

SENATE BILL NO. 293—SENATOR CEGAVSKE

MARCH 16, 2009

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. (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 certain psychotropic 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) **Section 1** of this bill
5 prescribes procedures for an agency which provides child welfare services to obtain
6 the consent of a parent or guardian of a child in the custody of an agency which
7 provides child welfare services before authorizing the administration of a
8 psychotropic medication to that child. **Section 1** also provides that an agency which
9 provides child welfare services may, under certain circumstances, obtain approval
10 of a court of competent jurisdiction if the agency believes that a psychotropic
11 medication must be administered to the child and the parent or legal guardian
12 denies a request for consent.

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



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 433B 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



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1 *competent jurisdiction for an order authorizing the administration*
2 *of the psychotropic medication to the child. The petition must*
3 *include:*

- 4 (a) *The name and age of the child;*
5 (b) *A description of the diagnosis and symptoms for which the*
6 *psychotropic medication is sought to be prescribed;*
7 (c) *An estimate or a range of the dosage and frequency for the*
8 *administration of the psychotropic medication;*
9 (d) *The expected results of the psychotropic medication;*
10 (e) *A statement of all other medications currently administered*
11 *to the child, the dosage of each medication and the justification*
12 *for the continued use of each medication; and*
13 (f) *The anticipated consequences of not administering the*
14 *psychotropic medication to the child.*

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

- 17 (a) *Approve the petition;*
18 (b) *Deny the petition;*
19 (c) *Upon request of the parent, legal guardian or attorney of*
20 *the child, set a time and date for a hearing on the petition; or*
21 (d) *If the court determines appropriate, authorize the parent or*
22 *legal guardian of the child to make a decision concerning the*
23 *prescription of the psychotropic medications.*

24 6. *A foster parent, or other person responsible for the care of*
25 *a child who is in the custody of an agency which provides child*
26 *welfare services, other than the parent or legal guardian who has*
27 *the authority to make medical decisions for the child, who obtains*
28 *a prescription for a psychotropic medication for the child shall*
29 *obtain authorization from the agency before administering the*
30 *medication to the child if the child is:*

- 31 (a) *Under 6 years of age; or*
32 (b) *Being prescribed for more than five psychotropic*
33 *medications.*

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

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



1 *conditions of an emergency, the agency which provides child*
2 *welfare shall:*

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

5 *(b) If appropriate, file a petition on behalf of the child*
6 *pursuant to subsection 4 to continue the administration of a*
7 *psychotropic medication.*

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

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

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

26 **Sec. 2.** 1. The Division of Child and Family Services of the
27 Department of Health and Human Services, in consultation with
28 agencies which provide child welfare services, officers and
29 employees of the district courts in this State and mental health
30 professionals who provide services to children shall review the
31 policies and procedures relating to the prescription and
32 administration of psychotropic medications to children in the
33 custody of agencies which provide child welfare services in this
34 State.

35 2. On or before July 1, 2010, the Division of Child and Family
36 Services shall submit a report relating to the review conducted
37 pursuant to subsection 1, the regulations adopted pursuant to section
38 1 of this act and any recommendations for legislation to:

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

40 (b) Each mental health consortium established pursuant to
41 NRS 433B.333.

