

ASSEMBLY BILL NO. 324—ASSEMBLYMAN SPRINKLE

MARCH 16, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to child welfare.
(BDR 38-773)

FISCAL NOTE: Effect on Local Government: No.
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 child welfare; revising provisions concerning required requests for the credit report of a child in the custody of an agency which provides child welfare services; revising provisions concerning missing and runaway children; requiring an agency which provides child welfare services that receives information concerning a missing child in the custody of the agency to report such information to a law enforcement agency; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt certain procedures concerning children who have run away from a foster home; revising requirements concerning permanency hearings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law that becomes effective on September 29, 2015, requires each child in foster care under the responsibility of the State who is at least 14 years of age to receive a copy of his or her credit report each year until the child is discharged from care. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 113) **Section 1** of this bill lowers the age of a child for whom an agency which provides child welfare services is required to obtain a credit report under state law from 16 years of age to 14 years of age to conform to this federal requirement.

Existing state law requires a law enforcement agency to request certain identifying information from the parent or guardian of a missing child who is less than 16 years of age or has not been located within 30 days after being reported missing. (NRS 432.200) Existing law also requires a law enforcement agency that receives and verifies a report of a missing child, other than a child who has run



away, to immediately transmit the report to the program established by the Attorney General to coordinate activities and information in this State concerning missing or exploited children. (NRS 432.205) **Sections 2 and 3** of this bill instead require a law enforcement agency to request such information and transmit such a report for any child who has been reported missing.

Existing federal law requires a state agency that receives information concerning a missing or abducted child who has been placed in the custody of the agency to report the information immediately to the National Center for Missing and Exploited Children and the National Crime Information Center database established by the Federal Bureau of Investigation. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 104) **Section 4** of this bill includes this requirement in state law.

Existing federal law requires a state to develop and carry out specific protocols concerning children who have run away from foster care in order to receive certain federal funds. (42 U.S.C. § 671(a)(35)) **Section 5** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations to implement such protocols.

Existing federal law that becomes effective on September 29, 2015, prohibits the placement of a child who is under 16 years of age in a permanent placement other than with the parent of the child, the adoption of the child or referral of the child for legal guardianship. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 112) **Section 6** of this bill authorizes an agency which provides child welfare services that has custody of a child who is 16 years of age or older to present evidence at a permanency hearing that there is a compelling reason for placing such a child in a different permanent living arrangement.

Existing federal law requires a judge at a permanency hearing to: (1) ask the child about his or her desired permanency outcome; (2) if the judge determines that another permanency outcome is better for the child, to explain why; and (3) if the judge determines that it is not in the best interests of the child to return home, be placed for adoption or be placed with a legal guardian or relative, provide compelling reasons for that determination. (42 U.S.C. § 675a(a)(2)) Existing state law requires a judge at a permanency hearing to prepare an explicit statement of the facts upon which he or she based his or her determination regarding the best interests of the child. **Section 6** revises this requirement to meet the federal requirements.

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

Section 1. NRS 432.0395 is hereby amended to read as follows:

432.0395 1. Before an agency which provides child welfare services requests and examines a copy of any credit report pursuant to subsection 2, the agency which provides child welfare services shall, to the greatest extent practicable:

(a) Inform the child of the requirement to request and examine a copy of any credit report that may exist for the child;

(b) Explain to the child the process for resolving any inaccuracy discovered on any such credit report; and



(c) Explain to the child the possible consequences of an inaccuracy on a credit report of the child.

2. An agency which provides child welfare services shall request and examine a copy of any credit report that may exist for each child who remains in the custody of the agency which provides child welfare services for 60 or more consecutive days:

(a) When the child reaches the age of ~~14~~ 14 years, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I); or

(b) If the child has reached the age of ~~14~~ 14 years before the child is placed in the custody of the agency which provides child welfare services, within 90 days after the placement of the child in the custody of the agency which provides child welfare services, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I).

3. An agency which provides child welfare services shall determine from the examination of a credit report pursuant to this section whether the credit report contains inaccurate information and whether the credit report indicates that identity theft or any other crime has been committed against the child.

4. If the agency which provides child welfare services determines that an inaccuracy exists in the credit report of a child, the agency which provides child welfare services must:

(a) Report any information which may indicate identity theft or other crime to the Attorney General;

(b) Make a diligent effort to resolve the inaccuracy as soon as practicable; and

(c) If an inaccuracy remains unresolved after the child has left the custody of the agency which provides child welfare services, notify the child or, if the child has not attained the age of majority, the person responsible for the child's welfare:

(1) That an inaccuracy exists in the credit report of the child;

(2) Of the manner in which to correct the inaccuracy; and

(3) Of any services that may be available in the community to provide assistance in correcting the inaccuracy.

