

Amendment No. 595

Assembly Amendment to Assembly Bill No. 140
(BDR 11-172)

Proposed by: Assemblywoman Cohen

Amendment Box: Consistent with Amendment No. 300.

Amends: Summary: No Title: Yes 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.



ASSEMBLY BILL NO. 140—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Prohibits discrimination against persons with a physical disability in certain proceedings relating to children. (BDR 11-172)

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 child welfare; prohibiting discrimination against persons who are deaf, legally blind or otherwise physically disabled in certain proceedings relating to children; ~~authorizing the Nevada Equal Rights Commission to investigate and resolve certain complaints alleging such discrimination;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits discrimination on the basis of disability in public accommodation, housing and employment. (NRS 118.100, 613.330, 651.070, 651.075) **Sections 1, 2, 4, 5 and 10-12** of this bill prohibit a court from discriminating against a person in a proceeding concerning child custody or visitation, adoption, guardianship or child protection solely because the person seeking custody or visitation, adoption, guardianship or child protection is deaf, is legally blind or has another physical disability. However, **sections 1, 2, 4, 5 and 12** also expressly authorize a court to decide against a person who is deaf, is legally blind or has another physical disability if it finds, based on evidence presented to the court, that the person's physical disability is likely to cause or contribute to or is causing or contributing to circumstances that are detrimental to the best interests of the child.

Section 3 of this bill similarly prohibits an agency which provides child welfare services or a child placing agency from determining that a prospective adoptive home is unsuitable for placement or detrimental to the interest of the child solely because the prospective adoptive parent or parents are deaf, are legally blind or have another physical disability, but authorizes such an agency to make such a determination if it finds, based on its investigation, that the physical disability of the prospective adoptive parent or parents is likely to cause or contribute to circumstances that are detrimental to the best interests of the child if the child is placed in the home. ~~[Section 3 also authorizes a prospective adoptive parent injured by a determination of an agency which provides child welfare services or a child placing agency which is contrary to these provisions to file a complaint with the Nevada Equal Rights Commission. Sections 6-9 of this bill authorize the Commission to investigate and resolve such a complaint in the same manner as it investigates and resolves other complaints over which it has jurisdiction.]~~

Existing law prohibits an agency which provides child welfare services from taking any action to remove a child from custody of the person responsible for the child's welfare if the agency determines there is no reasonable cause to believe the child is in need of protection. (NRS 432B.370) Existing law also authorizes a court that finds a child to be in need of protection to: (1) allow the child to remain in the custody of the parent or guardian of the child under such conditions as the court may prescribe; or (2) place the child in the custody of another person or certain agencies or institutions authorized to care for children. (NRS 432B.550) **Section 10** of this bill provides that a child is not in need of protection solely because a person responsible for the welfare of the child is deaf, is legally blind or has another physical disability.

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

Section 1. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

A court shall not deny custody or visitation rights to a person solely because the person is deaf, is blind or has another physical disability, but may deny custody or visitation rights to such a person if it finds, based on evidence presented to the court, that the person's physical disability is likely to cause or contribute to circumstances that are detrimental to the best interests of the child if the person is awarded custody or visitation rights. As used in this section, "blind" has the meaning ascribed to it in NRS 426.082.

Sec. 2. NRS 127.150 is hereby amended to read as follows:

127.150 1. If the court finds that the best interests of the child warrant the granting of the petition, an order or decree of adoption must be made and filed, ordering that henceforth the child is the child of the petitioners. When determining whether the best interests of the child warrant the granting of a petition that is filed by a foster parent, the court shall give strong consideration to the emotional bond between the child and the foster parent. A copy of the order or decree must be sent to the nearest office of the agency which provides child welfare services by the petitioners within 7 days after the order or decree is issued. In the decree the court may change the name of the child, if desired.

2. Except as otherwise provided in this subsection, an order or decree of adoption may not be made until after the child has lived for 6 months in the home of the petitioners. This subsection does not apply if one of the petitioners is the stepparent of the child or is related to the child within the third degree of consanguinity.

3. If the court is not satisfied that the proposed adoption is in the best interests of the child, the court shall deny the petition and may order the child returned to the custody of the person or agency legally vested with custody. *The court shall not deny a petition solely because the petitioner is deaf, is blind or has another physical disability, but may deny a petition if it finds, based on evidence presented to the court, that the petitioner's physical disability is likely to cause or contribute to circumstances that are detrimental to the best interests of the child if the petition is granted. As used in this subsection, "blind" has the meaning ascribed to it in NRS 426.082.*

4. After a petition for adoption has been granted, there is a presumption that remaining in the home of the adopting parent is in the child's best interest.

