

Amendment No. 156

Senate Amendment to Senate Bill No. 305 (BDR 38-926)

Proposed by: Senate Committee on Health and Human Services

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will:

(1) ADD a 2/3s majority vote requirement for final passage of S.B. 305 (§ 4.5).

(2) MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 305 (§§ 1, 4).

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: 4/20/2017

S.B. No. 305—Revises provisions regarding certain proceedings concerning children. (BDR 38-926)



SENATE BILL NO. 305—SENATORS RATTI, FORD, SEGERBLOM, MANENDO, PARKS;
ATKINSON, CANCELA, SPEARMAN AND WOODHOUSE

MARCH 17, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions regarding certain proceedings concerning children. (BDR 38-926)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.CONTAINS UNFUNDED MANDATE (§§ 1, 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; requiring a court to appoint an attorney to represent a child in certain proceedings; providing ~~that a guardian ad litem appointed for a child who may be in need of protection is not entitled to compensation;~~ for the compensation of the attorney; excluding certain persons from appointment as a guardian ad litem; increasing the maximum amount of the fee that a board of county commissioners may impose for recording certain documents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes, but does not require, the court to appoint an attorney to represent a child who is alleged to have been abused or neglected in civil child protection proceedings and proceedings to terminate parental rights. (NRS 128.100, 432B.420) **Sections 1 and 4** of this bill: (1) require the court to appoint an attorney to represent a child who is alleged to have been abused or neglected in such proceedings; and (2) provide that the child is deemed to be a party to such proceedings. Section 1 further provides for the compensation of the attorney who is so appointed. **Section 3** of this bill makes a conforming change.

Existing law requires a court to appoint a guardian ad litem for a child after a petition is filed that the child is in need of protection. (NRS 432B.500) **Section 2** of this bill ~~provides that~~ prohibits the court from appointing an attorney who has been appointed to represent the child to also serve as a guardian ad litem. ~~who is so appointed is not entitled to compensation or payment for expenses, and excludes certain persons from appointment.~~

Existing law authorizes a board of county commissioners to impose a fee of not more than \$3 for recording certain documents to fund the provision of legal services to abused and neglected children. (NRS 247.305) Section 4.5 of this bill increases the maximum amount of this fee to \$6.

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

Section 1. NRS 432B.420 is hereby amended to read as follows:

432B.420 1. A parent or other person responsible for the welfare of a child who is alleged to have abused or neglected the child may be represented by an attorney at all stages of any proceedings under NRS 432B.410 to 432B.590, inclusive. Except as otherwise provided in subsection ~~2~~ 3, if the person is indigent, the court may appoint an attorney to represent the person.

2. *A child who is alleged to have been abused or neglected shall be deemed to be a party to any proceedings under NRS 432B.410 to 432B.590, inclusive.* The court ~~may, if it finds it appropriate,~~ *shall* appoint an attorney to represent the child. The child ~~may~~ *must* be represented by an attorney at all stages of any proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive. ~~If the child is represented by an attorney, the~~ *The* attorney *representing the child* has the same authority and rights as an attorney representing ~~that~~ *any other* party to the proceedings.

~~2~~ 3. If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; *and*

(b) ~~May appoint an attorney to represent the Indian child; and~~

~~—(c)—~~ May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

~~as provided in the Indian Child Welfare Act.~~

~~3~~ 4. Each attorney, other than a public defender, ~~or an attorney compensated through a program for legal aid described in NRS 19.031 and 247.305,~~ if appointed under the provisions of subsection 1 ~~or 2,~~ is entitled to the same compensation and payment for expenses from the county as provided in NRS 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime. ~~Except as otherwise provided in NRS 432B.500, an attorney appointed to represent a child may also be appointed as guardian ad litem for the child.~~

Sec. 2. NRS 432B.500 is hereby amended to read as follows:

432B.500 1. After a petition is filed that a child is in need of protection pursuant to NRS 432B.490, the court shall appoint a guardian ad litem for the child. The person so appointed:

(a) Must meet the requirements of NRS 432B.505 or, if such a person is not available, a representative of an agency which provides child welfare services, a juvenile probation officer, an officer of the court or another volunteer.

(b) Must not be a parent or other person responsible for the child's welfare.

(c) Must not be an attorney appointed to represent the child pursuant to NRS 432B.420.

