

SENATE BILL NO. 2—SENATOR MANENDO

PREFILED NOVEMBER 15, 2016

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Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the surrender of a newborn child to a provider of emergency services. (BDR 38-39)

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.

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AN ACT relating to the protection of children; revising provisions relating to the voluntary surrender of a newborn child to a provider of emergency services; revising provisions relating to the transfer of certain identifying information relating to parents of such children; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires a provider of emergency services to take possession of a child who appears to be not more than 30 days old when a parent voluntarily surrenders the child with no intent to return. (NRS 432B.630) Commonly known as the "Safe Haven Law," this provision authorizes the agency which provides child welfare services to begin the process of terminating parental rights.

**Section 7** of this bill prohibits a provider of emergency services from transferring identifying information about the parent who delivers a child to a provider of emergency services under the Safe Haven Law, thereby allowing the parent to retain anonymity, except when reasonable cause exists to believe that the child has been abused or neglected. **Section 7** also requires such anonymity to be provided to the parent who delivers a child to a provider of emergency services regardless of whether the parent specifically makes a request for anonymity.

Under existing law, a parent who delivers a child to a provider of emergency services under the Safe Haven Law is entitled to notice that the child has been placed in protective custody and to notice of proceedings related to the termination of parental rights and other similar matters, unless the location of the parent is unknown. (NRS 128.060, 432B.470, 432B.490, 432B.520) **Sections 1-6** of this bill remove that right with respect to the parent who voluntarily delivers a child under the Safe Haven Law. A parent of the child who does not participate in the delivery, however, remains entitled to such notice if the location of that parent is known and to notice by publication if not known.



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

**Section 1.** NRS 432B.470 is hereby amended to read as follows:

432B.470 1. A child taken into protective custody pursuant to NRS 432B.390 must be given a hearing, conducted by a judge, master or special master appointed by the judge for that particular hearing, within 72 hours, excluding Saturdays, Sundays and holidays, after being taken into custody, to determine whether the child should remain in protective custody pending further action by the court.

2. Except as otherwise provided in this subsection, notice of the time and place of the hearing must be given to a parent or other person responsible for the child's welfare:

(a) By personal service of a written notice;

(b) Orally; or

(c) If the parent or other person responsible for the child's welfare cannot be located after a reasonable effort, by posting a written notice on the door of the residence of the parent or other person.

↪ If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown ~~H~~ *to the agency which provides child welfare services*, the parent shall be deemed to have waived any *right to* notice of the hearing conducted pursuant to this section.

3. If notice is given by means of paragraph (b) or (c) of subsection 2, a copy of the notice must be mailed to the person at the last known address of the person within 24 hours after the child is placed in protective custody.

**Sec. 2.** NRS 432B.490 is hereby amended to read as follows:

432B.490 1. An agency which provides child welfare services:

(a) In cases where the death of a parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, shall within 10 days after the hearing on protective custody initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510;

(b) In cases where a court issues an order keeping the child in protective custody pursuant to paragraph (b) of subsection 1 of NRS 432B.480, shall within 10 days after the hearing on protective custody, unless good cause exists, initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510 or recommend against any further action in court; or



(c) In cases where an investigation is made under NRS 432B.010 to 432B.400, inclusive, and a determination is made that the child is in need of protection but is not in imminent danger, may file a petition which meets the requirements set forth in NRS 432B.510.

2. If the agency recommends against further action, the court may, on its own motion, initiate proceedings when it finds that it is in the best interests of the child.

3. If a child has been placed in protective custody and if further action in court is taken, an agency which provides child welfare services shall make recommendations to the court concerning whether the child should be returned to the person responsible for the welfare of the child pending further action in court.

4. If, in a case described in paragraph (b) of subsection 1, an agency which provides child welfare services fails to initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510 within 10 days after the hearing on protective custody:

(a) The agency may recommend against further action and return the child to the custody of the person responsible for the welfare of the child; or

(b) Any party to the proceeding may schedule an additional hearing with the court which must take place before the next scheduled court date to determine whether the child should be returned to the person responsible for the welfare of the child pending further action by the court.

5. Except as otherwise provided in this subsection, notice of the time and place of a hearing scheduled pursuant to paragraph (b) of subsection 4 must be given to a parent or other person responsible for the welfare of the child:

(a) By personal service of a written notice;

(b) Orally; or

(c) If the parent or other person responsible for the welfare of the child cannot be located after a reasonable effort, by posting a written notice on the door of the residence of the parent or other person.

