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FIRST REPRINT

S.B. 305

SENATE BILL NO. 305—SENATORS RATTI, FORD, SEGERBLOM,  
MANENDO, PARKS; ATKINSON, CANCELA, SPEARMAN AND  
WOODHOUSE

MARCH 17, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions regarding certain proceedings  
concerning children. (BDR 38-926)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§1, 4)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 child welfare; requiring a court to appoint an attorney to represent a child in certain proceedings; providing for the compensation of the attorney; excluding certain persons from appointment as a guardian ad litem; increasing the maximum amount of the fee that a board of county commissioners may impose for recording certain documents; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law authorizes, but does not require, the court to appoint an attorney to  
2 represent a child who is alleged to have been abused or neglected in civil child  
3 protection proceedings and proceedings to terminate parental rights. (NRS 128.100,  
4 432B.420) **Sections 1 and 4** of this bill: (1) require the court to appoint an attorney  
5 to represent a child who is alleged to have been abused or neglected in such  
6 proceedings; and (2) provide that the child is deemed to be a party to such  
7 proceedings. **Section 1** further provides for the compensation of the attorney who is  
8 so appointed. **Section 3** of this bill makes a conforming change.

9 Existing law requires a court to appoint a guardian ad litem for a child after a  
10 petition is filed that the child is in need of protection. (NRS 432B.500) **Section 2** of  
11 this bill prohibits the court from appointing an attorney who has been appointed to  
12 represent the child to also serve as a guardian ad litem.

13 Existing law authorizes a board of county commissioners to impose a fee of not  
14 more than \$3 for recording certain documents to fund the provision of legal



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15 services to abused and neglected children. (NRS 247.305) **Section 4.5** of this bill  
16 increases the maximum amount of this fee to \$6.

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

1       **Section 1.** NRS 432B.420 is hereby amended to read as  
2 follows:

3       432B.420 1. A parent or other person responsible for the  
4 welfare of a child who is alleged to have abused or neglected the  
5 child may be represented by an attorney at all stages of any  
6 proceedings under NRS 432B.410 to 432B.590, inclusive. Except as  
7 otherwise provided in subsection ~~2,~~ **3**, if the person is indigent, the  
8 court may appoint an attorney to represent the person.

9       **2. A child who is alleged to have been abused or neglected**  
10 **shall be deemed to be a party to any proceedings under NRS**  
11 **432B.410 to 432B.590, inclusive.** The court ~~may, if it finds it~~  
12 ~~appropriate,~~ **shall** appoint an attorney to represent the child. The  
13 child ~~may~~ **must** be represented by an attorney at all stages of any  
14 proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive.  
15 ~~If the child is represented by an attorney, the~~ **The** attorney  
16 **representing the child** has the same authority and rights as an  
17 attorney representing ~~the~~ **any other** party to the proceedings.

18       ~~2,~~ **3.** If the court determines that the parent of an Indian child  
19 for whom protective custody is sought is indigent, the court:

20       (a) Shall appoint an attorney to represent the parent; **and**

21       (b) ~~May appoint an attorney to represent the Indian child; and~~

22       ~~(c)~~ May apply to the Secretary of the Interior for the payment  
23 of the fees and expenses of such an attorney,

24       ↳ as provided in the Indian Child Welfare Act.

25       ~~3,~~ **4.** Each attorney, other than a public defender ~~or~~ **or an**  
26 **attorney compensated through a program for legal aid described**  
27 **in NRS 19.031 and 247.305**, if appointed under the provisions of  
28 subsection 1 ~~or~~ **or 2**, is entitled to the same compensation and  
29 payment for expenses from the county as provided in NRS 7.125  
30 and 7.135 for an attorney appointed to represent a person charged  
31 with a crime. ~~Except as otherwise provided in NRS 432B.500, an~~  
32 ~~attorney appointed to represent a child may also be appointed as~~  
33 ~~guardian ad litem for the child.~~

34       **Sec. 2.** NRS 432B.500 is hereby amended to read as follows:

35       432B.500 1. After a petition is filed that a child is in need of  
36 protection pursuant to NRS 432B.490, the court shall appoint a  
37 guardian ad litem for the child. The person so appointed:

38       (a) Must meet the requirements of NRS 432B.505 or, if such a  
39 person is not available, a representative of an agency which provides



1 child welfare services, a juvenile probation officer, an officer of the  
2 court or another volunteer.

3 (b) Must not be a parent or other person responsible for the  
4 child's welfare.

