

ASSEMBLY BILL NO. 102—COMMITTEE ON
HEALTH AND HUMAN SERVICES

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

PREFILED JANUARY 30, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to child welfare.
(BDR 38-196)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; requiring an agency which provides child welfare services to present clear and convincing evidence proving the agency made reasonable efforts to reunify the family of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires an agency which provides child welfare services to make
- 2 reasonable efforts to preserve and reunify the family of a child before placing the
- 3 child in foster care and to make it possible for the safe return of the child to the
- 4 home. Existing law also sets forth exceptions to that requirement under certain
- 5 circumstances. (NRS 432B.393) This bill requires an agency which provides child
- 6 welfare services to prove by clear and convincing evidence that it either made the
- 7 required reasonable efforts or that reasonable efforts were not required under the
- 8 existing exceptions.



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 agency which provides child welfare services is not required to make the reasonable efforts required by subsection 1 if the court finds that:

(a) A parent or other person responsible for the child's welfare has:

(1) Committed, aided or abetted in the commission of, or attempted, conspired or solicited to commit murder or voluntary manslaughter;

(2) Caused the abuse or neglect of the child, or of another child of the parent or other person responsible for the child's welfare, 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;



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

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

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

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

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

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

19 (f) The child was delivered to a provider of emergency services
20 pursuant to NRS 432B.630;

21 (g) The child, a sibling of the child or another child in the
22 household has been sexually abused or has been subjected to neglect
23 by pervasive instances of failure to protect the child from sexual
24 abuse; or

25 (h) A parent of the child is required to register as a sex offender
26 pursuant to the provisions of chapter 179D of NRS or the provisions
27 of the federal Adam Walsh Child Protection and Safety Act of 2006,
28 42 U.S.C. §§ 16901 et seq.

29 4. Except as otherwise provided in subsection 6, for the
30 purposes of this section, unless the context otherwise requires,
31 "reasonable efforts" have been made if an agency which provides
32 child welfare services to children with legal custody of a child has
33 exercised diligence and care in arranging appropriate, accessible and
34 available services that are designed to improve the ability of a
35 family to provide a safe and stable home for each child in the
36 family, with the health and safety of the child as its paramount
37 concerns. The exercise of such diligence and care includes, without
38 limitation, obtaining necessary and appropriate information
39 concerning the child for the purposes of NRS 127.152, 127.410
40 and 424.038.

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

43 (a) Evaluate the evidence and make findings based on whether a
44 reasonable person would conclude that reasonable efforts were
45 made;



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- 1 (b) Consider any input from the child;
- 2 (c) Consider the efforts made and the evidence presented since
- 3 the previous finding of the court concerning reasonable efforts;
- 4 (d) Consider the diligence and care that the agency is legally
- 5 authorized and able to exercise;
- 6 (e) Recognize and take into consideration the legal obligations
- 7 of the agency to comply with any applicable laws and regulations;
- 8 (f) Base its determination on the circumstances and facts
- 9 concerning the particular family or plan for the permanent
- 10 placement of the child at issue;
- 11 (g) Consider whether any of the efforts made were contrary to
- 12 the health and safety of the child;
- 13 (h) Consider the efforts made, if any, to prevent the need to
- 14 remove the child from the home and to finalize the plan for the
- 15 permanent placement of the child;
- 16 (i) Consider whether the provisions of subsection 6 are
- 17 applicable; and
- 18 (j) Consider any other matters the court deems relevant.
- 19 6. An agency which provides child welfare services may
- 20 satisfy the requirement of making reasonable efforts pursuant to this
- 21 section by taking no action concerning a child or making no effort to
- 22 provide services to a child if it is reasonable, under the
- 23 circumstances, to do so.
- 24 7. In determining whether reasonable efforts are not required
- 25 pursuant to subsection 3 or whether reasonable efforts have been
- 26 made pursuant to subsection 4, the court shall ensure that each
- 27 determination is:
- 28 (a) Made by the court on a case-by-case basis;
- 29 (b) Based upon ~~specific evidence;~~ *clear and convincing*
- 30 *evidence presented by the agency which provides child welfare*
- 31 *services;* and
- 32 (c) Expressly stated by the court in its order.

