

Amendment No. 89

Assembly Amendment to Assembly Bill No. 154

(BDR 38-802)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No 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 underlining* is newly added transitory language.

SJA/WLK



Date: 4/17/2011

A.B. No. 154—Enacts provisions which guarantee certain rights to children placed in foster homes in this State. (BDR 38-802)



ASSEMBLY BILL NO. 154—ASSEMBLYMEN FRIERSON, MASTROLUCA, SMITH, BENITEZ-THOMPSON, OHRENSCHALL; BUSTAMANTE ADAMS, DIAZ AND SEGERBLOM

FEBRUARY 16, 2011

JOINT SPONSOR: SENATOR LESLIE

Referred to Committee on Health and Human Services

SUMMARY—Enacts provisions which guarantee certain rights to children placed in foster homes in this State. (BDR 38-802)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the protection of children; establishing provisions which set forth certain rights of children who are placed in foster homes; requiring notice of those rights to children placed in foster homes; establishing a procedure for children who are placed in foster homes to report alleged violations of those rights; ~~[prohibiting retribution against a child who makes such a report, providing a penalty,]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 3-5 of this bill establish certain rights of children who are placed in foster homes. Section 6 of this bill requires a ~~[licensing authority]~~ provider of family foster care which places a child in a foster home to inform the child of his or her rights and provide the child with a written copy of those rights. Section 6 also requires each group foster home which provides care to more than six children to post a written copy of those rights in the group foster home. Section 7 of this bill authorizes a ~~[person licensed to operate a]~~ provider of family foster [home] care to place reasonable restrictions on the rights of a child based upon the time, place and manner of a child's exercise of those rights if such restrictions are necessary to preserve the order or safety of the foster home. Section 8 of this bill ~~[establishes a procedure for a child to report an alleged violation of his or her rights and requires certain actions to be taken by the licensee of the foster home if the licensee determines that such a violation has occurred,]~~ authorizes a child placed in foster care who believes that his or her rights as set forth in this bill have been violated to raise and redress a grievance with any of a number of persons or institutions responsible for the child.

Section 9 of this bill prohibits an employee of a school district from disclosing to any person who is not employed by the school district any information relating to a pupil who is placed in foster care.

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

Section 1. Chapter ~~424~~ 432 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.3~~ 1.3 to 8, inclusive, of this act.

Sec. 1.3. As used in sections 1.3 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.5, 1.7 and 1.9 of this act have the meanings ascribed to them in those sections.

Sec. 1.5. "Foster home" has the meaning ascribed to it in NRS 424.014.

Sec. 1.7. "Group foster home" has the meaning ascribed to it in NRS 424.015.

Sec. 1.9. "Provider of family foster care" has the meaning ascribed to it in NRS 424.017.

Sec. 2. *It is the policy of this State that every child placed in a foster home by ~~a licensing authority~~ an agency which provides child welfare services have the rights set forth in sections 3, 4 and 5 of this act.*

Sec. 3. *A child placed in a foster home by ~~a licensing authority~~ an agency which provides child welfare services has the right:*

1. *To receive information concerning his or her rights set forth in this section and sections 4 and 5 of this act.*

2. *To be treated with dignity and respect.*

3. *To fair and equal access to services, placement, care, treatment and benefits.*

4. *To receive adequate, healthy, appropriate and accessible food.*

5. *To receive adequate, appropriate and accessible clothing and shelter.*

6. *To receive appropriate medical care, including, without limitation:*

(a) *Dental, vision and mental health services;*

(b) *Medical and psychological screening, assessment and testing; and*

(c) *Referral to and receipt of medical, emotional, psychological or psychiatric evaluation and treatment as soon as practicable after the need for such services has been identified.*

7. *To be free from:*

(a) *Abuse or neglect, as defined in NRS 432B.020;*

(b) *Corporal punishment, as defined in NRS 388.5225;*

(c) *Unreasonable searches of his or her personal belongings or other unreasonable invasions of privacy;*

(d) *The administration of psychotropic medication unless the administration is consistent with NRS 432B.197 and the policies established pursuant thereto; and*

(e) *Discrimination or harassment on the basis of his or her actual or perceived race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability or exposure to the human immunodeficiency virus.*

8. *To attend religious services of his or her choice or to refuse to attend religious services.*

9. *Except for placement in a ~~treatment~~ facility, as defined in NRS 432B.6072, not to be locked in any room, building or premise or to be subject to other physical restraint or isolation.*

10. *Except as otherwise prohibited by the agency which provides child welfare services:*

(a) *To send and receive unopened mail; and*

1 (b) To maintain a bank account and manage personal income, consistent
2 with the age and developmental level of the child.

