

Assembly Bill No. 99—Assemblymen Araujo; Bilbray-Axelrod,
Daly, Diaz, Monroe-Moreno, Neal, Sprinkle, Thompson and
Yeager

Joint Sponsors: Senators Cancela,
Spearman and Woodhouse

CHAPTER.....

AN ACT relating to children; requiring certain institutions and agencies to treat a child as having the gender with which the child identifies; requiring certain persons to receive training on working with lesbian, gay, bisexual, transgender and questioning children; requiring the Division of Child and Family Services of the Department of Health and Human Services to establish protocols to follow or factors to consider before placing a child in certain placements; requiring the Division to establish a process for filing and resolving certain grievances; revising the manner in which a foster child is notified of his or her rights; requiring certain facilities to which a juvenile court commits a child to comply with certain federal law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to place a child in a public or private institution or agency authorized to care for children. (NRS 62E.110) Such institutions include juvenile detention facilities, foster homes, child care facilities and mental health facilities. (NRS 62B.200, 63.400, 432A.1757, 432B.550, 433B.310) Existing law also provides for the licensure and regulation of foster care agencies, which are business entities that recruit and enter into contracts with foster homes to assist an agency which provides child welfare services and juvenile courts in the placement of children in foster homes. (NRS 424.0135, 424.093-424.270) Additionally, existing law designates as the agency which provides child welfare services: (1) in a county whose population is less than 100,000, the Division of Child and Family Services of the Department of Health and Human Services; and (2) in a county whose population is 100,000 or more, the agency of the county which provides or arranges for necessary child welfare services. (NRS 432B.030)

Sections 3, 4, 23, 28, 29, 37, 41 and 46 of this bill require each of those institutions and agencies to treat a child for whom the institution or agency is responsible in accordance with the child's gender identity or expression.

Existing law requires an employee of such an institution or agency to receive certain training. (NRS 62B.250, 63.190, 424.0365, 424.135, 432A.177, 432B.195, 433B.175) **Sections 4, 6, 10, 24, 29, 31, 38, 43 and 47** of this bill require that training to: (1) be approved by the licensing authority or the Division; and (2) include instruction on working with lesbian, gay, bisexual, transgender and questioning children.

Sections 23, 37, 41 and 46 require the Division to prescribe regulations that a court must consider before placing a child in a child care facility, a facility for the detention of children or a mental health or treatment facility and protocols that such



a facility must follow when placing a child within the facility. **Section 28** of this bill requires the Division to adopt protocols to ensure that each child in the custody of an agency which provides child welfare services is placed in a manner that is appropriate for the gender identity or expression of the child. **Section 28** also requires an agency which provides child welfare services to: (1) follow such protocols when placing a child in an out-of-home placement; and (2) ensure that an out-of-home placement follows such protocols when placing a child within the placement. **Sections 3, 4 and 29** require a foster home, foster care agency or facility into which a child alleged to be a child with emotional disturbance who is in the custody of an agency which provides child welfare services is committed to follow such protocols.

Section 14 of this bill requires the Division to establish a procedure for filing and resolving a grievance concerning a placement, a foster care agency, an agency which provides child welfare services or an agency or institution to which a child is committed by a court.

Existing law requires a provider of foster care to provide a foster child with a written copy of his or her rights. (NRS 432.540) **Section 20** of this bill requires a provider of foster care to provide a foster child with a written summary of those rights.

The Prison Rape Elimination Act provides for the collection of data, the award of grants and the adoption of standards to prevent rape in correctional institutions. (42 U.S.C. §§ 15601 et seq.) **Sections 37 and 41** require certain facilities to which a juvenile court commits a child to adhere to the Prison Rape Elimination Act and any standards adopted pursuant to that federal law.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 2.5, 3 and 4 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. *“Gender identity or expression” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.*

Sec. 3. *A provider of foster care shall:*

1. Ensure that each foster child who is placed in the foster home is treated in all respects in accordance with the child’s gender identity or expression; and

2. Follow the protocols prescribed in the regulations adopted pursuant to section 28 of this act when placing a foster child within the foster home.

Sec. 4. *1. The holder of a license to operate a foster care agency shall ensure that each member of the staff of the foster care agency who comes into direct contact with a child placed by the foster care agency receives, within 90 days after employment*



and annually thereafter, training that has been approved by the licensing authority concerning working with lesbian, gay, bisexual, transgender and questioning children.

