

Amendment No. 665

Assembly Amendment to Senate Bill No. 176 First Reprint (BDR 38-66)

Proposed by: Assembly Committee on Health and Human Services

Amends: Summary: No Title: No 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: 5/17/2013

S.B. No. 176—Revises various provisions concerning investigations of reports of abuse or neglect of a child. (BDR 38-66)



SENATE BILL NO. 176—COMMITTEE ON
HEALTH AND HUMAN SERVICES(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

FEBRUARY 20, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises various provisions concerning investigations of reports of abuse or neglect of a child. (BDR 38-66)

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 children; requiring an agency which provides child welfare services to determine whether certain reports concerning the possible abuse or neglect of a child are substantiated or unsubstantiated; setting forth that if such an agency substantiates a report alleging the person responsible for a child's welfare has abused or neglected the child, the agency must notify that person in writing of its intent to place the person's name in the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child, and that the person may administratively appeal the substantiation of the report; requiring the findings of fact in certain adjudicatory hearings to be included as part of the disposition of the case in the report required to be made to the Central Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires, with certain exceptions, an agency which provides child welfare services to investigate each report of abuse or neglect received or referred to the agency. (NRS 432B.300) **Section 7** of this bill requires an agency which provides child welfare services to determine whether a report concerning the possible abuse or neglect of a child that the agency has determined warrants an investigation is substantiated or unsubstantiated. ~~The definitions set forth in section 7 provide that a report that was investigated is "substantiated" if credible evidence of the abuse or neglect exists and is "unsubstantiated" if no credible evidence of the abuse or neglect exists.~~ If the agency determines a report is substantiated, **section 3** of this bill requires the agency to provide to the person responsible for the child's welfare and who is named in the report as allegedly causing the abuse or neglect, written notification which includes statements indicating: (1) that the report which was made against the person has been substantiated and the agency intends to place the person's name in the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child; (2) that the person has the right to request an administrative appeal of the substantiation of the

report and the agency's intention to place the person's name in the Central Registry; and (3) the manner for requesting such an appeal.

Section 4 of this bill sets forth the process for such an administrative appeal and provides that the appeal is stayed upon written notice to the agency of a pending adjudicatory hearing on a petition alleging that a child is in need of protection, which hearing arose out of the same incident as the report. **Section 4** also sets forth the circumstances establishing a conclusive presumption that the substantiation of the report will be affirmed and the person's name will be placed in the Central Registry.

Existing law provides certain circumstances in which an investigation of child abuse or neglect is not warranted, including when the agency which provides child welfare services determines that the alleged act was the result of the reasonable exercise of discipline by a parent or guardian involving the use of corporal punishment. (NRS 432B.260) Section 6 of this bill removes the examples of spanking or paddling within that provision and further removes the requirement that the agency which provides child welfare services upon making such a determination remove all references of the matter from its records.

Existing law requires the agency investigating a report of abuse or neglect of a child to report certain information to the Central Registry after completing the investigation, including the disposition of the case. (NRS 432B.310) **Section 9** of this bill requires such an agency to include the findings of fact recorded by the court in certain adjudicatory hearings and certain specific allegations admitted to by the parties as part of the disposition of the case in the report the agency makes to the Central Registry.

Existing law further prohibits an agency which provides child welfare services from reporting to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure, unless the agency determines that a person has abused or neglected the child. (NRS 432B.310) **Section 8** of this bill specifies that such abuse or neglect of the child must have occurred after the child was born.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Central Registry" has the meaning ascribed to it in NRS 432.0999.*

Sec. 3. *If an agency which provides child welfare services determines pursuant to NRS 432B.300 that a report made pursuant to NRS 432B.220 is substantiated, the agency shall provide written notification to the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child which includes statements indicating that:*

1. The report which was made against the person has been substantiated and the agency which provides child welfare services intends to place the person's name in the Central Registry pursuant to NRS 432B.310; and

2. The person may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within the time required pursuant to section 4 of this act.

Sec. 4. *1. A person to whom a written notification is sent pursuant to section 3 of this act may request an administrative appeal of the substantiation of the report and the agency's intention to place the person's name in the Central Registry by submitting a written request to the agency which provides child welfare services within 15 days after the date on which the agency sent the written notification as required pursuant to section 3 of this act.*

2. Except as otherwise provided in subsection 3, if an agency which provides child welfare services receives a request for an administrative appeal within 15 days after the agency sent the written notification pursuant to subsection 1, a hearing before a hearing officer must be held in accordance with chapter 233B of NRS.

3. An administrative appeal is stayed upon the receipt of written notification to the agency which provides child welfare services of a pending adjudicatory hearing pursuant to NRS 432B.530 which arose out of the same incident as the incident upon which the report made pursuant to NRS 432B.220 was premised. The stay of the administrative appeal is lifted when:

(a) A final determination is made in the adjudicatory hearing; or

(b) The adjudicatory hearing is dismissed or terminated if the adjudicatory hearing does not result in a final determination being made.

4. If a request for an administrative appeal is not submitted pursuant to subsection 1, the agency which provides child welfare services shall place the person's name in the Central Registry pursuant to NRS 432B.310.

5. If the hearing officer in a hearing that is held pursuant to this section:

(a) Affirms the substantiation of the report, the agency which provides child welfare services shall place the person's name in the Central Registry pursuant to NRS 432B.310; or

(b) Rejects the substantiation of the report, the agency which provides child welfare services shall not place the person's name in the Central Registry pursuant to NRS 432B.310.

