

ASSEMBLY BILL NO. 83—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DIVISION OF CHILD AND FAMILY SERVICES)

PREFILED DECEMBER 15, 2008

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning the reporting and investigation of allegations of child abuse and neglect. (BDR 38-333)

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 the protection of children; making various changes concerning the reporting and investigation of allegations of child abuse and neglect; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law provides for the reporting and investigation of allegations of child
- 2 abuse and neglect and for intervention to protect children who are allegedly abused
- 3 or neglected. (Chapter 432B of NRS) **Section 1** of this bill revises the definition of
- 4 “abuse or neglect of a child” to include certain conduct that renders the parent,
- 5 guardian or other person who exercises control or supervision of the child incapable
- 6 of caring for the child, including, without limitation, the inability of the parent,
- 7 guardian or other person to care for the child because of drug or alcohol abuse.
- 8 (NRS 432B.020) **Section 2** of this bill adds the safety of a child as a factor in
- 9 determining negligent treatment or maltreatment of a child. (NRS 432B.140)
- 10 Existing law addresses prenatal illegal substance abuse and withdrawal
- 11 symptoms resulting from prenatal drug exposure for various purposes relating to
- 12 the reporting, investigation and intervention of cases alleging child abuse or
- 13 neglect. (NRS 432B.170, 432B.220, 432B.230, 432B.260, 432B.310, 432B.330,
- 14 432B.400) **Sections 3-6 and 8-10** of this bill amend those provisions to include
- 15 consideration of prenatal abuse of other drugs or substances or prenatal abuse of
- 16 alcohol or withdrawal symptoms resulting from such abuse or other complications
- 17 at birth as a result of such abuse. **Section 6** also requires an agency which provides
- 18 child welfare services or a law enforcement agency to immediately initiate an
- 19 investigation of a report of abuse or neglect of a child abuse if the report is
- 20 regarding an infant who is born affected by such abuse or experiencing withdrawal



21 symptoms or complications at birth resulting from such abuse. **Section 6** further
22 requires an agency which provides child welfare services to develop a plan of safe
23 care for such an infant which includes assessments of the infant, referrals to
24 providers of health care and monitoring of the infant for at least 90 days. **Section 7**
25 of this bill revises the determination that an agency which provides child welfare
26 services is required to make during an investigation of a report of child abuse or
27 neglect to include a determination of whether there is an impending threat to the
28 safety of the child and the likelihood that the child will be abused or neglected
29 again if he remains in the same environment. (NRS 432B.300)

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

1 **Section 1.** NRS 432B.020 is hereby amended to read as
2 follows:

3 432B.020 1. "Abuse or neglect of a child" means ~~[-, except]~~ :

4 *(a) Except* as otherwise provided in subsection 2:

5 ~~[(a)]~~ (1) Physical or mental injury of a nonaccidental nature;

6 ~~[(b)]~~ (2) Sexual abuse or sexual exploitation; or

7 ~~[(c)]~~ (3) Negligent treatment or maltreatment as set forth in
8 NRS 432B.140,

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

12 *(b) The health or welfare of a child is harmed or threatened*
13 *with harm because the parent, guardian or other person who*
14 *exercises control or supervision of the child engages in a pattern*
15 *of conduct that renders the parent, guardian or other person*
16 *incapable of caring for the immediate and ongoing needs of the*
17 *child, including, without limitation, incapacity resulting from the*
18 *abuse of drugs or alcohol.*

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

21 (a) Parent delivers the child to a provider of emergency services
22 pursuant to NRS 432B.630, if the parent complies with the
23 requirements of paragraph (a) of subsection 3 of that section; or

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

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



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

2 432B.140 Negligent treatment or maltreatment of a child
3 occurs if a child has been abandoned, is without proper care, control
4 and supervision or lacks the subsistence, education, shelter, medical
5 care or other care necessary for the *safety or* well-being of the child
6 because of the faults or habits of the person responsible for his
7 welfare or his neglect or refusal to provide them when able to do so.

