

SENATE BILL NO. 210—SENATOR DONDERO LOOP

MARCH 11, 2021

Referred to Committee on Education

SUMMARY—Revises provisions relating to the education of a child with an emotional disturbance. (BDR 38-561)

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 child welfare; requiring the development of a plan for the education of certain children admitted by a court to a psychiatric hospital or facility which provides residential treatment for mental illness; requiring a school district providing services to such a child to submit certain programs and plans to the psychiatric hospital; requiring a school district providing services to a child admitted to a facility which provides residential treatment for mental illness to monitor the progress and participate in transition planning for the child; requiring a school district providing services to a child who is admitted to a facility which provides residential treatment for mental illness to convene certain meetings before the admission of the child to the facility; requiring the Department of Education to adopt regulations relating to the transition from a facility which provides residential treatment for mental illness to a school or other educational setting after discharge; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the court-ordered admission of a child with an
2 emotional disturbance who is in the custody of an agency which provides child
3 welfare services to a psychiatric hospital or facility which provides residential
4 treatment for mental illness. (NRS 432B.6076) Existing law provides that a child
5 who is admitted to a psychiatric hospital or other facility under those conditions has
6 the right to an education. (NRS 432B.6082) **Section 1** of this bill requires a
7 psychiatric hospital to which such a child is admitted to develop a plan for the



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8 continued education of the child in consultation with the public or private school in
9 which the child was enrolled at the time of admission, any school district that was
10 providing services to the child at the time of admission, the agency which provides
11 child welfare services and any person responsible for the education of the child.
12 **Section 1** requires that before a child is admitted to a facility which provides
13 residential treatment for mental illness, any school district in which the child was
14 enrolled or which was providing services to the child when he or she was admitted
15 must monitor the child's progress while the child is admitted to the facility and
16 participate in the discharge planning for transitioning the child into a school or any
17 other educational setting. **Section 1** additionally requires that before a pupil with a
18 disability is admitted to a facility which provides residential treatment for mental
19 illness, the school district must convene an individualized education program
20 meeting to consider the appropriateness of a residential placement. For any other
21 child, **section 1** instead requires that before the child's admission to such a facility,
22 the school district convene a meeting of representatives from the child's school, the
23 school district, the child welfare services agency, any person responsible for the
24 education of the child and any other agency or organization that supports the child,
25 to consider the appropriateness of a residential placement. **Sections 2-4** of this bill
26 make conforming changes to: (1) indicate the placement of **section 1** in the Nevada
27 Revised Statutes; and (2) clarify that a child who is admitted to a facility has the
28 right to an education in accordance with the plan. **Sections 5 and 6** of this bill
29 require the public or private school in which the child was enrolled at the time of
30 admission to the facility and the school district that was providing services to the
31 child at the time of admission to the facility to participate in the development of and
32 comply with the plan.

33 Existing law requires that the treatment provided to a child with an emotional
34 disturbance must be designed to facilitate the adjustment and effective functioning
35 of the child in his or her present or anticipated situation in life, and includes certain
36 services. (NRS 433B.300) **Section 6.5** of this bill requires that a plan for the
37 continued education of the child if the child is admitted to a psychiatric hospital or
38 facility which provides residential treatment for mental illness is included in the
39 required services. Existing law requires that when a child enters foster care,
40 the agency which provides child welfare services to the child, in consultation with
41 the local education agency and the educational decision maker, must consider
42 certain factors in determining whether it is in the best interests of the child to
43 remain in his or her school of origin. (NRS 388E.105) **Section 4.5** of this bill
44 requires that the consideration of a plan for the continued education of the child, if
45 the child is admitted to a psychiatric hospital or facility which provides residential
46 treatment for mental illness, be added to the list of factors considered when
47 determining whether it is in the best interests of the child to remain in his or her
48 school of origin.

49 Existing federal law requires a school district to develop an individualized
50 education program for the education of a pupil with a disability who attends a
51 public school in the district. (20 U.S.C. § 1414) Existing federal regulations also
52 require a school district to develop a services plan to provide services to a pupil
53 with a disability who attends a private school located within the geographic
54 boundaries of the district. (34 C.F.R. §§ 300.132, 300.137-300.139) If a child for
55 whom an individualized education program or services plan has been developed is
56 in the custody of an agency which provides child welfare services and admitted by
57 a court to a psychiatric hospital or other facility which provides residential
58 treatment for mental illness, **sections 5 and 6** require the school district to provide
59 the individualized education program or services plan, as applicable, to the
60 psychiatric hospital or other facility.



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:

1. A psychiatric hospital to which a child who is in the custody of an agency which provides child welfare services is admitted pursuant to NRS 432B.6076 shall, in consultation with the public or private school in which the child was enrolled when he or she was admitted to the psychiatric hospital, any school district in which the child was enrolled or which was providing services to the child when he or she was admitted to the psychiatric hospital, the agency which provides child welfare services and any person responsible for the education of the child, develop a plan for the continued education of the child while the child remains enrolled in the public or private school or the school district yet is admitted to the psychiatric hospital. The plan must be:

(a) Provided to the child, the agency which provides child welfare services, the child's caseworker, if applicable, any person responsible for the education of the child, the school and, if applicable, the school district; and

(b) Submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608.

