

ASSEMBLY BILL NO. 110—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

PREFILED FEBRUARY 3, 2011

Referred to Committee on Health and Human Services

SUMMARY—Establishes the Kinship Guardianship Assistance
Program. (BDR 38-196)

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 the Department of Health and Human Services to establish and administer the Kinship Guardianship Assistance Program; requiring the Department to adopt a state plan for the administration of the Program; authorizing agencies which provide child welfare services to enter into agreements to provide assistance under the Program; prescribing the requirements for receiving assistance pursuant to the Program; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law authorizes states to establish programs to provide financial incentives to certain relatives who become the legal guardians of children in foster care. (42 U.S.C. §§ 671 and 673)

Section 5 of this bill requires the Department of Health and Human Services to establish and administer the Kinship Guardianship Assistance Program in accordance with the Federal law to provide assistance to a relative of a child who is seeking appointment as the legal guardian of the child under certain circumstances.

Section 5 also requires the Department to adopt a state plan for the administration of the Program. **Sections 6-9** of this bill prescribe the requirements of the Program and set forth the conditions for the provision of assistance including, without limitation, the criteria for a child and a relative to receive assistance, the content of any agreements for assistance and the duties of agencies which provide child welfare services that provide assistance pursuant to the Program.



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Existing law provides that a person who obtains or attempts to obtain public assistance through fraudulent means is guilty of a category E felony and shall pay restitution. (NRS 422A.700) The Program is considered public assistance for purposes of imposing a penalty pursuant to that section.

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 the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, "Program" means the Kinship Guardianship Assistance Program established and administered by the Department pursuant to section 5 of this act.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. *The Department, through a division of the Department designated by the Director, shall establish and administer the Kinship Guardianship Assistance Program to provide assistance pursuant to the provisions of sections 2 to 9, inclusive, of this act and 42 U.S.C. §§ 671 and 673.*

2. *The Department shall adopt a state plan for the administration of the Program.*

3. *An agency which provides child welfare services may enter into an agreement to provide assistance to a relative of a child pursuant to the Program. Such an agreement may be entered into with a relative who is located outside the State of Nevada. If a guardianship for the child is established in the other state, the agency which provides child welfare services must comply with any order of the court of the state in which the child resides concerning the guardianship.*

Sec. 6. 1. *As a condition to the provision of assistance pursuant to the Program:*

(a) A child must:

(I) Have been removed from his or her home:

(I) Pursuant to a written agreement voluntarily entered by the parent or guardian of the child and an agency which provides child welfare services; or

(II) By a court which has determined that it is in the best interests of the child for the child to remain in protective custody or to be placed in temporary or permanent custody outside his or her home;

(2) For not less than 6 consecutive months, have been eligible to receive maintenance pursuant to Part E of Title IV of



1 *the Social Security Act, 42 U.S.C. §§ 670 et seq., while residing*
2 *with the relative of the child;*

3 (3) *Not have as an option for permanent placement the*
4 *return to the home or the adoption of the child;*

5 (4) *Demonstrate a strong attachment to the relative;*

6 (5) *If the child is 14 years of age or older, be consulted*
7 *regarding the guardianship arrangement; and*

8 (6) *Meet any other requirements for eligibility set forth in*
9 *42 U.S.C. §§ 671 and 673.*

10 (b) *A relative of the child must:*

11 (1) *Demonstrate a strong commitment to caring for the*
12 *child permanently;*

13 (2) *Be a provider of family foster care as defined in*
14 *NRS 424.017;*

15 (3) *Enter into a written agreement for assistance with an*
16 *agency which provides child welfare services before the relative is*
17 *appointed as the legal guardian of the child;*

18 (4) *Be appointed as the legal guardian of the child by a*
19 *court of competent jurisdiction and comply with any requirements*
20 *imposed by the court; and*

21 (5) *Meet any other requirements for eligibility set forth in*
22 *42 U.S.C. §§ 671 and 673.*

23 2. *If the sibling of a child who is eligible for assistance*
24 *pursuant to the Program is not eligible for such assistance, the*
25 *sibling may be placed with the child who is eligible for assistance*
26 *upon approval of the agency which provides child welfare services*
27 *and the relative. In such a case, payments may be made for the*
28 *sibling so placed as if the sibling is eligible for the Program.*

29 **Sec. 7. 1.** *An agreement for assistance entered into*
30 *pursuant to the Program must include, without limitation:*

31 (a) *The amount of assistance provided under the agreement*
32 *for each eligible child, which must not exceed the amount that the*
33 *agency which provides child welfare services would provide to a*
34 *foster parent if the child had been placed in foster care;*

35 (b) *The manner in which the assistance will be provided;*

36 (c) *The manner in which the agency which provides child*
37 *welfare services may periodically adjust the amount of assistance,*
38 *in consultation with the relative, based on the circumstances of the*
39 *relative and the child;*

40 (d) *Any additional services or assistance that the child or*
41 *relative may be eligible to receive under the agreement and a*
42 *description of those services or assistance;*

43 (e) *The procedure by which the relative may apply for*
44 *additional services or assistance, as needed; and*



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1 (f) Any other requirements set forth in 42 U.S.C. §§ 671 and
2 673.

3 2. The agency which provides child welfare services shall
4 provide a copy of the agreement to the relative before he or she is
5 appointed as the legal guardian of the child.

6 3. An agreement for assistance entered into pursuant to the
7 Program remains in effect even if the relative changes the state of
8 his or her residence.

