

Amendment No. 712

Assembly Amendment to Senate Bill No. 293 First Reprint (BDR 38-701)

Proposed by: Assembly Committee on Health and Human Services

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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: 5/16/2009

S.B. No. 293—Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies.
(BDR 38-701)



SENATE BILL NO. 293—SENATOR CEGAVSKE

MARCH 16, 2009

JOINT SPONSORS: ASSEMBLYWOMAN MASTROLUCA

Referred to Committee on Health and Education

SUMMARY—~~[Establishes procedures for authorizing the administration of certain medication for children in the custody of certain agencies.]~~
Makes various changes concerning the protection of children. (BDR 38-701)

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 children; ~~[prescribing procedures for authorizing the administration of]~~ making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain psychotropic medications given to children who are in the custody of agencies which provide child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law sets forth the circumstances under which a child may be removed from the physical custody of his parent or legal guardian and requires agencies which provide child welfare services to carry out certain duties relating to the protection of those children. (Chapter 422B of NRS) Section 1 of this bill prescribes procedures for an agency which provides child welfare services to obtain the consent of a parent or guardian of a child in the custody of an agency which provides child welfare services before authorizing the administration of a psychotropic medication to that child. Section 1 also provides that an agency which provides child welfare services may, under certain circumstances, obtain approval of a court of competent jurisdiction if the agency believes that a psychotropic medication must be administered to the child and the parent or legal guardian denies a request for consent.]~~

~~[Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to review the policies and procedures relating to the prescription and administration of psychotropic medication to children in the custody of agencies which provide child welfare services in this State and to report its findings to the Legislative Committee on Health Care and the mental health consortiums.]~~

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) Section 2.5 of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. Section 2.7 of this bill requires each agency which provides child welfare services to establish appropriate policies to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. Section 11 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies with respect to access to such medication by children in division facilities.

Section 4 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) Section 5 of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) Section 6 of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. (NRS 432B.6077) Section 7 of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) Section 8 of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. (NRS 432B.608) Section 9 of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge. (NRS 432B.6081)

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. Section 11 further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

Section 12 of this bill requires the Legislative Committee on Health Care to study issues relating to the use of psychotropic medications by children in the custody of agencies which provide child welfare services.

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:~~

~~1. Except as otherwise provided in this section and NRS 432B.607 to 432B.6085, inclusive, or by order of a court pursuant to chapter 432B of NRS, an agency which provides child welfare services may authorize the administration of a psychotropic medication to a child who is in the custody of the agency if the parent or legal guardian of the child who has the authority to make medical decisions for the child has given consent to the prescription and administration of the psychotropic medication. An agency which provides child welfare services shall provide to the parent or legal guardian of a child before obtaining consent for the administration of a psychotropic medication the following information:~~

~~(a) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~

~~(b) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~

~~(c) The expected results of the psychotropic medication;~~

~~(d) The anticipated consequences of not administering the psychotropic medication to the child; and~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication.~~

~~2. If the parent or legal guardian of a child does not respond to a request for consent pursuant to subsection 1 to administer a psychotropic medication to a child who is in the custody of an agency which provides child welfare services within 5 days after the request was made, the agency may authorize the administration of a psychotropic medication to the child.~~

~~3. If the parent or legal guardian of a child who has the authority to make medical decisions for the child denies a request for consent pursuant to subsection 1, an agency which provides child welfare services may authorize the administration of a psychotropic medication to that child unless:~~

~~(a) The child is under 6 years of age; or~~

~~(b) The child is being prescribed for more than five psychotropic medications.~~

~~4. Notwithstanding the provisions of subsections 1, 2 and 3, if an agency which provides child welfare services believes that a psychotropic medication must be administered to a child, the agency may, on behalf of the child, file a petition with a court of competent jurisdiction for an order authorizing the administration of the psychotropic medication to the child. The petition must include:~~

~~(a) The name and age of the child;~~

~~(b) A description of the diagnosis and symptoms for which the psychotropic medication is sought to be prescribed;~~

~~(c) An estimate or a range of the dosage and frequency for the administration of the psychotropic medication;~~

~~(d) The expected results of the psychotropic medication;~~

~~(e) A statement of all other medications currently administered to the child, the dosage of each medication and the justification for the continued use of each medication; and~~

~~(f) The anticipated consequences of not administering the psychotropic medication to the child.~~

~~5. If a petition is filed pursuant to subsection 4, the court shall, within 7 judicial days after receiving the petition:~~

~~(a) Approve the petition;~~

~~(b) Deny the petition;~~

~~(c) Upon request of the parent, legal guardian or attorney of the child, set a time and date for a hearing on the petition; or~~

~~(d) If the court determines appropriate, authorize the parent or legal guardian of the child to make a decision concerning the prescription of the psychotropic medications.~~

~~6. A foster parent, or other person responsible for the care of a child who is in the custody of an agency which provides child welfare services, other than the parent or legal guardian who has the authority to make medical decisions for the child, who obtains a prescription for a psychotropic medication for the child shall~~

~~obtain authorization from the agency before administering the medication to the child if the child is:~~

