

SENATE BILL NO. 86—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DIVISION OF CHILD AND FAMILY SERVICES)

PREFILED DECEMBER 15, 2008

Referred to Committee on Judiciary

**SUMMARY**—Makes various changes concerning children who are ordered to be placed in the custody of certain governmental entities by the juvenile court. (BDR 5-361)

**FISCAL NOTE:** Effect on Local Government: No.  
Effect on the State: No.

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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; revising provisions governing the detention of juveniles; revising provisions governing the placement of children into foster care by the juvenile court; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 1** of this bill provides that if a child who is alleged to be delinquent is detained for more than 24 hours, the juvenile court must determine whether there is reasonable cause to believe that it is contrary to the welfare of the child to return home or that it is in the best interests of the child to be placed outside his home. (NRS 62C.040) **Section 2** of this bill requires the juvenile court to make the same determination with respect to a child who is being detained because he is alleged to be in need of supervision. (NRS 62C.050)

Chapter 62E of NRS sets forth the procedures upon the disposition of a case before the juvenile court. Existing law provides for a periodic review of the placement of a child who is placed in a foster home or other similar placement by the juvenile court. (NRS 62E.170) **Section 10** of this bill revises the determinations made during the periodic review and removes the requirement for a dispositional hearing within 18 months after the review.

**Sections 5-9** of this bill provide additional procedures in such cases which are similar to requirements for children who enter the child welfare system because they are the subject of a report of abuse or neglect. (Chapter 432B of NRS) **Section 5** requires the juvenile court to hold a hearing within 60 days after a child is removed from his home to determine: (1) whether reasonable efforts have been made to preserve and reunify the family and to prevent or eliminate the need for the



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removal of the child from his home and to make it possible for the child to safely return home; or (2) whether such efforts are not required because of exigent circumstances. (See NRS 432B.550) **Section 6** requires the Division of Child and Family Services of the Department of Health and Human Services or another governmental entity, as applicable, to develop a plan for the permanent placement of a child who is placed in its custody by a juvenile court and to make reasonable efforts to finalize the permanent placement of the child in accordance with that plan. (See NRS 432B.553) **Section 6** further requires the Division or the other governmental entity, as applicable, to include in such a plan the termination of parental rights in certain circumstances. (See NRS 432B.553) **Section 7** requires the juvenile court to hold a hearing concerning the permanent placement of a child who is placed in a foster home or other similar placement within 12 months after the child is first detained and annually thereafter, and within 30 days after determining that reasonable efforts to preserve and reunify the family of the child are not necessary. (See NRS 432B.590) **Section 8** requires any hearing held to consider the status of a child who has been placed in the custody of the Division of Child and Family Services or of another governmental entity by the juvenile court to include certain determinations. **Section 9** requires that any out-of-state placement of such a child be in accordance with the provisions of the Interstate Compact for Juveniles. **Section 9.5** of this bill requires the juvenile court to include in an order placing a child into the custody of an institution or agency in this State that the Division of Child and Family Services or another governmental entity, as appropriate, is responsible for the placement and care of the child. (NRS 62E.110)

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

**Section 1.** NRS 62C.040 is hereby amended to read as follows:

62C.040 1. If a child who is alleged to be delinquent is taken into custody and detained, the child must be given a detention hearing before the juvenile court:

(a) Not later than 24 hours after the child submits a written application;

(b) In a county whose population is less than 100,000, not later than 24 hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined;

(c) In a county whose population is 100,000 or more, not later than 6 hours after the commencement of detention at a police station, lockup, jail, prison or other facility in which adults are detained or confined; or

(d) Not later than 72 hours after the commencement of detention at a facility in which adults are not detained or confined,  
➡ whichever occurs first, excluding Saturdays, Sundays and holidays.

