

ASSEMBLY BILL NO. 8—COMMITTEE ON JUDICIARY

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

PREFILED DECEMBER 19, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to children. (BDR 11-191)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility. 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 children; revising provisions concerning advertisements for the placement of children for adoption or permanent free care; prohibiting certain interstate transfers of children; making various changes relating to the appointment of short-term guardians of children; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law provides that any person or organization, other than an agency
- 2 which provides child welfare services or a licensed child-placing agency, who
- 3 advertises in any periodical or newspaper, or by radio or other public medium, that
- 4 the person or organization will place children for adoption or accept, supply,
- 5 provide or obtain children for adoption is guilty of a misdemeanor. (NRS 127.310)
- 6 **Section 1** of this bill specifically applies this prohibition to a person or organization
- 7 who advertises through a computerized communication system, including, without
- 8 limitation, electronic mail, an Internet website or an Internet account.
- 9 Existing law authorizes a parent, without court approval, to appoint in writing a
- 10 short-term guardianship for his or her minor child under certain circumstances. The
- 11 short-term guardian appointed by the parent serves as the guardian of the minor
- 12 child for not more than 6 months. (NRS 159.205) **Sections 2 and 3** of this bill
- 13 establish a procedure by which the appointment of the short-term guardian may
- 14 remain in effect for longer than 6 months if the person who is appointed as the
- 15 short-term guardian is related to the child within the third-degree of consanguinity
- 16 or is approved by a court of competent jurisdiction. Under **sections 2 and 3**, if the



17 short-term guardian is related to the child within the third-degree of consanguinity,
18 the appointment of the short-term guardian may remain in effect for more than 6
19 months. In determining whether the appointment of a short-term guardian who is
20 not related to a child within the third degree of consanguinity may remain in effect,
21 the best interests of the child must be the prevailing factor and the court must also
22 consider whether the short-term guardian would be fit, willing and able to exercise
23 the guardianship, the reasons for the appointment and the amount of support that
24 the parent is willing and able to provide to the guardian during the term of the
25 guardianship.

26 Existing law enacts the Interstate Compact on the Placement of Children to
27 govern the interstate placement of children. (NRS 127.320) Under this Compact,
28 any person, governmental entity or court in a state who sends, brings or causes to
29 be sent or brought into another state any child for placement in foster care or as a
30 preliminary to a possible adoption must comply with the provisions of the
31 Compact. (NRS 127.330) **Section 4** of this bill provides that a person who sends a
32 child out of this State, brings a child into this State or causes a child to be sent out
33 of this State or brought into this State for the purpose of permanently transferring
34 physical custody of the child to a person who is not related within the third degree
35 of consanguinity is guilty of a misdemeanor, unless the placement of the child is
36 authorized pursuant to the Compact or is approved by a court of competent
37 jurisdiction in the sending or receiving state.

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

1 **Section 1.** NRS 127.310 is hereby amended to read as follows:
2 127.310 1. Except as otherwise provided in NRS 127.240,
3 127.283 and 127.285, any person or organization other than an
4 agency which provides child welfare services who, without holding
5 a valid unrevoked license to place children for adoption issued by
6 the Division:

7 (a) Places, arranges the placement of, or assists in placing or in
8 arranging the placement of, any child for adoption or permanent free
9 care; or

10 (b) Advertises ~~[in any periodical or newspaper, or by radio or~~
11 ~~other public medium,]~~ that he or she will place children for adoption
12 ~~[]~~ or permanent free care, or accept, supply, provide or obtain
13 children for adoption ~~[]~~ or permanent free care, or causes any
14 advertisement to be ~~[published in or by any public medium]~~
15 disseminated soliciting, requesting or asking for any child or
16 children for adoption ~~[]~~ or permanent free care,
17 ↪ is guilty of a misdemeanor.

18 2. Any person who places, accepts placement of, or aids, abets
19 or counsels the placement of any child in violation of NRS 127.280,
20 127.2805 and 127.2815 is guilty of a misdemeanor.



1 3. A periodical, newspaper, radio station, *Internet website* or
2 other public medium is not subject to any criminal penalty or civil
3 liability for ~~publishing or broadcasting~~ *disseminating* an
4 advertisement that violates the provisions of this section.