8 **Sec. 3.** NRS 432B.170 is hereby amended to read as follows:

9 432B.170 Nothing in the provisions of this chapter or NRS
10 432.0999 to 432.130, inclusive, prohibits an agency which provides
11 child welfare services from sharing information with other state or
12 local agencies if:

13 1. The purpose for sharing the information is for the
14 development of a plan for the care, treatment or supervision of ~~[a]~~:

15 (a) A child who ~~[has]~~:

16 (1) *Has* been abused or neglected; ~~[]~~ or

17 (2) *Is* an infant who ~~[is]~~ *was* born ~~[and has been]~~ affected by
18 prenatal illegal substance abuse, *prenatal abuse of other drugs or*
19 *substances or prenatal abuse of alcohol* or *who* has withdrawal
20 symptoms resulting from ~~[prenatal drug exposure]~~ *such abuse, or*
21 *who has experienced other complications at birth as a result of*
22 *such abuse as determined by a physician;* or ~~[of a]~~

23 (b) A person responsible for the child's or infant's welfare;

24 2. The other agency has standards for confidentiality equivalent
25 to those of the agency which provides child welfare services; and

26 3. Proper safeguards are taken to ensure the confidentiality of
27 the information.

28 **Sec. 4.** NRS 432B.220 is hereby amended to read as follows:

29 432B.220 1. Any person who is described in subsection 4
30 and who, in his professional or occupational capacity, knows or has
31 reasonable cause to believe that a child has been abused or neglected
32 shall:

33 (a) Except as otherwise provided in subsection 2, report the
34 abuse or neglect of the child to an agency which provides child
35 welfare services or to a law enforcement agency; and

36 (b) Make such a report as soon as reasonably practicable but not
37 later than 24 hours after the person knows or has reasonable cause to
38 believe that the child has been abused or neglected.

39 2. If a person who is required to make a report pursuant to
40 subsection 1 knows or has reasonable cause to believe that the abuse
41 or neglect of the child involves an act or omission of:

42 (a) A person directly responsible or serving as a volunteer for or
43 an employee of a public or private home, institution or facility
44 where the child is receiving child care outside of his home for a



1 portion of the day, the person shall make the report to a law
2 enforcement agency.

3 (b) An agency which provides child welfare services or a law
4 enforcement agency, the person shall make the report to an agency
5 other than the one alleged to have committed the act or omission,
6 and the investigation of the abuse or neglect of the child must be
7 made by an agency other than the one alleged to have committed the
8 act or omission.

9 3. Any person who is described in paragraph (a) of subsection
10 4 who delivers or provides medical services to a newborn infant and
11 who, in his professional or occupational capacity, knows or has
12 reasonable cause to believe that the newborn infant ~~has been~~ *was*
13 *born* affected by prenatal illegal substance abuse, *prenatal abuse of*
14 *other drugs or substances or prenatal abuse of alcohol* or has
15 withdrawal symptoms resulting from ~~prenatal drug exposure~~ *such*
16 *abuse, or has experienced other complications at birth as a result*
17 *of such abuse as determined by a physician*, shall, as soon as
18 reasonably practicable but not later than 24 hours after the person
19 knows or has reasonable cause to believe that the newborn infant is
20 so affected or has such symptoms, notify an agency which provides
21 child welfare services of the condition of the infant and refer each
22 person who is responsible for the welfare of the infant to an agency
23 which provides child welfare services for appropriate counseling,
24 training or other services. A notification and referral to an agency
25 which provides child welfare services pursuant to this subsection
26 shall not be construed to require prosecution for any illegal action.

27 4. A report must be made pursuant to subsection 1 by the
28 following persons:

29 (a) A physician, dentist, dental hygienist, chiropractor,
30 optometrist, podiatric physician, medical examiner, resident, intern,
31 professional or practical nurse, physician assistant licensed pursuant
32 to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage
33 and family therapist, clinical professional counselor, clinical alcohol
34 and drug abuse counselor, alcohol and drug abuse counselor, clinical
35 social worker, athletic trainer, advanced emergency medical
36 technician or other person providing medical services licensed or
37 certified in this State.

