

## Amendment No. 914

Senate Amendment to Senate Bill No. 370

(BDR 38-909)

**Proposed by:** Senate Committee on Finance**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.

RBL



Date: 6/4/2011

S.B. No. 370—Makes various changes to provisions governing children who are placed with someone other than a parent. (BDR 38-909)



## SENATE BILL NO. 370—SENATORS HORSFORD AND LESLIE

MARCH 21, 2011

JOINT SPONSORS: ASSEMBLYMEN FRIERSON; AND HORNE

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes to provisions governing children who are placed with someone other than a parent. (BDR 38-909)

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 child welfare; ~~requiring a school district~~ **providing for elementary schools** to develop ~~an individualized plan of instruction~~ **academic plans** for foster children **enrolled in elementary schools** to assist such children in achieving academic success; ~~through high school~~ requiring the licensee of a foster home to obtain a written explanation of the need for and effect of any prescription medication provided to a foster child; ~~providing that placement with a relative or fictive kin must be given priority over other placements when a child is removed from his or her home;~~ requiring the Department of Corrections to allow a prisoner who has a child that has been placed in foster care to maintain contact with the child in certain circumstances; ~~requiring the State Board of Parole Commissioners to include a plan for reunification with a child who is in foster care as a condition of parole for certain prisoners;~~ **providing for the use of telecommunications devices by prisoners for that purpose;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[Section 2 of this bill requires a licensee of a foster home who enrolls a foster child in school to request the school district to develop an individualized plan of instruction for the child.] Existing law requires an academic plan for pupils in middle school or junior high school and a 4-year academic plan for pupils in ninth grade. (NRS 388.165, 388.205) Section 8 of this bill requires the board of trustees of each school district to ~~(develop such a)~~ **adopt a policy for each elementary school in the district to develop an academic plan for** ~~the~~ **each** foster child **enrolled in the elementary school whom the school district is informed is enrolled in the school. The academic plan must be reviewed at least annually, and a new plan must be developed for any pupil who transfers to an elementary school whom the school is informed is a foster child. The academic plan must be developed** with the goal of the child achieving academic success. ~~through high school.~~~~

~~Section 8 further requires the school district to review the plan at least twice each academic year and provide to the licensee a written report concerning the academic progress of the child and any revisions that have been made to the plan.~~ Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to ensure that a school district is informed when a foster child is enrolled in a school in the school district so that an academic plan may be developed for the foster child. Section 5 of this bill requires ~~that~~ a copy of the ~~academic plan (and any written reports to)~~ be submitted to the court with jurisdiction over the child during the biennial review of the placement of the child.

Section 3 of this bill requires a licensee of a foster home to obtain a written explanation from a medical professional who provides a prescription for medication for a foster child. The explanation must include the need for the medication and the effect of the medication on the child. Section 5 requires that a copy of any such explanations be submitted to the court with jurisdiction over the child during the biennial review of the placement of the child.

~~[Section 4 of this bill establishes the order of priority for placing a child who is taken into protective custody and allows a child to be placed with a fictive kin, which is a person who is not related to the child but with whom the child has a significant relationship. Section 4 also specifies that in making such a placement, siblings must be placed together whenever possible.]~~

Section 6 of this bill requires the Department of Corrections to allow a prisoner whose child has been placed with someone other than a parent to maintain contact with the child if the child is willing ~~(and allowed)~~ to maintain such contact. [and the contact is not prohibited by law, by order of the court or by regulations of the Department. The Department is further required ~~(to maintain equipment)~~ to allow such a prisoner to videoconference with the child. ~~[Section 7 of this bill requires the State Board of Parole Commissioners to determine before a prisoner is released on parole whether the prisoner has a minor child who has been placed with someone other than a parent with whom the prisoner may reunite. If such a child is willing and allowed to participate in a plan for reunification, the Board is required to include such a plan in the conditions for parole of the prisoner.]~~ if such equipment is available. Section 6.3 of this bill authorizes a prisoner to use approved telecommunications devices subject to any limitations to engage in such communications with his or her child. Section 6.7 allows communications by a prisoner using telecommunications devices to be intercepted in certain circumstances.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~[1. A licensee that operates a foster home who enrolls a child that has been placed in the foster home in school shall request the school district where the child is enrolled to establish an individualized plan of instruction.]~~ The Division shall adopt regulations to ensure:

1. That a school district is informed when a foster child is enrolled in an elementary school within the school district so that the elementary school may prepare an academic plan for the child as required pursuant to section 8 of this act.

