

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; providing for elementary schools to develop academic plans for foster children enrolled in elementary schools to assist such children in achieving academic success; 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; 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; providing for the use of telecommunications devices by prisoners for that purpose; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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 adopt a policy for each elementary school in the district to develop an academic plan for 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. **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



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12 informed when a foster child is enrolled in a school in the school district so that an
13 academic plan may be developed for the foster child. **Section 5** of this bill requires
14 that a copy of the academic plan be submitted to the court with jurisdiction over the
15 child during the biennial review of the placement of the child.

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

22 **Section 6** of this bill requires the Department of Corrections to allow a prisoner
23 whose child has been placed with someone other than a parent to maintain contact
24 with the child if the child is willing to maintain such contact and the contact is not
25 prohibited by law, by order of the court or by regulations of the Department. The
26 Department is further required to allow such a prisoner to videoconference with the
27 child if such equipment is available. **Section 6.3** of this bill authorizes a prisoner to
28 use approved telecommunications devices subject to any limitations to engage in
29 such communications with his or her child. **Section 6.7** allows communications by
30 a prisoner using telecommunications devices to be intercepted in certain
31 circumstances.

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

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

3 **Sec. 2.** *The Division shall adopt regulations to ensure:*

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

8 *2. That the licensing authority receives a copy of an academic*
9 *plan prepared for a foster child pursuant to NRS 388.165 or*
10 *388.205 or section 8 of this act.*

11 **Sec. 3.** *1. A licensee that operates a foster home who*
12 *obtains a prescription for medication for a child that has been*
13 *placed in the foster home shall request the physician or other*
14 *medical professional who prescribes the medication to provide a*
15 *written explanation about the need for the medication and the*
16 *affect of the medication on the child.*

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

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

21 **Sec. 5.** NRS 432B.580 is hereby amended to read as follows:
22 432B.580 1. Except as otherwise provided in this section and
23 NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other
24 than with a parent, the placement must be reviewed by the court at



1 least semiannually, and within 90 days after a request by a party to
2 any of the prior proceedings. Unless the parent, guardian or the
3 custodian objects to the referral, the court may enter an order
4 directing that the placement be reviewed by a panel appointed
5 pursuant to NRS 432B.585.

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

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

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

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

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

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

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

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

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

25 *(c) A copy of an academic plan developed for the child*
26 *pursuant to NRS 388.165 or 388.205 or section 8 of this act.*

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

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

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

44 5. The court or the panel shall hold a hearing to review the
45 placement, unless the parent, guardian or custodian files a motion



1 with the court to dispense with the hearing. If the motion is granted,
2 the court or panel may make its determination from any report,
3 statement or other information submitted to it.

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

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

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

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

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

19 8. The court or panel shall review:

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

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

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

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

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

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

34 *1. Except as otherwise provided by law, by order of the court*
35 *or by regulations of the Department, the Director shall allow a*
36 *prisoner to maintain contact with a child of the prisoner who has*
37 *been placed with someone other than a parent of the child if the*
38 *child is willing to maintain such contact. Any such contact must*
39 *be in accordance with regulations adopted by the Department.*

40 *2. The Director must allow a prisoner to videoconference*
41 *with his or her child if such equipment is available.*

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

43 209.417 1. Except as otherwise provided in subsection 2, the
44 warden or manager of an institution or facility shall ensure that no



1 offender in the institution or facility has access to a
2 telecommunications device.

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

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

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

18 209.419 1. Communications made by an offender on any
19 telephone *or other telecommunications device* in an institution or
20 facility to any person outside the institution or facility may be
21 intercepted if:

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

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

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

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

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

39 (a) A federal or state officer.

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

42 (c) An officer of any court.

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



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

(f) The Director.

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

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

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

Sec. 7. (Deleted by amendment.)

Sec. 8. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall adopt a policy for each elementary school in the school district to develop an academic plan for each pupil enrolled in the elementary school for whom the school is informed is a foster child. An academic plan must include consideration of the unique circumstances and educational background of the child and be developed with the goal of achieving academic success.

2. An academic plan must be reviewed and revised each year with appropriate modifications for the grade level of the pupil. A new academic plan must be developed for any pupil who transfers to an elementary school for whom the school is informed is a foster child.

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

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

