

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



* S B 9 7 R 1 *

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

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

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

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

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

(c) The district attorney.

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

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

4. Every petition must set forth specifically:

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

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

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

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

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

(2) Whether the child has been placed in a home or facility in compliance with the provisions of NRS 432B.3905. If the placement does not comply with the provisions of NRS 432B.3905, the petition must include a plan for transferring the child to a placement which complies with the provisions of NRS 432B.3905.

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

Sec. 2. (Deleted by amendment.)



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Sec. 3. 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.

(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



1 to this subsection, the person may be punished as for a contempt of
2 court.

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

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

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

12 (b) Any persons planning to adopt the child;

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

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

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

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

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

25 (c) Need not be given to a parent whose rights have been
26 terminated pursuant to chapter 128 of NRS or who has voluntarily
27 relinquished the child for adoption pursuant to NRS 127.040.

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

32 9. The court or panel shall review:

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

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

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

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

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



1 **Sec. 4.** NRS 432B.590 is hereby amended to read as follows:
2 432B.590 1. Except as otherwise provided in NRS 432B.513,
3 the court shall hold a hearing concerning the permanent placement
4 of a child:

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

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

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

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

16 3. At the hearing, the court shall review any plan for the
17 permanent placement of the child adopted pursuant to NRS
18 432B.553 and determine:

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

22 (b) Whether, and if applicable when:

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

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

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

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

31 (III) Establish a guardianship in accordance with NRS
32 432B.466 to 432B.468, inclusive; or

33 (3) The agency with legal custody of the child has produced
34 documentation of its conclusion that there is a compelling reason for
35 the placement of the child in another permanent living arrangement
36 ~~+~~;

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

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

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



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

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

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

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