3 11. To complete an identification kit, including, without limitation,
4 photographing, ~~and fingerprinting,~~ and include the identification kit and his or
5 her photograph in a file maintained by the licensee of the foster home ~~and the~~
6 agency which provides child welfare services and any ~~caseworker of the child,~~
7 employee thereof who provides child welfare services to the child.

8 12. To communicate with other persons, including, without limitation, the
9 right:

10 (a) To communicate regularly, but not less often than once each month, with
11 ~~his or her caseworker,~~ an employee of the agency which provides child welfare
12 services who provides child welfare services to the child;

13 (b) To communicate confidentially with the agency which provides child
14 welfare services to the child concerning his or her care;

15 (c) To report any alleged violation of his or her rights pursuant to section 8
16 of this act without being threatened or punished;

17 ~~(d)~~ (d) Except as otherwise prohibited by a court order, to contact a family
18 member, social worker, attorney, advocate for children receiving foster care
19 services or guardian ad litem appointed by a court or probation officer; and

20 ~~(e)~~ (e) Except as otherwise prohibited by a court order, to contact and visit
21 his or her siblings.

22 Sec. 4. With respect to the placement of a child in a foster home by ~~a~~
23 ~~licensing authority,~~ an agency which provides child welfare services, the child
24 has the right:

25 1. To live in a safe, healthy, stable and comfortable environment, including,
26 without limitation, the right:

27 (a) If safe and appropriate, to remain in his or her home, be placed in the
28 home of a relative or be placed in a home within his or her community;

29 (b) To be placed in an appropriate foster home best suited to meet the unique
30 needs of the child, including, without limitation, any disability of the child;

31 (c) To be placed in a foster home where the licensee, employees and residents
32 of the foster home who are 18 years of age or older have submitted to an
33 investigation of their background and personal history in compliance with NRS
34 424.031; and

35 (d) To be placed with his or her siblings, whenever possible, if his or her
36 siblings are also placed outside the home.

37 2. To receive and review information concerning his or her placement,
38 including, without limitation, the right:

39 (a) To receive information concerning any plan for his or her permanent
40 placement adopted pursuant to NRS 432B.553;

41 (b) To receive information concerning any changes made to his or her plan
42 for permanent placement; and

43 (c) If the child is 12 years of age or older, to review the plan for his or her
44 permanent placement.

45 3. To attend and participate in a court hearing which affects the child, to
46 the extent authorized by law and appropriate given the age and experience of the
47 child.

48 Sec. 5. With respect to the education and vocational training of a child
49 placed in a foster home by ~~a licensing authority,~~ an agency which provides child
50 welfare services, the child has the right:

51 1. To receive fair and equal access to an education, including, without
52 limitation, the right:

53 (a) To receive an education as required by law;

(b) To have stability in and minimal disruption to his or her education when the child is placed in a foster home;

(c) To attend the school and remain in the scholastic activities that he or she was enrolled in before placement in a foster home, to the extent practicable and if in the best interests of the child;

(d) To have educational records transferred in a timely manner from the school that he or she was enrolled in before placement in a foster home to a new school, if any;

(e) Not to be identified as a foster child to other students at his or her school by an employee of a school district, including, without limitation, a school administrator, ~~for~~ teacher ~~or~~ or instructional aide;

(f) To receive any educational screening, assessment or testing required by law;

(g) To be referred to and receive educational evaluation and services as soon as practicable after the need for such services has been identified, including, without limitation, access to special education and special services to meet the unique needs of a child with educational or behavioral disabilities or impairments that adversely affect the child's educational performance;

(h) To have access to information regarding relevant educational opportunities, including, without limitation, course work for vocational and postsecondary educational programs and financial aid for postsecondary education, once the child is 16 years of age or older; and

(i) To attend a class or program concerning independent living for which he or she is qualified that is offered by the ~~(licensing)~~ agency which provides child welfare services or another agency or contractor of the State.