↪ If the child was delivered to a provider of emergency services pursuant to the provisions of NRS 432B.630 and the location of the parent is unknown **H to the agency which provides child welfare services**, the parent shall be deemed to have waived any **right to** notice of the hearing conducted pursuant to this section.

6. If notice of a hearing scheduled pursuant to paragraph (b) of subsection 4 is given by means of paragraph (b) or (c) of subsection 5, a copy of the notice must be mailed to the parent or other person



1 responsible for the welfare of the child at his or her last known  
2 address within 24 hours after the petition is filed.

3 7. The court shall hold a hearing scheduled pursuant to  
4 paragraph (b) of subsection 4 to decide whether there remains  
5 reasonable cause to believe that it would be:

6 (a) Contrary to the welfare of the child for the child to reside at  
7 his or her home; or

8 (b) In the best interests of the child to keep the child outside of  
9 his or her home.

10 **Sec. 3.** NRS 432B.513 is hereby amended to read as follows:

11 432B.513 1. Except as otherwise provided in subsection 3, a  
12 person who submits a report or information to the court for  
13 consideration in a proceeding held pursuant to NRS 432B.466 to  
14 432B.468, inclusive, or 432B.500 to 432B.590, inclusive, shall  
15 provide a copy of the report or information, to the extent that the  
16 data or information in the report or information is available pursuant  
17 to NRS 432B.290, to each parent or guardian of the child who is the  
18 subject of the proceeding and to the attorney of each parent or  
19 guardian not later than 72 hours before the proceeding.

20 2. If a person does not provide a copy of a report or  
21 information to a parent or guardian of a child and an attorney of the  
22 parent or guardian before a proceeding if required by subsection 1,  
23 the court or master:

24 (a) Shall provide the parent or guardian and the attorney of the  
25 parent or guardian an opportunity to review the report or  
26 information; and

27 (b) May grant a continuance of the proceeding until a later date  
28 that is agreed upon by all the parties to the proceeding if the parent  
29 or guardian or the attorney of the parent or guardian requests that  
30 the court grant the continuance so that the parent or guardian and the  
31 attorney of the parent or guardian may properly respond to the  
32 report or information.

33 3. If a child was delivered to a provider of emergency services  
34 pursuant to NRS 432B.630 and the location of the parent of the  
35 child is unknown ~~to the agency which provides child welfare~~  
36 ~~services,~~ a copy of a report or information described in subsection 1  
37 need not be sent to ~~that~~ the parent or the attorney of ~~that~~ the  
38 parent pursuant to subsection 1.

39 4. As used in this section, "person" includes, without  
40 limitation, a government, governmental agency or political  
41 subdivision of a government.

42 **Sec. 4.** NRS 432B.520 is hereby amended to read as follows:

43 432B.520 1. After a petition has been filed, the court shall  
44 direct the clerk to issue a summons requiring the person who has  
45 custody or control of the child to appear personally and bring the



1 child before the court at a time and place stated in the summons. If  
2 the person so summoned is other than a parent or guardian of the  
3 child, then the parent or guardian, or both, must also be notified by a  
4 similar summons of the pendency of the hearing and of the time and  
5 place appointed.

6 2. Summons may be issued requiring the appearance of any  
7 other person whose presence, in the opinion of the court, is  
8 necessary.

9 3. Each summons must include notice of the right of parties to  
10 counsel at the adjudicatory hearing. A copy of the petition must be  
11 attached to each summons.

12 4. Except as provided in subsection 5, the summons must be  
13 served by:

14 (a) Personal service of a written notice; or

15 (b) Registered or certified mail to the last known address of the  
16 person.

17 5. If the child was delivered to a provider of emergency  
18 services pursuant to NRS 432B.630 *by one parent* and the location  
19 of the *other* parent *who did not deliver the child* is unknown ~~H~~ *to*  
20 *the agency which provides child welfare services*, the summons  
21 must be served on ~~the~~ *that* parent by publication at least once a  
22 week for 3 consecutive weeks in a newspaper published in the  
23 county and if no such newspaper is published, then a newspaper  
24 published in this state that has a general circulation in the county.  
25 The failure of the parent to appear in the action after the service of  
26 summons on the parent pursuant to this paragraph shall be deemed  
27 to constitute a waiver by the parent of any further notice of the  
28 proceedings that would otherwise be required pursuant to this  
29 chapter. *The parent who delivered the child to a provider of*  
30 *emergency services pursuant to NRS 432B.630 shall be deemed to*  
31 *have waived any right to notice pursuant to this section.*

32 6. If it appears that the child is in such condition or  
33 surroundings that the welfare of the child requires that custody be  
34 immediately assumed by the court, the court may order, by  
35 endorsement upon the summons, that the person serving it shall at  
36 once deliver the child to an agency which provides child welfare  
37 services in whose custody the child must remain until the further  
38 order of the court.