2. [The licensee shall provide to.] That the licensing authority [a copy of the individualized plan of instruction and each written report received from the school district concerning the academic progress of the child.] receives a copy of an academic plan prepared for a foster child pursuant to NRS 388.165 or 388.205 or section 8 of this act.

Sec. 3. 1. A licensee that operates a foster home who obtains a prescription for medication for a child that has been placed in the foster home shall request the physician or other medical professional who prescribes the

1 *medication to provide a written explanation about the need for the medication*  
2 *and the effect of the medication on the child.*

3 *2. The licensee shall provide to the licensing authority a copy of any*  
4 *explanation about prescription medication received pursuant to subsection 1.*

5 **Sec. 4.** ~~NRS 432B.390 is hereby amended to read as follows:~~

6 ~~432B.390 1. An agent or officer of a law enforcement agency, an officer of~~  
7 ~~the local juvenile probation department or the local department of juvenile services,~~  
8 ~~or a designee of an agency which provides child welfare services:~~

9 ~~(a) May place a child in protective custody without the consent of the person~~  
10 ~~responsible for the child's welfare if the agent, officer or designee has reasonable~~  
11 ~~cause to believe that immediate action is necessary to protect the child from injury,~~  
12 ~~abuse or neglect.~~

13 ~~(b) Shall place a child in protective custody upon the death of a parent of the~~  
14 ~~child, without the consent of the person responsible for the welfare of the child, if~~  
15 ~~the agent, officer or designee has reasonable cause to believe that the death of the~~  
16 ~~parent of the child is or may be the result of an act by the other parent that~~  
17 ~~constitutes domestic violence pursuant to NRS 33.018.~~

18 ~~2. When an agency which provides child welfare services receives a report~~  
19 ~~pursuant to subsection 2 of NRS 432B.630, a designee of the agency which~~  
20 ~~provides child welfare services shall immediately place the child in protective~~  
21 ~~custody.~~

22 ~~3. If there is reasonable cause to believe that the death of a parent of a child is~~  
23 ~~or may be the result of an act by the other parent that constitutes domestic violence~~  
24 ~~pursuant to NRS 33.018, a protective custody hearing must be held pursuant to~~  
25 ~~NRS 432B.470, whether the child was placed in protective custody or with a~~  
26 ~~relative. If an agency other than an agency which provides child welfare services~~  
27 ~~becomes aware that there is reasonable cause to believe that the death of a parent of~~  
28 ~~a child is or may be the result of an act by the other parent that constitutes domestic~~  
29 ~~violence pursuant to NRS 33.018, that agency shall immediately notify the agency~~  
30 ~~which provides child welfare services and a protective custody hearing must be~~  
31 ~~scheduled.~~

32 ~~4. An agency which provides child welfare services shall request the~~  
33 ~~assistance of a law enforcement agency in the removal of a child if the agency has~~  
34 ~~reasonable cause to believe that the child or the person placing the child in~~  
35 ~~protective custody may be threatened with harm.~~

36 ~~5. Before taking a child for placement in protective custody, the person taking~~  
37 ~~the child shall show his or her identification to any person who is responsible for~~  
38 ~~the child and is present at the time the child is taken. If a person who is responsible~~  
39 ~~for the child is not present at the time the child is taken, the person taking the child~~  
40 ~~shall show his or her identification to any other person upon request. The~~  
41 ~~identification required by this subsection must be a single card that contains a~~  
42 ~~photograph of the person taking the child and identifies the person as a person~~  
43 ~~authorized pursuant to this section to place a child in protective custody.~~

44 ~~6. A child placed in protective custody pending an investigation and a hearing~~  
45 ~~held pursuant to NRS 432B.470 must be placed, [in a hospital, if the child needs~~  
46 ~~hospitalization, or in a shelter, which may include, without limitation, a foster home~~  
47 ~~or other home or facility which provides care for those children,] except as~~  
48 ~~otherwise provided in NRS 432B.3905 [ ], in the following order of priority:~~