2. A child must not be released after a detention hearing without the written consent of the juvenile court.



1     **3. If a child is detained pursuant to this section for 24 hours**  
2 **or more, the juvenile court must determine whether there is**  
3 **reasonable cause to believe that it is contrary to the welfare of the**  
4 **child to return home or that it is in the best interests of the child to**  
5 **be placed outside his home.**

6     **Sec. 2.** NRS 62C.050 is hereby amended to read as follows:

7     62C.050 1. Except as otherwise provided in this section, if a  
8 child who is alleged to be in need of supervision is taken into  
9 custody and detained, the child must be released not later than 24  
10 hours, excluding Saturdays, Sundays and holidays, after the child's  
11 initial contact with a peace officer or probation officer to:

12     (a) A parent or guardian of the child;

13     (b) Any other person who is able to provide adequate care and  
14 supervision for the child; or

15     (c) Shelter care.

16     2. A child does not have to be released pursuant to subsection 1  
17 if the juvenile court:

18     (a) Holds a detention hearing;

19     (b) Determines that the child:

20         (1) Has threatened to run away from home or from the  
21 shelter;

22         (2) Is accused of violent behavior at home; or

23         (3) Is accused of violating the terms of a supervision and  
24 consent decree; and

25     (c) Determines that ~~[the child needs to be detained to make an~~  
26 ~~alternative placement for the child.]~~ **there is reasonable cause to**  
27 **believe that it is contrary to the welfare of the child to return home**  
28 **or that it is in the best interests of the child to be placed outside his**  
29 **home.**

30     ➡ The child may be detained for an additional 24 hours but not  
31 more than 48 hours after the detention hearing, excluding Saturdays,  
32 Sundays and holidays.

33     3. A child does not have to be released pursuant to this section  
34 if the juvenile court:

35     (a) Holds a detention hearing; ~~[and]~~

36     (b) Determines that the child:

37         (1) Is a ward of a federal court or held pursuant to a federal  
38 statute;

39         (2) Has run away from another state and a jurisdiction within  
40 that state has issued a want, warrant or request for the child; or

41         (3) Is accused of violating a valid court order ~~[.]~~; **and**

42     **(c) Determines that there is reasonable cause to believe that it**  
43 **is contrary to the welfare of the child to return home or that it is in**  
44 **the best interests of the child to be placed outside his home.**



1    ➤ The child may be detained for an additional period as necessary  
2 for the juvenile court to return the child to the jurisdiction from  
3 which the child originated or to make an alternative placement for  
4 the child.

5        4. For the purposes of this section, an alternative placement  
6 must be in a facility in which there are no physical restraining  
7 devices or barriers.

8        **Sec. 3.** Chapter 62E of NRS is hereby amended by adding  
9 thereto the provisions set forth as sections 4 to 9, inclusive, of this  
10 act.

11        **Sec. 4.** (Deleted by amendment.)

12        **Sec. 5. 1.** *Within 60 days after a child is removed from his*  
13 *home the juvenile court shall determine whether:*

14        (a) *Except as otherwise provided in subsection 2, the Division*  
15 *of Child and Family Services or other governmental entity, as*  
16 *applicable, has made reasonable efforts to preserve and reunify*  
17 *the family of the child and to prevent or eliminate the need for his*  
18 *removal from his home and to make it possible for the child to*  
19 *safely return to his home; or*

20        (b) *No such efforts were required in the particular case*  
21 *because of exigent circumstances.*

22        2. *Reasonable efforts pursuant to paragraph (a) of subsection*  
23 *1 are not required if the juvenile court finds that:*

24        (a) *A parent or other primary caretaker of the child has:*

25        (1) *Committed, aided or abetted in the commission of, or*  
26 *attempted, conspired or solicited to commit, murder or voluntary*  
27 *manslaughter against the child or another child of the parent or*  
28 *has committed any other felony that resulted in substantial bodily*  
29 *harm to the child or to another child of the parent;*

30        (2) *Caused the abuse or neglect of the child, a sibling of the*  
31 *child or another child in the household, and the abuse or neglect*  
32 *was so extreme or repetitious as to indicate that any plan to return*  
33 *the child to his home would result in an unacceptable risk to the*  
34 *health or welfare of the child; or*