2. A foster care agency shall:

(a) Ensure that each child placed by the foster care agency is treated in all respects in accordance with the child's gender identity or expression; and

(b) Follow the protocols prescribed in the regulations adopted pursuant to section 28 of this act when assisting an agency which provides child welfare services or a juvenile court in placing a child in foster care.

Sec. 5. NRS 424.010 is hereby amended to read as follows:

424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.011 to 424.018, inclusive, *and section 2.5 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a family foster home, a specialized foster home, an independent living foster home or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within ~~130~~ **90** days after employment and annually thereafter. Such training must *be approved by the licensing authority and* include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the home;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; ~~and~~

(h) *Working with lesbian, gay, bisexual, transgender and questioning children; and*

(i) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.



Sec. 7. NRS 424.090 is hereby amended to read as follows:

424.090 **1.** The provisions of NRS 424.020 to 424.090, inclusive, **and section 3 of this act** do not apply to homes in which:

~~1-1~~ **(a)** Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

~~1-2~~ **(b)** Care is provided by the legal guardian.

~~1-3~~ **(c)** Care is provided for an exchange student.

~~1-4~~ **(d)** Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.

~~1-5~~ **(e)** Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.

~~1-6~~ **(f)** Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is related to the caregiver by blood, adoption or marriage.

~~1-7~~ **(g)** Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS or a juvenile court pursuant to title 5 of NRS if:

~~1-a~~ **(1)** The caregiver is related to the child within the fifth degree of consanguinity ~~1-1~~ **or a fictive kin**; and

~~1-b~~ **(2)** The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~1-1~~, **and section 3 of this act.**

2. As used in this section, "fictive kin" means a person who is not related by blood to a child but has a significant emotional and positive relationship with the child.

Sec. 8. NRS 424.095 is hereby amended to read as follows:

424.095 **1.** An application for a license to operate a foster care agency must be in a form prescribed by the Division and submitted to the appropriate licensing authority. Such a license is effective for 2 years after the date of its issuance and may be renewed upon expiration.

2. An applicant must provide reasonable and satisfactory assurance to the licensing authority that the applicant will conform to the provisions of NRS 424.093 to 424.270, inclusive, **and section 4 of this act**, and the regulations adopted by the Division pursuant thereto.

3. Upon application for renewal, the licensing authority may renew a license if the licensing authority determines that the licensee conforms to the provisions of NRS 424.093 to 424.270,



inclusive, *and section 4 of this act*, and the regulations adopted by the Division pursuant thereto.

Sec. 9. NRS 424.096 is hereby amended to read as follows:

424.096 1. After notice and hearing, a licensing authority may:

(a) Deny an application for a license to operate a foster care agency if the licensing authority determines that the applicant does not comply with the provisions of NRS 424.093 to 424.270, inclusive, *and section 4 of this act*, and the regulations adopted by the Division pursuant thereto.

(b) Upon a finding of deficiency, require a foster care agency to prepare a plan of corrective action and, within 90 days or a shorter period prescribed by the licensing authority require the foster care agency to complete the plan of corrective action.

(c) Refuse to renew a license or may revoke a license if the licensing authority finds that the foster care agency has refused or failed to meet any of the established standards or has violated any of the regulations adopted by the Division pursuant to NRS 424.093.

2. A notice of the time and place of the hearing must be mailed to the last known address of the applicant or licensee at least 15 days before the date fixed for the hearing.

3. When an order of a licensing authority is appealed to the district court, the trial may be de novo.

Sec. 10. NRS 424.135 is hereby amended to read as follows:

424.135 1. The foster care agency shall develop and carry out a written plan for the orientation, training, supervision and evaluation of members of the staff.

2. The orientation must include, without limitation, information on the policies and procedures of the foster care agency, goals for the programs and services of the foster care agency, the responsibilities of members of the staff and the provisions of this chapter and the regulations adopted pursuant thereto that relate to licensing. The training must include, without limitation, any training required by the licensing authority ~~H~~ *and the training required by section 4 of this act*. Each member of the staff must be evaluated at least once each year.

3. The foster care agency shall maintain comprehensive written policies and procedures for the personnel, services and programs of the foster care agency and make the policies and procedures readily available to the members of the staff and to the licensing authority.

4. The foster care agency shall maintain comprehensive records for personnel that, upon request, must be made available to the licensing authority.



Sec. 11. Chapter 432 of NRS is hereby amended by adding thereto the provisions set forth as sections 12, 13 and 14 of this act.

Secs. 12 and 13. (Deleted by amendment.)