2. A plan for the continued education of a child developed pursuant to subsection 1 must include, without limitation:

(a) The number of hours of instruction each week that must be provided to the child while the child is admitted to the psychiatric hospital;

(b) Provisions for the transfer of instructional materials to the psychiatric hospital from the school in which the child was enrolled when he or she was admitted to the psychiatric hospital;

(c) Procedures for monitoring the implementation of the plan and the appropriateness of the instruction being provided to the child;

(d) If an individualized education program or services plan has been developed for the child and provided to the psychiatric hospital pursuant to section 5 or 6 of this act, provisions to ensure that the psychiatric hospital maintains compliance with the individualized education program or services plan, as applicable; and

(e) A plan for continuing the education of the child after he or she is discharged from the psychiatric hospital, including, without limitation, a plan for transitioning the child into a school or any



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1 *other educational setting in which the child will receive*
2 *instruction after discharge.*

3 3. *Before admission of a child who is in the custody of an*
4 *agency which provides child welfare services to a facility which*
5 *provides residential treatment for mental illness, the public or*
6 *private school or any school district in which the child was*
7 *enrolled or which was providing services to the child when he or*
8 *she was admitted to the facility must:*

9 (a) *For a child who is a pupil with a disability, convene an*
10 *individualized education program meeting to consider the*
11 *appropriateness of a residential placement under federal law as it*
12 *relates to the child's education needs;*

13 (b) *Convene a meeting of representatives of the public or*
14 *private school in which the child was enrolled, the school district*
15 *in which the child was enrolled, the agency which provides child*
16 *welfare services, any person responsible for the education of the*
17 *child and any other organization that provides support to the*
18 *child, as appropriate, to consider, pursuant to the statewide*
19 *framework for integrated student supports established pursuant to*
20 *NRS 388.885, the appropriateness of a residential placement;*

21 (c) *Monitor the child's progress while the child is admitted to*
22 *the facility; and*

23 (d) *Participate in discharge planning for transitioning the*
24 *child into a school or any other educational setting in which the*
25 *child will receive instruction after discharge. The Department of*
26 *Education shall adopt regulations necessary to carry out the*
27 *provisions of this subsection.*

28 4. *As used in this section:*

29 (a) *"Individualized education program" has the meaning*
30 *ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

31 (b) *"Person responsible for the education of the child"*
32 *includes, without limitation, the parent or guardian of the child*
33 *and any educational decision maker appointed for the child*
34 *pursuant to NRS 432B.462.*

35 (c) *"Private school" has the meaning ascribed to it in*
36 *NRS 394.103.*

37 (d) *"Public school" includes, without limitation, a university*
38 *school for profoundly gifted pupils.*

39 (e) *"Services plan" has the meaning ascribed to it in 34 C.F.R.*
40 *§ 300.37.*

41 **Sec. 2.** NRS 432B.607 is hereby amended to read as follows:

42 432B.607 As used in NRS 432B.607 to 432B.6085, inclusive,
43 *and section 1 of this act*, unless the context otherwise requires, the
44 words and terms defined in NRS 432B.6071 to 432B.6074,
45 inclusive, have the meanings ascribed to them in those sections.



Sec. 3. NRS 432B.6082 is hereby amended to read as follows:

432B.6082 In addition to the personal rights set forth in NRS 432B.607 to 432B.6085, inclusive, *and section 1 of this act*, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS, and NRS 435.530 to 435.635, inclusive, a child who is in the custody of an agency which provides child welfare services and who is admitted to a facility has the following personal rights, a list of which must be prominently posted in all facilities providing evaluation, treatment or training services to such children and must be otherwise brought to the attention of the child by such additional means as prescribed by regulation:

1. To receive an education *in accordance with a plan developed pursuant to section 1 of this act* as required by law; and

2. To receive an allowance from the agency which provides child welfare services in an amount equivalent to any allowance required to be provided to children who reside in foster homes.

Sec. 4. NRS 432B.6085 is hereby amended to read as follows:

432B.6085 1. Nothing in this chapter purports to deprive any person of any legal rights without due process of law.

2. Unless the context clearly indicates otherwise, the provisions of NRS 432B.607 to 432B.6085, inclusive, *and section 1 of this act*, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and NRS 435.530 to 435.635, inclusive, apply to all children who are in the custody of an agency which provides child welfare services.

Sec. 4.5. NRS 388E.105 is hereby amended to read as follows:

388E.105 1. When a child enters foster care or changes placement while in foster care, the agency which provides child welfare services to the child shall determine whether it is in the best interests of the child to remain in his or her school of origin. In making this determination, there is a rebuttable presumption that it is in the best interests of the child to remain in his or her school of origin.