35        (3) *Abandoned the child for 60 or more days, and the*  
36 *identity of the parent of the child is unknown and cannot be*  
37 *ascertained through reasonable efforts; or*

38        (b) *The parental rights of a parent to a sibling of the child*  
39 *have been terminated by a court order upon any basis other than*  
40 *the execution of a voluntary relinquishment of those rights by a*  
41 *natural parent, and the court order is not currently being*  
42 *appealed.*

43        3. *The juvenile court shall prepare an explicit statement of*  
44 *the facts upon which its determination pursuant to subsection 1 is*  
45 *based.*



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1     **Sec. 6. 1. If a child whom the juvenile court has ordered**  
2 *into the custody of the Division of Child and Family Services or of*  
3 *another governmental entity is placed in a foster home or other*  
4 *similar placement, the Division or governmental entity, as*  
5 *applicable, shall:*

6     (a) *Not later than 60 days after the placement, develop a plan*  
7 *for the permanent placement of the child for review by the juvenile*  
8 *court at a hearing; and*

9     (b) *Make reasonable efforts to finalize the permanent*  
10 *placement of the child in accordance with the plan developed*  
11 *pursuant to paragraph (a).*

12     2. *For purposes of subsection 1, "reasonable efforts" have*  
13 *been made if the agency which provides child welfare services that*  
14 *has custody of the child has exercised diligence and care in*  
15 *arranging appropriate and available services for the child, with*  
16 *the health and safety of the child as its paramount concerns. The*  
17 *exercise of such diligence and care, includes, without limitation,*  
18 *obtaining necessary and appropriate information concerning the*  
19 *child for the purposes of NRS 127.152, 127.410 and 424.038.*

20     3. *In determining whether reasonable efforts have been made*  
21 *pursuant to subsection 1, the juvenile court shall:*

22     (a) *Evaluate the evidence and make findings based on whether*  
23 *a reasonable person would conclude that reasonable efforts were*  
24 *made;*

25     (b) *Consider any input from the child;*

26     (c) *Consider the efforts made and the evidence presented since*  
27 *the previous finding of the court concerning reasonable efforts;*

28     (d) *Consider the diligence and care that the agency is legally*  
29 *authorized and able to exercise;*

30     (e) *Recognize and take into consideration the legal obligations*  
31 *of the agency to comply with any applicable laws and regulations;*

32     (f) *Base its determination on the circumstances and facts*  
33 *concerning the particular family or plan for the permanent*  
34 *placement of the child at issue; and*

35     (g) *Consider any other matters the court deems relevant.*

36     4. *If a child is not residing in his home and has been placed*  
37 *in a foster home or other similar placement for 15 or more of the*  
38 *immediately preceding 22 months, the Division of Child and*  
39 *Family Services or other governmental entity which has custody of*  
40 *the child, as applicable, shall include the termination of parental*  
41 *rights to the child in the plan for the permanent placement of the*  
42 *child, unless the agency determines that:*

43     (a) *The child is in the care of a relative;*

44     (b) *The plan for the child requires the Division of Child and*  
45 *Family Services or other governmental entity to make reasonable*



1 *efforts pursuant to section 5 of this act to reunify the family of the*  
2 *child, and the Division or governmental entity has not provided to*  
3 *the family, consistently within the period specified in the plan for*  
4 *the child, such services as the Division or governmental entity*  
5 *deems necessary for the safe return of the child to his home; or*

6 *(c) There are compelling reasons, which are documented in*  
7 *the plan for the child, for concluding that the filing of a petition to*  
8 *terminate parental rights to the child would not be in the best*  
9 *interests of the child.*

10 *5. The Division of Child and Family Services shall adopt*  
11 *regulations in consultation with the Nevada Association of*  
12 *Juvenile Justice Administrators, or its successor organization,*  
13 *other agencies which provide child welfare services and the Court*  
14 *Administrator to carry out its responsibilities pursuant to the*  
15 *provisions of this section.*

