

SENATE BILL NO. 98—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 governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child. (BDR 38-68)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to children; revising provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing federal law, each state is eligible to receive payments for
2 providing assistance to needy families with children and for providing child welfare
3 services if the state adopts a state plan for foster care and adoption assistance and
4 the plan is approved by the Secretary of the United States Department of Health
5 and Human Services. Each state plan must set forth provisions for providing that
6 assistance, including the imposition of a requirement that reasonable efforts be
7 made to preserve and reunify families: (1) before a child is placed in foster care in
8 order to prevent the need to remove the child from his or her home; and (2) to make
9 it possible to return the child safely to his or her home. Each state plan must also
10 provide that those reasonable efforts are not required to be made concerning a
11 parent of a child if a court determines that: (1) the parent has subjected the child to
12 certain aggravated circumstances, including, without limitation, abandonment,
13 torture, chronic abuse and sexual abuse; (2) the parent has committed murder or
14 voluntary manslaughter of another child of the parent or has aided or abetted,
15 attempted, conspired or solicited to commit such a murder or voluntary
16 manslaughter; (3) the parent has committed a felony assault resulting in serious



* S B 9 8 *

bodily injury to the child or another child of the parent; or (4) the parental rights of the parent to a sibling have been terminated voluntarily. (42 U.S.C. § 671)

Pursuant to the federal requirement to adopt a state plan, existing law in Nevada requires an agency which provides child welfare services to make reasonable efforts to preserve and reunify the family of a child under the same circumstances as those set forth in federal law. (NRS 432B.393) This bill makes various changes to those circumstances in order to ensure consistency with federal law. Specifically, this bill: (1) clarifies that a court must determine whether or not an agency which provides child welfare services is required to make any reasonable efforts to preserve and reunify the family of a child; (2) revises the findings that the court is required to make concerning that determination; (3) revises the definition of "reasonable efforts" to require the exercise of diligence and care in arranging culturally appropriate, accessible and available services that are designed to improve the ability of a family to provide a safe and stable home for each child in the family; (4) requires the court, when determining whether reasonable efforts have been made, to consider whether any efforts made were contrary to the health and safety of the child and to consider the efforts made, if any, to prevent the need to remove the child from the home and the efforts to finalize the plan for the permanent placement of the child; and (5) requires the court, when determining whether reasonable efforts are not required or whether the agency which provides child welfare services has made those efforts, to ensure that each determination is made by the court on a case-by-case basis, is based upon specific evidence and is expressly stated by the court in its order.

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

Section 1. NRS 432B.393 is hereby amended to read as follows:

432B.393 1. Except as otherwise provided in this section, an agency which provides child welfare services shall make reasonable efforts to preserve and reunify the family of a child:

(a) Before the placement of the child in foster care, to prevent or eliminate the need to remove the child from the home; and

(b) To make it possible for the safe return of the child to the home.

2. In determining the reasonable efforts required by subsection 1, the health and safety of the child must be the paramount concern. The agency which provides child welfare services may make reasonable efforts to place the child for adoption or with a legal guardian concurrently with making the reasonable efforts required pursuant to subsection 1. If the court determines that continuation of the reasonable efforts required by subsection 1 is inconsistent with the plan for the permanent placement of the child, the agency which provides child welfare services shall make reasonable efforts to place the child in a timely manner in accordance with that plan and to complete whatever actions are necessary to finalize the permanent placement of the child.



