424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home, ~~a treatment~~ **specialized foster home** or a group foster home is not liable for any act of a child in his foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 15. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.

7. If an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period, take one or more of the following actions against the agency which provides child welfare services:

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➤ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the

1 circumstances under which action must be taken against an agency which provides
2 child welfare services for failure to take corrective action and which specify that
3 any such action by the Division must not impede the provision of child welfare
4 services.

5 8. In consultation with each agency which provides child welfare services,
6 request sufficient money for the provision of child welfare services throughout this
7 State.

8 9. Deposit any money received from the administrative fines imposed
9 pursuant to this section with the State Treasurer for credit to the State General
10 Fund. The State Treasurer shall account separately for the money deposited
11 pursuant to this subsection. The money in the account may only be used by the
12 Division to improve the provision of child welfare services in this State, including,
13 without limitation:

14 (a) To pay the costs associated with providing training and technical assistance
15 and conducting quality improvement activities for an agency which provides child
16 welfare services to assist the agency in any area in which the agency has failed to
17 take corrective action; and

18 (b) Hiring a qualified consultant to conduct such training, technical assistance
19 and quality improvement activities.

20 10. Coordinate with and assist:

21 (a) Each agency which provides child welfare services in recruiting, training
22 and licensing providers of family foster care as defined in NRS 424.017; ~~and~~

23 (b) *Each agency which places children for foster care agency licensed*
24 *pursuant to sections 4 to 7, inclusive, of this act in screening, recruiting and*
25 *training providers of family foster care as defined in NRS 424.017; and*

26 (c) A nonprofit or community-based organization in recruiting and training
27 providers of family foster care as defined in NRS 424.017 if the Division
28 determines that the organization provides a level of training that is equivalent to the
29 level of training provided by an agency which provides child welfare services.

30 **Sec. 16.** NRS 392.210 is hereby amended to read as follows:

31 392.210 1. Except as otherwise provided in subsection 2, a parent, guardian
32 or other person who has control or charge of any child and to whom notice has been
33 given of the child's truancy as provided in NRS 392.130 and 392.140, and who
34 fails to prevent the child's subsequent truancy within that school year, is guilty of a
35 misdemeanor.

36 2. A person who is licensed pursuant to NRS 424.030 to conduct a family
37 foster home, *a ~~treatment~~ specialized foster home* or a group foster home is liable
38 pursuant to subsection 1 for a child in his foster care only if the person has received
39 notice of the truancy of the child as provided in NRS 392.130 and 392.140, and
40 negligently fails to prevent the subsequent truancy of the child within that school
41 year.

42 **Sec. 17.** NRS 477.030 is hereby amended to read as follows:

43 477.030 1. Except as otherwise provided in this section, the State Fire
44 Marshal shall enforce all laws and adopt regulations relating to:

45 (a) The prevention of fire.

46 (b) The storage and use of:

47 (1) Combustibles, flammables and fireworks; and

48 (2) Explosives in any commercial construction, but not in mining or the
49 control of avalanches,

50 *under those circumstances that are not otherwise regulated by the Division of*
51 *Industrial Relations of the Department of Business and Industry pursuant to*
52 *NRS 618.890.*

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➤ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes , ~~treatment~~ specialized foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

1 (d) Cooperate with any local fire department in the investigation of any report
2 received pursuant to NRS 629.045.

3 (e) Provide specialized training in investigating the causes of fires if requested
4 to do so by the chief officer of an organized fire department.

5 7. The State Fire Marshal shall put the National Fire Incident Reporting
6 System into effect throughout the State and publish at least annually a summary of
7 data collected under the System.

8 8. The State Fire Marshal shall provide assistance and materials to local
9 authorities, upon request, for the establishment of programs for public education
10 and other fire prevention activities.

11 9. The State Fire Marshal shall:

12 (a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in
13 checking plans and specifications for construction;

14 (b) Provide specialized training to local fire departments; and

15 (c) Assist local governments in drafting regulations and ordinances,
16 on request or as he deems necessary.

17 10. Except as otherwise provided in this subsection, in a county other than
18 one whose population is 100,000 or more or which has been converted into a
19 consolidated municipality, the State Fire Marshal shall, upon request by a local
20 government, delegate to the local government by interlocal agreement all or a
21 portion of his authority or duties if the local government's personnel and programs
22 are, as determined by the State Fire Marshal, equally qualified to perform those
23 functions. If a local government fails to maintain the qualified personnel and
24 programs in accordance with such an agreement, the State Fire Marshal shall
25 revoke the agreement. The provisions of this subsection do not apply to the
26 authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of
27 subsection 2.

28 11. The State Fire Marshal may, as a public safety officer or as a technical
29 expert on issues relating to hazardous materials, participate in any local, state or
30 federal team or task force that is established to conduct enforcement and
31 interdiction activities involving:

32 (a) Commercial trucking;

33 (b) Environmental crimes;

34 (c) Explosives and pyrotechnics;

35 (d) Drugs or other controlled substances; or

36 (e) Any similar activity specified by the State Fire Marshal.

37 12. Except as otherwise provided in this subsection, any regulations of the
38 State Fire Marshal concerning matters relating to building codes, including, without
39 limitation, matters relating to the construction, maintenance or safety of buildings,
40 structures and property in this State:

41 (a) Do not apply in a county whose population is 400,000 or more which has
42 adopted a code at least as stringent as the International Fire Code and the
43 International Building Code, published by the International Code Council. To
44 maintain the exemption from the applicability of the regulations of the State Fire
45 Marshal pursuant to this subsection, the code of the county must be at least as
46 stringent as the most recently published edition of the International Fire Code and
47 the International Building Code within 1 year after publication of such an edition.

48 (b) Apply in a county described in paragraph (a) with respect to state-owned or
49 state-occupied buildings or public schools in the county and in those local
50 jurisdictions in the county in which the State Fire Marshal is requested to exercise
51 that authority by the chief executive officer of that jurisdiction. As used in this
52 paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

1 **Sec. 18.** The Division of Child and Family Services of the Department of
2 Health and Human Services shall, on or before ~~October 1, 2009,~~ July 1, 2010,
3 adopt the regulations required pursuant to section 4 of this act and NRS 424.020, as
4 amended by section 10 of this act.

5 **Sec. 19.** This act becomes effective upon passage and approval for the
6 purpose of adopting regulations and on January 1, ~~2010,~~ 2011, for all other
7 purposes.