39 7. If the summons cannot be served or the person who has  
40 custody or control of the child fails to obey it, or:

41 (a) In the judge's opinion, the service will be ineffectual or the  
42 welfare of the child requires that the child be brought forthwith into  
43 the custody of the court; or



(b) A person responsible for the child's welfare has absconded with the child or concealed the child from a representative of an agency which provides child welfare services, ➔ the court may issue a writ for the attachment of the child's person, commanding a law enforcement officer or a representative of an agency which provides child welfare services to place the child in protective custody.

**Sec. 5.** NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

➔ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of chapter 159 of NRS, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

2. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child's religious affiliation and to reasonable visitation, unless restricted by the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

3. If, pursuant to subsection 1, the child is to be placed with a relative or fictive kin, the court may consider, among other factors, whether the child has resided with a particular relative or fictive kin



1 for 3 years or more before the incident which brought the child to  
2 the court's attention.

3 4. Except as otherwise provided in this subsection, a copy of  
4 the report prepared for the court by the agency which provides child  
5 welfare services must be sent to the custodian and the parent or legal  
6 guardian. If the child was delivered to a provider of emergency  
7 services pursuant to NRS 432B.630 and the location of the parent is  
8 unknown ~~that~~ *to the agency which provides child welfare services,*  
9 the report need not be sent to ~~that~~ *the* parent.

10 5. In determining the placement of a child pursuant to this  
11 section, if the child is not permitted to remain in the custody of the  
12 parents of the child or guardian:

13 (a) It must be presumed to be in the best interests of the child to  
14 be placed together with the siblings of the child.

15 (b) Preference must be given to placing the child in the  
16 following order:

17 (1) With any person related within the fifth degree of  
18 consanguinity to the child or a fictive kin, and who is suitable and  
19 able to provide proper care and guidance for the child, regardless of  
20 whether the relative or fictive kin resides within this State.

21 (2) In a foster home that is licensed pursuant to chapter 424  
22 of NRS.

23 6. Any search for a relative with whom to place a child  
24 pursuant to this section must be completed within 1 year after the  
25 initial placement of the child outside of the home of the child. If a  
26 child is placed with any person who resides outside of this State, the  
27 placement must be in accordance with NRS 127.330.

28 7. Within 60 days after the removal of a child from the home of  
29 the child, the court shall:

30 (a) Determine whether:

31 (1) The agency which provides child welfare services has  
32 made the reasonable efforts required by paragraph (a) of subsection  
33 1 of NRS 432B.393; or

34 (2) No such efforts are required in the particular case; and

35 (b) Prepare an explicit statement of the facts upon which its  
36 determination is based.

37 8. As used in this section, "fictive kin" means a person who is  
38 not related by blood to a child but who has a significant emotional  
39 and positive relationship with the child.

40 **Sec. 6.** NRS 432B.560 is hereby amended to read as follows:

41 432B.560 1. The court may also order:

42 (a) The child, a parent or the guardian to undergo such medical,  
43 psychiatric, psychological, or other care or treatment as the court  
44 considers to be in the best interests of the child.



(b) A parent or guardian to refrain from:

(1) Any harmful or offensive conduct toward the child, the other parent, the custodian of the child or the person given physical custody of the child; and

(2) Visiting the child if the court determines that the visitation is not in the best interest of the child.

(c) A reasonable right of visitation for a grandparent of the child if the child is not permitted to remain in the custody of the parents of the child.

2. The court shall order a parent or guardian to pay to the custodian an amount sufficient to support the child while the child is in the care of the custodian pursuant to an order of the court, unless the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown ~~H~~ *to the agency which provides child welfare services*. Payments for the obligation of support must be determined in accordance with NRS 125B.070 and 125B.080, but must not exceed the reasonable cost of the child's care, including food, shelter, clothing, medical care and education. An order for support made pursuant to this subsection must:

(a) Require that payments be made to the appropriate agency or office;

(b) Provide that the custodian is entitled to a lien on the obligor's property in the event of nonpayment of support; and

(c) Provide for the immediate withholding of income for the payment of support unless:

(1) All parties enter into an alternative written agreement; or

(2) One party demonstrates and the court finds good cause to postpone the withholding.

