

SENATE BILL NO. 176—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

FEBRUARY 20, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises various provisions concerning investigations of reports of abuse or neglect of a child. (BDR 38-66)

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 children; requiring an agency which provides child welfare services to determine whether certain reports concerning the possible abuse or neglect of a child are substantiated or unsubstantiated; setting forth that if such an agency substantiates a report alleging the person responsible for a child's welfare has abused or neglected the child, the agency must notify that person in writing of its intent to place the person's name in the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child, and that the person may administratively appeal the substantiation of the report; requiring the findings of fact in certain adjudicatory hearings to be included as part of the disposition of the case in the report required to be made to the Central Registry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires, with certain exceptions, an agency which provides child
- 2 welfare services to investigate each report of abuse or neglect received or referred
- 3 to the agency. (NRS 432B.300) **Section 7** of this bill requires an agency which
- 4 provides child welfare services to determine whether a report concerning the
- 5 possible abuse or neglect of a child that the agency has determined warrants an



6 investigation is substantiated or unsubstantiated. If the agency determines a report
7 is substantiated, **section 3** of this bill requires the agency to provide to the person
8 responsible for the child's welfare and who is named in the report as allegedly
9 causing the abuse or neglect, written notification which includes statements of
10 indicating: (1) that the report which was made against the person has been
11 substantiated and the agency intends to place the person's name in the Statewide
12 Central Registry for the Collection of Information Concerning the Abuse or Neglect
13 of a Child; (2) that the person has the right to request an administrative appeal of
14 the substantiation of the report and the agency's intention to place the person's
15 name in the Central Registry; and (3) the manner for requesting such an appeal.

16 **Section 4** of this bill sets forth the process for such an administrative appeal
17 and provides that the appeal is stayed upon written notice to the agency of a
18 pending criminal proceeding or adjudicatory hearing on a petition alleging that a
19 child is in need of protection, which proceeding or hearing arose out of the same
20 incident as the report. **Section 4** also sets forth the circumstances establishing a
21 conclusive presumption that the substantiation of the report: (1) will be affirmed
22 and the person's name will be placed in the Central Registry; and (2) will be
23 rejected and the person's name will not be placed in the Central Registry.

24 Existing law requires the agency investigating a report of abuse or neglect of a
25 child to report certain information to the Central Registry after completing the
26 investigation, including the disposition of the case. (NRS 432B.310) **Section 9** of
27 this bill requires such an agency to include the findings of fact recorded by the
28 court in certain adjudicatory hearings and certain specific allegations admitted to by
29 the parties as part of the disposition of the case in the report the agency makes to
30 the Central Registry.

31 Existing law further prohibits an agency which provides child welfare services
32 from reporting to the Central Registry any information concerning a child identified
33 as being affected by prenatal illegal substance abuse or as having withdrawal
34 symptoms resulting from prenatal drug exposure, unless the agency determines that
35 a person has abused or neglected the child. (NRS 432B.310) **Section 8** of this bill
36 specifies that such abuse or neglect of the child must have occurred after the child
37 was born.

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

1 **Section 1.** Chapter 432B of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *“Central Registry” has the meaning ascribed to it in*
4 *NRS 432.0999.*

5 **Sec. 3.** *If an agency which provides child welfare services*
6 *determines pursuant to NRS 432B.300 that a report made*
7 *pursuant to NRS 432B.220 is substantiated, the agency shall*
8 *provide written notification to the person responsible for the*
9 *child's welfare who is named in the report as allegedly causing the*
10 *abuse or neglect of the child which includes statements indicating*
11 *that:*

12 *1. The report which was made against the person has been*
13 *substantiated and the agency which provides child welfare services*



1 *intends to place the person's name in the Central Registry*
2 *pursuant to NRS 432B.310; and*

3 *2. The person may request an administrative appeal of the*
4 *substantiation of the report and the agency's intention to place the*
5 *person's name in the Central Registry by submitting a written*
6 *request to the agency which provides child welfare services within*
7 *the time required pursuant to section 4 of this act.*

