

Amendment No. CA2

Conference Committee Amendment to Senate Bill No. 432 Second Reprint	(BDR 38-475)
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Proposed by: Conference Committee

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

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.

DP/BAW



Date: 6/4/2017

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~~ Revises provisions governing proceedings 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; requiring the court to conduct a hearing to determine whether to transfer venue for proceedings on a petition for the termination of parental rights under certain circumstances; revising provisions governing in which county a petition for the termination of parental rights may be filed; 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. **Sections 2 and ~~10.1~~ 10.3** 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 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 authorizes a court to permit a witness or party to the proceeding to testify by telephone or videoconference in certain circumstances during 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.

Existing law establishes criteria to determine in which county a petition alleging that a child should be declared free from the custody and control of his or her parent or parents may be filed. (NRS 128.030) Section 10.7 of this bill adds certain criteria to that list.

Section 10.5 of this bill requires the court to conduct a hearing to determine whether to transfer venue for proceedings pursuant to a petition for the termination of parental rights to another county when a parent whose consent is required objects in writing to venue.

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. 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.

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 personal service 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 subsection 1 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.

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

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

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

9 (b) *If applicable, each Indian tribe of the child who is the subject of the*
10 *motion, in accordance with NRS 128.023; and*

11 (c) *Any known relative of the child who is the subject of the motion within*
12 *the fifth degree of consanguinity who is residing in this State.*

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

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

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

22 Sec. 4. 1. *At the time stated in the notice of the hearing, or at the earliest*
23 *time thereafter to which the hearing may be postponed, the parties to the*
24 *proceeding shall, except as otherwise provided in this subsection, appear in*
25 *person before the court and must be informed of the specific allegations set forth*
26 *in the motion for the termination of parental rights. The court may allow a party*
27 *to participate in the proceeding by telephone or videoconference if he or she is*
28 *unable to appear in person because he or she is incarcerated outside this State or*
29 *hospitalized and cannot be transported to the court.*

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

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

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

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

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

46 5. *If the court postpones hearing evidence pursuant to subsection 4, further*
47 *notice to the absent party is required unless the court, in its discretion,*
48 *considering the facts and circumstances of the case, determines that no*
49 *additional notice to the absent party is required.*

50 Sec. 5. 1. *The court may, upon its own motion or the motion of a party to*
51 *the proceeding, order the parties, any prospective adoptive parent and a*
52 *representative from an agency which provides child welfare services to participate*

1 *in mediation for the purpose of negotiating the terms of an open adoption*
2 *agreement.*

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

6 3. *Persons ordered to participate in mediation pursuant to subsection 1*
7 *shall complete such mediation not later than 60 calendar days after the court*
8 *issues the order for mediation.*

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

12 Sec. 6. *During an evidentiary hearing, at the request of a party to the*
13 *proceeding, the court may permit a witness to testify by telephone or*
14 *videoconference if the court determines that it is able to adequately assess witness*
15 *credibility. Except as otherwise permitted by the court, a party to the proceeding*
16 *may not testify by telephone or videoconference unless he or she is incarcerated*
17 *outside this State or hospitalized and cannot be transported to the court.*

18 Sec. 7. *The court shall use its best efforts to ensure that a final written*
19 *decision on a motion for the termination of parental rights which includes*
20 *detailed findings of fact is rendered not later than 30 days after the conclusion of*
21 *the evidentiary hearing. Such a decision may be rendered orally in court before*
22 *being set forth in a written order. The order of the court must include a notice of*
23 *the right of a party to appeal the decision of the court. The order granting or*
24 *denying a motion for the termination of parental rights is a final order of the*
25 *court and the parties have the right to appeal the decision of the court in*
26 *accordance with chapter 128 of NRS.*

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

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

39 Sec. 10. Chapter 128 of NRS is hereby amended by adding thereto ~~the new~~
40 ~~section to read as follows:~~ the provisions set forth as sections 10.3 and 10.5 of
41 this act.

42 Sec. 10.3. *The provisions of this chapter, to the extent they do not conflict*
43 *with the provisions of sections 2 to 9, inclusive, of this act, apply to all*
44 *proceedings concerning the termination of parental rights that are commenced*
45 *pursuant to section 2 of this act by an agency which provides child welfare*
46 *services.*

47 Sec. 10.5. 1. *If a petition for termination of parental rights has been filed*
48 *and a parent whose consent is required objects in writing to venue, the court must*
49 *conduct a hearing to determine whether to transfer venue to another county. For*
50 *the purpose of determining whether to transfer venue to another county, the*
51 *court shall consider the ease of access to the court for the defendant and the*
52 *factors set forth in NRS 13.050 and 128.030.*

2. For the purpose of conducting a hearing pursuant to subsection 1, a party or witness located in another jurisdiction may testify by telephone or audiovisual or other electronic means.

Sec. 10.7. NRS 128.030 is hereby amended to read as follows:

128.030 A petition alleging that ~~there is or resides within the county~~ a child ~~who~~ should be declared free from the custody and control of his or her parent or parents may be filed at the election of the petitioner in:

1. The county in which the child is found;
2. The county in which the acts complained of occurred; ~~for~~
3. The county in which the child resides. ~~for~~;

4. The county in which the child is the subject of another court proceeding;

5. The county in which an agency which provides child welfare services is located;

6. The county in which the guardian or custodian of the child resides;

7. The county in which the defendant resides; or

8. The county in which the convenience of the witnesses and the ends of justice would be promoted.

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, 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, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,

467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575,
483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,
571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133,
630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050,
645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947,
648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130,
665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285,
679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538,
692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320,
704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 3 of this act*,
sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be
confidential, all public books and public records of a governmental entity must be
open at all times during office hours to inspection by any person, and may be fully
copied or an abstract or memorandum may be prepared from those public books
and public records. Any such copies, abstracts or memoranda may be used to
supply the general public with copies, abstracts or memoranda of the records or
may be used in any other way to the advantage of the governmental entity or of the
general public. This section does not supersede or in any manner affect the federal
laws governing copyrights or enlarge, diminish or affect in any other manner the
rights of a person in any written book or record which is copyrighted pursuant to
federal law.

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

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

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

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

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

Sec. 12. This act becomes effective on January 1, 2018.