Sec. 3. NRS 127.2817 is hereby amended to read as follows:

127.2817 1. The Division, in consultation with each agency which provides child welfare services, shall adopt regulations setting forth the criteria to be used by

1 an agency which provides child welfare services or a child-placing agency for
2 determining whether a prospective adoptive home is suitable or unsuitable for the
3 placement of a child for adoption.

4 2. Upon the completion of an investigation conducted by an agency which
5 provides child welfare services or a child-placing agency pursuant to NRS 127.120
6 or 127.2805, the agency which provides child welfare services or child-placing
7 agency shall inform the prospective adoptive parent or parents of the results of the
8 investigation. If, pursuant to the investigation, a determination is made that a
9 prospective adoptive home is unsuitable for placement or detrimental to the interest
10 of the child, the agency which provides child welfare services or child-placing
11 agency shall provide the prospective adoptive parent or parents with an opportunity
12 to review and respond to the investigation with the agency which provides child
13 welfare services or child-placing agency before the issuance of the results of the
14 investigation. Except as otherwise provided in NRS 239.0115, the identity of those
15 persons who are interviewed or submit information concerning the investigation
16 must remain confidential.

17 3. *An agency which provides child welfare services or a child placing*
18 *agency shall not determine that a prospective adoptive home is unsuitable for*
19 *placement or detrimental to the interest of the child solely because the prospective*
20 *adoptive parent or parents are deaf, are blind or have another physical disability,*
21 *but may determine that a prospective adoptive home is unsuitable for placement*
22 *or detrimental to the interest of the child if it finds, based on its investigation, that*
23 *the physical disability of the prospective adoptive parent or parents is likely to*
24 *cause or contribute to circumstances that are detrimental to the best interests of*
25 *the child if the child is placed in the home. As used in this subsection, "blind" has*
26 *the meaning ascribed to it in NRS 426.082.*

27 ~~*[4. A prospective adoptive parent injured by a determination of an agency*~~
28 ~~*which provides child welfare services or a child-placing agency that violates*~~
29 ~~*subsection 3 may file a complaint to that effect with the Nevada Equal Rights*~~
30 ~~*Commission.]*~~

31 **Sec. 4.** NRS 159A.054 is hereby amended to read as follows:

32 159A.054 1. If the court finds that the proposed protected minor is not in
33 need of a guardian, the court shall dismiss the petition.

34 2. If the court finds that appointment of a guardian is required, the court shall
35 appoint a guardian of the proposed protected minor's person, estate, or person and
36 estate.

37 3. *The court shall not find that a proposed protected minor is in need of a*
38 *guardian solely because the person currently responsible for the proposed*
39 *protected minor is deaf, is blind or has another physical disability, but may find*
40 *that a proposed protected minor is in need of a guardian if it finds, based on*
41 *evidence presented to the court, that the physical disability of the person currently*
42 *responsible for the proposed protected minor is causing or contributing to*
43 *circumstances that are detrimental to the best interests of the proposed protected*
44 *minor. As used in this subsection, "blind" has the meaning ascribed to it in NRS*
45 *426.082.*

46 **Sec. 5.** NRS 159A.061 is hereby amended to read as follows:

47 159A.061 1. The parents of a proposed protected minor, or either parent, if
48 qualified and suitable, are preferred over all others for appointment as guardian for
49 the person or estate or person and estate of the proposed protected minor. The
50 appointment of a parent as guardian for the person or estate of a proposed protected
51 minor must not conflict with a valid order for custody of the proposed protected
52 minor.

2. Except as otherwise provided in subsection 4, if a parent of a proposed protected minor files a petition seeking appointment as guardian for the proposed protected minor, the parent is presumed to be suitable to serve as guardian for the proposed protected minor.

3. In determining whether the parents of a proposed protected minor, or either parent, or any other person who seeks appointment as guardian for the proposed protected minor is qualified and suitable, the court shall consider, if applicable and without limitation:

(a) Which parent has physical custody of the proposed protected minor;

(b) The ability of the parents, parent or other person to provide for the basic needs of the proposed protected minor, including, without limitation, food, shelter, clothing and medical care, taking into consideration any special needs of the proposed protected minor;

(c) Whether the parents, parent or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(d) Whether the parents, parent or other person has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult;

(e) Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony; and

(f) Whether the parents, parent or other person has engaged in one or more acts of domestic violence against the proposed protected minor, a parent of the proposed protected minor or any other person who resides with the proposed protected minor.

