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FIRST REPRINT

A.B. 247

ASSEMBLY BILL NO. 247—ASSEMBLYMEN FRIERSON, MONROE-MORENO, THOMPSON, YEAGER, BENITEZ-THOMPSON; BACKUS, JAUREGUI AND SWANK

MARCH 12, 2019

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to the care of children. (BDR 38-289)

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 the care of children; authorizing the parent or guardian of a child to execute a power of attorney delegating to another person certain powers relating to the child; prohibiting a provider of foster care from providing overnight or regular and continuous care and supervision to a child who is the subject of such a power of attorney under certain circumstances; authorizing an agency which provides child welfare services to provide a referral to or information concerning certain community-based organizations to the parent or guardian of a child who is alleged to be a child in need of protection; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term "foster home" to mean a home that receives, nurtures, supervises and ensures routine educational services and medical, dental and mental health treatment for children. (NRS 424.014) Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations to establish requirements for the licensure of foster homes. (NRS 424.020) **Section 3** of this bill authorizes the parent or guardian of a child to execute a power of attorney to delegate to another person all power of the parent or guardian regarding health care, support, custody and property of the child, except for the power to consent to the marriage or adoption of the child, without having the child enter the child welfare system. **Section 3** authorizes such a delegation of power for: (1) a period during which the care and custody of the child is entrusted to a child care institution; (2) a period expiring 30 days after the parent or guardian returns from active duty in certain uniformed services; or (3) in all



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other cases, a period of not longer than 12 months. **Section 3** provides that a parent or guardian who executes such a power of attorney remains responsible for any act or omission of the person to whom power is delegated with respect to the affairs, property and person of the child. **Section 3** provides that a child who is the subject of such a power of attorney is not a foster child, and **section 2** of this bill provides that a person to whom power is delegated is not required to obtain a license as a foster family or to operate a foster home. **Section 1** of this bill prohibits a provider of foster care from providing overnight or regular and continuous care and supervision to a child who is the subject of such a power of attorney while also providing care to a child placed in the foster home by the agency which provides child welfare services or the order of a juvenile court.

Existing law requires a court to hold an adjudicatory hearing on a petition alleging that a child is in need of protection. (NRS 432B.530) **Section 4** of this bill authorizes the agency which provides child welfare services to: (1) upon a finding that the allegations in the petition have been established, refer the parent or guardian of the child to a community-based organization that provides respite care, voluntary guardianship or other support services for families in crisis; or (2) upon a finding that the allegations in the petition have not been established, provide the parent or guardian of the child with information concerning such an organization.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a provider of foster care shall not provide overnight or regular and continuous care and supervision to a child who is the subject of a power of attorney executed pursuant to section 3 of this act while providing care to a child placed in the foster home by the agency which provides child welfare services or the order of a juvenile court.

2. The agency which provides child welfare services may grant a provider of foster care an exemption from the provisions of subsection 1 upon a showing of good cause.

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 1. The provisions of NRS 424.020 to 424.090, inclusive, *and section 1 of this act* do not apply to homes in which:

(a) Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

(b) Care is provided by the legal guardian.

(c) Care is provided for an exchange student.

(d) Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

(e) Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or



children, except as otherwise provided in regulations adopted by the Division.

(f) Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is related to the caregiver by blood, adoption or marriage.

(g) Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS or a juvenile court pursuant to title 5 of NRS if:

(1) The caregiver is related to the child within the fifth degree of consanguinity or a fictive kin; and

(2) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~H~~, *and section 1 of this act.*

(h) Care is provided by a person to whom power is delegated under a power of attorney executed pursuant to section 3 of this act to a minor child who is the subject of the power of attorney.

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

Sec. 3. Chapter 432 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the parent or guardian of a child may execute a power of attorney to delegate to another person all power of the parent or guardian regarding health care, support, custody or property of the child, except for the power to consent to the marriage or adoption of the child. Such a power of attorney may be entered into for:

(a) Any period during which the care and custody of the child is entrusted to a child care institution by the parent or guardian;

(b) If the parent or guardian of the child is a member of the uniformed service who is placed on active duty, the period of active duty plus an additional 30 days after the parent or guardian returns from active duty; or

(c) In all other cases, not longer than 12 months.

