

Amendment No. 158

Senate Amendment to Senate Bill No. 274

(BDR 38-925)

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

EWR/JWP



Date: 4/18/2017

S.B. No. 274—Revises provisions relating to sibling visitation in child welfare cases. (BDR 38-925)



SENATE BILL NO. 274—SENATORS RATTI, FARLEY, SEGERBLOM, CANCELA, PARKS;
CANNIZZARO, DENIS, MANENDO, SPEARMAN AND WOODHOUSE

MARCH 15, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to sibling visitation in child welfare cases. (BDR 38-925)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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 governing certain reports of an agency which provides child welfare services concerning a child who is in need of protection; requiring a court to allow a sibling of a child who is found to be in need of protection to inspect certain records; revising provisions concerning agreements for postadoptive contact between a natural parent and a child or the adoptive parents of the child; revising provisions governing a hearing to determine whether to include an order for visitation with a sibling in a decree of adoption; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an agency acting as the custodian of a child who is in need of protection and is placed with someone other than a parent to submit a report to the court before any hearing for a review of that placement. If a child is not placed with his or her siblings, the report must include a plan for the child to visit his or her siblings. (NRS 432B.580) **Section 1** of this bill requires the agency which provides child welfare services to update the plan for visitation to reflect any change in the placement of the child or any sibling of the child. **Section 1** also requires the court to provide any sibling who has been granted a right to visitation with the child with notice of a hearing to review the placement of the child. **Sections 1 and 2** of this bill require the court to provide each sibling of a child who is found to be in need of protection with the case number of each relevant proceeding and allow the sibling to inspect certain records for the purpose of petitioning the court for visitation with the child and enforcing an order for visitation.

Existing law provides that an agreement for postadoptive contact between a child and his or her natural parents or the adoptive parents of a child and the natural parents of that child is enforceable if it is in writing, signed by the parties and incorporated into an order or decree of adoption. (NRS 127.187) Section 2.3 of this bill requires that if the agreement concerns a child who was in the custody of an agency which provides child welfare services before being adopted, a determination must be made by such an agency or the court that the agreement is in the best interest of the child.

Existing law authorizes a natural parent who has entered into an agreement for postadoptive contact to petition the court to prove the existence of the agreement and

request that the agreement be incorporated into the order or decree of adoption or to enforce the terms of the agreement. (NRS 127.1885) Section 2.7 of this bill requires such a petition to be: (1) served on each natural parent or adoptive parent who has entered into the agreement; and (2) heard by the same judge who issued the order or decree of adoption if he or she is available. Section 3.3 of this bill establishes a reduced filing fee for the filing of such a petition. Section 2.3 requires a natural or adoptive parent who has entered into an agreement for postadoptive contact to provide the court with an address at which such a petition may be served.

Existing law requires a court to conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption of a child who is in the custody of an agency which provides child welfare services. (NRS 127.2827) ~~Section 3 of this bill~~ instead requires the court to incorporate such an order into the decree of adoption unless an interested party petitions the court to exclude or amend the order for visitation. Section 3 additionally: (1) requires the court to hold ~~such a~~ the hearing on such a petition on a different date than the hearing on the petition for adoption; (2) gives any ~~sibling~~ interested party the right to participate in the hearing; and (3) requires the clerk of the court to provide notice of the time and place of the hearing to certain persons. If an order for visitation is included in the decree for adoption, ~~section 3~~ section 3 authorizes a party to the order to petition for enforcement of the order at any time.

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

Section 1. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report to the court, or to the panel if it has been designated to review the matter, which includes:

(a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation.

(b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

(1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be *presented at the first hearing to occur after the siblings are separated and* approved by the court. *The plan for visitation must be updated as necessary to reflect any change in the placement of the child or a sibling, including, without limitation, any such change that occurs after the termination of parental rights to the child or a sibling or the adoption of a sibling.*

(c) A copy of an academic plan developed for the child pursuant to NRS 388.155, 388.165 or 388.205.

(d) A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to NRS 424.0383.

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. *Upon the issuance of such an order, the court shall provide each sibling of the child with the case number of the proceeding for the purpose of allowing the sibling to petition the court for visitation or enforcement of the order for visitation.* If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and subsection 5 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

(a) All the parties to any of the prior proceedings;
(b) Any persons planning to adopt the child;
(c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to *this section or* NRS 127.171 and his or her attorney, if any; and

(d) Any other relatives of the child or providers of foster care who are currently providing care to the child.

7. The notice of the hearing required to be given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;
(b) Must not include any confidential information described in NRS 127.140; and

(c) Need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

8. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 a right to be heard at the hearing.