5. An agency which provides child welfare services may, upon consent of a child who remains under the jurisdiction of a court pursuant to NRS 432B.594, continue to request and examine a credit report of the child and provide assistance to the child if an inaccuracy is discovered.

6. The Attorney General may investigate each potential instance of identity theft or crime reported pursuant to subsection 4 and prosecute in accordance with law each person responsible for any identity theft identified in the investigation.



Sec. 2. NRS 432.200 is hereby amended to read as follows:

432.200 1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as "runaway," "abducted by the parent of the child," "abducted by a stranger" or "cause of disappearance unknown," and shall:

(a) Transmit all available information about the child to the Clearinghouse within 36 hours after the report is received;

(b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;

(c) Fully comply with the requirements of the National Child Search Assistance Act of 1990, ~~[Title XXXVII of Public Law 101-647, 104 Stat. 4966;]~~ **42 U.S.C. §§ 5779 and 5780;** and

(d) Enter into the National Crime Information Center's Missing Person File, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.

2. A law enforcement agency which has jurisdiction over the investigation of an abducted child and which has obtained a warrant for the arrest of a person suspected in the child's disappearance or concealment shall immediately notify the National Crime Information Center for the entry into the Center's Wanted Person File of identifying and descriptive information concerning:

(a) The suspect; and

(b) As miscellaneous information, the missing child.

➤ The agency shall cross-reference information entered pursuant to this section with the National Crime Information Center's Missing Person File.

3. ~~[If a missing child is less than 16 years of age or has not been located within 30 days after]~~ **After** a report is filed, the law enforcement agency that received the initial report shall:

(a) Send to the child's parent or guardian a request for certain identifying information regarding the child that the National Crime Information Center recommends be provided; and

(b) Ask the child's parent or guardian to provide such identifying information regarding the child.

➤ This subsection does not preclude the voluntary release of identifying information about the missing child by the parent or guardian of the child at any time.

4. The parent or guardian of a child reported as missing shall promptly notify the appropriate law enforcement agency if the child is found or returned. The law enforcement agency shall then



transmit that fact to the National Crime Information Center and the Clearinghouse.

5. Nothing in this section requires a law enforcement agency to activate the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.

Sec. 3. NRS 432.205 is hereby amended to read as follows:

432.205 1. A law enforcement agency, upon receiving and verifying a report of a missing child, ~~other than a child who has run away,~~ shall immediately transmit the full contents of the report by the fastest means available to the Clearinghouse.

2. The Clearinghouse shall, upon receipt of the report, immediately notify any governmental agency in possession of the birth certificate of the child and the superintendent of schools of the school district in possession of the educational records of the child that the child is missing.

3. Upon receiving such notification, the agency or superintendent shall:

(a) Maintain the birth certificate or educational records in such a manner as to ensure that the Clearinghouse is notified immediately if a request is made for the birth certificate or educational records.

(b) Immediately notify the Clearinghouse upon receiving any such request before releasing the birth certificate or educational records, including notification of the identity and location or address of the person making the request.

(c) Not disclose to the person making the request any communication with the Clearinghouse or the fact that a communication must be made.

Sec. 4. NRS 432B.165 is hereby amended to read as follows:

432B.165 1. For purposes of assisting in locating a missing child who is the subject of an investigation of abuse or neglect and who is in the protective custody of an agency which provides child welfare services or in the custody of another entity pursuant to an order of the juvenile court, an agency which provides child welfare services may provide the following information to a federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse or neglect:

(a) The name of the child;

(b) The age of the child;

(c) A physical description of the child; and

(d) A photograph of the child.

2. Information provided pursuant to subsection 1 is not confidential and may be disclosed to any member of the general public upon request.



3. *An agency which provides child welfare services that receives information concerning a child who has been placed in the custody of the agency who is missing, including, without limitation, a child who has run away or has been abducted, shall report the information to the appropriate law enforcement agency as soon as practicable, but not later than 24 hours after receiving such information, for investigation pursuant to NRS 432.200.*

Sec. 5. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of



1 a child, including, without limitation, the legal rights of such a
2 person at the time an agency which provides child welfare services
3 makes initial contact with the person in the course of the
4 investigation and at the time the agency takes the child for
5 placement in protective custody, and the legal right of such a person
6 to be informed of any allegation of abuse or neglect of a child which
7 is made against the person at the initial time of contact with the
8 person by the agency; and

9 (II) Persons who are parties to a proceeding held pursuant
10 to NRS 432B.410 to 432B.590, inclusive, during all stages of the
11 proceeding; and

12 (k) Making the necessary inquiries required pursuant to NRS
13 432B.397 to determine whether a child is an Indian child.