4. A parent of a proposed protected minor is presumed to be unsuitable to care for the proposed protected minor if:

(a) The parent is unable to provide for any or all of the basic needs of the proposed protected minor, including, without limitation:

(1) Food;

(2) Shelter;

(3) Clothing;

(4) Medical care; and

(5) Education;

(b) Because of action or inaction, the parent poses a significant safety risk of either physical or emotional danger to the proposed protected minor; or

(c) The proposed protected minor has not been in the care, custody and control of the parent for the 6 months immediately preceding the filing of the petition. The presumption created by this paragraph is a rebuttable presumption.

5. Subject to the preference set forth in subsection 1 and except as otherwise provided in subsection 7, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve.

6. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsections 2, 3 and 4, give consideration, among other factors, to:

(a) Any nomination of a guardian for the proposed protected minor contained in a will or other written instrument executed by a parent of the proposed protected minor.

(b) Any request made by the proposed protected minor, if he or she is 14 years of age or older, for the appointment of a person as guardian for the proposed protected minor.

(c) The relationship by blood or adoption of the proposed guardian to the proposed protected minor. In considering preferences of appointment, the court

may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Parent.
- (2) Adult sibling.
- (3) Grandparent.
- (4) Uncle or aunt.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159A.0615.

(e) Any recommendation made by:

(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or

(2) A guardian ad litem or court appointed special advocate who represents the proposed protected minor.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

7. The court may award temporary guardianship pursuant to this section, supported by findings of suitability, pending a trial or evidentiary hearing if that appointment is supported by findings.

8. Notwithstanding the presumption set forth in subsection 4, in the event of competing petitions for the appointment of guardianship of a proposed protected minor, any finding of unsuitability of a parent of the proposed protected minor must be found by clear and convincing evidence after a hearing on the merits or an evidentiary hearing.

9. In determining whether to appoint a guardian of the person or estate of a proposed protected minor and who should be appointed, the court must always act in the best interests of the proposed protected minor.

10. *A court shall not refuse to appoint a person as a guardian of the person or estate of a proposed protected minor solely because the person is deaf, is blind or has another physical disability, but may refuse to appoint a person as the guardian of the person or estate of a proposed protected minor if it finds, based on evidence presented to the court, that the person's physical disability is likely to cause or contribute to circumstances that are detrimental to the best interests of the proposed protected minor if the person is so appointed. As used in this subsection, "blind" has the meaning ascribed to it in NRS 426.082.*

11. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

Sec. 6. ~~[NRS 233.150 is hereby amended to read as follows:~~

~~233.150 The Commission may:~~

~~1. Order its Administrator to:~~

~~(a) With regard to public accommodation, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, national origin, ancestry or gender identity or expression and may conduct hearings with regard thereto;~~

~~(b) With regard to housing, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto;~~

~~(c) With regard to employment, investigate:~~

~~(1) Tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, national origin or ancestry, and may conduct hearings with regard thereto; and~~

~~(2) Any unlawful employment practice by an employer pursuant to the provisions of NRS 613.4353 to 613.4383, inclusive, and may conduct hearings with regard thereto.~~

~~(d) With regard to adoption, investigate acts by agencies which provide child welfare services, as defined in NRS 432B.030, and child placing agencies that violate subsection 3 of NRS 127.2817.~~

~~2. Mediate between or reconcile the persons or groups involved in those tensions, practices and acts.~~

~~3. Issue subpoenas for the attendance of witnesses or for the production of documents or tangible evidence relevant to any investigations or hearings conducted by the Commission.~~

~~4. Delegate its power to hold hearings and issue subpoenas to any of its members or any hearing officer in its employ.~~

~~5. Adopt reasonable regulations necessary for the Commission to carry out the functions assigned to it by law.~~ **(Deleted by amendment.)**

Sec. 7. [NRS 233.160 is hereby amended to read as follows:

~~233.160 1. A complaint which alleges unlawful discriminatory practices in:~~

~~(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.~~

~~(b) Employment, [or] public accommodations or adoption must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.~~