9. The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;
(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

10. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or

any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

Sec. 2. NRS 127.140 is hereby amended to read as follows:

127.140 1. Except as otherwise provided in NRS 239.0115, all hearings held in proceedings under this chapter are confidential and must be held in closed court, without admittance of any person other than the petitioners, their witnesses, the director of an agency, or their authorized representatives, attorneys and persons entitled to notice by this chapter, except by order of the court.

2. The files and records of the court in adoption proceedings are not open to inspection by any person except:

(a) Upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor;

(b) If a natural parent and the child are eligible to receive information from the State Register for Adoptions; or

(c) As provided pursuant to subsections 3, 4, ~~and~~ 5 ~~and~~ 6.

3. An adoptive parent who intends to file a petition pursuant to NRS 127.1885 or 127.1895 to enforce, modify or terminate an agreement that provides for postadoptive contact may inspect only the portions of the files and records of the court concerning the agreement for postadoptive contact.

4. A natural parent who intends to file a petition pursuant to NRS 127.1885 to prove the existence of or to enforce an agreement that provides for postadoptive contact or to file an action pursuant to NRS 41.509 may inspect only the portions of the files or records of the court concerning the agreement for postadoptive contact.

5. *Upon the request of a sibling or adoptive child who wishes to enforce an order for visitation included in a decree of adoption pursuant to NRS 127.2827, the court shall provide the case number of the adoption proceeding to the sibling and allow the sibling to inspect only the portions of the files or records of the court concerning the order for visitation.*

6. The portions of the files and records which are made available for inspection by an adoptive parent, ~~or~~ natural parent *or sibling* pursuant to subsection 3, ~~or~~ 4 *or 5* must not include any confidential information, including, without limitation, any information that identifies or would lead to the identification of a natural parent if the identity of the natural parent is not included in the agreement for postadoptive contact ~~or order for visitation, as applicable.~~

Sec. 2.3. NRS 127.187 is hereby amended to read as follows:

127.187 1. The natural parent or parents and the prospective adoptive parent or parents of a child to be adopted may enter into an enforceable agreement that provides for postadoptive contact between:

(a) The child and his or her natural parent or parents;

(b) The adoptive parent or parents and the natural parent or parents; or

(c) Any combination thereof.

2. An agreement that provides for postadoptive contact is enforceable if: ~~the agreement;~~

(a) ~~The agreement is~~ in writing and signed by the parties; ~~and~~

(b) ~~The agreement is~~ incorporated into an order or decree of adoption. ~~and~~ *and*

(c) In the case of an agreement that concerns a child who was in the custody of an agency which provides child welfare services before being adopted:

(1) The agency which provides child welfare services has determined that the agreement is in the best interest of the child; or

(2) The court has determined, after a hearing, that the agreement is in the best interest of the child.

3. The identity of a natural parent is not required to be included in an agreement that provides for postadoptive contact. If such information is withheld, an agent who may receive service of process for the natural parent must be provided in the agreement.

4. On the date on which a court enters an order or decree of adoption that incorporates an agreement that provides for postadoptive contact, a natural parent or adoptive parent who has entered into the agreement shall provide to the court an address at which the natural or adoptive parent may receive service of a petition filed pursuant to NRS 127.1885. The court may order the agency which provides child welfare services to provide the court with the contact information of a natural or adoptive parent who refuses to comply with the provisions of this subsection. If the court so orders, the agency which provides child welfare services shall provide that information under seal.

5. If a natural or adoptive parent changes the address he or she provided to the court pursuant to subsection 4, the parent shall file with the clerk of the court notice of the change of address within 15 days after the change of address.

6. A court that enters an order or decree of adoption which incorporates an agreement that provides for postadoptive contact shall retain jurisdiction to enforce, modify or terminate the agreement that provides for postadoptive contact until:

- (a) The child reaches 18 years of age;
- (b) The child becomes emancipated; or
- (c) The agreement is terminated.

~~15.7~~ 7. The establishment of an agreement that provides for postadoptive contact does not affect the rights of an adoptive parent as the legal parent of the child as set forth in NRS 127.160.

Sec. 2.7. NRS 127.1885 is hereby amended to read as follows:

127.1885 1. A natural parent who has entered into an agreement that provides for postadoptive contact pursuant to NRS 127.187 may, for good cause shown:

(a) Petition the court that entered the order or decree of adoption of the child to prove the existence of the agreement that provides for postadoptive contact and to request that the agreement be incorporated into the order or decree of adoption; and

(b) During the period set forth in subsection 2 of NRS 127.189, petition the court that entered the order or decree of adoption of the child to enforce the terms of the agreement that provides for postadoptive contact if the agreement complies with the requirements of subsection 2 of NRS 127.187.

