

Amendment No. 286

Senate Amendment to Senate Bill No. 432	(BDR 38-475)
Proposed by: Senate Committee on Health and Human Services	
Amends: Summary: No Title: No 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.

MNM/BAW



Date: 4/17/2017

S.B. No. 432—Authorizes the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child. (BDR 38-475)



SENATE BILL NO. 432—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Authorizes the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child. (BDR 38-475)

FISCAL NOTE: Effect on Local Government: No.
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 public welfare; authorizing the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child; establishing provisions concerning the process for the termination of parental rights following the filing of such a motion; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes procedures governing the termination of parental rights. (Chapter 128 of NRS) Existing law also establishes procedures governing the protection of children from abuse and neglect. (Chapter 432B of NRS) **Section 2** of this bill provides that if a juvenile court determines that a child is in need of protection, an agency which provides child welfare services is authorized to file a motion for the termination of parental rights as part of the proceeding concerning the abuse or neglect of the child. **Section 2** also requires an agency which provides child welfare services to file such a motion if a child has been placed outside of his or her home for a period of not less than 12 months. **Sections 2 and 10** of this bill provide that the provisions of existing law governing the termination of parental rights apply to all proceedings concerning the termination of parental rights that are commenced by an agency which provides child welfare services, but only to the extent they do not conflict with the provisions established in this bill.

Section 3 of this bill establishes provisions concerning notice of the hearing on the motion for the termination of parental rights. **It and requires the court to ensure that any prospective adoptive parent is provided a copy of the notice. Section 3 also provides that the name and address of a prospective adoptive parent generally must be kept confidential.** **Section 4** of this bill authorizes a party who has been informed of the allegations set forth in the motion to contest such allegations and request an evidentiary hearing or voluntarily relinquish his or her parental rights. **Section 5** of this bill authorizes the court to order the parties to the proceeding, any prospective adoptive parent and a representative from an agency which provides child welfare services to participate in mediation for the purpose of negotiating the terms of an open adoption agreement.

Section 6 of this bill establishes certain procedural provisions relating to an evidentiary hearing on a motion for the termination of parental rights. **Section 7** of this bill requires the court to use its best efforts to ensure that a final **written** decision on such a motion is rendered not later than 30 days after the conclusion of the evidentiary hearing, and **section 8** of this bill requires the appellate court of competent jurisdiction to use its best efforts to ensure that any

appeal is resolved not later than 6 months after the appeal is filed or, if the court orders full briefings on the matter, not later than 12 months after the appeal is filed. **Section 9** of this bill requires that a petition for the restoration of parental rights be filed as part of a proceeding concerning the abuse or neglect of a child in certain circumstances.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *1. The provisions of chapter 128 of NRS, to the extent they do not conflict with the provisions of sections 2 to 9, inclusive, of this act, apply to all proceedings concerning the termination of parental rights that are commenced pursuant to this section by an agency which provides child welfare services.*

2. Except as otherwise provided in subsection 3, if a child is determined to be a child in need of protection pursuant to NRS 432B.550, an agency which provides child welfare services may, at any stage of a proceeding held pursuant to this chapter, file a motion for the termination of parental rights as part of the proceeding.

3. If a child has been placed outside of his or her home pursuant to this chapter for a period of not less than 12 months, an agency which provides child welfare services shall file a motion for the termination of parental rights as part of a proceeding held pursuant to this chapter.

Sec. 3. *1. After a motion for the termination of parental rights is filed pursuant to section 2 of this act, unless a party to be served voluntarily appears and consents to the hearing, and except as otherwise provided in subsection 3, a copy of the motion and notice of the hearing must be served, either together or separately, upon all parties to the proceeding by ~~using any of the following methods:~~*

~~*(a) Personal service;*~~
~~*(b) First class mail to the last known address of the person; or*~~
~~*(c) If, or, if the whereabouts of the person are unknown, obtaining an order from the court that service may be made by publication in accordance with the procedure set forth in subsections 1, 3, 4 and 5 of NRS 128.070 and subsection 2.*~~

2. If a court orders that service be made by publication pursuant to ~~paragraph (c) of~~ subsection 1 ~~or~~ and the person to be served by publication has a last known address, personal service must also be attempted before service of the notice is deemed to be complete. The court order must direct the publication to be made in a newspaper designated by the court at least once every week for a period of 4 weeks. If personal service is also attempted, service of the notice shall be deemed to be complete at the expiration of such a period. The provisions of this subsection and subsection 1 must not be construed to preclude personal service and service by publication from being attempted simultaneously.