38 (b) Any personnel of a hospital or similar institution engaged in
39 the admission, examination, care or treatment of persons or an
40 administrator, manager or other person in charge of a hospital or
41 similar institution upon notification of suspected abuse or neglect of
42 a child by a member of the staff of the hospital.

43 (c) A coroner.



1 (d) A clergyman, practitioner of Christian Science or religious
2 healer, unless he has acquired the knowledge of the abuse or neglect
3 from the offender during a confession.

4 (e) A social worker and an administrator, teacher, librarian or
5 counselor of a school.

6 (f) Any person who maintains or is employed by a facility or
7 establishment that provides care for children, children's camp or
8 other public or private facility, institution or agency furnishing care
9 to a child.

10 (g) Any person licensed to conduct a foster home.

11 (h) Any officer or employee of a law enforcement agency or an
12 adult or juvenile probation officer.

13 (i) An attorney, unless he has acquired the knowledge of the
14 abuse or neglect from a client who is or may be accused of the abuse
15 or neglect.

16 (j) Any person who maintains, is employed by or serves as a
17 volunteer for an agency or service which advises persons regarding
18 abuse or neglect of a child and refers them to persons and agencies
19 where their requests and needs can be met.

20 (k) Any person who is employed by or serves as a volunteer for
21 an approved youth shelter. As used in this paragraph, "approved
22 youth shelter" has the meaning ascribed to it in NRS 244.422.

23 (l) Any adult person who is employed by an entity that provides
24 organized activities for children.

25 5. A report may be made by any other person.

26 6. If a person who is required to make a report pursuant to
27 subsection 1 knows or has reasonable cause to believe that a child
28 has died as a result of abuse or neglect, the person shall, as soon as
29 reasonably practicable, report this belief to an agency which
30 provides child welfare services or a law enforcement agency. If such
31 a report is made to a law enforcement agency, the law enforcement
32 agency shall notify an agency which provides child welfare services
33 and the appropriate medical examiner or coroner of the report. If
34 such a report is made to an agency which provides child welfare
35 services, the agency which provides child welfare services shall
36 notify the appropriate medical examiner or coroner of the report.
37 The medical examiner or coroner who is notified of a report
38 pursuant to this subsection shall investigate the report and submit
39 his written findings to the appropriate agency which provides child
40 welfare services, the appropriate district attorney and a law
41 enforcement agency. The written findings must include, if
42 obtainable, the information required pursuant to the provisions of
43 subsection 2 of NRS 432B.230.



1 **Sec. 5.** NRS 432B.230 is hereby amended to read as follows:
2 432B.230 1. A person may make a report pursuant to NRS
3 432B.220 by telephone or, in light of all the surrounding facts and
4 circumstances which are known or which reasonably should be
5 known to the person at the time, by any other means of oral, written
6 or electronic communication that a reasonable person would believe,
7 under those facts and circumstances, is a reliable and swift means of
8 communicating information to the person who receives the report. If
9 the report is made orally, the person who receives the report must
10 reduce it to writing as soon as reasonably practicable.

11 2. The report must contain the following information, if
12 obtainable:

13 (a) The name, address, age and sex of the child;

14 (b) The name and address of the child's parents or other person
15 responsible for his care;

16 (c) The nature and extent of the abuse or neglect of the child, the
17 effect of prenatal illegal substance abuse , *prenatal abuse of other*
18 *drugs or substances or prenatal abuse of alcohol* on ~~[the newborn]~~
19 *an infant* or the nature of the withdrawal symptoms ~~[resulting from~~
20 ~~prenatal drug exposure]~~ of the ~~[newborn]~~ infant ~~[-] from such~~
21 *abuse, or other complications experienced by the infant at birth as*
22 *a result of such abuse as determined by a physician;*

23 (d) Any evidence of previously known or suspected:

