

ASSEMBLY BILL NO. 149—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON HEALTH CARE)

FEBRUARY 20, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions concerning persons legally responsible for the psychiatric care of a child who is in the custody of an agency which provides child welfare services. (BDR 38-505)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the protection of children; requiring each agency which provides child welfare services to collect and submit to the Division of Child and Family Services of the Department of Health and Human Services certain information concerning persons legally responsible for the psychiatric care of a child; requiring the Division to adopt certain regulations concerning those persons and the administration of psychotropic medication; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, if a child is in the custody of an agency which provides
2 child welfare services and the child has a prescription for a psychotropic
3 medication upon entering the custody of the agency or if the agency determines that
4 the child may be in need of psychiatric care, the agency is required to nominate,
5 subject to approval by the appropriate court, a person who is legally responsible for
6 the psychiatric care of the child. Such a person may be a parent or legal guardian of
7 the child. If the parent or legal guardian is not able or willing to act as the person
8 who is legally responsible for the psychiatric care of the child, the person
9 nominated and appointed may be: (1) the attorney for the child; (2) the guardian ad
10 litem of the child; (3) the foster parent or other provider of substitute care for the
11 child; (4) an employee of the agency which provides child welfare services; or



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(5) any other person who the court determines is qualified to carry out certain duties and responsibilities concerning the child. (NRS 432B.4684, 432B.4685)

Section 2 of this bill requires each agency which provides child welfare services to collect certain information relating to the actions of each person legally responsible for the psychiatric care of a child who is in the custody of the agency and provide the information collected to the Division of Child and Family Services of the Department of Health and Human Services. Further, **section 2** requires the Division to compile certain aggregated information received from the agencies which provide child welfare services and submit the information to the Legislative Committee on Health Care without disclosing information that identifies any person.

Section 2 of this bill also requires the Division to: (1) adopt regulations limiting the number of children for whom a person may be nominated or appointed to serve as a person legally responsible for the psychiatric care of a child; (2) establish an online standardized training curriculum that a person must complete before being nominated or appointed to serve as a person legally responsible for the psychiatric care of a child; and (3) adopt regulations to ensure that any child in foster care receives age-appropriate information concerning any psychotropic medication prescribed for the child before the child begins taking the medication. **Sections 1 and 3-7** of this bill amend various related sections of NRS concerning the administration of psychotropic medication and the availability of reports relating to children in need of protective services.

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

Section 1. NRS 432.525 is hereby amended to read as follows:

432.525 A child placed in a foster home by 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 NRS 432.530 and 432.535.

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;



- 1 (b) Corporal punishment, as defined in NRS 388.5225;
2 (c) Unreasonable searches of his or her personal belongings or
3 other unreasonable invasions of privacy;
4 (d) The administration of psychotropic medication unless the
5 administration is consistent with *the provisions of:*
6 (1) NRS 432B.197 and the policies established pursuant
7 thereto; and
8 (2) *The regulations adopted pursuant to section 2 of this*
9 *act; and*
10 (e) Discrimination or harassment on the basis of his or her actual
11 or perceived race, ethnicity, ancestry, national origin, color, religion,
12 sex, sexual orientation, gender identity, mental or physical disability
13 or exposure to the human immunodeficiency virus.
14 8. To attend religious services of his or her choice or to refuse
15 to attend religious services.
16 9. Except for placement in a facility, as defined in NRS
17 432B.6072, not to be locked in any room, building or premise or to
18 be subject to other physical restraint or isolation.
19 10. Except as otherwise prohibited by the agency which
20 provides child welfare services:
21 (a) To send and receive unopened mail; and
22 (b) To maintain a bank account and manage personal income,
23 consistent with the age and developmental level of the child.
24 11. To complete an identification kit, including, without
25 limitation, photographing, and include the identification kit and his
26 or her photograph in a file maintained by the agency which provides
27 child welfare services and any employee thereof who provides child
28 welfare services to the child.
29 12. To communicate with other persons, including, without
30 limitation, the right:
31 (a) To communicate regularly, but not less often than once each
32 month, with an employee of the agency which provides child
33 welfare services who provides child welfare services to the child;
34 (b) To communicate confidentially with the agency which
35 provides child welfare services to the child concerning his or her
36 care;
37 (c) To report any alleged violation of his or her rights pursuant
38 to NRS 432.550 without being threatened or punished;
39 (d) Except as otherwise prohibited by a court order, to contact a
40 family member, social worker, attorney, advocate for children
41 receiving foster care services or guardian ad litem appointed by a
42 court or probation officer; and
43 (e) Except as otherwise prohibited by a court order, to contact
44 and visit his or her siblings.