~~—(d) Is not entitled to compensation or payment for expenses.~~

2. A guardian ad litem appointed pursuant to this section shall:

(a) Represent and protect the best interests of the child until excused by the court;

(b) Thoroughly research and ascertain the relevant facts of each case for which the guardian ad litem is appointed, and ensure that the court receives an independent, objective account of those facts;

(c) Meet with the child wherever the child is placed as often as is necessary to determine that the child is safe and to ascertain the best interests of the child;

(d) Explain to the child the role of the guardian ad litem and, when appropriate, the nature and purpose of each proceeding in the case;

(e) Participate in the development and negotiation of any plans for and orders regarding the child, and monitor the implementation of those plans and orders to determine whether services are being provided in an appropriate and timely manner;

(f) Appear at all proceedings regarding the child;

(g) Inform the court of the desires of the child, but exercise independent judgment regarding the best interests of the child;

(h) Present recommendations to the court and provide reasons in support of those recommendations;

(i) Request the court to enter orders that are clear, specific and, when appropriate, include periods for compliance;

(j) Review the progress of each case for which the guardian ad litem is appointed, and advocate for the expedient completion of the case; and

(k) Perform such other duties as the court orders.

Sec. 3. NRS 128.023 is hereby amended to read as follows:

128.023 1. If proceedings pursuant to this chapter involve the termination of parental rights of the parent of an Indian child, the court shall:

(a) Cause the Indian child's tribe to be notified in writing in the manner provided in the Indian Child Welfare Act. If the Indian child is eligible for membership in more than one tribe, each tribe must be notified.

(b) Transfer the proceedings to the Indian child's tribe in accordance with the Indian Child Welfare Act.

(c) If a tribe declines or is unable to exercise jurisdiction, exercise its jurisdiction as provided in the Indian Child Welfare Act.

2. If the court determines that the parent of an Indian child for whom termination of parental rights is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; *and*

(b) ~~May appoint an attorney to represent the Indian child; and~~

~~—(e)—~~ May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

as provided in the Indian Child Welfare Act.

Sec. 4. NRS 128.100 is hereby amended to read as follows:

128.100 1. ~~¶¶~~ *Except as otherwise provided in subsection 2, in any proceeding for terminating parental rights, or any rehearing or appeal thereon, or any proceeding for restoring parental rights, the court may appoint an attorney to represent the child as his or her counsel . [and, if the child does not have a guardian ad litem appointed pursuant to NRS 432B.500, as his or her guardian ad litem.]* The child may be represented by an attorney at all stages of any proceedings for terminating parental rights. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

2. *In any proceeding for the termination of parental rights to a child who has been placed outside of his or her home pursuant to chapter 432B of NRS, or any rehearing or appeal thereon, or any proceeding for restoring parental rights to such a child, the court shall appoint an attorney to represent the child as his or her counsel. The child shall be deemed to be a party to any proceeding described in this section and must be represented by an attorney at all stages of such proceedings. The attorney representing the child has the same authority and rights as an attorney representing any other party to the proceedings.*

3. If the parent or parents of the child desire to be represented by counsel, but are indigent, the court may appoint an attorney for them.

~~3.4~~ 4. Each attorney appointed under the provisions of this section is entitled to the same compensation and expenses from the county as provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with crimes.

Sec. 4.5. NRS 247.305 is hereby amended to read as follows:

247.305 1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

- (a) For recording any document, for the first page\$10
- (b) For each additional page\$1
- (c) For recording each portion of a document which must be separately indexed, after the first indexing\$3
- (d) For copying any record, for each page\$1
- (e) For certifying, including certificate and seal\$4
- (f) For a certified copy of a certificate of marriage\$10
- (g) For a certified abstract of a certificate of marriage\$10

(h) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording an originally signed certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of \$1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording an originally signed certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection and NRS 375.060, a board of county commissioners may, in addition to any fee that a county recorder is otherwise authorized to charge and collect, impose by ordinance a fee of not more than ~~\$24.56~~ \$6 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized by this subsection for recording an originally signed certificate of marriage described in NRS 122.120. On or before the fifth day of each

month, the county recorder shall pay the amount of fees collected by him or her pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him or her pursuant to this subsection to the organization operating the program for legal services for the indigent that receives the fees charged pursuant to NRS 19.031 to be used to provide legal services for abused and neglected children. ~~H.~~ including, without limitation, to compensate attorneys appointed to represent such children pursuant to NRS 128.100 and 432B.420.

5. Except as otherwise provided in this subsection or subsection 6 or by specific statute, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

6. Except as otherwise provided in subsection 7, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by the county recorder to:

(a) The county in which the county recorder's office is located.

(b) The State of Nevada or any city or town within the county in which the county recorder's office is located, if the document being recorded:

(1) Conveys to the State, or to that city or town, an interest in land;

(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;

(3) Imposes a lien in favor of the State or that city or town; or

(4) Is a notice of the pendency of an action by the State or that city or town.

7. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his or her certificate and seal upon the copy, the county recorder shall charge the regular fee.

8. If the amount of money collected by a county recorder for a fee pursuant to this section:

(a) Exceeds by \$5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.

(b) Exceeds by more than \$5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.

9. Except as otherwise provided in subsection 2, 3, 4 or 8 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

10. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his or her official capacity.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. ~~This act becomes effective on July 1, 2017.~~ (Deleted by amendment.)