6. A conclusive presumption that the substantiation of the report will be affirmed and the person's name will be placed in the Central Registry pursuant to NRS 432B.310 is established if there is a final determination in an adjudicatory hearing that the child was in need of protection.

7. The decision of a hearing officer in a hearing that is held pursuant to this section is a final decision for the purposes of judicial review.

8. As used in this section, "final determination in an adjudicatory hearing" means a finding made by a court pursuant to subsection 5 of NRS 432B.530 as to whether a child was in need of protection at the time of the removal of the child from the home that is based on the child being subjected to abuse or neglect by the person to whom a written notice was sent pursuant to section 3 of this act.

Sec. 5. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

(a) The child is 5 years of age or younger;

(b) There is a high risk of serious harm to the child;

(c) The child has suffered a fatality; or

(d) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

(a) The child is not in imminent danger of harm;

(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;

(c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment ~~including, without limitation, spanking or paddling;~~ and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, **and sections 2, 3 and 4 of this act**, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

~~If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.~~

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. ~~That~~ **If** an agency which provides child welfare services ~~that~~ determines pursuant to ~~paragraph (a), (b) or (c) of~~ **subsection 3** that an investigation is not warranted, **the agency** may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 7. NRS 432B.300 is hereby amended to read as follows:

432B.300 ~~Except as otherwise provided in~~

~~If an agency which provides child welfare services determines that an investigation of a report concerning the possible abuse or neglect of a child is warranted pursuant to NRS 432B.260, an agency which provides child welfare services shall investigate each report of abuse or neglect received or referred to it the agency shall determine~~
~~without limitation:~~

~~1.~~ 1. The composition of the family, household or facility, including the name, address, age, sex and race of each child named in the report, any siblings or other children in the same place or under the care of the same person, the persons responsible for the children's welfare and any other adult living or working in the same household or facility;

~~2.~~ 2. Whether there is reasonable cause to believe any child is abused or neglected or threatened with abuse or neglect, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and the person apparently responsible;

~~3.~~ 3. Whether there is reasonable cause to believe that a child has suffered a fatality as a result of abuse or neglect regardless of whether or not there are any siblings of the child or other children who are residing in the same household as the child who is believed to have suffered a fatality as a result of abuse or neglect;

~~4.~~ 4. If there is reasonable cause to believe that a child is abused or neglected, the immediate and long-term risk to the child if the child remains in the same environment; ~~and~~

~~5.~~ 5. The treatment and services which appear necessary to help prevent further abuse or neglect and to improve the environment of the child and the ability of the person responsible for the child's welfare to care adequately for the child; ~~and~~

~~6.~~ 6. *Whether the report concerning the possible abuse or neglect of a child is substantiated or unsubstantiated.*

~~As used in this section:~~

~~(a) "Substantiated" means that a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists.~~

~~(b) "Unsubstantiated" means that a report made pursuant to NRS 432B.220 was investigated and that no credible evidence of the abuse or neglect exists. The term includes efforts made by an agency which provides child welfare services to prove or disprove an allegation of abuse or neglect that the agency is unable to prove because it was unable to locate the child or the person responsible for the welfare of the child.~~

Sec. 8. NRS 432B.310 is hereby amended to read as follows:

432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the severity of the injuries and, if applicable, any information concerning the death of the child; and

1 (c) The disposition of the case.

2 2. An agency which provides child welfare services shall not report to the
3 Central Registry any information concerning a child identified as being affected by
4 prenatal illegal substance abuse or as having withdrawal symptoms resulting from
5 prenatal drug exposure unless the agency determines that a person has abused or
6 neglected the child ~~†~~.

7 ~~3. As used in this section, "Central Registry" has the meaning ascribed to it in~~
8 ~~NRS 432.0999.† after the child was born.~~

9 **Sec. 9.** NRS 432B.530 is hereby amended to read as follows:

10 432B.530 1. An adjudicatory hearing must be held within 30 days after the
11 filing of the petition, unless good cause is shown or the hearing has been continued
12 until a later date pursuant to NRS 432B.513.

13 2. At the hearing, the court shall inform the parties of the specific allegations
14 in the petition and give them an opportunity to admit or deny them. If the
15 allegations are denied, the court shall hear evidence on the petition.

16 3. In adjudicatory hearings, all relevant and material evidence helpful in
17 determining the questions presented, including oral and written reports, may be
18 received by the court and may be relied upon to the extent of its probative value.
19 The parties or their attorney must be afforded an opportunity to examine and
20 controvert written reports so received and to cross-examine individuals making
21 reports when reasonably available.

22 4. The court may require the child to be present in court at the hearing.

23 5. If the court finds by a preponderance of the evidence that the child was in
24 need of protection at the time of the removal of the child from the home, it shall
25 record its findings of fact and may proceed immediately or at another hearing held
26 within 15 working days, to make a proper disposition of the case. If the court finds
27 that the allegations in the petition have not been established, it shall dismiss the
28 petition and, if the child is in protective custody, order the immediate release of the
29 child.

30 *6. The findings of fact recorded by the court pursuant to subsection 5 and*
31 *any specific allegations in the petition admitted to by the parties must be included*
32 *as part of the disposition of the case in the report required to be made to the*
33 *Central Registry pursuant to NRS 432B.310.*