Sec. 14. 1. *The Division shall prescribe by regulation:*

(a) A procedure by which a child or, if applicable, the parent or guardian of a child, may file a grievance concerning a foster care agency, an agency which provides child welfare services, an out-of-home placement, a psychiatric hospital or facility in which a child who is in the custody of an agency which provides child welfare services is placed, a division facility or any public or private institution or agency to which a child is committed by a court; and

(b) A process for resolving those grievances, which must provide for persons who are not directly responsible for the care of the child who filed or is the subject of the grievance to evaluate the grievance and, if such a person determines that the grievance is not frivolous, investigate the grievance and impose remedies. Such remedies must include, without limitation, requiring the agency or placement, facility or institution to make changes to address the grievance, or notifying a regulatory or law enforcement agency with jurisdiction over the agency, placement, facility or institution.

2. An out-of-home placement with which a child in the custody of the agency which provides child welfare services is placed shall:

(a) Inform the child of the process for filing a grievance pursuant to subsection 1;

(b) Provide the child with a summary of that process; and

(c) Provide an additional written copy of the summary upon request.

3. As used in this section:

(a) "Division facility" has the meaning ascribed to it in NRS 433B.070.

(b) "Foster care agency" has the meaning ascribed to it in NRS 424.0135.

(c) "Out-of-home placement" means a foster home or child care facility, as defined in NRS 432A.024, which has physical custody of a child pursuant to the order of a court.

Sec. 15. NRS 432.0125 is hereby amended to read as follows:

432.0125 1. The Administrator shall appoint, with the approval of the Director, a chief of each of the bureaus in the Division. The chiefs are designated respectively as:

(a) The Superintendent of the Nevada Youth Training Center;

(b) The Superintendent of the Caliente Youth Center; and



(c) The Chief of the Youth Parole Bureau.

2. The Administrator is responsible for the administration, through the Division, of the provisions of chapters 63 and 424 of NRS, NRS 127.220 to 127.310, inclusive, 432.010 to 432.085, inclusive, and 433B.010 to 433B.340, inclusive, *and section 46 of this act*, and all other provisions of law relating to the functions of the Division, but is not responsible for the professional activities of the components of the Division except as specifically provided by law.

Sec. 16. NRS 432.500 is hereby amended to read as follows:

432.500 As used in NRS 432.500 to 432.550, inclusive, *and section 14 of this act*, unless the context otherwise requires, the words and terms defined in NRS 432.505, 432.510 and 432.515 have the meanings ascribed to them in those sections.

Secs. 17-19. (Deleted by amendment.)

Sec. 20. NRS 432.540 is hereby amended to read as follows:

432.540 1. A provider of foster care that places a child in a foster home shall:

(a) Inform the child of his or her rights set forth in NRS 432.525, 432.530 and 432.535;

(b) Provide the child with a written ~~copy~~ *summary* of those rights; and

(c) Provide an additional written copy of ~~those rights~~ *the summary* to the child upon request.

2. A group foster home shall post a written copy of the ~~rights set forth in NRS 432.525, 432.530 and 432.535~~ *summary described in subsection 1 and the summary of the process for filing a grievance described in section 14 of this act* in a conspicuous place inside the group foster home.

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 432.550 is hereby amended to read as follows:

432.550 If a child believes that his or her rights set forth in NRS 432.525, 432.530 and 432.535 have been violated, the child may raise and redress a grievance with, without limitation:

1. A provider of foster care;
2. An employee of a foster home;
3. An agency which provides child welfare services to the child, and any employee thereof;
4. A juvenile court with jurisdiction over the child;
5. A guardian ad litem for the child; ~~or~~
6. An attorney for the child ~~or~~ *;* **or**
7. *The Division, using the process established pursuant to section 14 of this act.*



Sec. 23. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall treat each child who is placed in the facility in all respects in accordance with the child's gender identity or expression.

2. The Division of Child and Family Services of the Department shall adopt regulations establishing factors for a court to consider before placing a child in the custody of a child care facility and protocols for a child care facility to follow when placing a child within the facility that ensure that each child who is so placed is placed in a manner that is appropriate for the gender identity or expression of the child. Such regulations must be adopted in consultation with:

(a) Lesbian, gay, bisexual, transgender and questioning children who are currently residing in foster homes, facilities for the detention of children, child care facilities and mental health facilities or who have resided in such settings;

(b) Representatives of each agency which provides child welfare services in this State;

(c) Representatives of state and local facilities for the detention of children;

(d) Representatives of lesbian, gay, bisexual, transgender and questioning persons;

(e) Attorneys, including, without limitation, attorneys who regularly represent children in child welfare or criminal proceedings;

(f) Representatives of juvenile courts and family courts;

(g) Advocates of children; and

(h) Any other person deemed appropriate by the Division of Child and Family Services of the Department.