49 ~~(a) In a hospital, if the child needs hospitalization.~~

50 ~~(b) With a parent of the child, if the agency which provides child welfare~~  
51 ~~services reasonably believes that the parent did not participate in the alleged~~  
52 ~~abuse or neglect.~~

~~(c) With a person who is related within the fifth degree of consanguinity who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.~~

~~(d) With a fictive kin who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.~~

~~(e) In a foster home that is licensed pursuant to chapter 424 of NRS.~~

~~(f) In any other licensed shelter that provides care to such children.~~

~~7. Whenever possible, a child placed pursuant to subsection 6 must be placed together with any siblings of the child. Such a child must not be placed in a jail or other place for detention, incarceration or residential care of persons convicted of a crime or children charged with delinquent acts.~~

~~[7.] 8. A person placing a child in protective custody pursuant to subsection 1 shall:~~

~~(a) Immediately take steps to protect all other children remaining in the home or facility, if necessary;~~

~~(b) Immediately make a reasonable effort to inform the person responsible for the child's welfare that the child has been placed in protective custody;~~

~~(c) Give preference in placement of the child to any person related within the fifth degree of consanguinity to the child who is suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State; and~~

~~(d) As soon as practicable, inform the agency which provides child welfare services and the appropriate law enforcement agency, except that if the placement violates the provisions of NRS 432B.3905, the person shall immediately provide such notification.~~

~~[8.] 9. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.~~

~~10. As used in this section, "fictive kin" means a person who is not related by blood to a child, but who has a significant emotional and positive relationship with the child. (Deleted by amendment.)~~

**Sec. 5.** NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

(a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation. ~~[; and]~~

(b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

(1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be approved by the court.

*(c) A copy of ~~an individualized~~ an academic plan ~~of instruction~~ developed for the child pursuant to NRS 388.165 or 388.205 or section 21 8 of this act, ~~and any written reports concerning the academic progress of the child since the last hearing.~~*

*(d) ~~Any~~ A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to section 3 of this act.*

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and paragraph (c) of subsection 4 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

(a) All the parties to any of the prior proceedings; and

(b) Any persons planning to adopt the child, relatives of the child or providers of foster care who are currently providing care to the child.

➤ Notice of the hearing need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

7. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 an opportunity to be heard at the hearing.

8. The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

9. The provision of notice and an opportunity to be heard pursuant to this section does not cause any person planning to adopt the child, or any relative or provider of foster care to become a party to the hearing.

**Sec. 6.** Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided by law, ~~for~~ by order of the court ~~or by~~ regulations of the Department, the Director shall allow a prisoner to maintain contact with a child of the prisoner who has been placed with someone other than a parent of the child if the child is willing ~~and allowed~~ to maintain such contact.*

1 Any such contact must be in accordance with regulations adopted by the  
2 Department.

3 2. The Director ~~[shall]~~ must allow a prisoner to videoconference with his or  
4 her child [using] if such equipment [maintained by the Department] is available.

5 Sec. 6.3. NRS 209.417 is hereby amended to read as follows:

6 209.417 1. Except as otherwise provided in subsection 2, the warden or  
7 manager of an institution or facility shall ensure that no offender in the institution  
8 or facility has access to a telecommunications device.

9 2. An offender may use a telephone or, for the purpose of communicating  
10 with his or her child pursuant to section 6 of this act, any other approved  
11 telecommunications device subject to the limitations set forth in NRS 209.419.

12 3. As used in this section, "telecommunications device" means a device, or an  
13 apparatus associated with a device, that can enable an offender to communicate  
14 with a person outside of the institution or facility at which the offender is  
15 incarcerated. The term includes, without limitation, a telephone, a cellular  
16 telephone, a personal digital assistant, a transmitting radio or a computer that is  
17 connected to a computer network, is capable of connecting to a computer network  
18 through the use of wireless technology or is otherwise capable of communicating  
19 with a person or device outside of the institution or facility.