24 (1) Abuse or neglect of the child or the child's siblings; or

25 (2) Effects of prenatal illegal substance abuse , *prenatal*
26 *abuse of other drugs or substances or prenatal abuse of alcohol* on
27 *the infant* or evidence of withdrawal symptoms ~~[resulting from~~
28 ~~prenatal drug exposure]~~ of the ~~[newborn]~~ infant ~~[-] from such~~
29 *abuse, or evidence of other complications experienced by the*
30 *infant at birth as a result of such abuse as determined by a*
31 *physician;*

32 (e) The name, address and relationship, if known, of the person
33 who is alleged to have abused or neglected the child; and

34 (f) Any other information known to the person making the
35 report that the agency which provides child welfare services
36 considers necessary.

37 **Sec. 6.** NRS 432B.260 is hereby amended to read as follows:

38 432B.260 1. Upon the receipt of a report concerning the
39 possible abuse or neglect of a child, an agency which provides child
40 welfare services or a law enforcement agency shall promptly notify
41 the appropriate licensing authority, if any. A law enforcement
42 agency shall promptly notify an agency which provides child
43 welfare services of any report it receives.

44 2. Upon receipt of a report concerning the possible abuse or
45 neglect of a child, an agency which provides child welfare services



1 or a law enforcement agency shall immediately initiate an
2 investigation if the report indicates that:

3 (a) The child is 5 years of age or younger;

4 (b) There is a high risk of serious harm to the child;

5 (c) The child has suffered a fatality; ~~for~~

6 (d) The child is living in a household in which another child has
7 died, or the child is seriously injured or has visible signs of physical
8 abuse ~~}; or~~

9 (e) *The child is an infant who was born affected by prenatal
10 illegal substance abuse, prenatal abuse of other drugs or
11 substances or prenatal abuse of alcohol or who has withdrawal
12 symptoms resulting from such abuse, or who has experienced
13 other complications at birth as a result of such abuse as
14 determined by a physician.*

15 3. Except as otherwise provided in subsection 2, upon receipt
16 of a report concerning the possible abuse or neglect of a child or
17 notification from a law enforcement agency that the law
18 enforcement agency has received such a report, an agency which
19 provides child welfare services shall conduct an evaluation not later
20 than 3 days after the report or notification was received to determine
21 whether an investigation is warranted. For the purposes of this
22 subsection, an investigation is not warranted if:

23 (a) The child is not in imminent danger of harm;

24 (b) The child is not vulnerable as the result of any untreated
25 injury, illness or other physical, mental or emotional condition that
26 threatens his immediate health or safety; *or*

27 ~~(c) [The alleged abuse or neglect of the child or the alleged
28 effect of prenatal illegal substance abuse on or the withdrawal
29 symptoms resulting from any prenatal drug exposure of the newborn
30 infant could be eliminated if the child and his family are referred to
31 or participate in social or health services offered in the community,
32 or both; or~~

33 ~~(d)~~ The agency determines that the:

34 (1) Alleged abuse or neglect was the result of the reasonable
35 exercise of discipline by a parent or guardian of the child involving
36 the use of corporal punishment, including, without limitation,
37 spanking or paddling; and

38 (2) Corporal punishment so administered was not so
39 excessive as to constitute abuse or neglect as described in
40 NRS 432B.150.

41 4. If the agency determines that an investigation is warranted,
42 the agency shall initiate the investigation not later than 3 days after
43 the evaluation is completed.

44 5. If an agency which provides child welfare services
45 investigates a report of alleged abuse or neglect of a child pursuant



1 to NRS 432B.010 to 432B.400, inclusive, the agency shall inform
2 the person responsible for the child's welfare who is named in the
3 report as allegedly causing the abuse or neglect of the child of any
4 allegation which is made against the person at the initial time of
5 contact with the person by the agency. The agency shall not identify
6 the person responsible for reporting the alleged abuse or neglect.