3. A court that enters an order pursuant to subsection 2 shall ensure that the social security number of the parent or guardian who is the subject of the order is:

(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

**Sec. 7.** NRS 432B.630 is hereby amended to read as follows:

432B.630 1. A provider of emergency services shall take immediate possession of a child who is or appears to be not more than 30 days old:

(a) When:

(1) The child is voluntarily delivered to the provider by a parent of the child; and





(2) The parent does not express an intent to return for the child; or

(b) When the child is delivered to the provider by another provider of emergency services pursuant to paragraph (b) of subsection 2.

2. A provider of emergency services who takes possession of a child pursuant to subsection 1 , *including, without limitation, the hospital at which the child was born*, shall:

(a) Whenever possible, inform the parent of the child that:

(1) By allowing the provider to take possession of the child, the parent is presumed to have abandoned the child ~~†~~ *pursuant to NRS 128.097;*

(2) ~~†By failing or refusing to provide an address where the parent can be located, the~~ *The* parent waives any *right to* notice of ~~the~~ *a* hearing to be conducted pursuant to NRS 432B.470 ~~†~~ , *432B.490 and 432B.520;* and

(3) Unless the parent contacts the local agency which provides child welfare services, action will be taken to terminate his or her parental rights regarding the child.

(b) Perform any act necessary to maintain and protect the physical health and safety of the child. If the provider is a public fire-fighting agency, a volunteer fire department, a law enforcement agency or an ambulance service, the provider shall immediately cause the safe delivery of the child to a hospital, an obstetric center or an independent center for emergency medical care licensed pursuant to chapter 449 of NRS.

(c) As soon as reasonably practicable but not later than 24 hours after the provider takes possession of the child, report that possession to an agency which provides child welfare services and, if the provider is not a law enforcement agency, to a law enforcement agency. The law enforcement agency shall notify the Clearinghouse and investigate further, if necessary, using any other resources to determine whether the child has been reported as a missing child. Upon conclusion of the investigation, the law enforcement agency shall inform the agency which provides child welfare services of its determination. The agency which provides child welfare services shall maintain that information for statistical and research purposes.

*(d) Except as otherwise provided in this paragraph, transfer any information that the provider of emergency services has obtained regarding the child to the agency which provides child welfare services that takes the child into protective custody pursuant to NRS 432B.390, except that any identifying information relating to the parent who delivered the child to the provider must not be transferred to the agency which provides*



*child welfare services, regardless of whether the parent has requested anonymity. The provisions of this paragraph do not prohibit a provider of emergency services from transferring identifying information relating to the parent to the agency which provides child welfare services if the agency has reasonable cause to believe that the child has been abused or neglected.*

3. A parent who delivers a child to a provider of emergency services pursuant to paragraph (a) of subsection 1:

(a) Shall leave the child:

(1) In the physical possession of a person who the parent has reasonable cause to believe is an employee of the provider; or

(2) On the property of the provider in a manner and location that the parent has reasonable cause to believe will not threaten the physical health or safety of the child, and immediately contact the provider, through the local emergency telephone number or otherwise, and inform the provider of the delivery and location of the child. A provider of emergency services is not liable for any civil damages as a result of any harm or injury sustained by a child after the child is left on the property of the provider pursuant to this subparagraph and before the provider is informed of the delivery and location of the child pursuant to this subparagraph or the provider takes physical possession of the child, whichever occurs first.

(b) Shall be deemed to have given consent to the performance of all necessary emergency services and care for the child.

(c) Must not be required to provide any background or medical information regarding the child, but may voluntarily do so.

(d) Unless there is reasonable cause to believe that the child has been abused or neglected, excluding the mere fact that the parent has delivered the child to the provider pursuant to subsection 1:

(1) Must not be required to disclose any identifying information, but may voluntarily do so;

(2) Must be allowed to leave at any time; and

(3) Must not be pursued or followed.

4. As used in this section:

(a) "Clearinghouse" has the meaning ascribed to it in NRS 432.150.

(b) "Provider of emergency services" means:

(1) A hospital, an obstetric center or an independent center for emergency medical care licensed pursuant to chapter 449 of NRS;

(2) A public fire-fighting agency, including, without limitation, a volunteer fire department;

(3) A law enforcement agency; or



- 1           (4) An ambulance service that holds a permit issued pursuant  
2 to the provisions of chapter 450B of NRS.

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