3. A court shall consider the factors prescribed in the regulations adopted pursuant to subsection 2 before placing a child in a child care facility.

4. A child care facility, including, without limitation, an emergency shelter, which has physical custody of a child pursuant to the order of a court shall follow the protocols prescribed in the regulations adopted pursuant to subsection 2 when placing the child within the facility.

5. As used in this section:

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



(b) “Foster home” has the meaning ascribed to it in NRS 424.014.

(c) “Gender identity or expression” has the meaning ascribed to it in section 2.5 of this act.

Sec. 24. NRS 432A.177 is hereby amended to read as follows:

432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within ~~30~~ **90** days after employment and annually thereafter. Such training must ***be approved by the licensing authority and*** include, without limitation, instruction concerning:

- (a) Controlling the behavior of children;
- (b) Policies and procedures concerning the use of force and restraint on children;
- (c) The rights of children in the facility;
- (d) Suicide awareness and prevention;
- (e) The administration of medication to children;
- (f) Applicable state and federal constitutional and statutory rights of children in the facility;
- (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; ~~and~~
- (h) ***Working with lesbian, gay, bisexual, transgender and questioning children; and***
- (i) Such other matters as required by the Board.

2. The Board shall adopt regulations necessary to carry out the provisions of this section.

Sec. 25. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, ***and section 23 of this act*** is guilty of a misdemeanor.

Sec. 26. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 27, 28 and 29 of this act.

Sec. 27. ***“Gender identity or expression” has the meaning ascribed to it in section 2.5 of this act.***

Sec. 28. 1. An agency which provides child welfare services shall treat each child to whom the agency provides services in all respects in accordance with the child’s gender identity or expression.

2. The Division of Child and Family Services shall adopt regulations establishing protocols to ensure that each child in the



custody of an agency which provides child welfare services is placed in a manner that is appropriate for the gender identity or expression of the child. Such regulations must be adopted in consultation with:

(a) Lesbian, gay, bisexual, transgender and questioning children who are currently residing in foster homes, facilities for the detention of children, child care facilities, mental health facilities or who have resided in such settings;

(b) Representatives of each agency which provides child welfare services in this State;

(c) Representatives of state and local facilities for the detention of children;

(d) Representatives of lesbian, gay, bisexual, transgender and questioning persons;

(e) Attorneys, including, without limitation, attorneys who regularly represent children in child welfare or criminal proceedings;

(f) Representatives of juvenile courts and family courts;

(g) Advocates of children; and

(h) Any other person deemed appropriate by the Division of Child and Family Services.

3. An agency which provides child welfare services shall:

(a) Follow the protocols prescribed in the regulations adopted pursuant to subsection 2 before placing a child in an out-of-home placement; and

(b) Ensure that an out-of-home placement into which a child is placed follows the protocols prescribed in the regulations adopted pursuant to subsection 2 when placing the child within the facility.

4. As used in this section:

(a) "Child care facility" has the meaning ascribed to it in NRS 432A.024.

(b) "Foster home" has the meaning ascribed to it in NRS 424.014.

(c) "Out-of-home placement" has the meaning ascribed to it in section 14 of this act.

Sec. 29. *A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall:*

1. Ensure that each employee of the facility who comes into direct contact with children at the facility receives, within 90 days after employment and annually thereafter, training that has been



approved by the Division of Child and Family Services concerning working with lesbian, gay, bisexual, transgender and questioning children;

2. Ensure that each child who is placed in the facility is treated in all respects in accordance with the child's gender identity or expression; and

3. Follow the protocols prescribed in the regulations adopted pursuant to section 28 of this act when placing the child within the facility.

Sec. 30. NRS 432B.010 is hereby amended to read as follows:
432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, *and section 27 of this act* have the meanings ascribed to them in those sections.

Sec. 31. NRS 432B.195 is hereby amended to read as follows:
432B.195 1. An agency which provides child welfare services shall provide training to each person who is employed by the agency and who provides child welfare services. Such training must include, without limitation, instruction concerning the applicable state and federal constitutional and statutory rights of a person who is responsible for a child's welfare and who is:

(a) The subject of an investigation of alleged abuse or neglect of a child; or

(b) A party to a proceeding concerning the alleged abuse or neglect of a child pursuant to NRS 432B.410 to 432B.590, inclusive.