~~A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.~~

~~2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.~~

~~3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:~~

~~(a) A copy of the complaint;~~

~~(b) An explanation of the rights which are available to that party; and~~

~~(c) A copy of the Commission's procedures.] **(Deleted by amendment.)**~~

Sec. 8. [NRS 233.180 is hereby amended to read as follows:

~~233.180 If, after the Administrator has conducted a preliminary investigation into an alleged unlawful discriminatory practice in housing, employment, [or] public accommodations [,] or adoption, the Commission determines that the practice will cause immediate and irreparable harm to any person aggrieved by the practice, the Commission, after the informal meeting and before holding a public hearing upon the matter, may apply on behalf of such person to the district court for a temporary restraining order or preliminary injunction as provided in the Nevada Rules of Civil Procedure.] **(Deleted by amendment.)**~~

Sec. 9. [NRS 233.190 is hereby amended to read as follows:

~~233.190 1. Except as otherwise provided in this section or NRS 230.0115, any information gathered by the Commission in the course of its investigation of an alleged unlawful discriminatory practice in housing, employment, [or] public accommodations or adoption is confidential.~~

~~2. The Commission may disclose information gathered pursuant to subsection 1 to:~~

~~(a) Any governmental entity as appropriate or necessary to carry out its duties pursuant to this chapter; or~~

~~(b) To any other person if the information is provided in a manner which does not include any information that may be used to identify the complainant, the party against whom the unlawful discriminatory practice is alleged or any person who provided information to the Commission during the investigation.~~

~~2. Except as otherwise provided in subsection 4, the Commission shall disclose information gathered pursuant to subsection 1 to the complainant and the party against whom the unlawful discriminatory practice is alleged if:~~

~~(a) Each has consented to such disclosure; or~~

~~(b) The Commission has determined to conduct a hearing on the matter or apply for a temporary restraining order or an injunction or an action has been filed in court concerning the complaint.~~

~~4. The Commission may not disclose to the complainant or the party against whom the unlawful discriminatory practice is alleged:~~

~~(a) Any information obtained during negotiations for a settlement or attempts at mediating or conciliating the complaint.~~

~~(b) Any investigative notes or reports made by the Commission.~~

~~(c) Any information that may be used to identify a person who provided information to the Commission during the investigation and who has requested anonymity.~~

~~5. Except as otherwise provided in this section or NRS 239.0115, if the Commission's attempts at mediating or conciliating the cause of the grievance succeed, the information gathered pursuant to subsection 1 must remain confidential.~~

~~6. If the Commission proceeds with a hearing or applies for injunctive relief, confidentiality concerning any information, except negotiations for a settlement or attempts at mediating or conciliating the cause of the grievance, is no longer required.] (Deleted by amendment.)~~

Sec. 10. 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;

(2) Education as required by law; or

(3) Adequate medical care;

1 (c) Has been responsible for the neglect of a child who has resided with that
2 person; or

3 (d) Has been responsible for the abuse of another child regardless of whether
4 that person has successfully completed a plan for services that was recommended
5 by an agency which provides child welfare services pursuant to NRS 432B.340 to
6 address the abuse of the other child.

7 3. A child may be in need of protection if the death of a parent of the child is
8 or may be the result of an act by the other parent that constitutes domestic violence
9 pursuant to NRS 33.018.

10 4. A child may be in need of protection if the child is identified as being
11 affected by a fetal alcohol spectrum disorder or prenatal substance abuse or as
12 having withdrawal symptoms resulting from prenatal drug exposure.

13 5. *A child is not in need of protection solely because the person responsible*
14 *for the welfare of the child is deaf, is blind, as defined in NRS 426.082, or has*
15 *another physical disability.*

16 6. As used in this section:

17 (a) "Abuse" means:

18 (1) Physical or mental injury of a nonaccidental nature; or

19 (2) Sexual abuse or sexual exploitation,

20 ➤ of a child caused or allowed by a person responsible for the welfare of the child
21 under circumstances which indicate that the child's health or welfare is harmed or
22 threatened with harm. The term does not include the actions described in subsection
23 2 of NRS 432B.020.

24 (b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a
25 child in circumstances where the person knows or has reason to know that a child is
26 abused or neglected.

27 (c) "Neglect" means abandonment or failure to:

28 (1) Provide for the needs of a child set forth in paragraph (b) of subsection
29 2; or

30 (2) Provide proper care, control and supervision of a child as necessary for
31 the well-being of the child because of the faults or habits of the person responsible
32 for the welfare of the child or the neglect or refusal of the person to provide them
33 when able to do so.

