

SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON CHILD WELFARE AND JUVENILE JUSTICE

Nevada Revised Statutes 218E.705

This summary presents the recommendations adopted by the Legislative Committee on Child Welfare and Juvenile Justice during its July 18, 2014, meeting. The Committee submits the following recommendations and BDRs to the 78th Session of the Nevada Legislature.

RECOMMENDATIONS FOR LEGISLATION

Direct File of Juvenile Offenders

1. Draft legislation amending the *Nevada Revised Statutes* (NRS) to provide that if a child is charged as an adult under “direct file” provisions (NRS 62B.330) but is found not guilty of the direct file charge, the district court may return the child to juvenile court to address any lesser included charge. **(BDR –186)**

Juvenile Competency

2. Draft legislation to create a new juvenile competency chapter under Title 5 (“Juvenile Justice”) of NRS. The chapter will outline the process of determining competency in juvenile proceedings, including the appointment of experts, competency evaluations, hearings on competency, findings, and orders of the court. **(BDR –188)**

School Discipline

3. Draft legislation to: (1) amend subsections 1 and 3 of NRS 392.466 to allow the superintendent of schools the discretion to waive the expulsion requirement for battery, the sale or distribution of a controlled substance, and status as a habitual disciplinary problem; and (2) remove language in subsection 1 of NRS 392.910, which makes the use of vile or indecent language within a school a misdemeanor. **(BDR –189)**

Custody—Best Interests of the Child

4. Draft legislation amending subsection 4(f) of NRS 125.480 relating to child custody. In determining the “best interests of the child” and regarding the mental health of the parents, the subsection would now include the following or similar language: The mental and physical health of the parents, “*including the abuse of alcohol, prescription medications and other legal or illegal substances. The court may require independent corroboration of an allegation that a parent is habitually or continually using controlled substances or illegal drugs.*” **(BDR –190)**

Rehoming of Adopted Children

5. Draft legislation amending Chapter 432B (“Protection of Children from Abuse and Neglect”) and/or Chapter 127 (“Adoption of Children and Adults”) of NRS in order to define the words “rehoming,” “advertise,” “adoption disruption,” and “adoption dissolution,” and address the delegation of parental responsibility through power of attorney or guardianship for the purposes of rehoming. **(BDR –191)**

Child Welfare

6. Draft legislation amending Chapter 432B of NRS to adequately reflect the wide range of “entities,” beyond just a “person,” that may be responsible for negligent treatment, maltreatment, abuse, or neglect of a child. **(BDR –192)**

Foster Care

7. Draft legislation amending Chapter 424 (“Foster Homes for Children”) of NRS to provide statutory authority for the conduct of background checks on persons who are routinely found within a foster home environment. **(BDR –193)**

Funding for Child Welfare and Juvenile Justice Programs

8. Draft statutes similar to NRS 432B.219 creating: (1) a categorical grant to fund a program for youths who voluntarily remain under court jurisdiction until the age of 21; and (2) a categorical grant to fund a higher level of care for the most challenging youths in both the welfare and juvenile justice systems. **(BDR –194)**

Serving Notices in Child Welfare Matters

9. Draft legislation amending Chapter 432B of NRS to provide that the manner of serving a summons after a petition stating that a child is in need of protection has been filed with a court is the same as the manner of giving notice of an initial hearing after removal of the child from his or her home. **(BDR –195)**

Parental Rights and Family Reunification—Burden of Proof

10. Draft legislation aligning burdens of proof found in NRS 432B.393 and NRS 128.105 regarding the termination of parental rights, reasonable efforts to preserve and reunify a family, and clarifying that the burden of proof in Indian child welfare cases is “beyond a reasonable doubt.” **(BDR –196)**

COMMITTEE ACTIONS

In addition, the Committee directed staff to:

1. Draft a letter to the Supreme Court of Nevada's Commission on Statewide Juvenile Justice Reform (Commission) urging its support for the development of a Memorandum of Understanding (MOU) between the Department of Corrections (DOC) and the various juvenile offender facilities in Nevada, which would provide for the transfer of youthful offenders from DOC facilities to juvenile facilities.
2. Draft a letter to the Commission urging it to review the following items and make recommendations to the Legislature based upon its findings:
 - a. Consider requesting legislation mandating the transfer of youthful offenders under 18 years old to juvenile facilities;
 - b. Conduct fact-finding visits to co-located facilities, MOU-based facilities, and facilities under statutory juvenile series management in other states;
 - c. Conduct further study prior to moving forward with a Capital Improvement Program for the building of a co-located facility in Nevada;
 - d. Consider requesting legislation to amend subsection 4 of NRS 62C.030 to make housing a juvenile in a juvenile detention facility the "default" regardless of the charge and require the State to petition the court to transfer the juvenile to an adult facility pending the upcoming court process if the State so chooses; and
 - e. Support the conduct of a "trial period" housing youths from the Nevada Youth Training Center at the Jan Evans Juvenile Justice Center.