Senate Bill No. 284–Senators Cannizzaro, Scheible, Nguyen; Cruz-Crawford, Daly, Doñate, Dondero Loop, Flores, Ohrenschall and Taylor

CHAPTER.....

AN ACT relating to child welfare; requiring an agency which provides child welfare services to take certain measures to facilitate the payment of certain benefits to which a child in the custody of the agency is entitled; revising the manner in which an agency which provides child welfare services is required to maintain and use certain benefits and awards received on behalf of such a child; requiring an agency which provides child welfare services to provide certain training and information to certain children and other persons interested in the welfare of the child; requiring an agency which provides child welfare services to report certain information to a court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that all benefits for survivors or other awards payable to a child receiving child welfare services: (1) in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) be deposited in the State Treasury for credit to the Trust Fund for Child Welfare; or (2) in a county whose population is 100,000 or more (currently Clark and Washoe Counties) be deposited in a trust fund for child welfare established in the county treasury. Existing law requires the Division of Child and Family Services of the Department of Health and Human Services to use money in the Trust Fund for Child Welfare to pay for any services provided to the child to whom the benefits or awards were payable with public money. Existing law authorizes the agency which provides child welfare services in a county whose population is 100,000 or more to use the money in the trust fund for child welfare in the county treasury to pay for such services. (NRS 432.037) **Section 6** of this bill repeals those provisions.

Section 1 of this bill requires an agency which provides child welfare services to determine if each child in the custody of the agency is receiving or is eligible to receive federal benefits administered by the Social Security Administration or the United States Department of Veterans Affairs. If a child is eligible to receive such federal benefits, **section 1** requires the agency which provides child welfare services to promptly apply for the federal benefits on behalf of the child. If the agency which provides child welfare services applies for such federal benefits on behalf of a child in its custody or if such a child is receiving such federal benefits, **section 1** requires the agency to: (1) determine whether there is a person who may be the representative payee for the child for the purpose of receiving such federal benefits; and (2) if no person is suitable, apply to the Federal Government to be the representative payee for the child. If the agency which provides child welfare services is approved to be the representative payee for the child, **section 1** additionally requires the agency to: (1) establish an account for the purpose of using and conserving the federal benefits and any other benefits or awards received on behalf of the child; (2) perform an accounting of the use, application or conservation of all benefits that the agency receives on behalf of the child every 6 months; and (3) notify and consult with certain persons associated with the child

concerning applications for and the use of federal benefits. **Section 1** also requires the agency to provide financial counseling to a child who is in the custody of the agency, is receiving benefits and is 14 years of age or older.

Section 1 prohibits an agency which provides child welfare services that serves as the representative payee for a child from using any benefits, awards or assets belonging to a child to pay for the costs of the care of the child. **Section 1** requires an agency which provides child welfare services that is the representative payee for a child to periodically assess whether there is a more suitable person to serve as the representative payee for the child, consult with certain interested persons as to whether the person is suitable for that role and, if so, assist the person in applying to be the representative payee. If a person assumes the role of representative payee, **section 1** requires the agency to provide certain training to the person and request from the person certain documents relating to the accounting of funds of the child. Upon ceasing to serve as the representative payee for a child, **section 1** requires an agency which provides child welfare services to remit any balance in the account maintained on behalf of the child or transfer control over the account in accordance with any requirements imposed by the source of the money or, if no such requirements exist, to: (1) the new representative payee or the parent or legal guardian of the child; or (2) if the child is emancipated or has reached 18 years of age, the child. **Sections 1 and 3** of this bill require an agency which provides child welfare services to submit to a court overseeing the case of a child in its custody who is receiving federal benefits certain documentation on the accounting of those benefits. **Section 2** of this bill makes a conforming change to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

Section 4 of this bill requires the Division to, on or before January 1, 2026, close each account in the Trust Fund and: (1) if the Division is the representative payee for the child for which the account was maintained, deposit the money into an account maintained pursuant to **section 1**; or (2) if the Division is not the representative payee for the child, remit the balance of the account in accordance with any requirements imposed by the source of the money or, if no such requirements exist, to the new representative payee, the parent or guardian of the child or the child, depending on the circumstances. **Section 4** requires an agency which provides child welfare services in a county whose population is 100,000 or more to take similar action with regard to the trust fund for child welfare in the county treasury.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

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

Section 1. Chapter 432 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Not later than 60 days after a child is placed in the custody of an agency which provides child welfare services and annually thereafter, the agency which provides child welfare services shall determine whether the child is receiving or is eligible to receive federal benefits.

