

SENATE BILL NO. 293—SENATOR CEGAVSKE

MARCH 16, 2009

Referred to Committee on Health and Education

SUMMARY—Requires a court order for certain prescriptions of medication for children in the custody of certain agencies. (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; requiring a court order under certain circumstances before prescribing certain medications 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:

1 Existing law sets forth the circumstances under which a child may be removed
2 from the physical custody of his parent or legal guardian and requires agencies
3 which provide child welfare services to carry out certain duties relating to the
4 protection of those children. (Chapter 432B of NRS) This bill requires a physician
5 to obtain the approval of a court of competent jurisdiction before prescribing a
6 psychotropic medication to a child in the custody of an agency which provides
7 child welfare services if: (1) the parent or guardian of the child refuses to consent to
8 the prescription; (2) the child is under 6 years of age; (3) the child is being
9 prescribed for more than four psychotropic medications; (4) the medication is being
10 prescribed for a purpose other than a purpose intended by the manufacturer; or (5)
11 the medication is being prescribed for a purpose other than a purpose approved by
12 the United States Food and Drug Administration.

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

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

3 *1. Except as otherwise provided in this section and NRS*
4 *432B.607 to 432B.6085, inclusive, or by order of a court pursuant*



1 to chapter 433B of NRS, a physician may prescribe a psychotropic
2 medication to a child who is in the custody of an agency which
3 provides child welfare services if the parent or legal guardian of
4 the child who has the authority to make medical decisions for the
5 child has given consent to the prescription and administration of
6 the psychotropic medication. A physician shall not prescribe a
7 psychotropic medication to a child who is in the custody of an
8 agency which provides child welfare services if:

9 (a) The parent or legal guardian of the child has refused to
10 consent to the prescription;

11 (b) The child is under 6 years of age;

12 (c) The child is being prescribed for more than four
13 psychotropic medications;

14 (d) The psychotropic medication is being prescribed for a
15 purpose other than a purpose intended by the manufacturer of the
16 medication; or

17 (e) The psychotropic medication is being prescribed for a
18 purpose other than a purpose approved by the United States Food
19 and Drug Administration.

20 2. Notwithstanding the provisions of subsection 1, if a
21 physician believes that a psychotropic medication must be
22 prescribed to a child, the physician, or the agency which provides
23 child welfare services on behalf of the child, may file a petition
24 with a court of competent jurisdiction for an order authorizing the
25 prescription of the psychotropic medication to the child. The
26 petition must include:

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

28 (b) A description of the diagnosis and behavior for which the
29 psychotropic medication is sought to be prescribed;

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

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

33 (e) A description of each side effect and any contraindication
34 of the psychotropic medication;

35 (f) Alternative methods or medications, if any, which may be
36 used to treat the diagnosis or behavior of the child; and

37 (g) The anticipated consequences of not prescribing the
38 psychotropic medication to the child.

39 3. If a petition is filed pursuant to subsection 2, the court
40 shall, within 7 judicial days after receiving the petition:

41 (a) Approve the petition;

42 (b) Deny the petition;

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



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

4 4. A person who administers a psychotropic medication to a
5 child who is in the custody of an agency which provides child
6 welfare services shall comply with the protocol concerning the use
7 of the medication as indicated by the prescribing physician and, if
8 applicable, the order of a court issued pursuant to subsection 3.

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

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

21 7. As used in this section, "psychotropic medication" means
22 any medication which affects the central nervous system to treat
23 psychiatric disorders or illness, including, without limitation,
24 antipsychotic medications, mood stabilizers, antidepressants,
25 antipanic agents, antiobsessive agents, antianxiety agents and
26 psychostimulants.