9 4. An agreement made pursuant to this section does not affect
10 the eligibility of the child to receive federal assistance for his or
11 her adoption if the child is later adopted.

12 **Sec. 8.** 1. An agency which provides child welfare services
13 shall, before entering into an agreement for assistance pursuant to
14 the Program, obtain from appropriate law enforcement agencies
15 information on the background and personal history of each
16 relative of a child who seeks assistance pursuant to the Program
17 and each resident of the home of such relative who is 18 years of
18 age or older, to determine whether the person investigated has
19 been arrested for or convicted of any crime.

20 2. The relative and each resident of the home of such relative
21 must submit to the agency which provides child welfare services or
22 its approved designee:

23 (a) A complete set of fingerprints and written permission
24 authorizing the agency or its approved designee to forward those
25 fingerprints to the Central Repository for Nevada Records of
26 Criminal History for submission to the Federal Bureau of
27 Investigation for its report to enable the agency or its approved
28 designee to conduct an investigation pursuant to this subsection;
29 and

30 (b) Written permission to conduct a child abuse and neglect
31 screening.

32 **Sec. 9.** If a child is appointed a legal guardian who receives
33 assistance pursuant to the Program, an agency which provides
34 child welfare services shall document in the case plan maintained
35 for the child:

36 1. The steps taken by the agency which provides child welfare
37 services to determine that adoption or returning the child to his or
38 her home is not an appropriate placement for the child.

39 2. The reason that the child was separated from any siblings
40 during placement, if applicable.

41 3. The reasons that a permanent placement with a relative is
42 in the best interests of the child.

43 4. That the child meets the requirements for eligibility set
44 forth in section 6 of this act.



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1 ***5. The efforts made by the agency which provides child***
2 ***welfare services to discuss adoption of the child by the relative as***
3 ***an alternative to appointment as the legal guardian of the child***
4 ***and the reason that the relative has chosen not to pursue adoption.***

5 ***6. The efforts made by the agency which provides child***
6 ***welfare services to discuss with the natural parent of the child the***
7 ***agreement to provide assistance to a relative or the reason that the***
8 ***agency was unable to discuss the agreement with the natural***
9 ***parent of the child, as applicable.***

10 **Sec. 10.** NRS 232.320 is hereby amended to read as follows:

11 232.320 1. The Director:

12 (a) Shall appoint, with the consent of the Governor,
13 administrators of the divisions of the Department, who are
14 respectively designated as follows:

15 (1) The Administrator of the Aging and Disability Services
16 Division;

17 (2) The Administrator of the Health Division;

18 (3) The Administrator of the Division of Welfare and
19 Supportive Services;

20 (4) The Administrator of the Division of Child and Family
21 Services;

22 (5) The Administrator of the Division of Health Care
23 Financing and Policy; and

24 (6) The Administrator of the Division of Mental Health and
25 Developmental Services.

26 (b) Shall administer, through the divisions of the Department,
27 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
28 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
29 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive,
30 422.580, 432.010 to 432.133, inclusive, 444.003 to 444.430,
31 inclusive, and 445A.010 to 445A.055, inclusive, ***sections 2 to 9,***
32 ***inclusive, of this act*** and all other provisions of law relating to the
33 functions of the divisions of the Department, but is not responsible
34 for the clinical activities of the Health Division or the professional
35 line activities of the other divisions.

36 (c) Shall administer any state program for persons with
37 developmental disabilities established pursuant to the
38 Developmental Disabilities Assistance and Bill of Rights Act of
39 2000, 42 U.S.C. §§ 15001 et seq.

40 (d) Shall, after considering advice from agencies of local
41 governments and nonprofit organizations which provide social
42 services, adopt a master plan for the provision of human services in
43 this State. The Director shall revise the plan biennially and deliver a
44 copy of the plan to the Governor and the Legislature at the
45 beginning of each regular session. The plan must:



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1 (1) Identify and assess the plans and programs of the
2 Department for the provision of human services, and any
3 duplication of those services by federal, state and local agencies;

4 (2) Set forth priorities for the provision of those services;

5 (3) Provide for communication and the coordination of those
6 services among nonprofit organizations, agencies of local
7 government, the State and the Federal Government;

8 (4) Identify the sources of funding for services provided by
9 the Department and the allocation of that funding;

10 (5) Set forth sufficient information to assist the Department
11 in providing those services and in the planning and budgeting for the
12 future provision of those services; and

13 (6) Contain any other information necessary for the
14 Department to communicate effectively with the Federal
15 Government concerning demographic trends, formulas for the
16 distribution of federal money and any need for the modification of
17 programs administered by the Department.

18 (e) May, by regulation, require nonprofit organizations and state
19 and local governmental agencies to provide information regarding
20 the programs of those organizations and agencies, excluding
21 detailed information relating to their budgets and payrolls, which the
22 Director deems necessary for the performance of the duties imposed
23 upon him or her pursuant to this section.

24 (f) Has such other powers and duties as are provided by law.

25 2. Notwithstanding any other provision of law, the Director, or
26 the Director's designee, is responsible for appointing and removing
27 subordinate officers and employees of the Department, other than:

28 (a) The Executive Director of the Nevada Indian Commission
29 who is appointed pursuant to NRS 233A.055; and

30 (b) The State Public Defender of the Office of State Public
31 Defender who is appointed pursuant to NRS 180.010.

32 **Sec. 11.** This act becomes effective on July 1, 2011.