2. If an agency which provides child welfare services determines pursuant to subsection 1 that a child is eligible to receive federal benefits but is not currently receiving such benefits, the agency which provides child welfare services shall promptly apply for the federal benefits on behalf of the child.

3. If a child in the custody of an agency which provides child welfare services is receiving federal benefits or if the agency which provides child welfare services applies for federal benefits on behalf of the child pursuant to subsection 2, the agency which provides child welfare services shall:

(a) Determine, in consultation with the child, any parent whose rights have not been terminated and the attorney for the child, whether there is a person who is suitable to be the representative payee for the child in accordance with 20 C.F.R. §§ 404.2021 and 416.621; and

(b) If there is no person who is suitable to be the representative payee for the child, apply to be the representative payee for the child pursuant to 20 C.F.R. §§ 404.2024 and 416.624 and deposit the federal benefits into an account established pursuant to subsection 4.

4. If an agency which provides child welfare services is the representative payee for a child, the agency which provides child welfare services shall:

(a) Establish an account that is appropriate to use and conserve the federal benefits and any other benefits or awards received on behalf of the child. An account established pursuant to this paragraph may be, without limitation:

(1) A special needs trust;

(2) A pooled special needs trust;

(3) An ABLE account described in section 592A of the Internal Revenue Code, 26 U.S.C. § 529A; or

(4) Any other trust account that will not interfere with the eligibility of the child for any benefits provided by the Federal Government, this State or an agency or political subdivision of this State.

(b) Regularly meet with the child and the attorney for the child to discuss the federal benefits and ascertain the needs of the child, including, without limitation, needs related to the future plans of a child who is 14 years of age or older once he or she reaches the age of majority.

(c) If the child is 14 years of age or older, provide financial counseling to the child on preserving his or her eligibility for benefits, the use of the benefits for the needs of the child in

accordance with subsection 5 and planning for future needs that are foreseeable.

5. An agency which provides child welfare services that is the representative payee for a child shall not use any federal benefits or other benefits, awards or assets belonging to a child to pay for or reimburse the agency which provides child welfare services or any other state or local governmental agency for costs of the child's care. The agency which provides child welfare services may use such money in the specific interests of the child, as determined in cooperation with the child and attorney for the child, for costs not covered by the agency as part of the child's care or by the health insurance of the child.

6. In addition to any accounting required by NRS 166A.310, an agency which provides child welfare services that is the representative payee for a child shall, at least once every 6 months, perform an accounting of the use, application or conservation of all benefits received by the agency on behalf of the child and provide documentation of the accounting to:

(a) The child;

(b) Any parent of the child whose parental rights have not been terminated;

(c) Any legal guardian of the child;

(d) The attorney for the child; and

(e) A court, as required by NRS 432B.580.

7. An agency which provides child welfare services that has applied for benefits pursuant to subsection 2 shall notify the child, any parent of the child whose parental rights have not been terminated, the legal guardian of the child and the attorney for the child of any application, decision or appeal related to benefits, any application pursuant to paragraph (b) of subsection 3 to be the representative payee for the child or any decision or appeal related to such an application.

8. If an application for federal benefits submitted by an agency which provides child welfare services on behalf of a child is denied, the agency which provides child welfare services shall:

(a) Consult with the attorney for the child; and

(b) Appeal the denial if an appeal is in the best interests of the child.

9. An agency which provides child welfare services that is the representative payee for a child shall periodically assess whether there is a person who is suitable to assume the role of representative payee and who would better serve the best interests of the child. If the agency which provides child welfare services

determines that such a person exists, the agency which provides child welfare services shall consult with the child, any parent whose rights have not been terminated and the attorney for the child about the person identified. If after such consultation, the agency continues to believe that the person is suitable to assume the role of representative payee, the agency shall contact the person to support him or her in applying to be the representative payee for the child.