5 ***(c) Must not be an attorney appointed to represent the child***  
6 ***pursuant to NRS 432B.420.***

7 2. A guardian ad litem appointed pursuant to this section shall:

8 (a) Represent and protect the best interests of the child until  
9 excused by the court;

10 (b) Thoroughly research and ascertain the relevant facts of each  
11 case for which the guardian ad litem is appointed, and ensure that  
12 the court receives an independent, objective account of those facts;

13 (c) Meet with the child wherever the child is placed as often as  
14 is necessary to determine that the child is safe and to ascertain the  
15 best interests of the child;

16 (d) Explain to the child the role of the guardian ad litem and,  
17 when appropriate, the nature and purpose of each proceeding in the  
18 case;

19 (e) Participate in the development and negotiation of any plans  
20 for and orders regarding the child, and monitor the implementation  
21 of those plans and orders to determine whether services are being  
22 provided in an appropriate and timely manner;

23 (f) Appear at all proceedings regarding the child;

24 (g) Inform the court of the desires of the child, but exercise  
25 independent judgment regarding the best interests of the child;

26 (h) Present recommendations to the court and provide reasons in  
27 support of those recommendations;

28 (i) Request the court to enter orders that are clear, specific and,  
29 when appropriate, include periods for compliance;

30 (j) Review the progress of each case for which the guardian ad  
31 litem is appointed, and advocate for the expedient completion of the  
32 case; and

33 (k) Perform such other duties as the court orders.

34 **Sec. 3.** NRS 128.023 is hereby amended to read as follows:

35 128.023 1. If proceedings pursuant to this chapter involve the  
36 termination of parental rights of the parent of an Indian child, the  
37 court shall:

38 (a) Cause the Indian child's tribe to be notified in writing in the  
39 manner provided in the Indian Child Welfare Act. If the Indian child  
40 is eligible for membership in more than one tribe, each tribe must be  
41 notified.

42 (b) Transfer the proceedings to the Indian child's tribe in  
43 accordance with the Indian Child Welfare Act.

44 (c) If a tribe declines or is unable to exercise jurisdiction,  
45 exercise its jurisdiction as provided in the Indian Child Welfare Act.



1 2. If the court determines that the parent of an Indian child for  
2 whom termination of parental rights is sought is indigent, the court:

3 (a) Shall appoint an attorney to represent the parent; *and*

4 (b) ~~May appoint an attorney to represent the Indian child; and~~

5 ~~—(c)—~~ May apply to the Secretary of the Interior for the payment  
6 of the fees and expenses of such an attorney,

7 ~~as~~ as provided in the Indian Child Welfare Act.

8 **Sec. 4.** NRS 128.100 is hereby amended to read as follows:

9 128.100 1. ~~It~~ *Except as otherwise provided in subsection*

10 *2, in* any proceeding for terminating parental rights, or any  
11 rehearing or appeal thereon, or any proceeding for restoring parental  
12 rights, the court may appoint an attorney to represent the child as his  
13 or her counsel . ~~and, if the child does not have a guardian ad litem~~  
14 ~~appointed pursuant to NRS 432B.500, as his or her guardian ad~~  
15 ~~litem.~~ The child may be represented by an attorney at all stages of  
16 any proceedings for terminating parental rights. If the child is  
17 represented by an attorney, the attorney has the same authority and  
18 rights as an attorney representing a party to the proceedings.

19 *2. In any proceeding for the termination of parental rights to*  
20 *a child who has been placed outside of his or her home pursuant*  
21 *to chapter 432B of NRS, or any rehearing or appeal thereon, or*  
22 *any proceeding for restoring parental rights to such a child, the*  
23 *court shall appoint an attorney to represent the child as his or her*  
24 *counsel. The child shall be deemed to be a party to any proceeding*  
25 *described in this section and must be represented by an attorney at*  
26 *all stages of such proceedings. The attorney representing the child*  
27 *has the same authority and rights as an attorney representing any*  
28 *other party to the proceedings.*

29 *3.* If the parent or parents of the child desire to be represented  
30 by counsel, but are indigent, the court may appoint an attorney for  
31 them.

32 ~~It~~ *4.* Each attorney appointed under the provisions of this  
33 section is entitled to the same compensation and expenses from the  
34 county as provided in NRS 7.125 and 7.135 for attorneys appointed  
35 to represent persons charged with crimes.

36 **Sec. 4.5.** NRS 247.305 is hereby amended to read as follows:

37 247.305 1. If another statute specifies the fee to be charged  
38 for a service, county recorders shall charge and collect only the fee  
39 specified. Otherwise, unless prohibited by NRS 375.060, county  
40 recorders shall charge and collect the following fees:

41 (a) For recording any document, for the first page ..... \$10

42 (b) For each additional page ..... \$1

43 (c) For recording each portion of a document which must  
44 be separately indexed, after the first indexing ..... \$3

45 (d) For copying any record, for each page ..... \$1



- 1 (e) For certifying, including certificate and seal..... \$4
- 2 (f) For a certified copy of a certificate of marriage ..... \$10
- 3 (g) For a certified abstract of a certificate of marriage ..... \$10
- 4 (h) For a certified copy of a certificate of marriage or for a
- 5 certified abstract of a certificate of marriage, the additional sum of
- 6 \$5 for the Account for Aid for Victims of Domestic Violence in the
- 7 State General Fund. The fees collected for this purpose must be paid
- 8 over to the county treasurer by the county recorder on or before the
- 9 fifth day of each month for the preceding calendar month, and must
- 10 be credited to that Account. The county treasurer shall, on or before
- 11 the 15th day of each month, remit those fees deposited by the
- 12 recorder to the State Controller for credit to that Account.

