

Amendment No. 8

Assembly Amendment to Assembly Bill No. 8	(BDR 11-191)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MKM/BJF



Date: 4/2/2015

A.B. No. 8—Revises provisions relating to children. (BDR 11-191)



ASSEMBLY BILL NO. 8—COMMITTEE ON JUDICIARY

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

PREFILED DECEMBER 19, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to children. (BDR 11-191)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.

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 children; revising provisions concerning advertisements for the placement of children for adoption or permanent free care; prohibiting certain ~~interstate~~ transfers of children; ~~making various changes relating to the appointment of short term guardians of children;~~ **prohibiting the trafficking of children;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that any person or organization, other than an agency which provides child welfare services or a licensed child-placing agency, who advertises in any periodical or newspaper, or by radio or other public medium, that the person or organization will place children for adoption or accept, supply, provide or obtain children for adoption is guilty of a misdemeanor. (NRS 127.310) **Section 1** of this bill specifically applies this prohibition to a person or organization who advertises through a computerized communication system, including, without limitation, electronic mail, an Internet website or an Internet account.

~~Existing law authorizes a parent, without court approval, to appoint in writing a short term guardianship for his or her minor child under certain circumstances. The short term guardian appointed by the parent serves as the guardian of the minor child for not more than 6 months. (NRS 150.205) Sections 2 and 3 of this bill establish a procedure by which the appointment of the short term guardian may remain in effect for longer than 6 months if the person who is appointed as the short term guardian is related to the child within the third degree of consanguinity or is approved by a court of competent jurisdiction. Under sections 2 and 3, if the short term guardian is related to the child within the third degree of consanguinity, the appointment of the short term guardian may remain in effect for more than 6 months. In determining whether the appointment of a short term guardian who is not related to a child within the third degree of consanguinity may remain in effect, the best interests of the child must be the prevailing factor and the court must also consider whether the short term guardian would be fit, willing and able to exercise the guardianship, the reasons for the~~

22 appointment and the amount of support that the parent is willing and able to provide to the
23 guardian during the term of the guardianship.

24 ~~Existing law enacts the Interstate Compact on the Placement of Children to govern the~~
25 ~~interstate placement of children. (NRS 127.220) Under this Compact, any person,~~
26 ~~governmental entity or court in a state who sends, brings or causes to be sent or brought into~~
27 ~~another state any child for placement in foster care or as a preliminary to a possible adoption~~
28 ~~must comply with the provisions of the Compact. (NRS 127.220).~~

29 Section 4 of this bill enacts provisions prohibiting the trafficking of children. Section
30 4 provides that a person who sends a child out of this State, brings a child into this State or
31 causes a child to be sent out of this State or brought into this State for the purpose of
32 permanently transferring physical custody of the child to a person who is not related within
33 the third degree of consanguinity is guilty of a misdemeanor, unless the placement of the child
34 is authorized pursuant to the Compact or is approved by a court of competent jurisdiction in
35 the sending or receiving state.) shall not recruit, transport, transfer, harbor, provide,
36 obtain, maintain or solicit a child in furtherance of a transaction, or advertise or
37 facilitate a transaction, pursuant to which a parent of a child or a person with custody of
38 a child places the child in the physical custody of another person who is not related to
39 the child, for the purpose of permanently avoiding or divesting himself or herself of
40 responsibility for the child. Section 4 further provides that certain placements of a child
41 are not prohibited, including, without limitation, the placement of a child with a relative
42 or stepparent, the placement of a child with or by a licensed child-placing agency or
43 agency which provides child welfare services and the placement of a child with a person
44 that is approved by a court of competent jurisdiction. A person who violates section 4 is
45 guilty of a category C felony, and section 5 of this bill requires a court to order that a
46 person convicted of a violation of section 4 pay restitution to the victim of the crime.

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

1 **Section 1.** NRS 127.310 is hereby amended to read as follows:
2 127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and
3 127.285, any person or organization other than an agency which provides child
4 welfare services who, without holding a valid unrevoked license to place children
5 for adoption issued by the Division:

6 (a) Places, arranges the placement of, or assists in placing or in arranging the
7 placement of, any child for adoption or permanent free care; or

8 (b) Advertises ~~in any periodical or newspaper, or by radio or other public~~
9 ~~medium,~~ that he or she will place children for adoption ~~or permanent free care,~~
10 or accept, supply, provide or obtain children for adoption ~~or permanent free~~
11 ~~care,~~ or causes any advertisement to be ~~published in or by any public medium~~
12 ~~disseminated~~ soliciting, requesting or asking for any child or children for adoption
13 ~~or permanent free care,~~
14 ~~is~~ is guilty of a misdemeanor.

15 2. Any person who places, accepts placement of, or aids, abets or counsels the
16 placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is
17 guilty of a misdemeanor.

18 3. A periodical, newspaper, radio station, *Internet website* or other public
19 medium is not subject to any criminal penalty or civil liability for ~~publishing or~~
20 ~~broadcasting~~ *disseminating* an advertisement that violates the provisions of this
21 section.