20 Sec. 6.7. NRS 209.419 is hereby amended to read as follows:

21 209.419 1. Communications made by an offender on any telephone or other  
22 telecommunications device in an institution or facility to any person outside the  
23 institution or facility may be intercepted if:

24 (a) The interception is made by an authorized employee of the Department; and

25 (b) Signs are posted near all telephones and other telecommunications devices  
26 in the institution or facility indicating that communications may be intercepted.

27 2. The Director shall provide notice or cause notice to be provided to both  
28 parties to a communication which is being intercepted pursuant to subsection 1,  
29 indicating that the communication is being intercepted. For the purposes of this  
30 section, a periodic sound which is heard by both parties during the communication  
31 shall be deemed notice to both parties that the communication is being intercepted.

32 3. The Director shall adopt regulations providing for an alternate method of  
33 communication for those communications by offenders which are confidential.

34 4. Except as otherwise provided in NRS 239.0115, a communication made by  
35 an offender is confidential if it is made to:

36 (a) A federal or state officer.

37 (b) A local governmental officer who is at some time responsible for the  
38 custody of the offender.

39 (c) An officer of any court.

40 (d) An attorney who has been admitted to practice law in any state or is  
41 employed by a recognized agency providing legal assistance.

42 (e) A reporter or editorial employee of any organization that reports general  
43 news including, but not limited to, any wire service or news service, newspaper,  
44 periodical, press association or radio or television station.

45 (f) The Director.

46 (g) Any other employee of the Department whom the Director may, by  
47 regulation, designate.

48 5. Reliance in good faith on a request or order from the Director or the  
49 Director's authorized representative constitutes a complete defense to any action  
50 brought against any public utility intercepting or assisting in the interception of  
51 communications made by offenders pursuant to subsection 1.

1 6. As used in this section, "telecommunications device" has the meaning  
2 ascribed to it in NRS 209.417.

3 ~~Sec. 7. [Chapter 212 of NRS is hereby amended by adding thereto a new~~  
4 ~~section to read as follows:~~

5 ~~Before a prisoner is released on parole, the Board shall determine whether~~  
6 ~~the prisoner has a minor child who has been placed with someone other than a~~  
7 ~~parent and, if so, whether the child is willing and allowed to participate in a plan~~  
8 ~~to reunify the prisoner with the child. If the child is willing and allowed to~~  
9 ~~participate in such a plan, the Board shall establish a plan to reunify the prisoner~~  
10 ~~with the child and participation in the plan must be required as a condition of~~  
11 ~~releasing the prisoner on parole.] (Deleted by amendment.)~~

12 ~~Sec. 8. Chapter [392] 388 of NRS is hereby amended by adding thereto a~~  
13 ~~new section to read as follows:~~

14 1. ~~[When a] The board of trustees of each school district shall adopt a~~  
15 policy for each elementary school in the school district to develop an academic  
16 plan for each pupil enrolled in the elementary school for whom the school is  
17 informed [that] is a foster child. [has been enrolled at a school within the school  
18 district, the school district shall cause an individualized plan of instruction to be  
19 established for the child. The individualized] An academic plan must include  
20 consideration of the unique circumstances and educational background of the  
21 child and be developed with the goal of achieving academic success. [through  
22 high school.]

23 2. ~~[An individualized plan of instruction established for a child must be~~  
24 reviewed at least twice each academic school year and adjusted as necessary to  
25 achieve the goals set forth in the plan. After each review, the school district shall  
26 provide a written report to the licensee that operates the foster home or other  
27 person identified as responsible for the foster child which must include, without  
28 limitation, a report on the academic progress of the child and any revision that  
29 was made to the plan.] An academic plan must be reviewed and revised each year  
30 with appropriate modifications for the grade level of the pupil. A new academic  
31 plan must be developed for any pupil who transfers to an elementary school for  
32 whom the school is informed is a foster child.

33 3. An academic plan for a pupil must be used as a guide to plan, monitor  
34 and manage the pupil's educational development and make determinations of  
35 any assistance that may be necessary to the academic success of the pupil.

36 ~~Sec. 9. This act becomes effective on July 1, 2011.~~