

SENATE BILL NO. 292—SENATOR CARE

MARCH 16, 2009

Referred to Committee on Health and Education

SUMMARY—Adopts the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act. (BDR 38-1025)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§§ 10, 12) (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 children; adopting the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, Nevada provides for the ability of a court to appoint
2 representation or a guardian ad litem for a child during an abuse and neglect
3 proceeding or for the termination of parental rights. (Chapter 128 of NRS, NRS
4 432B.410-432B.590) **Sections 1-27** of this bill adopt the Uniform Representation
5 of Children in Abuse, Neglect, and Custody Proceedings Act, which was
6 promulgated by the Uniform Law Commission in 2007 and which: (1) requires a
7 court to appoint either a best interests attorney or a child’s attorney during an abuse
8 and neglect proceeding or a proceeding for the termination of parental rights; (2)
9 allows the court to appoint a best interests advocate in addition to the appointed
10 attorney to represent the child’s interests; (3) prescribes the duties of a best interests
11 attorney, child’s attorney or best interests advocate; (4) prescribes the compensation
12 for a best interests attorney or child’s attorney; and (5) provides other guidelines for
13 administration of such proceedings.

14 **Section 14** of this bill adopts the provision of the Uniform Act concerning the
15 qualifications of a best interests advocate, but references existing law which more
16 fully prescribes the qualifications for a person serving as a special advocate in an
17 abuse or neglect proceeding. (NRS 432B.500, 432B.505)

18 **Sections 28-50** of this bill amend existing provisions concerning proceedings
19 for abuse or neglect of a child or termination of parental rights to conform to the
20 provisions of the Uniform Act. (NRS 128.023, 128.100, 128.180, chapter 432B of
21 NRS)



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

1 **Section 1.** Title 38 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 27, inclusive, of this act.

4 **Sec. 2.** *This chapter may be cited as the Uniform*
5 *Representation of Children in Abuse, Neglect, and Custody*
6 *Proceedings Act.*

7 **Sec. 3.** *As used in this chapter, unless the context otherwise*
8 *requires, the words and terms defined in sections 4 to 9, inclusive,*
9 *of this act have the meanings ascribed to them in those sections.*

10 **Sec. 4.** *“Abuse or neglect proceeding” means a court*
11 *proceeding under NRS 432B.410 to 432B.590, inclusive, for*
12 *protection of a child from abuse or neglect or a court proceeding*
13 *under chapter 128 of NRS in which termination of parental rights*
14 *is at issue.*

15 **Sec. 5.** *“Best interests advocate” means an individual, not*
16 *functioning as an attorney, appointed to assist the court in*
17 *determining the best interests of a child.*

18 **Sec. 6.** *“Best interests attorney” means an attorney who*
19 *provides legal representation for a child to protect the child’s best*
20 *interests without being bound by the child’s directives or*
21 *objectives.*

22 **Sec. 7.** *“Child’s attorney” means an attorney who provides*
23 *legal representation for a child.*

24 **Sec. 8.** *“Custody proceeding” means a court proceeding,*
25 *other than an abuse or neglect proceeding, in which legal or*
26 *physical custody of, access to, or visitation or parenting time with*
27 *a child is at issue. The term does not include a proceeding initiated*
28 *against a child pursuant to title 5 of NRS alleging that the child is*
29 *delinquent or in need of supervision.*

30 **Sec. 9.** *“Developmental level” means the ability to*
31 *understand and communicate, taking into account such factors as*
32 *age, mental capacity, level of education, cultural background and*
33 *degree of language acquisition.*

34 **Sec. 10.** 1. *In an abuse or neglect proceeding, the court*
35 *shall appoint either a child’s attorney or a best interests attorney.*
36 *The appointment must be made as soon as practicable to ensure*
37 *adequate representation of the child and, in any event, before the*
38 *first court hearing that may substantially affect the interests of the*
39 *child.*

40 2. *In determining whether to appoint a child’s attorney or a*
41 *best interests attorney, the court may consider such factors as the*
42 *child’s age and developmental level, any desire for an attorney*



1 *expressed by the child, whether the child has expressed objectives*
2 *in the proceeding and the value of an independent advocate for*
3 *the child's best interests.*

4 3. *The court may appoint one attorney to represent siblings if*
5 *there is no conflict of interest, even if the attorney serves in*
6 *different capacities with respect to two or more siblings.*

7 4. *Neither the child nor a representative of the child, whether*
8 *or not appointed by the court, may waive representation of the*
9 *child under this section or section 11 of this act.*

10 **Sec. 11.** 1. *In an abuse or neglect proceeding, whether the*
11 *court appoints a child's attorney or a best interests attorney, the*
12 *court may appoint a best interests advocate if the court determines*
13 *that a best interests advocate is necessary to assist the court in*
14 *determining the child's best interests.*

15 2. *In determining whether a best interests advocate is*
16 *necessary pursuant to subsection 1, the court shall consider such*
17 *factors as the court's need for information and assistance, the*
18 *circumstances and needs of the child, the value of a best interests*
19 *advocate's expertise and experience and any request for the*
20 *appointment of a best interests advocate.*