7 ***6. An agency which provides child welfare services shall***
8 ***develop a plan of safe care for an infant any time that it***
9 ***investigates a report of alleged abuse or neglect of a child which***
10 ***includes an allegation that the child is an infant who:***

11 ***(a) Was born affected by prenatal illegal substance abuse,***
12 ***prenatal abuse of other drugs or substances or prenatal abuse of***
13 ***alcohol; or***

14 ***(b) Has withdrawal symptoms resulting from such abuse, or***
15 ***who has experienced other complications at birth as a result of***
16 ***such abuse as determined by a physician.***

17 ***↪ A plan of safe care must include, without limitation, complete***
18 ***assessments of the infant, any necessary referrals to providers of***
19 ***health care for the infant and monitoring of the infant for not less***
20 ***than 90 days to ensure the safety of the infant.***

21 **7.** Except as otherwise provided in this subsection, if the
22 agency determines that an investigation is not warranted, the agency
23 may, as appropriate:

24 (a) Provide counseling, training or other services relating to
25 child abuse and neglect to the family of the child, or refer the family
26 to a person who has entered into an agreement with the agency to
27 provide those services; or

28 (b) Conduct an assessment of the family of the child to
29 determine what services, if any, are needed by the family and, if
30 appropriate, provide any such services or refer the family to a
31 person who has entered into a written agreement with the agency to
32 make such an assessment.

33 **↪** If an agency determines that an investigation is not warranted for
34 the reason set forth in paragraph ~~[(4)]~~ (c) of subsection 3, the agency
35 shall take no further action in regard to the matter and shall delete
36 all references to the matter from its records.

37 ~~[(7)]~~ **8.** If an agency which provides child welfare services
38 enters into an agreement with a person to provide services to a child
39 or his family pursuant to subsection ~~[(6)]~~ 7, the agency shall require
40 the person to notify the agency if the child or his family refuses or
41 fails to participate in the services, or if the person determines that
42 there is a serious risk to the health or safety of the child.

43 ~~[(8)]~~ **9.** An agency which provides child welfare services that
44 determines that an investigation is not warranted may, at any time,
45 reverse that determination and initiate an investigation.



1 ~~9.]~~ 10. An agency which provides child welfare services and a
2 law enforcement agency shall cooperate in the investigation, if any,
3 of a report of abuse or neglect of a child.

4 **Sec. 7.** NRS 432B.300 is hereby amended to read as follows:

5 432B.300 Except as otherwise provided in NRS 432B.260, an
6 agency which provides child welfare services shall investigate each
7 report of abuse or neglect received or referred to it to determine:

8 1. The composition of the family, household or facility,
9 including the name, address, age, sex and race of each child named
10 in the report, any siblings or other children in the same place or
11 under the care of the same person, the persons responsible for the
12 children's welfare and any other adult living or working in the same
13 household or facility;

14 2. Whether there is reasonable cause to believe any child is
15 abused or neglected or threatened with abuse or neglect, the nature
16 and extent of existing or previous injuries, abuse or neglect and any
17 evidence thereof, and the person apparently responsible;

18 3. Whether there is reasonable cause to believe that a child has
19 suffered a fatality as a result of abuse or neglect regardless of
20 whether or not there are any siblings of the child or other children
21 who are residing in the same household as the child who is believed
22 to have suffered a fatality as a result of abuse or neglect;

23 4. If there is reasonable cause to believe that a child is abused
24 or neglected, the immediate ~~{and long term risk to}~~ *or impending*
25 *threat to the safety of* the child if he remains in the same
26 environment ~~{}~~ *and the likelihood that the child will be abused or*
27 *neglected again if he remains in the same environment;* and

28 5. The treatment and services which appear necessary to help
29 prevent further abuse or neglect and to improve his environment and
30 the ability of the person responsible for the child's welfare to care
31 adequately for him.