10. If a person assumes the role of representative payee pursuant to subsection 3 or 9 for a child who is in the custody of an agency which provides child welfare services, the agency shall:

(a) Provide training to the representative payee relating to:

(1) The fiduciary obligations of a representative payee;

(2) Establishing, monitoring and utilizing accounts to maintain the child's eligibility for benefits; and

(3) Utilizing and accounting for the benefits of the child;

(b) While the child remains in the custody of the agency, require the representative payee to:

(1) Perform an accounting every 6 months of the use, application or conservation of all benefits received by the representative payee on behalf of the child; and

(2) Provide documentation of each accounting performed pursuant to subparagraph (1) to the agency; and

(c) Include any documentation provided pursuant to paragraph (b) in a report submitted to a court pursuant to NRS 432B.580.

11. An agency which provides child welfare services that ceases to serve as the representative payee for a child shall remit any balance remaining in an account established pursuant to subsection 4 or transfer control over such an account in accordance with the requirements prescribed by the source of the money or, in the absence of such requirements, to:

(a) The new representative payee for the child, if any;

(b) The parent or legal guardian of the child, if there is no new representative payee and the child is not emancipated and has not reached 18 years of age; or

(c) The child if the child is emancipated or has reached 18 years of age.

12. An agency which provides child welfare services shall, not earlier than 18 months before the 18th birthday of a child in the custody of the agency who is receiving federal benefits and not later than 12 months before that birthday:

(a) Inform the child concerning any actions necessary for the child to:

(1) Continue to be eligible to receive federal benefits after his or her 18th birthday; and

(2) Receive federal benefits directly or designate a new representative payee;

(b) Inform the child concerning any effect of other benefits received by or on behalf of the child on the amount of the federal benefits received by the child; and

(c) Assist the child with any actions described in paragraph (a).

13. An agency which provides child welfare services shall provide appropriate training to employees of the agency who are involved in the performance of the duties set forth in this section, including, without limitation, training on how to establish, monitor and use appropriate financial accounts to maintain benefits received by a child in a manner that preserves the eligibility of the child for those benefits.

14. As used in this section:

(a) "Federal benefits" means benefits administered by the Social Security Administration or the United States Department of Veterans Affairs.

(b) "Representative payee" means a person or entity who serves as a representative payee for the purposes described in 20 C.F.R. Part 404, Subpart U.

Sec. 2. NRS 432.091 is hereby amended to read as follows:

432.091 The provisions of NRS 432.010 to 432.085, inclusive, ***and section 1 of this act,*** do not apply to the Program for Child Care and Development administered by the Division of Welfare and Supportive Services of the Department pursuant to chapter 422A of NRS.

Sec. 3. NRS 432B.580 is hereby amended to read as follows:

432B.580 1. Except as otherwise provided in this section and NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent, the placement must be reviewed by the court at least semiannually, and within 90 days after a request by a party to any of the prior proceedings. Unless the parent, guardian or the custodian objects to the referral, the court may enter an order directing that the placement be reviewed by a panel appointed pursuant to NRS 432B.585.

2. An agency acting as the custodian of the child shall, before any hearing for review of the placement of a child, submit a report

to the court, or to the panel if it has been designated to review the matter, which includes:

(a) An evaluation of the progress of the child and the family of the child and any recommendations for further supervision, treatment or rehabilitation.

(b) Information concerning the placement of the child in relation to the child's siblings, including, without limitation:

(1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be presented at the first hearing to occur after the siblings are separated and approved by the court. The plan for visitation must be updated as necessary to reflect any change in the placement of the child or a sibling, including, without limitation, any such change that occurs after the termination of parental rights to the child or a sibling or the adoption of a sibling.

