

**PROPOSED REGULATION OF THE
DIVISION OF CHILD & FAMILY SERVICES OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R122-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 05/23/2018**

Section 1. *“Abuse” has the meaning ascribed to in in NRS 433B. 340(4)(a).*

Section 2. *“Child” has the meaning ascribed to it in NRS 433B.040.*

Section 3. *“Child with emotional disturbance” has the meaning ascribed to it in NRS 433B.045*

Section 4. *“Committing a child” is a court-ordered admission of a child as defined in NRS 432B.60715.*

Section 5. *“Facility” has the meaning ascribed to it in NRS 432B.6072.*

Section 6. *“Gender identity or expression” has the meaning ascribed to it in Section 2.5 of Assembly Bill 99 (2017).*

Section 7. *“Neglect” has the meaning ascribed to in in NRS 340 (4)(b).*

Section 8. *“Treatment” has the meaning ascribed to it in NRS 433B.100.*

Section 9 *A court shall consider the following factors before committing a child with emotional disturbance to a facility for treatment, including, without limitation:*

- 1. The youth’s gender identity or expression;*
- 2. Whether the facility has a policy or protocol which complies with Section 10;*
- 3. The ability of the facility to meet the needs of the child.*
- 4. Any information provided pursuant to NRS 432B.6075(4);*
- 5. Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and*
- 6. Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.*

Section 10.

- 1. Each facility shall establish a policy or protocol that is appropriate for the sexual orientation, gender identity or expression of the child.*
- 2. The policy or protocols must include:*
 - a) A procedure for determining the sexual orientation, gender identity or expression of a child that is based on self-reporting from the child conducted in a respectful and developmentally appropriate manner;*
 - b) A procedure for responding to each child’s gender identity or expression while in the facility which include determination of housing assignments and facility placement for child aligned with their gender identity or expression, with consideration for the child’s wishes as well as any relevant treatment recommendation;*
 - c) The child’s right to be free from bullying, harassment, or abuse due to their sexual orientation, gender identity or expression;*
 - d) Direction that facility staff shall communicate effectively and professionally with and about a child regardless of the child’s sexual orientation, gender identity or expression;*
 - e) Direction to facility staff on how to detect any bullying, harassment or abuse and neglect of a child and how to respond to protect a child from any threatened or actual abuse and neglect.*

- f) Identify and provide staff access to the resources necessary to support the sexual orientation, gender identity or expression of all children within the facility.*
- 3. The policy and protocol must prohibit:*
 - a. Facility staff from conducting a physical examination of the genital area of a child solely to determine their gender;*
 - b. Facility staff from using any language, behavior, or gesture that may put a child at risk of bullying, harassment, or abuse and neglect; and*
 - c. Placement of a child in isolation or restrictive settings due to the child's sexual orientation, gender identity or expression or to keep them safe from victimization.*