32 **Sec. 8.** NRS 432B.310 is hereby amended to read as follows:

33 432B.310 1. Except as otherwise provided in subsection ~~{6}~~ 7
34 of NRS 432B.260, the agency investigating a report of abuse or
35 neglect of a child shall, upon completing the investigation, report to
36 the Central Registry:

37 (a) Identifying and demographic information on the child
38 alleged to be abused or neglected, his parents, any other person
39 responsible for his welfare and the person allegedly responsible for
40 the abuse or neglect;

41 (b) The facts of the alleged abuse or neglect, including the date
42 and type of alleged abuse or neglect, the manner in which the abuse
43 was inflicted, the severity of the injuries and, if applicable, any
44 information concerning the death of the child; and

45 (c) The disposition of the case.



1 2. An agency which provides child welfare services shall not
2 report to the Central Registry any information concerning a child
3 identified as ~~{being}~~ :

4 (a) *Being* affected by prenatal illegal substance abuse , *prenatal*
5 *abuse of other drugs or substances or prenatal abuse of alcohol;*
6 or ~~{as having}~~

7 (b) *Having* withdrawal symptoms resulting from ~~{prenatal drug~~
8 ~~exposure}~~ *such abuse, or as experiencing other complications at*
9 *birth as a result of such abuse as determined by a physician,*

10 → unless the agency determines that a person has abused or
11 neglected the child.

12 3. As used in this section, “Central Registry” has the meaning
13 ascribed to it in NRS 432.0999.

14 **Sec. 9.** NRS 432B.330 is hereby amended to read as follows:

15 432B.330 1. A child is in need of protection if:

16 (a) He has been abandoned by a person responsible for his
17 welfare;

18 (b) He has been subjected to abuse or neglect by a person
19 responsible for his welfare;

20 (c) He is in the care of a person responsible for his welfare and
21 another child has died as a result of abuse or neglect by that person;

22 (d) He has been placed for care or adoption in violation of law;
23 or

24 (e) He has been delivered to a provider of emergency services
25 pursuant to NRS 432B.630.

26 2. A child may be in need of protection if the person
27 responsible for his welfare:

28 (a) Is unable to discharge his responsibilities to and for the child
29 because of incarceration, hospitalization, or other physical or mental
30 incapacity;

31 (b) Fails, although he is financially able to do so or has been
32 offered financial or other means to do so, to provide for the
33 following needs of the child:

34 (1) Food, clothing or shelter necessary for the child’s health
35 or safety;

36 (2) Education as required by law; or

37 (3) Adequate medical care; or

38 (c) Has been responsible for the abuse or neglect of a child who
39 has resided with that person.

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

43 4. A child may be in need of protection if he is identified as
44 ~~{being}~~ :



1 (a) *Being* affected by prenatal illegal substance abuse , *prenatal*
2 *abuse of other drugs or substances or prenatal abuse of alcohol;*
3 or ~~[as having]~~

4 (b) *Having* withdrawal symptoms resulting from ~~[prenatal drug~~
5 ~~exposure.]~~ *such abuse, or as experiencing other complications at*
6 *birth as a result of such abuse as determined by a physician.*

7 **Sec. 10.** NRS 432B.400 is hereby amended to read as follows:

8 432B.400 **1.** A physician treating a child or a person in
9 charge of a hospital or similar institution may hold a child for no
10 more than 24 hours if there is reasonable cause to believe that the
11 child ~~[has]~~ :

12 (a) *Has* been abused or neglected ; or ~~[has]~~

13 (b) *Has* been affected by prenatal illegal substance abuse ,
14 *prenatal abuse of other drugs or substances or prenatal abuse of*
15 *alcohol* or has withdrawal symptoms resulting from ~~[prenatal drug~~
16 ~~exposure.]~~ *such abuse, or has experienced other complications at*
17 *birth as a result of such abuse as determined by a physician,*

18 ↪ and that he is in danger of further harm if released.

19 **2.** The physician or other person shall immediately notify a law
20 enforcement agency or an agency which provides child welfare
21 services that he is holding the child.

22 **Sec. 11.** This act becomes effective upon passage and
23 approval.