1 **Sec. 2.** Chapter 432B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *On or before June 1 of each year, each agency which*
4 *provides child welfare services shall collect and submit to the*
5 *Division of Child and Family Services the following information*
6 *regarding the actions of each person legally responsible for the*
7 *psychiatric care of a child who is in the custody of the agency*
8 *which provides child welfare services:*

9 (a) *The number of visits the child has had with a person*
10 *professionally qualified in the field of mental health that the*
11 *person attended;*

12 (b) *The number of psychotropic medications approved and the*
13 *number of psychotropic medications denied by the person*
14 *pursuant to subsection 2 of NRS 432B.4687; and*

15 (c) *The number of second opinions requested by the person, if*
16 *any.*

17 2. *The Division of Child and Family Services shall, in*
18 *addition to any other requirement provided by law:*

19 (a) *Compile the information received pursuant to subsection 1,*
20 *including only aggregate information and excluding any*
21 *identifying information related to a particular person, and submit*
22 *the compiled information to the Legislative Committee on Health*
23 *Care on or before July 1 of each year;*

24 (b) *Adopt regulations that limit the number of children for*
25 *whom a person may be nominated pursuant to NRS 432B.4684 or*
26 *appointed pursuant to NRS 432B.4685 to serve as a person legally*
27 *responsible for the psychiatric care of a child;*

28 (c) *Establish and provide on an Internet website maintained by*
29 *the Division of Child and Family Services a standardized training*
30 *curriculum that a person must complete before he or she may be*
31 *nominated pursuant to NRS 432B.4684 or appointed pursuant to*
32 *NRS 432B.4685 to serve as a person legally responsible for the*
33 *psychiatric care of a child; and*

34 (d) *Adopt regulations to ensure that any child in foster care*
35 *receives age-appropriate information concerning any psychotropic*
36 *medication that is prescribed for the child before the child begins*
37 *taking the psychotropic medication. The information provided*
38 *must include the potential risks and benefits of taking the*
39 *psychotropic medication, including any potential side effects of*
40 *taking the medication, the potential impact on future employment*
41 *as a result of taking the medication and any other issues related to*
42 *the use of the medication specified by the Division of Child and*
43 *Family Services. If, after receiving the information, the child*
44 *objects to taking the psychotropic medication, the objection must*



1 *be noted in the child's record with the Division of Child and*
2 *Family Services.*

3 **Sec. 3.** NRS 432B.4681 is hereby amended to read as follows:
4 432B.4681 As used in NRS 432B.4681 to 432B.469, inclusive,
5 *and section 2 of this act*, unless the context otherwise requires, the
6 words and terms defined in NRS 432B.4682 and 432B.4683 have
7 the meanings ascribed to them in those sections.

8 **Sec. 4.** NRS 432B.4684 is hereby amended to read as follows:
9 432B.4684 1. If a child who is in the custody of an agency
10 which provides child welfare services has a prescription for a
11 psychotropic medication upon entering the custody of the agency or
12 if the agency determines that a child may be in need of psychiatric
13 care, the agency shall nominate, pending appointment by a court
14 pursuant to NRS 432B.4685, a person who is legally responsible for
15 the psychiatric care of the child. A person nominated pursuant to
16 this subsection shall be deemed to be the person who is legally
17 responsible for the psychiatric care of the child pending approval by
18 a court pursuant to NRS 432B.4685.

19 2. Upon nominating a person who is legally responsible for the
20 psychiatric care of a child pursuant to this section, the agency which
21 provides child welfare services shall petition the court with
22 jurisdiction over the child for the appointment of the nominee as the
23 person who is legally responsible for the psychiatric care of the
24 child. A petition filed pursuant to this subsection may be heard by
25 the court at the next hearing of the court conducted pursuant to NRS
26 432B.410 to 432B.590, inclusive, *and section 2 of this act* or at a
27 hearing for the express purpose of appointing a person pursuant to
28 NRS 432B.4685.