5 4. A child-placing agency shall include in any advertisement
6 concerning its services ~~published in any periodical or newspaper or~~
7 ~~by radio or other public medium~~ a statement which:

8 (a) Confirms that the child-placing agency holds a valid,
9 unrevoked license issued by the Division; and

10 (b) Indicates any license number issued to the child-placing
11 agency by the Division.

12 5. *As used in this section:*

13 (a) *“Advertise” or “advertisement” means a communication*
14 *that originates within this State by any public medium, including,*
15 *without limitation, a newspaper, periodical, telephone book listing,*
16 *outdoor advertising, sign, radio, television or a computerized*
17 *communication system, including, without limitation, electronic*
18 *mail, an Internet website or an Internet account.*

19 (b) *“Internet account” means an account created within a*
20 *bounded system established by an Internet-based service that*
21 *requires a user to input or store information in an electronic*
22 *device in order to view, create, use or edit the account information,*
23 *profile, display, communications or stored data of the user.*

24 **Sec. 2.** Chapter 159 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 1. *An appointment of a short-term guardian pursuant to NRS*
27 *159.205 may remain in effect for longer than 6 months if the*
28 *person who is appointed as the short-term guardian is related to*
29 *the child within the third degree of consanguinity or the*
30 *appointment is approved by a court of competent jurisdiction as*
31 *provided in this section.*

32 2. *A parent who wishes to extend the appointment of a short-*
33 *term guardian who is not related to the child within the third*
34 *degree of consanguinity must file a petition with the court*
35 *requesting approval of such appointment pursuant to subsection 1.*
36 *The petition must include:*

37 (a) *The name, address and date of birth of the child subject to*
38 *the guardianship.*

39 (b) *The names and addresses of the parents of the child.*

40 (c) *The name and address of the person nominated as*
41 *guardian and the relationship of the person to the child.*

42 (d) *A statement regarding whether the parent wishes to give*
43 *the guardian full parental power regarding the care and custody*
44 *of the child or partial parental power regarding the care and*
45 *custody of the child and, if the parent wishes to give partial*



1 *parental power, the specific powers that the parent wishes to*
2 *delegate and any limitations on those powers.*

3 *(e) The proposed term of the guardianship, the reasons for the*
4 *guardianship and whether the parent proposes to provide any*
5 *support to the guardian during the term of the guardianship. If so,*
6 *the petition must indicate the amount of support the parent will*
7 *provide.*

8 *(f) Facts and circumstances showing that the guardianship*
9 *would be in the best interests of the child and that the person*
10 *nominated as the guardian is fit, willing and able to exercise that*
11 *appointment.*

12 *(g) If the appointment is being facilitated by an agency which*
13 *provides child welfare services or a child-placing agency, facts and*
14 *circumstances showing that the agency which provides child*
15 *welfare services or the child-placing agency, as applicable, is*
16 *authorized to facilitate that appointment.*

17 *3. The court shall hold a hearing on a petition filed pursuant*
18 *to subsection 1 within 45 days after the filing of the petition. The*
19 *petitioner shall cause the petition and notice of the time and place*
20 *of the hearing to be served not later than 10 days before the*
21 *hearing on:*

22 *(a) The child, if the child is 12 years of age or older;*

23 *(b) The guardian ad litem and counsel of the child, if any;*

24 *(c) The parents of the child;*

25 *(d) Any guardian, legal custodian or physical custodian of the*
26 *child; and*

27 *(e) Any agency which provides child welfare services or child-*
28 *placing agency that is facilitating the guardianship.*

29 *4. At the hearing, the court shall first determine whether any*
30 *party wishes to contest the petition. If the petition is not contested,*
31 *the court shall immediately proceed to a fact-finding and*
32 *dispositional hearing unless an adjournment is requested. If the*
33 *petition is contested or if an adjournment is requested, the court*
34 *shall set a date for a fact-finding and dispositional hearing that*
35 *allows reasonable time for the parties to prepare but is not later*
36 *than 30 days after the initial hearing. At the fact-finding and*
37 *dispositional hearing, any party may present evidence and*
38 *argument relating to the allegations in the petition.*

39 *5. In determining the appropriate disposition of a petition*
40 *filed pursuant to subsection 1, the best interests of the child must*
41 *be the prevailing factor to be considered by the court. The court*
42 *shall also consider whether the person nominated as the short-*
43 *term guardian would be fit, willing and able to exercise the*
44 *guardianship, the reasons for the appointment and the amount of*



1 support that the parent is willing and able to provide to the
2 guardian during the term of the guardianship.

