

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 to develop an individualized plan of instruction for foster children 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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 2** of this bill requires a licensee of a foster home who enrolls a foster
- 2 child in school to request the school district to develop an individualized plan of
- 3 instruction for the child. **Section 8** of this bill requires the school district to develop
- 4 such a plan for the foster child with the goal of the child achieving academic
- 5 success through high school. **Section 8** further requires the school district to review
- 6 the plan at least twice each academic year and provide to the licensee a written



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report concerning the academic progress of the child and any revisions that have been made to the plan. **Section 5** of this bill requires a copy of the 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 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. 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.

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 for the child as required pursuant to section 8 of this act.*

2. The licensee shall provide to 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.

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

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



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

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

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

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

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

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

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

5. Before taking a child for placement in protective custody, the person taking the child shall show his or her identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child shall show his or her identification to any other person upon request. The identification required by this subsection must be a single card that contains a photograph of the person taking the child and



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1 identifies the person as a person authorized pursuant to this section
2 to place a child in protective custody.

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

10 (a) *In a hospital, if the child needs hospitalization.*

11 (b) *With a parent of the child, if the agency which provides*
12 *child welfare services reasonably believes that the parent did not*
13 *participate in the alleged abuse or neglect.*

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

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

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

23 (f) *In any other licensed shelter that provides care to such*
24 *children.*

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

30 ~~[7-]~~ 8. A person placing a child in protective custody pursuant
31 to subsection 1 shall:

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

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

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

41 (d) As soon as practicable, inform the agency which provides
42 child welfare services and the appropriate law enforcement agency,
43 except that if the placement violates the provisions of NRS
44 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.*

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 plan of instruction developed for the child pursuant to section 2 of this act and any written reports concerning the academic progress of the child since the last hearing.*

(d) *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



1 emergency services pursuant to NRS 432B.630 and the parent has
2 not appeared in the action, the report need not be sent to that parent.

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

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

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

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

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

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

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

31 8. The court or panel shall review:

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

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

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

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

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



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

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

8 2. *The Director shall allow a prisoner to videoconference*
9 *with his or her child using equipment maintained by the*
10 *Department.*

11 **Sec. 7.** Chapter 213 of NRS is hereby amended by adding
12 thereto a new section to read as follows:

13 *Before a prisoner is released on parole, the Board shall*
14 *determine whether the prisoner has a minor child who has been*
15 *placed with someone other than a parent and, if so, whether the*
16 *child is willing and allowed to participate in a plan to reunify the*
17 *prisoner with the child. If the child is willing and allowed to*
18 *participate in such a plan, the Board shall establish a plan to*
19 *reunify the prisoner with the child and participation in the plan*
20 *must be required as a condition of releasing the prisoner on*
21 *parole.*

22 **Sec. 8.** Chapter 392 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 1. *When a school district is informed that a foster child has*
25 *been enrolled at a school within the school district, the school*
26 *district shall cause an individualized plan of instruction to be*
27 *established for the child. The individualized plan must include*
28 *consideration of the unique circumstances and educational*
29 *background of the child and be developed with the goal of*
30 *achieving academic success through high school.*

31 2. *An individualized plan of instruction established for a*
32 *child must be reviewed at least twice each academic school year*
33 *and adjusted as necessary to achieve the goals set forth in the*
34 *plan. After each review, the school district shall provide a written*
35 *report to the licensee that operates the foster home or other person*
36 *identified as responsible for the foster child which must include,*
37 *without limitation, a report on the academic progress of the child*
38 *and any revision that was made to the plan.*

39 **Sec. 9.** This act becomes effective on July 1, 2011.