8 **Sec. 4.** *1. A person to whom a written notification is sent*
9 *pursuant to section 3 of this act may request an administrative*
10 *appeal of the substantiation of the report and the agency's*
11 *intention to place the person's name in the Central Registry by*
12 *submitting a written request to the agency which provides child*
13 *welfare services within 15 days after the date on which the agency*
14 *sent the written notification as required pursuant to section 3 of*
15 *this act.*

16 *2. Except as otherwise provided in subsection 3, if an agency*
17 *which provides child welfare services receives a request for an*
18 *administrative appeal within 15 days after the agency sent the*
19 *written notification pursuant to subsection 1, a hearing before a*
20 *hearing officer must be held in accordance with chapter 233B of*
21 *NRS.*

22 *3. An administrative appeal is stayed upon the receipt of*
23 *written notification to the agency which provides child welfare*
24 *services of a pending adjudicatory hearing pursuant to NRS*
25 *432B.530 or a pending criminal proceeding which arose out of the*
26 *same incident as the incident upon which the report made*
27 *pursuant to NRS 432B.220 was premised. The stay of the*
28 *administrative appeal is lifted when:*

29 *(a) A final determination is made in the adjudicatory hearing*
30 *or criminal proceeding, as appropriate, if the administrative*
31 *appeal was stayed pending only an adjudicatory hearing or a*
32 *criminal proceeding;*

33 *(b) The adjudicatory hearing or criminal proceeding, as*
34 *appropriate, is dismissed or terminated if the adjudicatory hearing*
35 *or criminal proceeding does not result in a final determination*
36 *being made and the administrative appeal was stayed pending only*
37 *an adjudicatory hearing or a criminal proceeding; or*

38 *(c) Any combination of a final determination or dismissal or*
39 *termination of an adjudicatory hearing or a criminal proceeding*
40 *set forth in paragraphs (a) and (b) if the administrative appeal was*
41 *stayed pending an adjudicatory hearing and a criminal*
42 *proceeding.*

43 *4. If a request for an administrative appeal is not submitted*
44 *pursuant to subsection 1, the agency which provides child welfare*



1 *services shall place the person's name in the Central Registry*
2 *pursuant to NRS 432B.310.*

3 *5. If the hearing officer in a hearing that is held pursuant to*
4 *this section:*

5 *(a) Affirms the substantiation of the report, the agency which*
6 *provides child welfare services shall place the person's name in*
7 *the Central Registry pursuant to NRS 432B.310; or*

8 *(b) Rejects the substantiation of the report, the agency which*
9 *provides child welfare services shall not place the person's name*
10 *in the Central Registry pursuant to NRS 432B.310.*

11 *6. A conclusive presumption that the substantiation of the*
12 *report will be affirmed and the person's name will be placed in the*
13 *Central Registry pursuant to NRS 432B.310 is established if there*
14 *is a final determination in an adjudicatory hearing that the child*
15 *was in need of protection or a final determination in a criminal*
16 *proceeding that the child was subjected to abuse or neglect.*

17 *7. A conclusive presumption that the substantiation of the*
18 *report will be rejected and the person's name will not be placed in*
19 *the Central Registry pursuant to NRS 432B.310 is established if:*

20 *(a) There is a final determination in an adjudicatory hearing*
21 *that the allegations in the petition do not establish that the child*
22 *was in need of protection and the administrative appeal was stayed*
23 *pursuant to subsection 3 pending:*

24 *(1) Only an adjudicatory hearing; or*

25 *(2) An adjudicatory hearing and a criminal proceeding and*
26 *there is a final determination in the criminal proceeding that the*
27 *child was not subjected to abuse or neglect; or*

28 *(b) There is a final determination in a criminal proceeding*
29 *that the child was not subjected to abuse or neglect and the*
30 *administrative appeal was stayed pursuant to subsection 3 pending*
31 *only a criminal proceeding.*

32 *8. The decision of a hearing officer in a hearing that is held*
33 *pursuant to this section is a final decision for the purposes of*
34 *judicial review.*