14 2. Regulations, which are applicable to any person who is
15 authorized to place a child in protective custody without the consent
16 of the person responsible for the child's welfare, setting forth
17 reasonable and uniform standards for establishing whether
18 immediate action is necessary to protect the child from injury, abuse
19 or neglect for the purposes of determining whether to place the child
20 into protective custody pursuant to NRS 432B.390. Such standards
21 must consider the potential harm to the child in remaining in his or
22 her home, including, without limitation:

23 (a) Circumstances in which a threat of harm suggests that a child
24 is in imminent danger of serious harm.

25 (b) The conditions or behaviors of the child's family which
26 threaten the safety of the child who is unable to protect himself or
27 herself and who is dependent on others for protection, including,
28 without limitation, conditions or behaviors that are beyond the
29 control of the caregiver of the child and create an imminent threat of
30 serious harm to the child.

31 ➤ The Division of Child and Family Services shall ensure that the
32 appropriate persons or entities to whom the regulations adopted
33 pursuant to this subsection apply are provided with a copy of such
34 regulations. As used in this subsection, "serious harm" includes the
35 threat or evidence of serious physical injury, sexual abuse,
36 significant pain or mental suffering, extreme fear or terror, extreme
37 impairment or disability, death, substantial impairment or risk of
38 substantial impairment to the child's mental or physical health or
39 development.

40 3. *Regulations establishing procedures for:*

41 (a) *Expediently locating any missing child who has been*
42 *placed in the custody of an agency which provides child welfare*
43 *services;*

44 (b) *Determining the primary factors that contributed to a child*
45 *who has been placed in the custody of an agency which provides*



child welfare services running away or otherwise being absent from foster care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements; and

(c) Determining the experiences of a child who has been placed in the custody of an agency which provides child welfare services during any period the child was missing, including, without limitation, determining whether the child may be a victim of sexual abuse or sexual exploitation.

4. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive.

Sec. 6. 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 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, *ask the child about his or her desired permanent placement* 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;

(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



1 the placement of ~~the~~ a child *who has attained the age of 16 years*
2 in another permanent living arrangement;

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

6 (d) If the child has attained the age of ~~H6~~ 14 years, whether the
7 child will receive the services needed to assist the child in
8 transitioning to independent living; and

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

12 ~~{→}~~

13 4. The court shall prepare an explicit statement of the facts
14 upon which each of its determinations is based ~~H~~ *pursuant to*
15 *subsection 3. If the court determines that it is not in the best*
16 *interests of the child to be returned to his or her parents, or to be*
17 *placed for adoption, with a legal guardian or with a relative, the*
18 *court shall include the compelling reasons for this determination*
19 *in its statement of the facts. If the court determines that a*
20 *permanent placement other than that desired by the child is in the*
21 *best interests of the child, the court must also include an*
22 *explanation of the reasons for this determination with its*
23 *statement of the facts.*

24 5. If the court determines that it is in the best interests of the
25 child to terminate parental rights, the court shall use its best efforts
26 to ensure that the procedures required by chapter 128 of NRS are
27 completed within 6 months after the date the court makes that
28 determination, including, without limitation, appointing a private
29 attorney to expedite the completion of the procedures.

30 6. The provisions of this ~~subsection~~ *section* do not limit the
31 jurisdiction of the court to review any decisions of the agency with
32 legal custody of the child regarding the permanent placement of the
33 child.

34 ~~{4}~~ 7. If a child has been placed outside of the home and has
35 resided outside of the home pursuant to that placement for 14
36 months of any 20 consecutive months, the best interests of the child
37 must be presumed to be served by the termination of parental rights.

38 ~~{5}~~ 8. This hearing may take the place of the hearing for
39 review required by NRS 432B.580.

40 ~~{6}~~ 9. The provision of notice and a right to be heard pursuant
41 to this section does not cause any person planning to adopt the child,
42 any sibling of the child or any other relative, any adoptive parent of
43 a sibling of the child or a provider of foster care to become a party
44 to the hearing.



1 **Sec. 7.** This act becomes effective on July 1, 2015.

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