22 4. A child-placing agency shall include in any advertisement concerning its
23 services ~~published in any periodical or newspaper or by radio or other public~~
24 ~~medium~~ a statement which:

(a) Confirms that the child-placing agency holds a valid, unrevoked license issued by the Division; and

(b) Indicates any license number issued to the child-placing agency by the Division.

5. *As used in this section:*

(a) "Advertise" or "advertisement" means a communication that originates within this State by any public medium, including, without limitation, a newspaper, periodical, telephone book listing, outdoor advertising, sign, radio, television or a computerized communication system, including, without limitation, electronic mail, an Internet website or an Internet account.

(b) "Internet account" means an account created within a bounded system established by an Internet-based service that requires a user to input or store information in an electronic device in order to view, create, use or edit the account information, profile, display, communications or stored data of the user.

Sec. 2. ~~Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. An appointment of a short term guardian pursuant to NRS 159.205 may remain in effect for longer than 6 months if the person who is appointed as the short term guardian is related to the child within the third degree of consanguinity or the appointment is approved by a court of competent jurisdiction as provided in this section.~~

~~2. A parent who wishes to extend the appointment of a short term guardian who is not related to the child within the third degree of consanguinity must file a petition with the court requesting approval of such appointment pursuant to subsection 1. The petition must include:~~

~~(a) The name, address and date of birth of the child subject to the guardianship;~~

~~(b) The names and addresses of the parents of the child;~~

~~(c) The name and address of the person nominated as guardian and the relationship of the person to the child;~~

~~(d) A statement regarding whether the parent wishes to give the guardian full parental power regarding the care and custody of the child or partial parental power regarding the care and custody of the child and, if the parent wishes to give partial parental power, the specific powers that the parent wishes to delegate and any limitations on those powers;~~

~~(e) The proposed term of the guardianship, the reasons for the guardianship and whether the parent proposes to provide any support to the guardian during the term of the guardianship. If so, the petition must indicate the amount of support the parent will provide;~~

~~(f) Facts and circumstances showing that the guardianship would be in the best interests of the child and that the person nominated as the guardian is fit, willing and able to exercise that appointment;~~

~~(g) If the appointment is being facilitated by an agency which provides child welfare services or a child placing agency, facts and circumstances showing that the agency which provides child welfare services or the child placing agency, as applicable, is authorized to facilitate that appointment.~~

~~3. The court shall hold a hearing on a petition filed pursuant to subsection 1 within 15 days after the filing of the petition. The petitioner shall cause the petition and notice of the time and place of the hearing to be served not later than 10 days before the hearing on:~~

~~(a) The child, if the child is 12 years of age or older;~~

~~(b) The guardian ad litem and counsel of the child, if any;~~

~~(c) The parents of the child;~~

~~(d) Any guardian, legal custodian or physical custodian of the child; and~~
~~(e) Any agency which provides child welfare services or child placing agency that is facilitating the guardianship.~~

~~4. At the hearing, the court shall first determine whether any party wishes to contest the petition. If the petition is not contested, the court shall immediately proceed to a fact finding and dispositional hearing unless an adjournment is requested. If the petition is contested or if an adjournment is requested, the court shall set a date for a fact finding and dispositional hearing that allows reasonable time for the parties to prepare but is not later than 30 days after the initial hearing. At the fact finding and dispositional hearing, any party may present evidence and argument relating to the allegations in the petition.~~

~~5. In determining the appropriate disposition of a petition filed pursuant to subsection 1, the best interests of the child must be the prevailing factor to be considered by the court. The court shall also consider whether the person nominated as the short term guardian would be fit, willing and able to exercise the guardianship, the reasons for the appointment and the amount of support that the parent is willing and able to provide to the guardian during the term of the guardianship.~~

~~6. At the conclusion of the fact finding and dispositional hearing, the court shall grant one of the following dispositions unless the court adjourns the hearing pursuant to subsection 7:~~

~~(a) A disposition dismissing the petition, if the court finds that the petitioner has not proved the allegations in the petition by clear and convincing evidence or determines that approval of the proposed guardianship is not in the best interests of the child; or~~

~~(b) A disposition approving the proposed guardianship, if the court finds that the petitioner has proved the allegations in the petition by clear and convincing evidence and determines that the proposed guardianship is in the best interests of the child. The disposition may also designate an amount of support to be paid by the child's parent to the guardian. If the court approves the proposed guardianship, the parent and the person appointed as guardian may execute a power of attorney as approved by the court.~~

~~7. If, at the conclusion of the fact finding and dispositional hearing, the court finds that the petitioner has proved the allegations in the petition by clear and convincing evidence but that the person nominated as the short term guardian is not fit, willing and able to serve as guardian or that appointment of that person as guardian would not be in the best interests of the child, the court may, in lieu of granting a disposition dismissing the petition pursuant to paragraph (a) of subsection 6, adjourn the hearing for not more than 30 days and request the petitioner or any other party to nominate a different person as the short term guardian.~~

~~8. As used in this section:~~

~~(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 132B.030.~~

~~(b) "Child placing agency" has the meaning ascribed to it in NRS 127.220.]~~
~~(Deleted by amendment.)~~

