

ASSEMBLY BILL NO. 142—ASSEMBLYMAN FLORES

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Establishes provisions concerning children seeking federal status as special immigrant juveniles. (BDR 1-739)

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 children; requiring a court to enter an order setting forth certain findings that enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security upon a determination that evidence exists to support such findings; authorizing a court to appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking such status in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing federal law authorizes the issuance of an immigrant visa to a special
2 immigrant upon satisfactory proof that the applicant is entitled to status as a special
3 immigrant. (8 U.S.C. § 1204) Existing federal law defines the term "special
4 immigrant" to include a juvenile immigrant who is present in the United States and:
5 (1) has been declared dependent on a juvenile court or has been legally committed
6 to, or placed under the custody of, an agency or department of a state or an
7 individual or entity appointed by a state or juvenile court; (2) whose reunification
8 with one or both of his or her parents is not viable due to abuse, neglect,
9 abandonment or a similar basis found under state law; (3) for whom it has been
10 determined in administrative or judicial proceedings that it would not be in his or
11 her best interest to be returned to the previous country of nationality or last habitual
12 residence of the child or his or her parents; and (4) who is granted status as a
13 special immigrant juvenile by the Secretary of Homeland Security through the
14 United States Citizenship and Immigration Services. (8 U.S.C. § 1101(a)(27)(J))
15 Existing federal regulations: (1) provide that a person is eligible for classification as
16 a special immigrant if, in addition to satisfying other requirements, the person is
17 less than 21 years of age and is unmarried; and (2) define the term "juvenile court"



as a court located in the United States having jurisdiction under state law to make judicial determinations about the custody and care of juveniles. (8 C.F.R. § 204.11)

Section 1 of this bill authorizes the district court to make the factual findings necessary to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security at any time during certain proceedings. **Section 1** sets forth the factual findings necessary to enable a child to apply for such status and: (1) requires the court to issue an order setting forth such findings upon a determination by the court that evidence exists to support such findings; and (2) prohibits the court from making any additional findings regarding the asserted, purported or perceived motivation of the child seeking status as a special immigrant juvenile or of the person requesting that the court make such findings. **Section 1** also provides that any records containing information concerning the immigration status of such a child that are not otherwise confidential must be sealed and made available for inspection only by certain persons. **Section 1** further requires the Supreme Court to adopt any rules and procedures necessary to implement the provisions of the section.

Section 2 of this bill provides that if a person includes in a petition filed or motion made in a guardianship proceeding a request that the court make the findings necessary to enable a child to apply for status as a special immigrant juvenile, the court may, in certain circumstances, appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking such status. **Section 3** of this bill provides that such a guardianship is terminated on the date on which the ward reaches 21 years of age unless the ward petitions the court to terminate the guardianship before he or she reaches 21 years of age and the court grants the petition.

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

Section 1. Chapter 3 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The district court has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq., and the regulations adopted pursuant thereto, and therefore may make the factual findings necessary to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security, as described in 8 U.S.C. § 1101(a)(27)(J).

2. The factual findings set forth in subsection 3 may be made by the district court at any time during a proceeding held pursuant to chapter 62B, 125, 159 or 432B of NRS.

3. A person may include in a petition filed or motion made pursuant to chapter 62B, 125, 159 or 432B of NRS a request that the court make the following findings to enable a child to apply for status as a special immigrant juvenile with the United States Citizenship and Immigration Services:



1 (a) The child has been declared dependent on the court or has
2 been legally committed to, or placed under the custody of, a state
3 agency or department or a person appointed by the court;

4 (b) The reunification of the child with one or both of his or her
5 parents was determined not to be viable because of abandonment,
6 abuse or neglect or a similar basis under the laws of this State;
7 and

8 (c) It is not in the best interests of the child to be returned to
9 the previous country of nationality or last habitual residence of the
10 child or his or her parents.

11 4. If the court determines that there is evidence to support the
12 findings set forth in subsection 3, including, without limitation, a
13 declaration by the child who is the subject of the petition, the court
14 shall issue an order setting forth such findings. The court shall
15 include in the order the date on which the:

16 (a) Dependency, commitment or custody of the child was
17 ordered; and

18 (b) Reunification of the child with one or both of his or her
19 parents was determined not to be viable.

20 5. The court shall not:

21 (a) Make any additional findings regarding the asserted,
22 purported or perceived motivation of the child seeking status as a
23 special immigrant juvenile or the person requesting that the court
24 make the findings set forth in subsection 3; or

25 (b) Include or reference any such asserted, purported or
26 perceived motivation of any such person as a part of its findings
27 pursuant to this section.

28 6. In any proceeding held regarding a petition filed pursuant
29 to subsection 3, any records containing information concerning
30 the immigration status of a child that are not otherwise
31 confidential pursuant to any provision of law must be sealed and
32 made available for inspection only by:

33 (a) The court;

34 (b) The child who is the subject of the proceeding and his or
35 her attorney and guardian; and

36 (c) Any party to the proceeding and his or her attorney.

37 7. The Supreme Court shall adopt any rules and procedures
38 necessary to implement the provisions of this section.

39 8. As used in this section:

40 (a) "Abandonment" has the meaning ascribed to
41 "abandonment of a child" in NRS 128.012.