3 6. At the conclusion of the fact-finding and dispositional
4 hearing, the court shall grant one of the following dispositions
5 unless the court adjourns the hearing pursuant to subsection 7:

6 (a) A disposition dismissing the petition, if the court finds that
7 the petitioner has not proved the allegations in the petition by
8 clear and convincing evidence or determines that approval of the
9 proposed guardianship is not in the best interests of the child; or

10 (b) A disposition approving the proposed guardianship, if the
11 court finds that the petitioner has proved the allegations in
12 the petition by clear and convincing evidence and determines that
13 the proposed guardianship is in the best interests of the child. The
14 disposition may also designate an amount of support to be paid by
15 the child's parent to the guardian. If the court approves the
16 proposed guardianship, the parent and the person appointed as
17 a guardian may execute a power of attorney as approved by the
18 court.

19 7. If, at the conclusion of the fact-finding and dispositional
20 hearing, the court finds that the petitioner has proved the
21 allegations in the petition by clear and convincing evidence but
22 that the person nominated as the short-term guardian is not fit,
23 willing and able to serve as guardian or that appointment of that
24 person as guardian would not be in the best interests of the child,
25 the court may, in lieu of granting a disposition dismissing the
26 petition pursuant to paragraph (a) of subsection 6, adjourn the
27 hearing for not more than 30 days and request the petitioner or
28 any other party to nominate a different person as the short-term
29 guardian.

30 8. As used in this section:

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

33 (b) "Child-placing agency" has the meaning ascribed to it in
34 NRS 127.220.

35 **Sec. 3.** NRS 159.205 is hereby amended to read as follows:

36 159.205 1. Except as otherwise provided in this section or
37 NRS 127.045, a parent, without the approval of a court, may appoint
38 in writing a short-term guardianship for an unmarried minor child if
39 the parent has legal custody of the minor child.

40 2. The appointment of a short-term guardianship is effective
41 for a minor who is 14 years of age or older only if the minor
42 provides written consent to the guardianship.

43 3. The appointment of a short-term guardian does not affect the
44 rights of the other parent of the minor.



1 4. A parent shall not appoint a short-term guardian for a minor
2 child if the minor child has another parent:

3 (a) Whose parental rights have not been terminated;

4 (b) Whose whereabouts are known; and

5 (c) Who is willing and able to make and carry out daily child
6 care decisions concerning the minor,

7 ↪ unless the other parent of the minor child provides written
8 consent to the appointment.

9 5. The written instrument appointing a short-term guardian
10 becomes effective immediately upon execution and must include,
11 without limitation:

12 (a) The date on which the guardian is appointed;

13 (b) The name of the parent who appointed the guardian, the
14 name of the minor child for whom the guardian is appointed and the
15 name of the person who is appointed as the guardian; and

16 (c) The signature of the parent and the guardian in the presence
17 of a notary public acknowledging the appointment of the guardian.
18 The parent and guardian are not required to sign and acknowledge
19 the instrument in the presence of the other.

20 6. ~~[The]~~ *Except as otherwise provided in section 2 of this act,*
21 *the* short-term guardian appointed pursuant to this section serves as
22 guardian of the minor for 6 months, unless the written instrument
23 appointing the guardian specifies a shorter term or specifies that the
24 guardianship is to terminate upon the happening of an event that
25 occurs sooner than 6 months.

26 7. Only one written instrument appointing a short-term
27 guardian for the minor child may be effective at any given time.

28 8. The appointment of a short-term guardian pursuant to this
29 section:

30 (a) May be terminated by an instrument in writing signed by
31 either parent if that parent has not been deprived of the legal custody
32 of the minor.

33 (b) Is terminated by any order of a court of competent
34 jurisdiction that appoints a guardian.

35 **Sec. 4.** Chapter 200 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

37 *1. Except as otherwise provided in this section, a person who*
38 *sends a child out of this State or brings a child into this State, or*
39 *causes a child to be sent out of this State or brought into this State,*
40 *for the purpose of permanently transferring physical custody of*
41 *the child to a person who is not related to the child within the third*
42 *degree of consanguinity is guilty of a misdemeanor.*

43 *2. The provisions of subsection 1 do not apply to:*

44 *(a) A placement of a child in accordance with NRS 127.330.*



- 1 ***(b) A placement of a child that is approved by a court of***
- 2 ***competent jurisdiction of the sending state or receiving state.***

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