2. A parent or guardian may not execute a power of attorney pursuant to subsection 1:

(a) For a child who has been taken into protective custody pursuant to NRS 432B.390; or

(b) With the intent of permanently relinquishing his or her rights to a child that he or she adopted.

3. Any power of attorney executed pursuant to paragraph (b) of subsection 1 must specify the estimated date on which the parent or guardian will begin active duty and the estimated date on which active duty will end.

4. A parent or guardian who executes a power of attorney pursuant to subsection 1 remains responsible for any act or



1 *omission of the person to whom power is delegated with respect to*
2 *the affairs, property and person of the child. A child who is the*
3 *subject of such a power of attorney shall not be deemed to be a*
4 *foster child and the person to whom the power of attorney is*
5 *executed is not required to obtain a license as a foster family or to*
6 *operate a foster home.*

7 5. *Unless otherwise stated in the power of attorney, a*
8 *delegation of power pursuant to subsection 1 may be revoked by*
9 *the parent or guardian who executed it at any time by a written*
10 *revocation that:*

11 (a) *Identifies the power of attorney to be revoked; and*

12 (b) *Is signed by the parent or guardian who executed the*
13 *power of attorney.*

14 6. *A power of attorney executed pursuant to subsection 1 does*
15 *not abrogate the custodial rights of any person having custody of*
16 *the child other than the parent or guardian who executed the*
17 *power of attorney.*

18 7. *As used in this section:*

19 (a) *“Child care institution” has the meaning ascribed to it in*
20 *NRS 432A.0245.*

21 (b) *“Uniformed service” means:*

22 (1) *Active and reserve components of the Army, Navy, Air*
23 *Force, Marine Corps or Coast Guard of the United States;*

24 (2) *The Merchant Marine, the Commissioned Corps of the*
25 *Public Health Service or the Commissioned Corps of the National*
26 *Oceanic and Atmospheric Administration of the United States; or*

27 (3) *The National Guard.*

28 **Sec. 4.** NRS 432B.530 is hereby amended to read as follows:

29 432B.530 1. An adjudicatory hearing must be held within 30
30 days after the filing of the petition, unless good cause is shown or
31 the hearing has been continued until a later date pursuant to
32 NRS 432B.513.

33 2. At the hearing, the court shall inform the parties of the
34 specific allegations in the petition and give them an opportunity to
35 admit or deny them. If the allegations are denied, the court shall
36 hear evidence on the petition.

37 3. In adjudicatory hearings, all relevant and material evidence
38 helpful in determining the questions presented, including oral and
39 written reports, may be received by the court and may be relied
40 upon to the extent of its probative value. The parties or their
41 attorney must be afforded an opportunity to examine and controvert
42 written reports so received and to cross-examine individuals making
43 reports when reasonably available.

44 4. The court may require the child to be present in court at the
45 hearing.



5. If the court finds by a preponderance of the evidence that the child was in need of protection at the time of the removal of the child from the home, it shall record its findings of fact and may proceed immediately or at another hearing held within 15 working days, to make a proper disposition of the case. If the court finds that the allegations in the petition have not been established, it shall dismiss the petition and, if the child is in protective custody, order the immediate release of the child.

6. The findings of fact recorded by the court pursuant to subsection 5 and any specific allegations in the petition admitted to by the parties must be included as part of the disposition of the case in the report required to be made to the Central Registry pursuant to NRS 432B.310.

7. If the court finds that the allegations in the petition:

(a) Have been established, the agency which provides child welfare services may refer the parent or guardian of the child to a community-based organization that provides respite care, voluntary guardianship or other support services for families in crisis, as appropriate to meet the needs of the family.

(b) Have not been established, the agency which provides child welfare services may provide to the parent or guardian of the child information concerning a community-based organization described in paragraph (a), as appropriate for the needs of the family.

Sec. 5. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On January 1, 2020, for all other purposes.