~~(a) Under 6 years of age; or~~

~~(b) Being prescribed for more than five psychotropic medications;~~

~~7. A person who administers a psychotropic medication to a child who is in the custody of an agency which provides child welfare services shall comply with the protocol concerning the use of the medication as indicated by the prescribing physician and, if applicable, the order of a court issued pursuant to subsection 5.~~

~~8. A child who is in the custody of an agency which provides child welfare services who is admitted to a public or private mental health facility under conditions of an emergency may be prescribed and administered a psychotropic medication, and such medication is not subject to review pursuant to the provisions of this section for 21 days after the child is admitted. Within 21 days after a child is admitted to a mental health facility under conditions of an emergency, the agency which provides child welfare shall:~~

~~(a) Authorize the continued administration of the medication in accordance with the provisions of subsections 1, 2 and 3; or~~

~~(b) If appropriate, file a petition on behalf of the child pursuant to subsection 4 to continue the administration of a psychotropic medication;~~

~~9. A child who is prescribed a psychotropic medication before the child enters the custody of an agency which provides child welfare services shall continue to take such medication and such medication is not subject to review pursuant to the provisions of this section. The provisions of this subsection do not apply to any changes in the prescription or additional prescriptions given to the child after he enters the custody of the agency which provides child welfare services.~~

~~10. The Division, in consultation with an agency which provides child welfare services located in a county whose population is 100,000 or more, shall adopt regulations to carry out the provisions of this section.~~

~~11. As used in this section, "psychotropic medication" means any medication which affects the central nervous system to treat psychiatric disorders or illness, including, without limitation, antipsychotic medications, mood stabilizers, antidepressants, antipanic agents, antiobsessive agents, antianxiety agents and psychostimulants.] (Deleted by amendment.)~~

~~Sec. 2. [1. The Division of Child and Family Services of the Department of Health and Human Services, in consultation with agencies which provide child welfare services, officers and employees of the district courts in this State and mental health professionals who provide services to children shall review the policies and procedures relating to the prescription and administration of psychotropic medications to children in the custody of agencies which provide child welfare services in this State.~~

~~2. On or before July 1, 2010, the Division of Child and Family Services shall submit a report relating to the review conducted pursuant to subsection 1, the regulations adopted pursuant to section 1 of this act and any recommendations for legislation to:~~

~~(a) The Legislative Committee on Health Care; and~~

~~(b) Each mental health consortium established pursuant to NRS 432B.222.] (Deleted by amendment.)~~

~~Sec. 2.3. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2.5 and 2.7 of this act.~~

~~Sec. 2.5. "Court-ordered admission of a child" includes, without limitation:~~

1 1. A child who is in the custody of an agency which provides child welfare
2 services and who is not in a facility whom the court orders to be admitted to a
3 facility; and

4 2. A child who has been placed in a facility under an emergency admission
5 and whom the court orders to be admitted for the purpose of continuing the
6 placement.

7 Sec. 2.7. Each agency which provides child welfare services shall establish
8 appropriate policies to ensure that children in the custody of the agency have
9 timely access to clinically appropriate psychotropic medication. The policies must
10 include, without limitation, policies concerning:

11 1. The use of psychotropic medication in a manner that has not been tested
12 or approved by the United States Food and Drug Administration, including,
13 without limitation, the use of such medication for a child who is of an age that
14 has not been tested or approved or who has a condition for which the use of the
15 medication has not been tested or approved;

16 2. Prescribing any psychotropic medication for use by a child who is less
17 than 4 years of age;

18 3. The concurrent use by a child of three or more classes of psychotropic
19 medication; and

20 4. The concurrent use by a child of two psychotropic medications of the
21 same class.

22 Sec. 3. NRS 432B.607 is hereby amended to read as follows:

23 432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, and section 2.5
24 of this act, unless the context otherwise requires, the words and terms defined in
25 NRS 432B.6071 to 432B.6074, inclusive, and section 2.5 of this act have the
26 meanings ascribed to them in those sections.

27 Sec. 4. NRS 432B.6075 is hereby amended to read as follows:

28 432B.6075 1. A proceeding for a court-ordered admission of a child alleged
29 to be a child with an emotional disturbance who is in the custody of an agency
30 which provides child welfare services to a facility may be commenced by the filing
31 of a petition with the clerk of the court which has jurisdiction in proceedings
32 concerning the child. The petition may be filed by the agency which provides child
33 welfare services without the consent of a parent of the child. The petition must be
34 accompanied:

35 ~~(a)~~ (a) By a certificate of a physician, psychiatrist or licensed psychologist
36 stating that he has examined the child alleged to be a child with an emotional
37 disturbance and has concluded that the child has an emotional disturbance and,
38 because of that condition, is likely to harm himself or others if allowed his liberty;
39 or

40 ~~(b)~~ (b) By a sworn written statement by the petitioner that:

41 ~~(1)~~ (1) The petitioner has, based upon his personal observation of the child
42 alleged to be a child with an emotional disturbance, probable cause to believe that
43 the child has an emotional disturbance and, because of that condition, is likely to
44 harm himself or others if allowed his liberty; and

45 ~~(2)~~ (2) The child alleged to be a child with an emotional disturbance has
46 refused to submit to examination or treatment by a physician, psychiatrist or
47 licensed psychologist.