16 *Sec. 7. 1. The juvenile court shall hold a hearing*  
17 *concerning the permanent placement of a child who is placed in a*  
18 *foster home or other similar placement pursuant to section 6 of*  
19 *this act:*

20 *(a) Not later than 12 months after the initial placement of the*  
21 *child in a foster home or other similar placement and annually*  
22 *thereafter.*

23 *(b) Within 30 days after making any of the findings set forth in*  
24 *subsection 2 of section 5 of this act necessary to show that the*  
25 *Division of Child and Family Services or other governmental*  
26 *entity that has custody of the child, as applicable, is not required to*  
27 *make reasonable efforts to preserve and reunify the family of the*  
28 *child.*

29 *2. Except as otherwise provided in this subsection, notice of*  
30 *the hearing must be given by mail to the parent or parents of the*  
31 *child, the guardian ad litem of the child and the attorney, if any,*  
32 *representing the parent or the child. If the parent of the child has*  
33 *not appeared in the action, the report need not be given to that*  
34 *parent.*

35 *3. The juvenile court may require the presence of the child at*  
36 *the hearing and shall provide to each person to whom notice was*  
37 *given pursuant to subsection 2 an opportunity to be heard at the*  
38 *hearing.*

39 *4. At the hearing, the juvenile court shall review any plan for*  
40 *the permanent placement of the child adopted pursuant to section*  
41 *6 of this act and determine:*

42 *(a) Whether the Division of Child and Family Services or*  
43 *other governmental entity that has custody of the child, as*  
44 *applicable, has made reasonable efforts to finalize the plan for the*



1 *permanent placement of the child as required by paragraph (b) of*  
2 *subsection 1 of section 6 of this act; and*

3 *(b) Whether, and if applicable when:*

4 *(1) The child should be returned to his parent or placed*  
5 *with other relatives;*

6 *(2) A petition for termination of parental rights to the child*  
7 *should be filed and the child placed for adoption;*

8 *(3) A legal guardian should be appointed for the child; or*

9 *(4) The Division of Child and Family Services or other*  
10 *governmental entity that has custody of the child, as applicable,*  
11 *has produced documentation of its conclusion that there is a*  
12 *compelling reason for the placement of the child in another*  
13 *permanent living arrangement.*

14 *5. If the juvenile court determines not to return the child to*  
15 *his parent, the juvenile court must consider:*

16 *(a) Placements available for the child in this State and outside*  
17 *of this State;*

18 *(b) If the child is placed in foster care outside of the state*  
19 *where the parent of the child resides, whether that placement*  
20 *continues to be appropriate and in the best interest of the child;*  
21 *and*

22 *(c) If the child is 16 years of age or older, the services that will*  
23 *be needed to assist the child to transition out of foster care.*

24 *6. The court shall prepare an explicit statement of the facts*  
25 *upon which each of its determinations pursuant to this section is*  
26 *based.*

27 *7. The hearing held pursuant to this section may take the*  
28 *place of the hearing for review required by NRS 62E.170.*

29 **Sec. 8. 1. In any hearing held to consider the status of a**  
30 **child whom the juvenile court has ordered into the custody of the**  
31 **Division of Child and Family Services or of another governmental**  
32 **entity and who has been placed in a foster home or other similar**  
33 **placement, the juvenile court shall consider whether:**

34 *(a) The child has complied with the terms of his supervision*  
35 *and any court order;*

36 *(b) The child has been rehabilitated;*

37 *(c) The child is, or continues to be, a danger to himself or*  
38 *others; and*

39 *(d) The physical, psychological and sociological needs of the*  
40 *child are being met.*

41 *2. The health and safety of the child must be given*  
42 *paramount concern in any such review.*

43 **Sec. 9. If a child whom the juvenile court has ordered into**  
44 **the custody of the Division of Child and Family Services or of**  
45 **another governmental entity is placed with any person who resides**



*outside of the State of Nevada, the placement must made be in accordance with the provisions of the Interstate Compact for Juveniles set forth in NRS 62I.010 to 62I.070, inclusive.*

**Sec. 9.5.** NRS 62E.110 is hereby amended to read as follows:

62E.110 1. Except as otherwise provided in this chapter, the juvenile court may:

(a) Place a child in the custody of a suitable person for supervision in the child's own home or in another home; or

(b) Commit the child to the custody of a public or private institution or agency authorized to care for children.

