

SENATE BILL NO. 97—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

FEBRUARY 11, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to hearings concerning children who are removed from their homes. (BDR 38-69)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; revising the information that must be included in a petition alleging that a child is in need of protection; revising the time within which an adjudicatory hearing must be held after the filing of such a petition; revising provisions relating to the semiannual review of the placement of a child by the court and the annual hearing concerning the permanent placement of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain information to be set forth in a petition alleging that a child is in need of protection. (NRS 432B.510) **Section 1** of this bill specifies that the child's address included in the petition must be the address of the primary residence of the child at the time of removal, rather than the address of the location where the child was placed after removal.

Existing law requires an adjudicatory hearing to be held within 30 days after the filing of a petition alleging that a child is in need of protection, unless good cause is shown or the hearing has been continued. (NRS 432B.530) **Section 2** of this bill revises existing law to instead require that the adjudicatory hearing be held within 60 days after the filing of such a petition.

Existing law requires that the court review semiannually the placement of a child with a person other than a parent and annually review the permanent placement of a child. Certain persons, including the parties to any prior



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14 proceedings, any persons planning to adopt the child and the persons providing care
15 to the child, are required to be given notice of the hearing and an opportunity to be
16 heard. (NRS 432B.580, 432B.590) **Sections 3 and 4** of this bill revise existing law
17 to provide certain persons with the right to be heard. **Section 4** also requires the
18 court in an annual review to make certain determinations regarding out-of-state
19 placement and transition services.

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

1 **Section 1.** NRS 432B.510 is hereby amended to read as
2 follows:

3 432B.510 1. A petition alleging that a child is in need of
4 protection may be signed only by:

5 (a) A representative of an agency which provides child welfare
6 services;

7 (b) A law enforcement officer or probation officer; or

8 (c) The district attorney.

9 2. The district attorney shall countersign every petition alleging
10 need of protection, and shall represent the interests of the public in
11 all proceedings. If the district attorney fails or refuses to countersign
12 the petition, the petitioner may seek a review by the Attorney
13 General. If the Attorney General determines that a petition should be
14 filed, the Attorney General shall countersign the petition and shall
15 represent the interests of the public in all subsequent proceedings.

16 3. Every petition must be entitled "In the Matter of,
17 a child," and must be verified by the person who signs it.

18 4. Every petition must set forth specifically:

19 (a) The facts which bring the child within the jurisdiction of the
20 court as indicated in NRS 432B.410.

21 (b) The name, date of birth and address of the *primary* residence
22 of the child ~~+~~ *at the time of removal.*

23 (c) The names and addresses of the residences of the child's
24 parents and any other person responsible for the child's welfare, and
25 spouse if any. If the parents or other person responsible for the
26 welfare of the child do not reside in this State or cannot be found
27 within the State, or if their addresses are unknown, the petition must
28 state the name of any known adult relative residing within the State
29 or, if there is none, the known adult relative residing nearest to the
30 court.

31 (d) Whether the child is in protective custody and, if so:

32 (1) The agency responsible for placing the child in protective
33 custody and the reasons therefor; and

34 (2) Whether the child has been placed in a home or facility in
35 compliance with the provisions of NRS 432B.3905. If the placement



1 does not comply with the provisions of NRS 432B.3905, the petition
2 must include a plan for transferring the child to a placement which
3 complies with the provisions of NRS 432B.3905.

4 5. When any of the facts required by subsection 4 are not
5 known, the petition must so state.

6 **Sec. 2.** NRS 432B.530 is hereby amended to read as follows:

7 432B.530 1. An adjudicatory hearing must be held within
8 ~~30~~ 60 days after the filing of the petition, unless good cause is
9 shown or the hearing has been continued until a later date pursuant
10 to NRS 432B.513.

