

Amendment No. 101

Senate Amendment to Senate Bill No. 237

(BDR 38-469)

Proposed by: Senate Committee on Health and Human Services**Amends:** Summary: Yes 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.

CSL/RBL



Date: 4/5/2017

S.B. No. 237—Revises provisions concerning the placement of a child into protective custody. (BDR 38-469)



SENATE BILL NO. 237—SENATORS HARRIS AND GANSERT

MARCH 7, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions ~~concerning the placement of a child into protective custody.~~ relating to the protection of children. (BDR 38-469)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the protection of children; requiring a court to ~~determine at a hearing on protective custody whether there is a plan to address the safety of a child in his or her home that satisfies certain requirements;~~ consider whether an agency which provides child welfare services has created an in-home safety plan for the protection of a child in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a child to be removed from his or her home and placed into protective custody in certain circumstances. (NRS 432B.390) After a child is placed in protective custody, the child and the parent or other person responsible for the child's welfare must be given a hearing to determine whether the child should remain in protective custody. (NRS 432B.470) ~~At the hearing, the court is required to determine whether there is reasonable cause to believe that it would be: (1) contrary to the welfare of the child for the child to reside at his or her home; or (2) in the best interests of the child to place the child outside of his or her home. (NRS 432B.480)~~ Existing law requires an agency which provides child welfare services to make reasonable efforts and exercise diligence and care to reunify a child with his or her family. (NRS 432B.393) This bill ~~further~~ requires ~~that a court to determine~~ consider whether ~~it is possible to implement a sufficient, feasible and sustainable plan to address the safety of the child in his or her home,~~ the agency has created an in-home safety plan as part of these efforts. This bill defines "in-home safety plan" as a plan created by the agency to ensure the safety of a child in his or her home, including, without limitation, managing any potential threats to the safety of the child.

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

Section 1. ~~NRS 432B.480 is hereby amended to read as follows:~~

~~432B.480 1. At each hearing conducted pursuant to NRS 432B.470:~~

~~(a) At the commencement of the hearing, the court shall advise the parties of their right to be represented by an attorney and of their right to present evidence.~~

~~(b) The court shall determine whether there is reasonable cause to believe that it would be:~~

~~(1) Contrary to the welfare of the child for the child to reside at his or her home; or~~

~~(2) In the best interests of the child to place the child outside of his or her home.~~

~~***In making its determinations, the court shall determine whether an in-home safety plan that is sufficient, feasible and sustainable can be implemented to protect the child from danger.*** The court shall prepare an explicit statement of the facts upon which each of its determinations is based. If the court makes an affirmative finding regarding either subparagraph (1) or (2), the court shall issue an order keeping the child in protective custody pending a disposition by the court.~~

~~(c) The court shall determine whether the child has been placed in a home or facility that complies with the requirements of NRS 432B.3905. If the placement does not comply with the requirements of NRS 432B.3905, the court shall establish a plan with the agency which provides child welfare services for the prompt transfer of the child into a home or facility that complies with the requirements of NRS 432B.3905.~~

~~2. If the court issues an order keeping the child in protective custody pending a disposition by the court and it is in the best interests of the child, the court may:~~

~~(a) Place the child in the temporary custody of a grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child who the court finds has established a meaningful relationship with the child, with or without supervision upon such conditions as the court prescribes, regardless of whether the relative resides within this State; or~~

~~(b) Grant the grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child a reasonable right to visit the child while the child is in protective custody.~~

~~3. If the court finds that the best interests of the child do not require that the child remain in protective custody, the court shall order the immediate release of the child.~~

~~4. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.~~

~~5. ***As used in this section, "in-home safety plan" means a plan to address the safety of the child in his or her home to manage any threats of danger to the child, the vulnerability of the child to those threats and the capacity of the person who is responsible for the child's welfare to protect the child from those threats.***~~
~~**(Deleted by amendment.)**~~

Sec. 1.5. 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

1 placement of the child, the agency which provides child welfare services shall make
2 reasonable efforts to place the child in a timely manner in accordance with that plan
3 and to complete whatever actions are necessary to finalize the permanent placement
4 of the child.

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

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

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

10 (2) Caused the abuse or neglect of the child, or of another child of the
11 parent or other person responsible for the child's welfare, which resulted in
12 substantial bodily harm to the abused or neglected child;

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

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

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

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

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

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

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

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

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

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

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

44 4. Except as otherwise provided in subsection 6, for the purposes of this
45 section, unless the context otherwise requires, "reasonable efforts" have been made
46 if an agency which provides child welfare services to children with legal custody of
47 a child has exercised diligence and care in arranging appropriate, accessible and
48 available services that are designed to improve the ability of a family to provide a
49 safe and stable home for each child in the family, with the health and safety of the
50 child as its paramount concerns. The exercise of such diligence and care includes,
51 without limitation, obtaining necessary and appropriate information concerning the
52 child for the purposes of NRS 127.152, 127.410 and 424.038, and, if necessary,
53 creating an in-home safety plan for the protection of the child.

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

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

(b) Consider any input from the child;

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

(d) Consider the diligence and care that the agency is legally authorized and able to exercise including, without limitation, the efforts to create an in-home safety plan;

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

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

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

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

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

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

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

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

(a) Made by the court on a case-by-case basis;

(b) Based upon specific evidence; and

(c) Expressly stated by the court in its order.

8. As used in this section, "in-home safety plan" means a plan created by an agency which provides child welfare services to ensure the protection of a child in his or her home, including, without limitation, determining any vulnerabilities of the child, managing any potential threats to the safety of the child and determining the capacity of the person responsible for the welfare of the child to care for the child.

Sec. 2. This act becomes effective on July 1, 2017.