3. ~~{An}~~ *The court must determine whether or not an* agency which provides child welfare services is ~~{not}~~ required to make the reasonable efforts required by subsection 1 . ~~{if}~~ *To make that determination,* the court ~~{finds that:}~~ *must establish and consider whether:*

(a) A parent or other primary caretaker of the child has:

(1) Committed, aided or abetted in the commission of, or attempted, conspired or solicited to commit murder or voluntary manslaughter ~~{}~~ *of another child of the parent or primary caretaker;*

(2) Caused the abuse or neglect of the child, or of another child of the parent or primary caretaker, which resulted in substantial bodily harm to the abused or neglected child;

(3) Caused the abuse or neglect of the child, a sibling of the child or another child in the household, and the abuse or neglect was so extreme or repetitious as to indicate that any plan to return the child to the home would result in an unacceptable risk to the health or welfare of the child; or

(4) Abandoned the child for 60 or more days, and the identity of the parent of the child is unknown and cannot be ascertained through reasonable efforts;

(b) A parent of the child has, for the previous 6 months, had the ability to contact or communicate with the child and made no more than token efforts to do so;

(c) The parental rights of a parent to a sibling of the child have been terminated by a court order upon any basis other than the execution of a voluntary relinquishment of those rights by a natural parent, and the court order is not currently being appealed;

(d) The child ~~for a sibling of the child was previously removed from the home, adjudicated to have been abused or neglected, returned to the home and subsequently removed from the home as a result of additional abuse or neglect;~~

~~—(e) The child~~ is less than 1 year of age, the father of the child is not married to the mother of the child and the father of the child:

(1) Has failed within 60 days after learning of the birth of the child, to visit the child, to commence proceedings to establish his paternity of the child or to provide financial support for the child; or

(2) Is entitled to seek custody of the child but fails to do so within 60 days after learning that the child was placed in foster care; or

~~{(f)}~~ (e) The child was delivered to a provider of emergency services pursuant to NRS 432B.630.

4. Except as otherwise provided in subsection 6, for the purposes of this section, unless the context otherwise requires, “reasonable efforts” have been made if an agency which provides



1 child welfare services to children with legal custody of a child has
2 exercised diligence and care in arranging *culturally* appropriate ,
3 *accessible* and available services ~~for the child;~~ *that are designed to*
4 *improve the ability of a family to provide a safe and stable home*
5 *for each child in the family,* with the health and safety of the child
6 as its paramount concerns. The exercise of such diligence and care
7 includes, without limitation, obtaining necessary and appropriate
8 information concerning the child for the purposes of NRS 127.152,
9 127.410 and 424.038.

10 5. In determining whether reasonable efforts have been made
11 pursuant to subsection 4, the court shall:

12 (a) Evaluate the evidence and make findings based on whether a
13 reasonable person would conclude that reasonable efforts were
14 made;

15 (b) Consider any input from the child;

16 (c) Consider the efforts made and the evidence presented since
17 the previous finding of the court concerning reasonable efforts;

18 (d) Consider the diligence and care that the agency is legally
19 authorized and able to exercise;

20 (e) Recognize and take into consideration the legal obligations
21 of the agency to comply with any applicable laws and regulations;

22 (f) Base its determination on the circumstances and facts
23 concerning the particular family or plan for the permanent
24 placement of the child at issue;

25 (g) Consider whether *any of the efforts made were contrary to*
26 *the health and safety of the child;*

27 (h) *Consider the efforts made, if any, to prevent the need to*
28 *remove the child from the home and to finalize the plan for the*
29 *permanent placement of the child;*

30 (i) *Consider whether* the provisions of subsection 6 are
31 applicable; and

32 ~~(h)~~ (j) Consider any other matters the court deems relevant.

33 6. An agency which provides child welfare services may
34 satisfy the requirement of making reasonable efforts pursuant to this
35 section by taking no action concerning a child or making no effort to
36 provide services to a child if it is reasonable, under the
37 circumstances, to do so.

38 7. *In determining whether reasonable efforts are not required*
39 *pursuant to subsection 3 or whether reasonable efforts have been*
40 *made pursuant to subsection 4, the court shall ensure that each*
41 *determination is:*



- 1 ***(a) Made by the court on a case-by-case basis;***
- 2 ***(b) Based upon specific evidence; and***
- 3 ***(c) Expressly stated by the court in its order.***