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

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

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

32 **Sec. 3.** NRS 432B.580 is hereby amended to read as follows:

33 432B.580 1. Except as otherwise provided in this section and
34 NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other
35 than with a parent, the placement must be reviewed by the court at
36 least semiannually, and within 90 days after a request by a party to
37 any of the prior proceedings. Unless the parent, guardian or the
38 custodian objects to the referral, the court may enter an order
39 directing that the placement be reviewed by a panel appointed
40 pursuant to NRS 432B.585.

41 2. An agency acting as the custodian of the child shall, before
42 any hearing for review of the placement of a child, submit a report
43 to the court, or to the panel if it has been designated to review the
44 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.

(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 academic plan developed for the child pursuant to NRS 388.155, 388.165 or 388.205.

(d) A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to NRS 424.0383.

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;

(b) Any persons planning to adopt the child;



(c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to NRS 127.171 and his or her attorney, if any; and

(d) Any other relatives of the child or providers of foster care who are currently providing care to the child.

7. The notice of the hearing required to be given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;

(b) Must not include any confidential information described in NRS 127.140; and

(c) 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.

8. 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~~ a right to be heard at the hearing.

9. 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.

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

Sec. 4. NRS 432B.590 is hereby amended to read as follows:

432B.590 1. Except as otherwise provided in NRS 432B.513, the court shall hold a hearing concerning the permanent placement of a child:

(a) Not later than 12 months after the initial removal of the child from the home of the child and annually thereafter.

(b) Within 30 days after making any of the findings set forth in subsection 3 of NRS 432B.393.

➔ Notice of this hearing must be given by registered or certified mail to all the persons to whom notice must be given pursuant to subsection 6 of NRS 432B.580.



2. The court may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 1 ~~an opportunity~~ **a right** to be heard at the hearing.

3. At the hearing, the court shall review any plan for the permanent placement of the child adopted pursuant to NRS 432B.553 and determine:

(a) Whether the agency with legal custody of the child has made the reasonable efforts required by subsection 1 of NRS 432B.553; ~~and~~

(b) Whether, and if applicable when:

(1) The child should be returned to the parents of the child or placed with other relatives;

(2) It is in the best interests of the child to:

(I) Initiate proceedings to terminate parental rights pursuant to chapter 128 of NRS so that the child can be placed for adoption;

(II) Initiate proceedings to establish a guardianship pursuant to chapter 159 of NRS; or

(III) Establish a guardianship in accordance with NRS 432B.466 to 432B.468, inclusive; or

(3) The agency with legal custody of the child has produced documentation of its conclusion that there is a compelling reason for the placement of the child in another permanent living arrangement ~~+~~;

(c) If the child will not be returned to the parents of the child, whether the agency with legal custody of the child fully considered placement options both within and outside of this State;

(d) If the child has attained the age of 16 years, whether the child will receive the services needed to assist the child in transitioning to independent living; and

(e) If the child has been placed outside of this State, whether the placement outside of this State continues to be appropriate for and in the best interests of the child.

➤ The court shall prepare an explicit statement of the facts upon which each of its determinations is based. If the court determines that it is in the best interests of the child to terminate parental rights, the court shall use its best efforts to ensure that the procedures required by chapter 128 of NRS are completed within 6 months after the date the court makes that determination, including, without limitation, appointing a private attorney to expedite the completion of the procedures. The provisions of this subsection do not limit the jurisdiction of the court to review any decisions of the agency with legal custody of the child regarding the permanent placement of the child.



1 4. If a child has been placed outside of the home and has
2 resided outside of the home pursuant to that placement for 14
3 months of any 20 consecutive months, the best interests of the child
4 must be presumed to be served by the termination of parental rights.

5 5. This hearing may take the place of the hearing for review
6 required by NRS 432B.580.

7 6. The provision of notice and ~~an opportunity~~ *a right* to be
8 heard pursuant to this section does not cause any person planning to
9 adopt the child, any sibling of the child or any other relative, any
10 adoptive parent of a sibling of the child or a provider of foster care
11 to become a party to the hearing.