29 3. The person who is legally responsible for the psychiatric
30 care of a child may be a parent or legal guardian of the child or, if a
31 parent or legal guardian of the child is not able or willing to act as
32 the person who is legally responsible for the psychiatric care of the
33 child:

- 34 (a) The attorney for the child;
35 (b) The guardian ad litem of the child;
36 (c) The foster parent or other provider of substitute care for the
37 child;
38 (d) An employee of the agency which provides child welfare
39 services; or
40 (e) Any other person who a court determines is qualified to carry
41 out the duties and responsibilities prescribed by NRS 432B.4681 to
42 432B.469, inclusive, *and section 2 of this act, and the regulations*
43 *adopted pursuant thereto* and any policies adopted pursuant to
44 NRS 432B.197.



1 **Sec. 5.** NRS 432B.4688 is hereby amended to read as follows:
2 432B.4688 1. Except as otherwise provided in NRS
3 432B.4689, an agency which provides child welfare services shall
4 not allow the administration of a psychotropic medication to a child
5 in the custody of the agency unless:

6 (a) The person who is legally responsible for the psychiatric care
7 of the child has consented to the administration of the medication;
8 and

9 (b) The psychotropic medication is administered in accordance
10 with the consent of the person who is legally responsible for the
11 psychiatric care of the child.

12 2. An agency which provides child welfare services shall, at
13 least quarterly, review the records for each child in the custody of
14 the agency who is administered a psychotropic medication to
15 determine whether the medication is being administered in
16 accordance with NRS 432B.4681 to 432B.469, inclusive, *and*
17 *section 2 of this act and the regulations adopted pursuant thereto*
18 and the policies adopted pursuant to NRS 432B.197. The agency
19 may use the results of the quarterly reviews to determine whether
20 the placement of the child should be continued.

21 **Sec. 6.** NRS 432B.469 is hereby amended to read as follows:
22 432B.469 The provisions of NRS 432B.4681 to 432B.469,
23 inclusive, *and section 2 of this act* do not relieve an agency which
24 provides child welfare services of any responsibility of the agency
25 relating to the general health and well-being of a child in the
26 custody of the agency.

27 **Sec. 7.** NRS 433B.130 is hereby amended to read as follows:
28 433B.130 1. The Administrator shall:

29 (a) Administer, in accordance with the policies established by
30 the Commission, the programs of the Division for the mental health
31 of children.

32 (b) Establish appropriate policies to ensure that children in
33 division facilities have timely access to clinically appropriate
34 psychotropic medication that are consistent with the provisions of
35 NRS 432B.197 and NRS 432B.4681 to 432B.469, inclusive, *and*
36 *section 2 of this act* and the *regulations and* policies adopted
37 pursuant thereto.

38 2. The Administrator may:

39 (a) Appoint the administrative personnel necessary to operate
40 the programs of the Division for the mental health of children.

41 (b) Delegate to the administrative officers the power to appoint
42 medical, technical, clerical and operational staff necessary for the
43 operation of any division facilities.

44 3. If the Administrator finds that it is necessary or desirable
45 that any employee reside at a facility operated by the Division or



1 receive meals at such a facility, perquisites granted or charges for
2 services rendered to that person are at the discretion of the Director
3 of the Department.

4 4. The Administrator may accept children referred to the
5 Division for treatment pursuant to the provisions of NRS 458.290 to
6 458.350, inclusive.

7 5. The Administrator may enter into agreements with the
8 Administrator of the Division of Mental Health and Developmental
9 Services of the Department for the care and treatment of consumers
10 of the Division of Child and Family Services at any facility operated
11 by the Division of Mental Health and Developmental Services.

12 **Sec. 8.** This act becomes effective on:

13 1. July 1, 2013, for the purpose of adopting regulations and
14 performing any other preparatory administrative tasks that are
15 necessary to carry out the provisions of this act; and

16 2. January 1, 2014, for all other purposes.

