

SENATE BILL NO. 480—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the protection of children. (BDR 38-1089)

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.

AN ACT relating to children; requiring certain health care providers to notify an agency which provides child welfare services that a newborn infant has been affected by a fetal alcohol spectrum disorder; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing federal law, the Child Abuse Prevention and Treatment Act (CAPTA),
2 provides federal funding to states relating to the prevention, assessment and
3 treatment of child abuse and neglect. (42 U.S.C. §§ 5101 et seq.) The provisions of
4 CAPTA previously provided that, to be eligible for certain federal grants, a state
5 must require health care providers to notify child protection services when an infant
6 shows signs of prenatal exposure to illegal drugs. (42 U.S.C. § 5106a) On July 22,
7 2016, the federal Comprehensive Addiction and Recovery Act of 2016 (CARA)
8 amended the state grant eligibility requirement in CAPTA to require health care
9 providers to provide such notice: (1) without regard to whether the drug was legal
10 or illegal; and (2) for infants born with and identified as being affected by fetal
11 alcohol spectrum disorder. (Pub. L. No. 114-198, § 503, 130 Stat. 695, 729)

12 **Sections 1-9** of this bill amend existing state law to: (1) bring state law in
13 alignment with certain requirements of CAPTA; and (2) satisfy certain eligibility
14 requirements for grants set forth in CAPTA.



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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 a new section to read as follows:

“Fetal alcohol spectrum disorder” means a continuum of birth defects caused by maternal consumption of alcohol during pregnancy. The term includes, without limitation, fetal alcohol syndrome.

Sec. 2. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 432B.170 is hereby amended to read as follows:

432B.170 Nothing in the provisions of this chapter or NRS 432.0999 to 432.130, inclusive, prohibits an agency which provides child welfare services from sharing information with other state or local agencies if:

1. The purpose for sharing the information is for the development of a plan for the care, treatment or supervision of ~~that~~:

(a) A child who has been abused or neglected ~~to or on~~;

(b) An infant who is born and has been affected by ~~the~~ prenatal illegal:

(1) A fetal alcohol spectrum disorder; or

(2) Prenatal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure; or ~~that~~

(c) A person responsible for the child's or infant's welfare;

2. The other agency has standards for confidentiality equivalent to those of the agency which provides child welfare services; and

3. Proper safeguards are taken to ensure the confidentiality of the information.

Sec. 4. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.



2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by *a fetal alcohol spectrum disorder or* prenatal ~~illegal~~ substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.

(b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.

(c) A coroner.



(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A person working in a school who is licensed or endorsed pursuant to chapter 391 or 641B of NRS.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described



1 in subsection 4 and who is required in his or her professional or
2 occupational capacity to be licensed, certified or endorsed in this
3 State shall, at the time of initial licensure, certification or
4 endorsement:

5 (a) Inform the person, in writing or by electronic
6 communication, of his or her duty as a mandatory reporter pursuant
7 to this section;

8 (b) Obtain a written acknowledgment or electronic record from
9 the person that he or she has been informed of his or her duty
10 pursuant to this section; and

11 (c) Maintain a copy of the written acknowledgment or electronic
12 record for as long as the person is licensed, certified or endorsed in
13 this State.

14 8. The employer of a person who is described in subsection 4
15 and who is not required in his or her professional or occupational
16 capacity to be licensed, certified or endorsed in this State must, upon
17 initial employment of the person:

18 (a) Inform the person, in writing or by electronic
19 communication, of his or her duty as a mandatory reporter pursuant
20 to this section;

21 (b) Obtain a written acknowledgment or electronic record from
22 the person that he or she has been informed of his or her duty
23 pursuant to this section; and

24 (c) Maintain a copy of the written acknowledgment or electronic
25 record for as long as the person is employed by the employer.

26 **Sec. 5.** NRS 432B.230 is hereby amended to read as follows:

27 432B.230 1. A person may make a report pursuant to NRS
28 432B.220 by telephone or, in light of all the surrounding facts and
29 circumstances which are known or which reasonably should be
30 known to the person at the time, by any other means of oral, written
31 or electronic communication that a reasonable person would believe,
32 under those facts and circumstances, is a reliable and swift means of
33 communicating information to the person who receives the report. If
34 the report is made orally, the person who receives the report must
35 reduce it to writing as soon as reasonably practicable.

36 2. The report must contain the following information, if
37 obtainable:

38 (a) The name, address, age and sex of the child;

39 (b) The name and address of the child's parents or other person
40 responsible for the care of the child;

41 (c) The nature and extent of the abuse or neglect of the child, the
42 effect of *a fetal alcohol spectrum disorder* or prenatal ~~illegal~~
43 substance abuse on the newborn infant or the nature of the
44 withdrawal symptoms resulting from prenatal drug exposure of the
45 newborn infant;



(d) Any evidence of previously known or suspected:

(1) Abuse or neglect of the child or the child's siblings; or

(2) Effects of *a fetal alcohol spectrum disorder* or prenatal ~~illegal~~ substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;

(e) The name, address and relationship, if known, of the person who is alleged to have abused or neglected the child; and

(f) Any other information known to the person making the report that the agency which provides child welfare services considers necessary.