34 ➤ The term does not include the actions described in subsection 2 of NRS
35 432B.020.

36 **Sec. 11.** NRS 432B.480 is hereby amended to read as follows:

37 432B.480 1. At each hearing conducted pursuant to NRS 432B.470:

38 (a) At the commencement of the hearing, the court shall advise the parties of
39 their right to be represented by an attorney and of their right to present evidence.

40 (b) The court shall determine whether there is reasonable cause to believe that
41 it would be:

42 (1) Contrary to the welfare of the child for the child to reside at his or her
43 home; or

44 (2) In the best interests of the child to place the child outside of his or her
45 home.

46 ➤ The court shall prepare an explicit statement of the facts upon which each of its
47 determinations is based. *The court shall not make an affirmative finding*
48 *regarding either subparagraph (1) or (2) solely because the person responsible*
49 *for the welfare of the child is deaf, is blind, as defined in NRS 426.082, or has*
50 *another physical disability.* If the court makes an affirmative finding regarding
51 either subparagraph (1) or (2), the court shall issue an order keeping the child in
52 protective custody pending a disposition by the court.

(c) The court shall determine whether the child has been placed in a home or facility that complies with the requirements of NRS 432B.3905. If the placement does not comply with the requirements of NRS 432B.3905, the court shall establish a plan with the agency which provides child welfare services for the prompt transfer of the child into a home or facility that complies with the requirements of NRS 432B.3905.

2. If the court issues an order keeping the child in protective custody pending a disposition by the court and it is in the best interests of the child, the court may:

(a) Place the child in the temporary custody of a grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child who the court finds has established a meaningful relationship with the child, with or without supervision upon such conditions as the court prescribes, regardless of whether the relative resides within this State; or

(b) Grant the grandparent, great-grandparent or other person related within the fifth degree of consanguinity to the child a reasonable right to visit the child while the child is in protective custody.

3. If the court finds that the best interests of the child do not require that the child remain in protective custody, the court shall order the immediate release of the child.

4. If a child is placed with any person who resides outside this State, the placement must be in accordance with NRS 127.330.

Sec. 12. 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 159A 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. *The court shall not deny placement of a child in the temporary or permanent custody of a person pursuant to subsection 1 solely because the person is deaf, is blind or has another physical disability, but may refuse to place a child in the temporary or permanent custody of a person if it finds, based on evidence presented to the court, that the person's physical disability is likely to cause or contribute to circumstances that are detrimental to the best interests of the child if the child is placed in the custody of the person. As used in this subsection, "blind" has the meaning ascribed to it in NRS 426.082.*

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

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

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

7 ~~[3-]~~ 4. If, pursuant to subsection 1, the child is to be placed with a relative or
8 fictive kin, the court may consider, among other factors, whether the child has
9 resided with a particular relative or fictive kin for 3 years or more before the
10 incident which brought the child to the court's attention.

11 ~~[4-]~~ 5. Except as otherwise provided in this subsection, a copy of the report
12 prepared for the court by the agency which provides child welfare services must be
13 sent to the custodian and the parent or legal guardian. If the child was delivered to a
14 provider of emergency services pursuant to NRS 432B.630:

15 (a) The parent who delivered the child to the provider shall be deemed to have
16 waived his or her right to a copy of the report; and

17 (b) A copy of the report must be sent to the parent who did not deliver the child
18 to the provider, if the location of such parent is known.

19 ~~[5-]~~ 6. In determining the placement of a child pursuant to this section, if the
20 child is not permitted to remain in the custody of the parents of the child or
21 guardian:

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

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

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

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

30 ~~[6-]~~ 7. Any search for a relative with whom to place a child pursuant to this
31 section must be completed within 1 year after the initial placement of the child
32 outside of the home of the child. If a child is placed with any person who resides
33 outside of this State, the placement must be in accordance with NRS 127.330.

34 ~~[7-]~~ 8. Within 60 days after the removal of a child from the home of the child,
35 the court shall:

36 (a) Determine whether:

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

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

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

42 ~~[8-]~~ 9. As used in this section, "fictive kin" means a person who is not related
43 by blood to a child but who has a significant emotional and positive relationship
44 with the child.

45 **Sec. 13.** This act becomes effective on July 1, 2019.