2. An adoptive parent who has entered into an agreement that provides for postadoptive contact pursuant to NRS 127.187 may:

(a) During the period set forth in subsection 2 of NRS 127.189, petition the court that entered the order or decree of adoption of the child to enforce the terms of the agreement that provides for postadoptive contact if the agreement complies with the requirements of subsection 2 of NRS 127.187; and

(b) Petition the court that entered the order or decree of adoption of the child to modify or terminate the agreement that provides for postadoptive contact in the manner set forth in NRS 127.1895.

3. A petition filed pursuant to this section must be:

(a) Filed under the same case number as the proceeding for adoption;

(b) Served by registered mail upon each natural parent or adoptive parent who has entered into the agreement that provides for postadoptive contact at the address provided pursuant to subsection 4 or 5 of NRS 127.187; and

(c) Heard by:

(1) If he or she is available, the judge who issued the order or decree of adoption of the child;

(2) If the judge described in subparagraph (1) is unavailable and if a family court has been established in the judicial district, a judge of the family court; or

(3) If the judge described in subparagraph (1) is unavailable and if a family court has not been established in the judicial district, any district judge of the judicial district.

Sec. 3. NRS 127.2827 is hereby amended to read as follows:

127.2827 1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption. ~~1. The hearing must be held on a different date than the hearing on the petition for adoption. Any interested sibling and his or her attorney, if any, are entitled to participate in the hearing.~~

2. ~~The clerk of the court shall give written notice of the time and place of the hearing held pursuant to subsection 1 to the adoptive parent, the adoptive child, a sibling of the adoptive child, the attorney of the adoptive child or a sibling of the adoptive child, the agency which provides child welfare services and a licensed child-placing agency. Upon the petition of a sibling requesting the inclusion of an order for visitation in the decree for adoption, the court may require the agency which provides child welfare services or the child-placing agency to provide the clerk of the court with the contact information of those persons. If so ordered, the agency which provides child welfare services or the child-placing agency must provide such contact information under seal.~~

~~3. Any~~ 3. Any ~~court shall incorporate an order for visitation provided to the court pursuant to subsection 1 into the decree of adoption unless, not later than 30 days after notice of the filing of the petition for adoption is provided to the legal custodian or guardian of the child pursuant to NRS 127.123, any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency~~ may petition ~~the court to participate in the determination of whether to include an~~ exclude the ~~order of visitation with a sibling~~ from ~~the decree of adoption.~~ or amend the order for visitation before including the order in the decree of adoption.

~~3. 4. The hearing on a petition submitted pursuant to subsection 2 must be held on a different date than the hearing on the petition for adoption. Any interested party is entitled to participate in the hearing. The clerk of the court shall give written notice of the time and place of the hearing to the adoptive parent, the adoptive child, a sibling of the adoptive child, the attorney for the adoptive child or a sibling of the adoptive child, the agency which provides child welfare services and a licensed child-placing agency. Upon the petition of a sibling requesting the inclusion of an order for visitation in the decree of adoption, the court may require the agency which provides child welfare services or the child-placing agency to provide the clerk of the court with the contact information of the adoptive parent, the adoptive child and the attorney for the adoptive child. If so ordered, the agency which provides child welfare services or the child-placing agency must provide such contact information under seal.~~

4. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child. If a petition is submitted pursuant to subsection 2, the court must not enter a decree of adoption until the court has made a determination concerning visitation with a sibling.

1 5. *If an order for visitation with a sibling is included in a decree of*
2 *adoption, the court shall, upon the request of a party to the order, provide to the*
3 *party the case number of the adoption proceeding and any documents or records*
4 *necessary to enforce the order.*

5 6. *A party to an order for visitation may petition for enforcement of the*
6 *order at any time while the order is in effect. A person who fails to comply with*
7 *the order is in contempt of court. If a party to an order for visitation withholds*
8 *the contact information of any person in violation of the order, the court may*
9 *order the agency which provides child welfare services or a licensed child-placing*
10 *agency to provide such contact information to the ~~party who filed the petition for~~*
11 *~~enforcement,~~ court under seal.*

12 Sec. 3.3. NRS 19.034 is hereby amended to read as follows:

13 19.034 1. If the agency which provides child welfare services, or a child-
14 placing agency licensed by the Division of Child and Family Services of the
15 Department of Health and Human Services pursuant to chapter 127 of NRS,
16 consents to the adoption of a child with special needs pursuant to NRS 127.186, the
17 clerk of the court shall reduce the total filing fee to not more than \$1 for filing the
18 petition to adopt such a child.

19 2. If a natural parent or adoptive parent who has entered into an agreement
20 that provides for postadoptive contact pursuant to NRS 127.187 files a petition
21 pursuant to subsection 1 or 2 of NRS 127.1885, the clerk of the court shall reduce
22 the total filing fee to not more than \$1 for filing the petition.

23 Sec. 4. This act becomes effective on July 1, 2017.