2. In addition to the training provided pursuant to subsection 1, an agency which provides child welfare services shall ensure that each employee of the agency who comes into direct contact with children receives, within 90 days after employment and annually thereafter, training concerning working with lesbian, gay, bisexual, transgender and questioning children.

3. Nothing in this section shall be construed as requiring or authorizing a person who is employed by an agency which provides child welfare services to offer legal advice, legal assistance or legal interpretation of state or federal statutes or laws.

Sec. 32. NRS 432B.607 is hereby amended to read as follows:
432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, *and section 29 of this act*, unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, have the meanings ascribed to them in those sections.

Sec. 33. (Deleted by amendment.)



Sec. 34. NRS 432B.6085 is hereby amended to read as follows:

432B.6085 1. Nothing in this chapter purports to deprive any person of any legal rights without due process of law.

2. Unless the context clearly indicates otherwise, the provisions of NRS 432B.607 to 432B.6085, inclusive, *and section 29 of this act*, 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and NRS 435.530 to 435.635, inclusive, apply to all children who are in the custody of an agency which provides child welfare services.

Sec. 35. Chapter 62B of NRS is hereby amended by adding thereto the provisions set forth as sections 36 and 37 of this act.

Sec. 36. (Deleted by amendment.)

Sec. 37. *1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall:*

(a) Treat each child that a juvenile court commits to the institution or agency in all respects in accordance with the child's gender identity or expression and the regulations adopted by the Division of Child and Family Services pursuant to subsection 2; and

(b) To the extent applicable, comply with the Prison Rape Elimination Act, 42 U.S.C. §§ 15605 et seq., and all standards adopted pursuant thereto.

2. The Division of Child and Family Services shall adopt regulations establishing factors for a juvenile court to consider before committing a child to a public or private institution or agency, including, without limitation, a facility for the detention of children, and protocols for such an institution or agency to follow when placing a child within the institution or agency that ensure that each child who is so committed is placed in a manner that is appropriate for the gender identity or expression of the child. Such regulations must be adopted in consultation with:

(a) Lesbian, gay, bisexual, transgender and questioning children who are currently residing in foster homes, facilities for the detention of children, child care facilities and mental health facilities or who have resided in such settings;

(b) Representatives of each agency which provides child welfare services in this State;

(c) Representatives of state and local facilities for the detention of children;

(d) Representatives of lesbian, gay, bisexual, transgender and questioning persons;



(e) Attorneys, including, without limitation, attorneys who regularly represent children in child welfare or criminal proceedings;

(f) Representatives of juvenile courts and family courts;

(g) Advocates of children; and

(h) Any other person deemed appropriate by the Division of Child and Family Services.

3. A juvenile court shall consider the factors prescribed in the regulations adopted pursuant to subsection 2 before committing a child to a public or private institution or agency, including, without limitation, a facility for the detention of children.

4. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall follow the protocols prescribed in the regulations adopted pursuant to subsection 2 when placing a child within the facility.

5. As used in this section:

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

(b) "Child care facility" has the meaning ascribed to it in NRS 432A.024.

(c) "Foster home" has the meaning ascribed to it in NRS 424.014.

(d) "Gender identity or expression" has the meaning ascribed to it in section 2.5 of this act.

Sec. 38. NRS 62B.250 is hereby amended to read as follows:

62B.250 1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within ~~30~~ 90 days after employment and annually thereafter. Such training must *be approved by the Division of Child and Family Services and* include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the institution or agency;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;



(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the institution or agency; ~~and~~

(h) *Working with gay, lesbian, bisexual, transgender and questioning children; and*

(i) Such other matters as required by the Division of Child and Family Services.

2. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.

Sec. 39. Chapter 63 of NRS is hereby amended by adding thereto the provisions set forth as sections 40 and 41 of this act.

Sec. 40. (Deleted by amendment.)