35 *9. As used in this section:*

36 *(a) "Final determination in a criminal proceeding" means a*
37 *finding made by a court in a criminal proceeding as to whether*
38 *a child was subjected to abuse or neglect by the person to whom a*
39 *written notice was sent pursuant to section 3 of this act.*

40 *(b) "Final determination in an adjudicatory hearing" means a*
41 *finding made by a court pursuant to subsection 5 of NRS*
42 *432B.530 as to whether a child was in need of protection at the*
43 *time of the removal of the child from the home that is based on the*
44 *child being subjected to abuse or neglect by the person to whom a*
45 *written notice was sent pursuant to section 3 of this act.*



1 **Sec. 5.** NRS 432B.010 is hereby amended to read as follows:
2 432B.010 As used in this chapter, unless the context otherwise
3 requires, the words and terms defined in NRS 432B.020 to
4 432B.110, inclusive, *and section 2 of this act* have the meanings
5 ascribed to them in those sections.

6 **Sec. 6.** NRS 432B.260 is hereby amended to read as follows:
7 432B.260 1. Upon the receipt of a report concerning the
8 possible abuse or neglect of a child, an agency which provides child
9 welfare services or a law enforcement agency shall promptly notify
10 the appropriate licensing authority, if any. A law enforcement
11 agency shall promptly notify an agency which provides child
12 welfare services of any report it receives.

13 2. Upon receipt of a report concerning the possible abuse or
14 neglect of a child, an agency which provides child welfare services
15 or a law enforcement agency shall immediately initiate an
16 investigation if the report indicates that:

- 17 (a) The child is 5 years of age or younger;
- 18 (b) There is a high risk of serious harm to the child;
- 19 (c) The child has suffered a fatality; or
- 20 (d) The child is living in a household in which another child has
21 died, or the child is seriously injured or has visible signs of physical
22 abuse.

23 3. Except as otherwise provided in subsection 2, upon receipt
24 of a report concerning the possible abuse or neglect of a child or
25 notification from a law enforcement agency that the law
26 enforcement agency has received such a report, an agency which
27 provides child welfare services shall conduct an evaluation not later
28 than 3 days after the report or notification was received to determine
29 whether an investigation is warranted. For the purposes of this
30 subsection, an investigation is not warranted if:

- 31 (a) The child is not in imminent danger of harm;
- 32 (b) The child is not vulnerable as the result of any untreated
33 injury, illness or other physical, mental or emotional condition that
34 threatens the immediate health or safety of the child;
- 35 (c) The alleged abuse or neglect of the child or the alleged effect
36 of prenatal illegal substance abuse on or the withdrawal symptoms
37 resulting from any prenatal drug exposure of the newborn infant
38 could be eliminated if the child and the family of the child are
39 referred to or participate in social or health services offered in the
40 community, or both; or
- 41 (d) The agency determines that the:

42 (1) Alleged abuse or neglect was the result of the reasonable
43 exercise of discipline by a parent or guardian of the child involving
44 the use of corporal punishment, including, without limitation,
45 spanking or paddling; and



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

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

7 5. If an agency which provides child welfare services
8 investigates a report of alleged abuse or neglect of a child pursuant
9 to NRS 432B.010 to 432B.400, inclusive, *and sections 2, 3 and 4 of*
10 *this act*, the agency shall inform the person responsible for the
11 child's welfare who is named in the report as allegedly causing the
12 abuse or neglect of the child of any allegation which is made against
13 the person at the initial time of contact with the person by the
14 agency. The agency shall not identify the person responsible for
15 reporting the alleged abuse or neglect.

16 6. Except as otherwise provided in this subsection, if the
17 agency determines that an investigation is not warranted, the agency
18 may, as appropriate:

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

23 (b) Conduct an assessment of the family of the child to
24 determine what services, if any, are needed by the family and, if
25 appropriate, provide any such services or refer the family to a
26 person who has entered into a written agreement with the agency to
27 make such an assessment.