21 3. *If the court determines to make an appointment pursuant*
22 *to subsection 1, the court shall make the appointment as soon as*
23 *practicable.*

24 **Sec. 12.** 1. *In a custody proceeding, the court, on its own or*
25 *on motion, may appoint either a child's attorney or a best interests*
26 *attorney. Whether or not the court appoints an attorney, the court*
27 *may appoint a best interests advocate. An appointment may be*
28 *made at any stage of the proceeding, and the appointment order*
29 *must designate the role of the appointee.*

30 2. *In determining whether an appointment under subsection*
31 *1 is appropriate, the court shall consider the circumstances and*
32 *needs of the child, the court's need for information and assistance,*
33 *the financial burden on the parties and the cost of available*
34 *alternatives for resolving the issues in the proceeding, and any*
35 *factors indicating a particularized need for representation,*
36 *including:*

37 (a) *Any desire for representation or participation expressed by*
38 *the child;*

39 (b) *Any inappropriate adult influence on or manipulation of*
40 *the child;*

41 (c) *The likelihood that the child will be called as a witness or*
42 *be questioned by the court in chambers and the need to minimize*
43 *harm to the child from the processes of litigation;*

44 (d) *Any level of acrimony that indicates a lack of objectivity of*
45 *the parties regarding the needs of the child;*



1 (e) Any interference, or threatened interference, with custody,
2 access, visitation or parenting time, including abduction or risk of
3 abduction of the child;

4 (f) The likelihood of a geographic relocation of the child that
5 could substantially reduce the child's time with:

6 (1) A parent;

7 (2) A sibling; or

8 (3) Another individual with whom the child has a close
9 relationship;

10 (g) Any conduct by a party or an individual with whom a party
11 associates which raises serious concerns for the safety of the child
12 during periods of custody, visitation or parenting time with that
13 party;

14 (h) Any special physical, educational or mental health needs of
15 the child that require investigation or advocacy; and

16 (i) Any dispute as to paternity of the child.

17 3. If the court determines to make an appointment under
18 subsection 1, in deciding whether a child's attorney, best interests
19 attorney or best interests advocate is appropriate, the court shall
20 consider such factors as the child's age and developmental level,
21 any desire for an attorney expressed by the child, whether the
22 child has expressed objectives in the proceeding, the value of an
23 independent representative for the child's best interests and the
24 value of a best interests advocate's expertise and experience.

25 **Sec. 13.** The court may appoint as a child's attorney or best
26 interests attorney only an individual who is qualified through
27 training or experience in the type of proceeding in which the
28 appointment is made.

29 **Sec. 14.** 1. The court may appoint as a best interests
30 advocate only an individual who may be appointed as a best
31 interests advocate pursuant to NRS 432B.500 and 432B.505.

32 2. An attorney appointed as a best interests advocate may take
33 only those actions that may be taken by a best interests advocate
34 who is not an attorney.

35 3. The appointment of a best interests advocate does not
36 create a professional relationship between the advocate and the
37 child unless such a relationship is expressly established in the
38 order of appointment.

39 **Sec. 15.** 1. Except as otherwise provided in subsection 2, an
40 appointment of a child's attorney, best interests attorney or best
41 interests advocate must be in a record, identify the individual who
42 will act in that capacity and clearly set forth the terms of the
43 appointment, including the grounds for the appointment, rights of
44 access as provided under section 21 of this act and applicable



1 *terms of compensation. In a custody proceeding, the appointment*
2 *order must also specify the duration of the appointment.*

3 *2. In the appointment order pursuant to subsection 1, the*
4 *court may identify a private organization or governmental*
5 *program through which a child's attorney, best interests attorney*
6 *or best interests advocate will be provided. The organization or*
7 *program shall designate an individual who will act in that capacity*
8 *and submit to the court the name of the individual as soon as*
9 *practicable, at which time the court shall amend the appointment*
10 *order to identify the designated individual.*

11 *3. If appropriate in light of information not available to the*
12 *court at the time of the original appointment, changed*
13 *circumstances or a request by the appointee, the court may modify*
14 *the appointment order to:*

15 *(a) Redesignate as a child's attorney an individual originally*
16 *appointed as a best interests attorney;*

17 *(b) Add the appointment of a child's attorney if the original or*
18 *amended appointment was a best interests attorney; or*

19 *(c) Add the appointment of a best interests attorney if the*
20 *original or amended appointment was a child's attorney.*

21 **Sec. 16.** *1. In an abuse or neglect proceeding, unless*
22 *otherwise provided by a court order, an appointment of a child's*
23 *attorney, best interests attorney or best interests advocate*
24 *continues in effect until the individual is discharged by court order*
25 *at the conclusion of the proceeding.*

26 *2. In a custody proceeding, an appointment of a child's*
27 *attorney, best interests attorney or best interests advocate*
28 *continues in effect only for the duration provided in the*
29 *appointment order or any subsequent order.*