3. Service shall be deemed to be complete if a party to be served appears in court for a hearing held pursuant to this chapter and the court provides the party with a copy of the motion, notifies the party of the date of the hearing on the motion and records such service.

4. Except as otherwise provided in subsection 5, a copy of the motion and notice of the hearing on the motion must be sent by certified mail to:

(a) The attorneys and any guardians ad litem for the child and the parent of the child who is the subject of the motion;

1 ~~(b) Any prospective adoptive parent.~~ If applicable, each Indian tribe of the
2 child who is the subject of the motion ~~is~~, in accordance with NRS 128.023; and
3 (c) Any known relative of the child who is the subject of the motion within
4 the fifth degree of consanguinity who is residing in this State.

5 5. If an attorney has consented to electronic service, a copy of the motion
6 and notice of the hearing on the motion may be sent to the attorney electronically
7 instead of by certified mail.

8 6. The court shall ensure that any prospective adoptive parent of the child
9 who is the subject of the motion is provided with a copy of the notice of the
10 hearing on the motion. Except as otherwise provided in section 5 of this act or
11 another provision of law, the name and address of the prospective adoptive parent
12 must be kept confidential.

13 7. Any party to the proceeding may file a written response to the motion.

14 Sec. 4. 1. At the time stated in the notice of the hearing, or at the earliest
15 time thereafter to which the hearing may be postponed, the parties to the
16 proceeding shall, except as otherwise provided in this subsection, appear in
17 person before the court and must be informed of the specific allegations set forth
18 in the motion for the termination of parental rights. The court may allow a party
19 to participate in the proceeding by telephone or videoconference if he or she is
20 unable to appear in person because he or she is incarcerated outside this State or
21 hospitalized and cannot be transported to the court.

22 2. After a party has been informed of the allegations set forth in the motion,
23 he or she may:

24 (a) Contest such allegations and request an evidentiary hearing, in which
25 case an evidentiary hearing must be scheduled; or

26 (b) Voluntarily relinquish his or her parental rights with or without the
27 possibility of an open adoption agreement established through mediation
28 pursuant to section 5 of this act, in which case a hearing must be scheduled for
29 the purpose of confirming such voluntary relinquishment.

30 3. If an evidentiary hearing is scheduled pursuant to paragraph (a) of
31 subsection 2, the court may also order a party to the proceeding to participate in
32 mediation pursuant to section 5 of this act.

33 4. If a party to the proceeding does not appear at the time stated in the
34 notice and the court determines that he or she was given proper notice pursuant
35 to section 3 of this act, the court may proceed to hear evidence and render its
36 decision or postpone hearing any evidence until an evidentiary hearing is
37 conducted concerning any other party to the proceeding.

38 5. If the court postpones hearing evidence pursuant to subsection 4 ~~is~~

39 ~~(a) No, no further notice to the absent party is required, is and~~

40 ~~(b) All parties to the proceeding, other than the absent party, who are not~~
41 ~~present or represented in court at the time of the postponement must be served~~
42 ~~notice of the postponement in the manner prescribed by Rule 5 of the Nevada~~
43 ~~Rules of Civil Procedure.~~

44 Sec. 5. 1. The court may, upon its own motion or the motion of a party to
45 the proceeding, order the parties, any prospective adoptive parent and a
46 representative from an agency which provides child welfare services to participate
47 in mediation for the purpose of negotiating the terms of an open adoption
48 agreement.