2. To participate in extracurricular, cultural and personal enrichment activities which are consistent with the age and developmental level of the child.

3. To work and to receive vocational training, to the extent permitted by statute and consistent with the age and developmental level of the child.

4. To have access to transportation, if practicable, to allow the child to participate in extracurricular, cultural, personal and work activities.

Sec. 6. 1. ~~A licensing authority~~ A provider of family foster care that places a child in a foster home shall:

(a) Inform the child of his or her rights set forth in sections 3, 4 and 5 of this act;

(b) Provide the child with a written copy of those rights; and

(c) Provide an additional written copy of those rights to the child upon request.

2. A group foster home shall post a written copy of the rights set forth in sections 3, 4 and 5 of this act in a conspicuous place inside the group foster home.

~~3. A written copy of the rights set forth in sections 3, 4 and 5 of this act which is provided to a child or posted at a group foster home must include a telephone number or other contact information that the child may use to notify the licensing authority of any alleged violation of his or her rights.~~

Sec. 7. ~~1. A licensee of a foster home shall ensure that the rights set forth in sections 3, 4 and 5 of this act for children placed in the foster home are protected and that, except as otherwise provided in this section, the licensee or an employee of the foster home does not restrict the ability of a child to exercise those rights.~~

~~2.~~ A licensee of a provider of family foster ~~home~~ care may impose reasonable restrictions on the time, place and manner in which a child may exercise his or her rights set forth in sections 3, 4 and 5 of this act if the

~~licensee~~ provider of family foster care determines that such restrictions are necessary to preserve the order, discipline or safety of the foster home.

~~3. A licensing authority may adopt regulations relating to the reasonable restrictions imposed by a licensee of a foster home pursuant to subsection 2.~~

Sec. 8. ~~1. If a child believes that his or her rights set forth in sections 3, 4 and 5 of this act have been violated, the child may report the alleged violation to~~

~~(a) The licensee or an employee of the foster home;~~

~~(b) The licensing authority; or~~

~~(c) Any other person, including, without limitation, a~~ raise and redress a grievance with, without limitation:

1. A provider of foster care;

2. An employee of a family foster home, as defined in NRS 424.013, group foster home or specialized foster home;

3. An agency which provides provide child welfare services to the child, and any employee thereof;

4. A juvenile court with jurisdiction over the child ~~1, a~~ ;

5. A guardian ad litem for the child ~~1, or an~~ ;

6. An attorney for the child.

~~2. A report submitted pursuant to subsection 1 must include the right that was allegedly violated and may include the circumstances surrounding the alleged violation.~~

~~3. If a child reports an alleged violation of his or her rights to an employee of a foster home, to the licensing authority or to any other person pursuant to subsection 1, the employee, licensing authority or other person shall, as soon as practicable, notify the licensee of the foster home of the alleged violation.~~

~~4. The licensee of a foster home shall investigate whether a violation alleged pursuant to subsection 1 has occurred and, if the licensee determines that such a violation has occurred:~~

~~(a) Correct the violation and notify the child and the licensing authority of the manner in which the violation was corrected; or~~

~~(b) If the violation cannot be corrected, take all reasonable action to ameliorate the violation and notify the child and the licensing authority of the reasons for the failure to correct the violation.~~

~~5. A licensee or an employee of a foster home, a licensing authority or any other person who receives a report of an alleged violation pursuant to subsection 1 shall keep the report and any information relating to the report confidential, except that:~~

~~(a) An employee of a foster home, a licensing authority or any other person who received the report may provide any necessary information to the licensee of the foster home to correct the alleged violation and to ensure the health and safety of the child; and~~

~~(b) The licensee of the foster home shall communicate with the licensing authority concerning the manner in which any violation was corrected or all action that was taken to ameliorate the violation and the reasons for the failure to correct the violation as required by subsection 4.~~

~~6. A person, including, without limitation, a licensee or employee of a foster home, shall not threaten, punish or take other retribution against a child who makes a report pursuant to subsection 1.~~

Sec. 9. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

An employee of a school district, including, without limitation, a teacher, an administrator or an instructional aide, shall not disclose to any person who is not

- 1 *employed by the school district the fact that a pupil is a child who has been placed*
- 2 *in a foster home or any related information.*