

SENATE BILL NO. 143—SENATORS
D. HARRIS; HANSEN AND SPEARMAN

FEBRUARY 23, 2021

JOINT SPONSORS: ASSEMBLYWOMEN
HANSEN; AND KRASNER

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the care of children.
(BDR 15-721)

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 children; revising provisions relating to the abuse, neglect and endangerment of a child; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations relating to certain activities in which children engage; revising provisions relating to the negligent treatment or maltreatment of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits certain persons who are responsible for the safety or welfare of a child from permitting or allowing the child to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect. Depending on certain factors such as the age of the child, whether substantial bodily or mental harm results to the child and whether the person has previously been convicted of certain violations of law, a person who violates such a provision is generally guilty of either a category A, B or C felony or a gross misdemeanor. Existing law provides that a person does not commit such abuse, neglect or endangerment of a child solely because the person delivers or allows the delivery of a child to a provider of emergency services. (NRS 200.508) **Section 1** of this bill additionally provides that a person does not commit such abuse, neglect or endangerment of a child solely because the person consents to a child engaging in any activity that constitutes an independent activity.



* S B 1 4 3 R 1 *

Existing law defines the term "abuse or neglect of a child" and sets forth circumstances in which a child is not abused or neglected and the health or welfare of the child is not harmed or threatened. (NRS 432B.020) **Section 1.5** of this bill includes in such circumstances a child engaging in an independent activity alone or with other children while outside the direct supervision of certain persons. **Section 1.5** requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations that provide which types of activities constitute an independent activity.

Existing law establishes the circumstances in which negligent treatment or maltreatment of a child occurs. (NRS 432B.140) **Section 2** of this bill revises such circumstances and provides that negligent treatment or maltreatment of a child occurs if those circumstances exist because of the faults or habits of the person responsible for the welfare of the child.

Section 3 of this bill provides that it is the intent of the Legislature that the provisions of this bill: (1) protect and promote the inherent right of a parent or guardian to raise his or her children; (2) protect the decision of a parent or guardian to grant his or her children unsupervised time to engage in certain activities; and (3) acknowledge that minorities and families in poverty are disproportionately subject to intervention with regard to decisions made concerning their children and deserve equitable treatment under the law.

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

Section 1. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or



(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

↳ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child pursuant to NRS 432B.130 and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

↳ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person ~~delivers~~:

(a) *Delivers* or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630 ~~or~~; or

(b) *Consents to a child engaging in any activity that constitutes an independent activity as provided by the regulations adopted by the Division of Child and Family Services of the Department of Health and Human Services pursuant to subsection 3 of NRS 432B.020.*



4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

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

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

Sec. 1.5. NRS 432B.020 is hereby amended to read as follows:

432B.020 1. "Abuse or neglect of a child" means, except as otherwise provided in subsection 2:

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

(b) Sexual abuse or sexual exploitation; or

(c) Negligent treatment or maltreatment as set forth in NRS 432B.140,

↳ of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

2. A child is not abused or neglected, nor is the health or welfare of the child harmed or threatened for the sole reason that:

(a) The parent of the child delivers the child to a provider of emergency services pursuant to NRS 432B.630, if the parent complies with the requirements of paragraph (a) of subsection 3 of that section; ~~for~~

(b) The parent or guardian of the child, in good faith, selects and depends upon nonmedical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this State in lieu of medical treatment. This paragraph does not limit the court in ensuring that a child receive a medical examination and treatment pursuant to NRS 62E.280 ~~for~~ ; or

(c) The child is alone or with other children and is:



(1) Outside the direct supervision of a parent or guardian of the child, a stepparent of the child with whom the child lives or an adult person who is continually or regularly found in the same household as the child; and

(2) Engaged in an independent activity.

3. The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt regulations necessary to carry out the provisions of this section, including, without limitation, regulations that provide which activities constitute an independent activity for the purposes of subparagraph (2) of paragraph (c) of subsection 2. Such activities may include, without limitation:

(a) Traveling to and from school or nearby commercial or recreational facilities;

(b) Engaging in outdoor play; or

(c) Remaining at home unattended.

4. As used in this section, "allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected.

Sec. 2. NRS 432B.140 is hereby amended to read as follows:

432B.140 Negligent treatment or maltreatment of a child occurs if ~~[a]~~ , *because of the faults or habits of the person responsible for the welfare of the child, the child* ~~[has]~~ :

1. *Has* been subjected to harmful behavior that is terrorizing, degrading, painful or emotionally traumatic ~~[,has]~~ ;

2. *Has* been abandoned ~~[,is]~~ ; or

3. *Is* without ~~[proper]~~ necessary care, control or supervision ~~[or-lacks-the]~~ , *including, without limitation*, subsistence, education, shelter, medical care or other care necessary for the well-being of the child , ~~[because-of-the-faults-or-habits-of-the-person-responsible-for-the-welfare-of-the-child-or]~~ *as a result of* the neglect or refusal of the person to provide ~~[them]~~ necessary care, control or supervision when able to do so.

Sec. 3. It is the intent of the Legislature that the provisions of this act:

1. Protect and promote the inherent right of a parent or guardian to raise his or her children;

2. Protect the decision of a parent or guardian to grant his or her children unsupervised time to engage in certain activities, including, without limitation, playing outside, walking to school, bicycling and remaining at home; and

3. Acknowledge that minorities and families in poverty are disproportionately subject to intervention with regard to decisions



1 made concerning their children and deserve equitable treatment
2 under the law.