Sec. 6. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

(a) There is a high risk of serious harm to the child;

(b) The child has suffered a fatality; or

(c) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

(a) The child is not in imminent danger of harm;

(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;

(c) The alleged abuse or neglect of the child or the alleged effect of *a fetal alcohol spectrum disorder* or prenatal ~~illegal~~ substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:



(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment; and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, *and section 1 of this act*, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. If the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. If an agency which provides child welfare services determines pursuant to subsection 3 that an investigation is not warranted, the agency may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 7. NRS 432B.310 is hereby amended to read as follows:

432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect



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of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the severity of the injuries and, if applicable, any information concerning the death of the child; and

(c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by *a fetal alcohol spectrum disorder or* prenatal ~~illegal~~ substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child after the child was born.

Sec. 8. NRS 432B.330 is hereby amended to read as follows:

432B.330 1. A child is in need of protection if:

(a) The child has been abandoned by a person responsible for the welfare of the child;

(b) The child has been subjected to abuse or neglect by a person responsible for the welfare of the child;

(c) The child is in the care of a person responsible for the welfare of the child and another child has:

(1) Died as a result of abuse or neglect by that person; or

(2) Been subjected to abuse by that person, unless the person has successfully completed a plan for services that was recommended by an agency which provides child welfare services pursuant to NRS 432B.340 to address the abuse of the other child;

(d) The child has been placed for care or adoption in violation of law; or

(e) The child has been delivered to a provider of emergency services pursuant to NRS 432B.630.

2. A child may be in need of protection if the person responsible for the welfare of the child:

(a) Is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(b) Fails, although the person is financially able to do so or has been offered financial or other means to do so, to provide for the following needs of the child:

(1) Food, clothing or shelter necessary for the child's health or safety;



- 1 (2) Education as required by law; or
- 2 (3) Adequate medical care;
- 3 (c) Has been responsible for the neglect of a child who has
- 4 resided with that person; or
- 5 (d) Has been responsible for the abuse of another child
- 6 regardless of whether that person has successfully completed a plan
- 7 for services that was recommended by an agency which provides
- 8 child welfare services pursuant to NRS 432B.340 to address the
- 9 abuse of the other child.
- 10 3. A child may be in need of protection if the death of a parent
- 11 of the child is or may be the result of an act by the other parent that
- 12 constitutes domestic violence pursuant to NRS 33.018.
- 13 4. A child may be in need of protection if the child is identified
- 14 as being affected by *a fetal alcohol spectrum disorder or* prenatal
- 15 ~~illegal~~ substance abuse or as having withdrawal symptoms
- 16 resulting from prenatal drug exposure.
- 17 5. As used in this section:
- 18 (a) "Abuse" means:
- 19 (1) Physical or mental injury of a nonaccidental nature; or
- 20 (2) Sexual abuse or sexual exploitation,
- 21 ➔ of a child caused or allowed by a person responsible for the
- 22 welfare of the child under circumstances which indicate that the
- 23 child's health or welfare is harmed or threatened with harm. The
- 24 term does not include the actions described in subsection 2 of
- 25 NRS 432B.020.
- 26 (b) "Allow" means to do nothing to prevent or stop the abuse or
- 27 neglect of a child in circumstances where the person knows or has
- 28 reason to know that a child is abused or neglected.
- 29 (c) "Neglect" means abandonment or failure to:
- 30 (1) Provide for the needs of a child set forth in paragraph (b)
- 31 of subsection 2; or
- 32 (2) Provide proper care, control and supervision of a child as
- 33 necessary for the well-being of the child because of the faults or
- 34 habits of the person responsible for the welfare of the child or the
- 35 neglect or refusal of the person to provide them when able to do so.
- 36 ➔ The term does not include the actions described in subsection 2
- 37 of NRS 432B.020.
- 38 **Sec. 9.** NRS 432B.400 is hereby amended to read as follows:
- 39 432B.400 A physician treating a child or a person in charge of
- 40 a hospital or similar institution may hold a child for no more than 24
- 41 hours if there is reasonable cause to believe that the child has been
- 42 abused or neglected or has been affected by *a fetal alcohol*
- 43 *spectrum disorder or* prenatal ~~illegal~~ substance abuse or has
- 44 withdrawal symptoms resulting from prenatal drug exposure and
- 45 that the child is in danger of further harm if released. The physician



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- 1 or other person shall immediately notify a law enforcement agency
- 2 or an agency which provides child welfare services that the
- 3 physician or other person is holding the child.
- 4 **Sec. 10.** This act becomes effective on July 1, 2017.