28 ➤ If an agency determines that an investigation is not warranted for
29 the reason set forth in paragraph (d) of subsection 3, the agency
30 shall take no further action in regard to the matter and shall delete
31 all references to the matter from its records.

32 7. If an agency which provides child welfare services enters
33 into an agreement with a person to provide services to a child or the
34 family of the child pursuant to subsection 6, the agency shall require
35 the person to notify the agency if the child or the family refuses or
36 fails to participate in the services, or if the person determines that
37 there is a serious risk to the health or safety of the child.

38 8. ~~That~~ *If an* agency which provides child welfare services
39 ~~that~~ *determines pursuant to paragraph (a), (b) or (c) of*
40 *subsection 3* that an investigation is not warranted, *the agency*
41 may, at any time, reverse that determination and initiate an
42 investigation.

43 9. An agency which provides child welfare services and a law
44 enforcement agency shall cooperate in the investigation, if any, of a
45 report of abuse or neglect of a child.



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

2 432B.300 ~~{Except as otherwise provided in}~~ *If an agency*
3 *which provides child welfare services determines that an*
4 *investigation of a report concerning the possible abuse or neglect*
5 *of a child is warranted pursuant to* NRS 432B.260, ~~{an agency~~
6 ~~which provides child welfare services shall investigate each report~~
7 ~~of abuse or neglect received or referred to it to}~~ *the agency shall,*
8 *before completing the investigation,* determine:

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

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

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

24 4. If there is reasonable cause to believe that a child is abused
25 or neglected, the immediate and long-term risk to the child if the
26 child remains in the same environment; ~~{and}~~

27 5. The treatment and services which appear necessary to help
28 prevent further abuse or neglect and to improve the environment of
29 the child and the ability of the person responsible for the child's
30 welfare to care adequately for the child ~~{;}~~ *and*

31 **6.** *Whether the report concerning the possible abuse or*
32 *neglect of a child is substantiated or unsubstantiated.*

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

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

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

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



1 (c) The disposition of the case.

2 2. An agency which provides child welfare services shall not
3 report to the Central Registry any information concerning a child
4 identified as being affected by prenatal illegal substance abuse or as
5 having withdrawal symptoms resulting from prenatal drug exposure
6 unless the agency determines that a person has abused or neglected
7 the child †

8 ~~3. As used in this section, "Central Registry" has the meaning~~
9 ~~ascribed to it in NRS 432.0999. † after the child was born.~~

10 **Sec. 9.** NRS 432B.530 is hereby amended to read as follows:

11 432B.530 1. An adjudicatory hearing must be held within 30
12 days after the filing of the petition, unless good cause is shown or
13 the hearing has been continued until a later date pursuant to
14 NRS 432B.513.

15 2. At the hearing, the court shall inform the parties of the
16 specific allegations in the petition and give them an opportunity to
17 admit or deny them. If the allegations are denied, the court shall
18 hear evidence on the petition.

19 3. In adjudicatory hearings, all relevant and material evidence
20 helpful in determining the questions presented, including oral and
21 written reports, may be received by the court and may be relied
22 upon to the extent of its probative value. The parties or their
23 attorney must be afforded an opportunity to examine and controvert
24 written reports so received and to cross-examine individuals making
25 reports when reasonably available.

26 4. The court may require the child to be present in court at the
27 hearing.

28 5. If the court finds by a preponderance of the evidence that the
29 child was in need of protection at the time of the removal of the
30 child from the home, it shall record its findings of fact and may
31 proceed immediately or at another hearing held within 15 working
32 days, to make a proper disposition of the case. If the court finds that
33 the allegations in the petition have not been established, it shall
34 dismiss the petition and, if the child is in protective custody, order
35 the immediate release of the child.

36 *6. The findings of fact recorded by the court pursuant to*
37 *subsection 5 and any specific allegations in the petition admitted*
38 *to by the parties must be included as part of the disposition of the*
39 *case in the report required to be made to the Central Registry*
40 *pursuant to NRS 432B.310.*