(c) Information concerning the child's education, including:

(1) A copy of any academic plan or individual graduation plan developed for the child pursuant to NRS 388.155, 388.165, 388.205 or 388.227;

(2) The grade and school in which the child is enrolled;

(3) The name of each school the child attended before enrolling in the school in which he or she is currently enrolled and the corresponding dates of attendance;

(4) Whether the child has not completed or passed any course of instruction that the child should have completed or passed by the time the report is submitted, which has resulted in the child having a deficiency in credits;

(5) A copy of any individualized education program developed for the child;

(6) A copy of any plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(7) A summary of any special education services received by the child;

(8) A copy of the most recent report card of the child;

(9) A statement of the number of credits earned by the child during the most recent semester, if applicable;

(10) A statement of the number of times the child has been absent from school during the current or most recent school year for which the child was enrolled in school;

(11) The scores the child received on any academic assessments or standardized examinations administered to the child;

(12) Any information provided by the educational decision maker appointed for the child pursuant to NRS 432B.462; and

(13) Whether a request that the child receive special education services has been made and, if so, the outcome of such a request.

(d) A copy of any explanations regarding medication that has been prescribed for the child that have been submitted by a foster home pursuant to NRS 424.0383.

(e) Documentation of any accounting conducted pursuant to section 1 of this act within the immediately preceding 6 months.

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. Upon the issuance of such an order, the court shall provide each sibling of the child with the case number of the proceeding for the purpose of allowing the sibling to petition the court for visitation or enforcement of the order for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in subsection 7 and subsection 5 of NRS 432B.520, notice of the hearing must be filed with the court and must be given by first-class mail or any other means agreed upon in writing between the agency which provides child welfare services and the recipient of the notice to:

(a) All the parties to any of the prior proceedings;

(b) Any persons planning to adopt the child;

(c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to this section or NRS 127.171 and his or her attorney, if any;

(d) Any other relatives of the child or providers of foster care who are currently providing care to the child; and

(e) The educational decision maker appointed for the child pursuant to NRS 432B.462.

7. The notice of the hearing required to be filed and given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;

(b) Must not include any confidential information described in NRS 127.140;

(c) Need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040; and

(d) Need not be given to a parent who delivered a child to a provider of emergency services pursuant to NRS 432B.630.

8. The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 a right to be heard at the hearing.

9. The court or panel shall, after considering the report provided in subsection 2 and any other relevant evidence, determine based on a preponderance of the evidence:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child;

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship; and

(e) Whether the child is making adequate academic progress and receiving the educational services or supports necessary to ensure the academic success of the child.

10. If the child is placed in a qualified residential treatment program, the determination pursuant to paragraph (a) of subsection 9 must include, without limitation, a finding on each factor prescribed by subsection 4 of NRS 432B.575.

11. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

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

Sec. 4. 1. On or before January 1, 2026:

(a) The Division shall close each account in the Trust Fund for Child Welfare created by NRS 432.037. If the Division is the representative payee pursuant to section 1 of this act for the child for whom such an account was maintained, the Division shall deposit the money from the account into an account created for the child pursuant to section 1 of this act. If the Division is not the representative payee for the child, the Division shall remit the money in accordance with subsection 11 of section 1 of this act.

(b) An agency which provides child welfare services in a county whose population is 100,000 or more shall close the trust fund for child welfare established in the county treasury pursuant to NRS 432.037. If the agency which provides child welfare services is the representative payee pursuant to section 1 of this act for a child for whom benefits or other awards payable to the child remain in the trust fund, the agency which provides child welfare services shall deposit the money from the trust fund attributable to such benefits or awards, including, without limitation, any interest paid on such benefits or other awards, into an account created for the child pursuant to section 1 of this act. If the agency which provides child welfare services is not the representative payee for such a child, the agency which provides child welfare services shall remit such money in accordance with subsection 11 of section 1 of this act.

2. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Division" means the Division of Child and Family Services of the Department of Health and Human Services.

(c) "Representative payee" has the meaning ascribed to it in section 1 of this act.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. NRS 432.037 is hereby repealed.

Sec. 7. 1. This section and sections 4 and 5 of this act become effective upon passage and approval.

2. Sections 1, 2, 3 and 6 of this act become effective on January 1, 2026.

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