2. If the juvenile court places the child under supervision in a home:

(a) The juvenile court may impose such conditions as the juvenile court deems proper; and

(b) The program of supervision in the home may include electronic surveillance of the child.

3. If the juvenile court commits the child to the custody of a public or private institution or agency, the juvenile court shall select one that is required to be licensed by:

(a) The Department of Health and Human Services to care for such children; or

(b) If the institution or agency is in another state, the analogous department of that state.

*4. When the juvenile court orders a child into the custody of an institution or agency in this State, the court shall include in the order that the Division of Child and Family Services or other governmental entity, as appropriate, is responsible for the placement and care of the child in the institution or with the agency.*

**Sec. 10.** NRS 62E.170 is hereby amended to read as follows:

62E.170 1. Except as otherwise provided in this section, if *a child whom* the juvenile court ~~{places a child}~~ *has ordered into the custody of the Division of Child and Family Services or of another governmental entity is placed* in a foster home or other similar ~~{institution,}~~ *placement*, the juvenile court shall review the placement at least semiannually ~~{for the purpose of determining} to determine~~ whether:

(a) ~~{Continued placement or supervision is in the best interests of the child and the public; and~~

~~—(b) The child is being treated fairly.}~~ *The child remains safe;*

*(b) The placement continues to be necessary and appropriate;*

*(c) The plan for the permanent placement of the child has been complied with; and*





*(d) Progress has been made toward correcting or mitigating the circumstances which caused the placement of the child in a foster home or other similar placement.*

2. ~~[In conducting the review, the juvenile court may:~~

~~—(a) Require a written report from the child's protective services officer, welfare worker or other guardian of the child which includes, but is not limited to, an evaluation of the progress of the child and recommendations for further supervision, treatment or rehabilitation.~~

~~—(b) Request any information or statements that the juvenile court deems necessary for the review.~~

~~—3. The juvenile court shall hold dispositional hearings not later than 18 months after the review required by subsection 1, and at least annually thereafter.~~

~~—4. The juvenile court shall hold each dispositional hearing to determine whether:~~

~~—(a) The child should be returned to his parent or guardian or other relatives;~~

~~—(b) The child's placement in the foster home or other similar institution should be continued;~~

~~—(c) The child should be placed for adoption or under a legal guardianship; or~~

~~—(d) The child should remain in the foster home or other similar institution on a long-term basis.]~~ *The juvenile court must also determine the probable date by which the child may safely be returned to the home of his parent or other legal guardian or in another identified permanent placement.*

3. *At least 5 days before a hearing is held pursuant to this section, the Division of Child and Family Services or the other governmental entity which has custody of the child, as applicable, shall submit a report to the juvenile court addressing each of the items listed in subsections 1 and 2.*

4. *Except as otherwise provided in this subsection, the Division or the other governmental entity which has custody of the child, as applicable, shall, at least 72 hours before the hearing held pursuant to subsection 1, provide a copy of the report submitted to the juvenile court pursuant to subsection 3 to the parent or parents of the child, the guardian ad litem of the child and the attorney, if any, representing the parent or the child. If the parent of the child has not appeared in the action, the report need not be given to that parent.*

5. *The provisions of this section do not apply to the placement of a child in the home of the child's parent or parents.*



1       6. This section does not limit the power of the juvenile court to  
2 order a review or similar proceeding under subsection 1 other than  
3 semiannually.

4       7. In determining the placement of the child pursuant to this  
5 section, the juvenile court shall give preference to any person who is  
6 related to the child within the third degree of consanguinity if the  
7 juvenile court finds that the person is suitable and able to provide  
8 proper care and guidance for the child.

9       **Sec. 11.** This act becomes effective on July 1, 2010.