13 2. Except as otherwise provided in this subsection and NRS  
14 375.060, a county recorder may charge and collect, in addition to  
15 any fee that a county recorder is otherwise authorized to charge and  
16 collect, an additional fee not to exceed \$3 for recording a document,  
17 instrument, paper, notice, deed, conveyance, map, chart, survey or  
18 any other writing. A county recorder may not charge the additional  
19 fee authorized in this subsection for recording an originally signed  
20 certificate of marriage described in NRS 122.120. On or before the  
21 fifth day of each month, the county recorder shall pay the amount of  
22 fees collected by him or her pursuant to this subsection to the  
23 county treasurer for credit to the account established pursuant to  
24 NRS 247.306.

25 3. Except as otherwise provided in this subsection and NRS  
26 375.060, a county recorder shall charge and collect, in addition to  
27 any fee that a county recorder is otherwise authorized to charge and  
28 collect, an additional fee of \$1 for recording a document,  
29 instrument, paper, notice, deed, conveyance, map, chart, survey or  
30 any other writing. A county recorder shall not charge the additional  
31 fee authorized in this subsection for recording an originally signed  
32 certificate of marriage described in NRS 122.120. On or before the  
33 fifth day of each month, the county recorder shall pay the amount of  
34 fees collected by him or her pursuant to this subsection to the county  
35 treasurer. On or before the 15th day of each month, the county  
36 treasurer shall remit the money received by him or her pursuant to  
37 this subsection to the State Treasurer for credit to the Account  
38 to Assist Persons Formerly in Foster Care established pursuant to  
39 NRS 432.017.

40 4. Except as otherwise provided in this subsection and NRS  
41 375.060, a board of county commissioners may, in addition to any  
42 fee that a county recorder is otherwise authorized to charge and  
43 collect, impose by ordinance a fee of not more than ~~1\$31~~ \$6 for  
44 recording a document, instrument, paper, notice, deed, conveyance,  
45 map, chart, survey or any other writing. A county recorder shall not



1 charge the additional fee authorized by this subsection for recording  
2 an originally signed certificate of marriage described in NRS  
3 122.120. On or before the fifth day of each month, the county  
4 recorder shall pay the amount of fees collected by him or her  
5 pursuant to this subsection to the county treasurer. On or before the  
6 15th day of each month, the county treasurer shall remit the money  
7 received by him or her pursuant to this subsection to the  
8 organization operating the program for legal services for the  
9 indigent that receives the fees charged pursuant to NRS 19.031 to be  
10 used to provide legal services for abused and neglected children **H**,  
11 *including, without limitation, to compensate attorneys appointed*  
12 *to represent such children pursuant to NRS 128.100 and*  
13 *432B.420.*

14 5. Except as otherwise provided in this subsection or  
15 subsection 6 or by specific statute, a county recorder may charge  
16 and collect, in addition to any fee that a county recorder is otherwise  
17 authorized to charge and collect, an additional fee not to exceed \$25  
18 for recording any document that does not meet the standards set  
19 forth in subsection 3 of NRS 247.110. A county recorder shall not  
20 charge the additional fee authorized by this subsection for recording  
21 a document that is exempt from the provisions of subsection 3 of  
22 NRS 247.110.

23 6. Except as otherwise provided in subsection 7, a county  
24 recorder shall not charge or collect any fees for any of the services  
25 specified in this section when rendered by the county recorder to:

26 (a) The county in which the county recorder's office is located.

27 (b) The State of Nevada or any city or town within the county in  
28 which the county recorder's office is located, if the document being  
29 recorded:

30 (1) Conveys to the State, or to that city or town, an interest in  
31 land;

32 (2) Is a mortgage or deed of trust upon lands within the  
33 county which names the State or that city or town as beneficiary;

34 (3) Imposes a lien in favor of the State or that city or town;  
35 or

36 (4) Is a notice of the pendency of an action by the State or  
37 that city or town.

38 7. A county recorder shall charge and collect the fees specified  
39 in this section for copying any document at the request of the State  
40 of Nevada, and any city or town within the county. For copying, and  
41 for his or her certificate and seal upon the copy, the county recorder  
42 shall charge the regular fee.

43 8. If the amount of money collected by a county recorder for a  
44 fee pursuant to this section:



1 (a) Exceeds by \$5 or less the amount required by law to be paid,  
2 the county recorder shall deposit the excess payment with the  
3 county treasurer for credit to the county general fund.

4 (b) Exceeds by more than \$5 the amount required by law to be  
5 paid, the county recorder shall refund the entire amount of the  
6 excess payment.

7 9. Except as otherwise provided in subsection 2, 3, 4 or 8 or by  
8 an ordinance adopted pursuant to the provisions of NRS 244.207,  
9 county recorders shall, on or before the fifth working day of each  
10 month, account for and pay to the county treasurer all such fees  
11 collected during the preceding month.

12 10. For the purposes of this section, "State of Nevada,"  
13 "county," "city" and "town" include any department or agency  
14 thereof and any officer thereof in his or her official capacity.

15 **Sec. 5.** The provisions of NRS 354.599 do not apply to any  
16 additional expenses of a local government that are related to the  
17 provisions of this act.

18 **Sec. 6.** (Deleted by amendment.)