49 2. A party to the proceeding may make a motion for mediation at any time
50 after the commencement of a proceeding for the termination of parental rights
51 but not less than 5 judicial days before a scheduled evidentiary hearing.

3. Persons ordered to participate in mediation pursuant to subsection 1 shall complete such mediation not later than 20 calendar days after the court issues the order for mediation.

4. If the persons ordered to participate in mediation agree to the terms of an open adoption, the terms must be set forth in a written agreement at the time of mediation.

Sec. 6. 1. During an evidentiary hearing, any oral or written reports or information contained in a report filed pursuant to this chapter that are received by the court may be relied upon to the extent of the probative value thereof. The court shall afford the parties and their attorneys an opportunity to examine and controvert each written report that is received into evidence and to cross-examine each person who made the written report, when reasonably available.

2. At the request of a party to the proceeding, the court may permit a witness to testify by telephone or videoconference if the court determines that it is able to adequately assess witness credibility. Except as otherwise permitted by the court, a party to the proceeding may not testify by telephone or videoconference unless he or she is incarcerated outside this State or hospitalized and cannot be transported to the court.

Sec. 7. The court shall use its best efforts to ensure that a final written decision on a motion for the termination of parental rights which includes detailed findings of ~~facts~~ fact is rendered not later than 30 days after the conclusion of the evidentiary hearing. Such a decision ~~must~~ may be rendered orally in court ~~and subsequently~~ before being set forth in a written order. The order of the court must include a notice of the right of a party to appeal the decision of the court.

Sec. 8. Except as otherwise provided in this subsection, if a party appeals the decision of the court pursuant to section 7 of this act, the appellate court of competent jurisdiction shall use its best efforts to ensure that the matter is resolved not later than 6 months after the appeal is filed. If the appellate court orders full briefings on the matter, it shall use its best efforts to ensure that the matter is resolved not later than 12 months after the appeal is filed.

Sec. 9. If a person seeks to restore the parental rights of a natural parent or parents pursuant to NRS 128.170 to 128.190, inclusive, and the child whose natural parent or parents have had their parental rights terminated or have relinquished their parental rights is subject to the jurisdiction of the juvenile court pursuant to this chapter, the petition for the restoration of parental rights must be filed as part of a proceeding held pursuant to this chapter.

Sec. 10. Chapter 128 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter, to the extent they do not conflict with the provisions of sections 2 to 9, inclusive, of this act, apply to all proceedings concerning the termination of parental rights that are commenced pursuant to section 2 of this act by an agency which provides child welfare services.

Sec. 11. 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,

1 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
2 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,
3 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521,
4 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
5 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
6 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
7 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
8 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105,
9 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
10 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
11 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135,
12 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
13 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
14 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044,
15 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
16 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
17 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167,
18 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
19 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
20 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205,
21 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
22 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330,
23 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164,
24 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
25 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
26 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575,
27 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,
28 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
29 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
30 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
31 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133,
32 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
33 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
34 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
35 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
36 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050,
37 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
38 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947,
39 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130,
40 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
41 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285,
42 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
43 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
44 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538,
45 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320,
46 704B.325, 706.1725, 706A.230, 710.159, 711.600, and section 3 of this act,
47 sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
48 chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be
49 confidential, all public books and public records of a governmental entity must be
50 open at all times during office hours to inspection by any person, and may be fully
51 copied or an abstract or memorandum may be prepared from those public books
52 and public records. Any such copies, abstracts or memoranda may be used to
53 supply the general public with copies, abstracts or memoranda of the records or

1 may be used in any other way to the advantage of the governmental entity or of the
2 general public. This section does not supersede or in any manner affect the federal
3 laws governing copyrights or enlarge, diminish or affect in any other manner the
4 rights of a person in any written book or record which is copyrighted pursuant to
5 federal law.

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

8 3. A governmental entity that has legal custody or control of a public book or
9 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
10 receive a copy of a public book or record on the basis that the requested public
11 book or record contains information that is confidential if the governmental entity
12 can redact, delete, conceal or separate the confidential information from the
13 information included in the public book or record that is not otherwise confidential.

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

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

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