42 (b) "Abuse or neglect" has the meaning ascribed to "abuse or
43 neglect of a child" in NRS 432B.020.

44 (c) "Child" means an unmarried person who is less than 21
45 years of age.



(d) *"Special immigrant juvenile" means a person described in 8 U.S.C. § 1101(a)(27)(J).*

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

1. If a person includes a request that the court make the findings set forth in subsection 3 of section 1 of this act in a petition filed or motion made pursuant to this chapter, the court may appoint or extend the appointment of a guardian of the person for a ward or proposed ward seeking status as a special immigrant juvenile with the United States Citizenship and Immigration Services of the Department of Homeland Security if the ward or proposed ward:

(a) Is an unmarried person who is 18 years of age or older but less than 21 years of age; and

(b) Consents to the appointment or the extension of the appointment.

2. The appointment or the extension of the appointment of a guardian of the person pursuant to subsection 1 does not authorize the guardian to abrogate any rights that the ward or proposed ward may have pursuant to the laws of this State, including, without limitation, the right to make decisions regarding his or her medical treatment, education or residence, without the express consent of the ward or proposed ward.

Sec. 3. NRS 159.191 is hereby amended to read as follows:

159.191 1. ~~1A~~ *Except as otherwise provided in subsection 2, a guardianship of the person is terminated:*

(a) By the death of the ward;

(b) Upon the ward's change of domicile to a place outside this state and the transfer of jurisdiction to the court having jurisdiction in the new domicile;

(c) Upon order of the court, if the court determines that the guardianship no longer is necessary; or

(d) If the ward is a minor:

(1) On the date on which the ward reaches 18 years of age; or

(2) On the date on which the ward graduates from high school or becomes 19 years of age, whichever occurs sooner, if:

(I) The ward will be older than 18 years of age upon graduation from high school; and

(II) The ward and the guardian consent to continue the guardianship and the consent is filed with the court at least 14 days before the date on which the ward will become 18 years of age.

2. If a court appoints or extends the appointment of a guardian of the person pursuant to section 2 of this act, the guardianship is terminated on the date on which the ward reaches 21 years of age, unless the ward petitions the court to terminate



the guardianship before he or she reaches 21 years of age pursuant to NRS 159.1905 and the court grants the petition.

~~3.~~ 3. A guardianship of the estate is terminated:

(a) If the court removes the guardian or accepts the resignation of the guardian and does not appoint a successor guardian;

(b) If the court determines that the guardianship is not necessary and orders the guardianship terminated; or

(c) By the death of the ward, subject to the provisions of NRS 159.193.

~~4.~~ 4. If the guardianship is of the person and estate, the court may order the guardianship terminated as to the person, the estate, or the person and estate.

~~5.~~ 5. The guardian shall notify the court, all interested parties, the trustee, and the named executor or appointed personal representative of the estate of the ward of the death of the ward within 30 days after the death.

~~6.~~ 6. Immediately upon the death of the ward:

(a) The guardian of the estate shall have no authority to act for the ward except to wind up the affairs of the guardianship pursuant to NRS 159.193, and to distribute the property of the ward as provided in NRS 159.195 and 159.197; and

(b) No person has standing to file a petition pursuant to NRS 159.078.

Sec. 4. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,



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1 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
2 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
3 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
4 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
5 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
6 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
7 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
8 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
9 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
10 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
11 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
12 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
13 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
14 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
15 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
16 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
17 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
18 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
19 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
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21 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
22 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
23 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
24 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
25 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
26 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
27 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
28 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
29 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
30 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
31 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
32 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
33 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
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38 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
39 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
40 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
41 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
42 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
43 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
44 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
45 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,



1 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41
2 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter
3 391, Statutes of Nevada 2013 and unless otherwise declared by law
4 to be confidential, all public books and public records of a
5 governmental entity must be open at all times during office hours to
6 inspection by any person, and may be fully copied or an abstract or
7 memorandum may be prepared from those public books and public
8 records. Any such copies, abstracts or memoranda may be used to
9 supply the general public with copies, abstracts or memoranda of the
10 records or may be used in any other way to the advantage of the
11 governmental entity or of the general public. This section does not
12 supersede or in any manner affect the federal laws governing
13 copyrights or enlarge, diminish or affect in any other manner the
14 rights of a person in any written book or record which is
15 copyrighted pursuant to federal law.

16 2. A governmental entity may not reject a book or record
17 which is copyrighted solely because it is copyrighted.

18 3. A governmental entity that has legal custody or control of a
19 public book or record shall not deny a request made pursuant to
20 subsection 1 to inspect or copy or receive a copy of a public book or
21 record on the basis that the requested public book or record contains
22 information that is confidential if the governmental entity can
23 redact, delete, conceal or separate the confidential information from
24 the information included in the public book or record that is not
25 otherwise confidential.

26 4. A person may request a copy of a public record in any
27 medium in which the public record is readily available. An officer,
28 employee or agent of a governmental entity who has legal custody
29 or control of a public record:

30 (a) Shall not refuse to provide a copy of that public record in a
31 readily available medium because the officer, employee or agent has
32 already prepared or would prefer to provide the copy in a different
33 medium.

34 (b) Except as otherwise provided in NRS 239.030, shall, upon
35 request, prepare the copy of the public record and shall not require
36 the person who has requested the copy to prepare the copy himself
37 or herself.