48 2. If a petition filed pursuant to this section is to continue the placement of
49 the child after an emergency admission, the petition must be filed not later than 5
50 days after the emergency admission or the child must be released.

51 Sec. 5. NRS 432B.6076 is hereby amended to read as follows:

52 432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court
53 finds, after proceedings for the court-ordered admission of a child alleged to be a

child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~§~~, including, without limitation, an evidentiary hearing;

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 6. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in paragraph (b) of subsection ~~§~~ 1 of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~§~~ or stating the opposition in court; and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

1 **Sec. 7. NRS 432B.6078 is hereby amended to read as follows:**

2 432B.6078 1. Not later than 5 days after a child who is in the custody of an
3 agency which provides child welfare services has been admitted to a facility
4 pursuant to NRS 432B.6076, the agency which provides child welfare services shall
5 inform the child of his legal rights and the provisions of NRS 432B.607 to
6 432B.6085, inclusive, and section 2.5 of this act, 433.456 to 433.543, inclusive,
7 and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the
8 child or the child's attorney desires, assist the child in requesting the court to
9 authorize a second examination by an evaluation team that includes a physician,
10 psychiatrist or licensed psychologist who are not employed by, connected to or
11 otherwise affiliated with the facility other than a physician, psychiatrist or licensed
12 psychologist who performed an original examination which authorized the court to
13 order the admission of the child to the facility. A second examination must be
14 conducted not later than 5 business days after the court authorizes the
15 examination.

16 2. If the court authorizes a second examination of the child, the examination
17 must:

18 (a) Include, without limitation, an evaluation concerning whether the child
19 should remain in the facility and a recommendation concerning the appropriate
20 placement of the child which must be provided to the facility; and

21 (b) Be paid for by the governmental entity that is responsible for the agency
22 which provides child welfare services, if such payment is not otherwise provided by
23 the State Plan for Medicaid.

24 **Sec. 8. NRS 432B.608 is hereby amended to read as follows:**

25 432B.608 1. If the court issues an order for the admission to a facility of a
26 child who is in the custody of an agency which provides child welfare services
27 pursuant to NRS 432B.6076, the admission automatically expires at the end of 90
28 days if not terminated previously by the facility as provided for in subsection 2 of
29 NRS 432B.6084.

30 2. At the end of the court-ordered period of treatment, the agency which
31 provides child welfare services, the Division of Child and Family Services or any
32 facility may petition to renew the admission of the child for additional periods not
33 to exceed 60 days each.

34 3. For each renewal, the petition must set forth the specific reasons why
35 further treatment in the facility would be in the best interests of the child ~~and~~ and the
36 court shall apply the same standards when considering a petition to renew the
37 admission of the child as were applied for the original petition for the court-
38 ordered admission of the child.

39 **Sec. 9. NRS 432B.6081 is hereby amended to read as follows:**

40 432B.6081 A facility which provides care, treatment or training to a child
41 who is in the custody of an agency which provides child welfare services and who
42 is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in
43 consultation with the child, for the continued care, treatment and training of the
44 child upon discharge from the facility. The plan must:

45 1. Be developed not later than ~~5~~ 10 days after the child is admitted to the
46 facility;

47 2. Be submitted to the court after each period of admission ordered by the
48 court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

49 3. Include, without limitation:

50 (a) The anticipated date of discharge of the child from the facility;

51 (b) ~~The criteria which must be satisfied before the child is discharged from the~~
52 ~~facility, as determined by the medical professional responsible for the care,~~
53 ~~treatment and training of the child in the facility;~~

~~(e)~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~(d)~~ (c) A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~(e)~~ (d) The suggested placement of the child after the child is discharged from the facility.

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 2.7 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. During the 2009-2011 interim, the Legislative Committee on Health Care shall study the policies adopted pursuant to section 2.7 of this act and NRS 433B.130, as amended by section 11 of this act, and the use of psychotropic medication by children in the custody of agencies which provide child welfare services, including, without limitation, children in the custody of a facility operated by the Division of Child and Family Services of the

1 Department of Health and Human Services. The study must include, without
2 limitation, issues concerning:

3 1. The use of psychotropic medication in a manner that has not been
4 tested or approved by the United States Food and Drug Administration,
5 including, without limitation, the use of such medication for a child who is of
6 an age that has not been tested or approved or who has a condition for which
7 the use of the medication has not been tested or approved;

8 2. Prescribing any psychotropic medication for use by a child who is less
9 than 4 years of age;

10 3. The concurrent use by a child of three or more classes of psychotropic
11 medication;

12 4. Whether children in the custody of agencies which provide child
13 welfare services have timely access to clinically appropriate psychotropic
14 medication; and

15 5. The concurrent use by a child of two psychotropic medications of the
16 same class.

17 Sec. 13. This act becomes effective on July 1, 2009.