Sec. 3. ~~[NRS 159.205 is hereby amended to read as follows:~~

~~159.205 1. Except as otherwise provided in this section or NRS 127.045, a parent, without the approval of a court, may appoint in writing a short term guardianship for an unmarried minor child if the parent has legal custody of the minor child.~~

~~2. The appointment of a short term guardianship is effective for a minor who is 14 years of age or older only if the minor provides written consent to the guardianship.~~

~~3. The appointment of a short term guardian does not affect the rights of the other parent of the minor.~~

~~4. A parent shall not appoint a short term guardian for a minor child if the minor child has another parent:~~

~~(a) Whose parental rights have not been terminated;~~

~~(b) Whose whereabouts are known; and~~

~~(c) Who is willing and able to make and carry out daily child care decisions concerning the minor;~~

~~unless the other parent of the minor child provides written consent to the appointment.~~

~~5. The written instrument appointing a short term guardian becomes effective immediately upon execution and must include, without limitation:~~

~~(a) The date on which the guardian is appointed;~~

~~(b) The name of the parent who appointed the guardian, the name of the minor child for whom the guardian is appointed and the name of the person who is appointed as the guardian; and~~

~~(c) The signature of the parent and the guardian in the presence of a notary public acknowledging the appointment of the guardian. The parent and guardian are not required to sign and acknowledge the instrument in the presence of the other.~~

~~6. [The] Except as otherwise provided in section 2 of this act, the short term guardian appointed pursuant to this section serves as guardian of the minor for 6 months, unless the written instrument appointing the guardian specifies a shorter term or specifies that the guardianship is to terminate upon the happening of an event that occurs sooner than 6 months.~~

~~7. Only one written instrument appointing a short term guardian for the minor child may be effective at any given time.~~

~~8. The appointment of a short term guardian pursuant to this section:~~

~~(a) May be terminated by an instrument in writing signed by either parent if that parent has not been deprived of the legal custody of the minor.~~

~~(b) Is terminated by any order of a court of competent jurisdiction that appoints a guardian.] (Deleted by amendment.)~~

Sec. 4. Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person who sends a child out of this State or brings a child into this State, or causes a child to be sent out of this State or brought into this State, for the purpose of permanently transferring physical custody of the child to a person who is not related to the child within the third degree of consanguinity is guilty of a misdemeanor.] shall not:

(a) Recruit, transport, transfer, harbor, provide, obtain, maintain or solicit a child in furtherance of a transaction, or advertise or facilitate a transaction, pursuant to which a parent of the child or a person with custody of the child places the child in the physical custody of another person who is not a relative of the child, for the purpose of permanently avoiding or divesting himself or herself of responsibility for the child.

(b) Sell, transfer or arrange for the sale or transfer of a child to another person for money or anything of value or receive a child in exchange for money or anything of value.

2. The provisions of subsection 1 do not apply to:

(a) A placement of a child with a relative, stepparent, child-placing agency or an agency which provides child welfare services;

(b) A placement of a child by a child-placing agency or an agency which provides child welfare services;

(c) A temporary placement of a child with another person by a parent of the child or a person with legal or physical custody of the child, with an intent to return for the child, including, without limitation, a temporary placement of a child while the parent of the child or the person with legal or physical custody of the child is on vacation, incarcerated, serving in the military, receiving medical treatment or incapacitated;

(d) A placement of a child in accordance with NRS 127.330 ~~+~~

~~+~~ 159.205 or 159.215;

(e) A placement of a child that is approved by a court of competent jurisdiction ~~of the sending state or receiving state.~~ ; or

(f) Delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

3. A person who violates the provisions of subsection 1 is guilty of trafficking in children and shall be punished for a category C felony as provided in NRS 193.130.

4. As used in this section:

(a) "Advertise" has the meaning ascribed to it in NRS 127.310.

(b) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(c) "Child" means a person who is less than 18 years of age.

(d) "Child-placing agency" has the meaning ascribed to it in NRS 127.220.

Sec. 5. NRS 200.469 is hereby amended to read as follows:

200.469 1. In addition to any other penalty, the court may order a person convicted of violation of any provision of NRS 200.467 or 200.468 or section 4 of this act to pay restitution to the victim as provided in subsection 2.

2. Restitution ordered pursuant to this section may include, without limitation:

(a) The cost of medical and psychological treatment, including, without limitation, physical and occupational therapy and rehabilitation;

(b) The cost of transportation, temporary housing and child care;

(c) The return of property, the cost of repairing damaged property or the full value of the property if it is destroyed or damaged beyond repair;

(d) Expenses incurred by a victim in relocating away from the defendant or his or her associates, if the expenses are verified by law enforcement to be necessary for the personal safety of the victim;

(e) The cost of repatriation of the victim to his or her home country, if applicable; and

(f) Any and all other losses suffered by the victim as a result of the violation of any provision of NRS 200.467 or 200.468 ~~+~~ or section 4 of this act.

3. The return of the victim to his or her home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.

4. As used in this section, "victim" means any person:

(a) Against whom a violation of any provision of NRS 200.467 or 200.468 or section 4 of this act has been committed; or

(b) Who is the surviving child of such a person.