Sec. 41. 1. A facility shall:

(a) *Treat each child in the facility in all respects in accordance with the child's gender identity or expression and the regulations adopted by the Division of Child and Family Services pursuant to subsection 2; and*

(b) *Comply with the Prison Rape Elimination Act, 42 U.S.C. §§ 15605 et seq., and all standards adopted pursuant thereto.*

2. *The Division of Child and Family Services shall adopt regulations establishing factors for a juvenile court to consider before committing a child to a facility and protocols for a facility to follow when placing a child within the facility that ensure that each child who is so committed is placed in a manner that is appropriate for the gender identity or expression of the child. Such regulations must be adopted in consultation with:*

(a) *Lesbian, gay, bisexual, transgender and questioning children who are currently residing in foster homes, facilities for the detention of children, child care facilities and mental health facilities or who have resided in such settings;*

(b) *Representatives of each agency which provides child welfare services in this State;*

(c) *Representatives of state and local facilities for the detention of children;*

(d) *Representatives of lesbian, gay, bisexual, transgender and questioning persons;*

(e) *Attorneys, including, without limitation, attorneys who regularly represent children in child welfare or criminal proceedings;*

(f) *Representatives of juvenile courts and family courts;*

(g) *Advocates of children; and*

(h) *Any other person deemed appropriate by the Division of Child and Family Services.*



3. *A juvenile court shall consider the factors prescribed in the regulations adopted pursuant to subsection 2 before committing a child to a facility.*

4. *A facility shall follow the protocols prescribed in the regulations adopted pursuant to subsection 2 when placing a child within the facility.*

5. *As used in this section:*

(a) *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

(b) *“Child care facility” has the meaning ascribed to it in NRS 432A.024.*

(c) *“Foster home” has the meaning ascribed to it in NRS 424.014.*

(d) *“Gender identity or expression” has the meaning ascribed to it in section 2.5 of this act.*

Sec. 42. NRS 63.100 is hereby amended to read as follows:

63.100 1. For each facility, the position of superintendent of the facility is hereby created.

2. The superintendent of a facility shall administer the provisions of NRS 63.010 to 63.620, inclusive, *and section 41 of this act*, 63.720, 63.770 and 63.790 subject to administrative supervision by the Administrator of the Division of Child and Family Services.

Sec. 43. NRS 63.190 is hereby amended to read as follows:

63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within ~~30~~ *90* days after employment and annually thereafter. Such training must *be approved by the Division of Child and Family Services and* include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; ~~and~~

(h) *Working with gay, lesbian, bisexual, transgender and questioning children; and*



(i) Such other matters as required by the Administrator of the Division of Child and Family Services.

2. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section.

Sec. 44. Chapter 433B of NRS is hereby amended by adding thereto the provisions set forth as sections 45 and 46 of this act.

Sec. 45. (Deleted by amendment.)

Sec. 46. *1. A treatment facility and any other division facility into which a child may be committed by a court order shall treat each child committed to the facility by a court order in all respects in accordance with the child's gender identity or expression and the regulations adopted by the Division of Child and Family Services pursuant to subsection 2.*

2. The Division of Child and Family Services of the Department shall adopt regulations establishing factors for a court to consider before committing a child to a treatment facility or other division facility and protocols for such a facility to follow when placing a child within the facility to ensure that each child who is so committed is placed in a manner that is appropriate for the gender identity or expression of the child. Such regulations must be adopted in consultation with:

(a) Lesbian, gay, bisexual, transgender and questioning children who are currently residing in foster homes, facilities for the detention of children, child care facilities and mental health facilities or who have resided in such settings;

(b) Representatives of each agency which provides child welfare services in this State;

(c) Representatives of state and local facilities for the detention of children;

(d) Representatives of lesbian, gay, bisexual, transgender and questioning persons;

(e) Attorneys, including, without limitation, attorneys who regularly represent children in child welfare or criminal proceedings;

(f) Representatives of juvenile courts and family courts;

(g) Advocates of children; and

(h) Any other person deemed appropriate by the Division.

3. A court shall consider the factors prescribed in the regulations adopted pursuant to subsection 2 before committing a child to a treatment facility or other division facility.



4. *A treatment facility or other division facility to which a child is committed by a court order shall follow the protocols prescribed in the regulations adopted pursuant to subsection 2 when placing the child within the facility.*

5. *As used in this section:*

(a) *“Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.*

(b) *“Child care facility” has the meaning ascribed to it in NRS 432A.024.*

(c) *“Foster home” has the meaning ascribed to it in NRS 424.014.*

(d) *“Gender identity or expression” has the meaning ascribed to it in section 2.5 of this act.*

Sec. 47. NRS 433B.175 is hereby amended to read as follows:

433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within ~~30~~ **90** days after employment and annually thereafter. Such training must **be approved by the Division and** include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the facility;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the facility;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; ~~and~~

(h) ***Working with gay, lesbian, bisexual, transgender and questioning children; and***

(i) Such other matters as required by the Board.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 48. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2017, for all other purposes.