2. In determining whether it is in the best interests of a child in foster care to remain in his or her school of origin, the agency which provides child welfare services, in consultation with the local education agency and the educational decision maker appointed for the child pursuant to NRS 432B.462, must consider, without limitation:

(a) The wishes of the child;

(b) The educational success, stability and achievement of the child;

(c) Any individualized education program or academic plan developed for the child;



- 1 (d) Whether the child has been identified as an English learner;
2 (e) The health and safety of the child;
3 (f) The availability of necessary services for the child at the
4 school of origin; ~~and~~
5 (g) Whether the child has a sibling enrolled in the school of
6 origin ~~and~~; and

7 *(h) A plan for the continued education of the child, developed*
8 *pursuant to section 1 of this act, if the child is admitted to a*
9 *psychiatric hospital or facility which provides residential treatment*
10 *for mental illness.*

11 ➤ The costs of transporting the child to the school of origin must
12 not be considered when determining whether it is in the best
13 interests of the child to remain at his or her school of origin.

14 3. If the agency which provides child welfare services
15 determines that it is in the best interests of a child in foster care to
16 attend a public school other than the child's school of origin:

17 (a) The agency which provides child welfare services must:

18 (1) Provide written notice of its determination to every
19 interested party as soon as practicable; and

20 (2) In collaboration with the local education agency, ensure
21 that the child is immediately enrolled in that public school; and

22 (b) The public school may not refuse to enroll the child on
23 the basis that the public school does not have:

24 (1) A certificate stating that the child has been immunized
25 and has received proper boosters for that immunization;

26 (2) A birth certificate or other document suitable as proof of
27 the child's identity;

28 (3) A copy of the child's records from the school the child
29 most recently attended; or

30 (4) Any other documentation required by a policy adopted by
31 the public school or the local education agency.

32 **Sec. 5.** Chapter 392 of NRS is hereby amended by adding
33 thereto a new section to read as follows:

34 *1. If a pupil who is enrolled in a public school, including,*
35 *without limitation, a university school for profoundly gifted pupils,*
36 *is admitted by a court to a psychiatric hospital or facility which*
37 *provides residential treatment for mental illness pursuant to NRS*
38 *432B.6076, the public school and, if applicable, the school district*
39 *in which the child is enrolled, must:*

40 *(a) If the pupil is admitted to a psychiatric hospital, participate*
41 *in the development of a plan for the continued education of the*
42 *pupil pursuant to section 1 of this act and comply with the*
43 *provisions of the plan; and*



1 *(b) If an individualized education program has been developed*
2 *for the pupil, provide the individualized education program to the*
3 *psychiatric hospital or facility.*

4 *2. As used in this section, "individualized education*
5 *program" has the meaning ascribed to it in 20 U.S.C. §*
6 *1414(d)(1)(A).*

7 **Sec. 6.** Chapter 394 of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 *1. If a pupil who is enrolled in a private school is admitted by*
10 *a court to a psychiatric hospital pursuant to NRS 432B.6076, the*
11 *private school must participate in the development of a plan for*
12 *the continued education of the pupil pursuant to section 1 of this*
13 *act and comply with the provisions of the plan.*

14 *2. If a pupil who is enrolled in a private school is admitted by*
15 *a court to a psychiatric hospital pursuant to NRS 432B.6076 and*
16 *the school district within whose geographic boundaries the private*
17 *school is located has developed a services plan for the child, the*
18 *school district must:*

19 *(a) Participate in the development of a plan for the continued*
20 *education of the pupil pursuant to section 1 of this act and comply*
21 *with the provisions of the plan; and*

22 *(b) Provide the services plan to the psychiatric hospital.*

23 *3. As used in this section, "services plan" has the meaning*
24 *ascribed to it in 34 C.F.R. § 300.37.*

25 **Sec. 6.5.** NRS 433B.300 is hereby amended to read as follows:
26 433B.300 The treatment provided to a child with an emotional
27 disturbance must be designed to facilitate the adjustment and
28 effective functioning of that child in his or her present or anticipated
29 situation in life, and includes:

30 1. Services provided without admission to a facility, such as:

31 (a) Counseling for the family;

32 (b) Therapy in a group for parents and children;

33 (c) Classes for parents in effective techniques for the
34 management of children;

35 (d) Individual therapy for children; and


36 (e) Evaluation of the child, including personal assessments and
37 studies of individual social environments;

38 2. Services for the care of children during the day, involving
39 educational programs and therapy programs provided after school or
40 for half a day;

41 3. Placement in transitional homes operated by professionally
42 trained parents working in close consultation with the administrative
43 officer and the staff of the administrative officer; ~~and~~

44 4. Short-term residential services providing 24-hour
45 supervision, evaluation and planning and intensive counseling for



the family, therapy and educational evaluation and consultation  ;
and

5. A plan for the continued education of the child if the child is admitted to a psychiatric hospital or a facility which provides residential treatment for mental illness, as applicable, developed pursuant to section 1 of this act, and the communication and coordination of that plan with the school district and the agency which provides child welfare services.

Sec. 7. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective:

(a) 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

(b) On July 1, 2021, for all other purposes.