30 **Sec. 17.** *1. A child's attorney or best interests attorney shall*
31 *participate in the proceeding to the full extent necessary to*
32 *represent the child.*

33 *2. The duties of a child's attorney or best interests attorney*
34 *include:*

35 *(a) Meeting with the child and ascertaining, in a manner*
36 *appropriate to the child's developmental level, the child's needs,*
37 *circumstances and views;*

38 *(b) Consulting with any best interests advocate for the child;*

39 *(c) Investigating the facts relevant to the proceeding to the*
40 *extent the attorney considers appropriate, including interviewing*
41 *persons with significant knowledge of the child's history and*
42 *condition and reviewing copies of relevant records;*

43 *(d) Providing advice and counsel to the child;*



1 (e) *Informing the child of the status of the proceeding and the*
2 *opportunity to participate and, if appropriate, facilitating the*
3 *child's participation in the proceeding;*

4 (f) *Reviewing and accepting or declining to accept any*
5 *proposed stipulation for an order affecting the child and*
6 *explaining to the court the basis for any opposition;*

7 (g) *Taking action the attorney considers appropriate to*
8 *expedite the proceeding and the resolution of contested issues; and*

9 (h) *If the attorney considers it appropriate, encouraging*
10 *settlement and the use of alternative forms of dispute resolution*
11 *and participating in such processes to the extent permitted under*
12 *the law of this State.*

13 3. *When the court has appointed both a child's attorney and a*
14 *best interests attorney for a child pursuant to subsection 3 of*
15 *section 15 of this act, the court and the attorneys shall confer to*
16 *determine how the attorneys will perform their common duties*
17 *under this chapter.*

18 **Sec. 18. 1.** *A child's attorney owes to the child the duties*
19 *imposed by the law of this State in an attorney-client relationship,*
20 *including duties of individual loyalty, confidentiality and*
21 *competent representation.*

22 2. *A child's attorney, in a manner appropriate to the child's*
23 *developmental level, shall explain the nature of the attorney-client*
24 *relationship to the child, including the requirements of*
25 *confidentiality.*

26 3. *Except as otherwise provided in subsections 4 and 5, once*
27 *a child has formed an attorney-client relationship with a child's*
28 *attorney, the attorney shall advocate any objectives of*
29 *representation expressed by the child unless they are prohibited by*
30 *law or without factual foundation.*

31 4. *If a child's attorney reasonably believes that the child lacks*
32 *the capacity or refuses to direct the attorney with respect to a*
33 *particular issue, the attorney shall:*

34 (a) *Present to the court a position that the attorney determines*
35 *will serve the child's best interests if the position is not*
36 *inconsistent with the child's expressed objectives;*

37 (b) *Take no position as to the issue in question; or*

38 (c) *Request appointment of a best interests attorney or best*
39 *interests advocate if one has not been appointed.*

40 5. *If, despite appropriate legal counseling, the child expresses*
41 *objectives of representation that the child's attorney reasonably*
42 *believes would place the child at risk of substantial harm, the*
43 *attorney shall:*

44 (a) *Request the appointment of a best interests advocate, if a*
45 *best interests advocate has not been appointed;*



1 (b) *Withdraw from representation and request the appointment*
2 *of a best interests attorney; or*

3 (c) *Continue the representation and request the appointment*
4 *of a best interests attorney.*

5 6. *The child's attorney may not disclose the reasons for*
6 *requesting a best interests advocate or best interests attorney*
7 *under subsection 5 except as permitted by the Nevada Rules of*
8 *Professional Conduct.*

9 **Sec. 19.** *1. Except as otherwise provided in this section, a*
10 *best interests attorney owes to the child the duties imposed by the*
11 *law of this State in an attorney-client relationship, including*
12 *duties of individual loyalty, confidentiality and competent*
13 *representation.*

14 2. *A best interests attorney shall advocate for the best*
15 *interests of the child according to criteria established by law and*
16 *based on the circumstances and needs of the child and other facts*
17 *relevant to the proceeding.*

18 3. *A best interests attorney, in a manner appropriate to the*
19 *child's developmental level, shall:*

20 (a) *Explain the role of the attorney to the child; and*

21 (b) *Inform the child that, in providing assistance to the court,*
22 *the attorney may use information that the child gives to the*
23 *attorney.*

24 4. *If the child desires, the best interests attorney shall present*
25 *any expressed objectives of the child in the proceeding to the court*
26 *by a method that is appropriate in light of the purpose of the*
27 *proceeding and the impact on the child.*

28 5. *A best interests attorney is not bound by the child's*
29 *expressed objectives but shall consider the child's objectives, the*
30 *reasons underlying those objectives and the child's developmental*
31 *level, in determining what to advocate.*

32 6. *A best interests attorney may not disclose or be compelled*
33 *to disclose information relating to the representation of the child*
34 *except as permitted by the Nevada Rules of Professional Conduct,*
35 *but the attorney may use such information for the purpose of*
36 *performing the duties of a best interests attorney without*
37 *disclosing that the child was the source of the information.*

38 **Sec. 20.** *A best interests advocate shall:*

39 1. *Within a reasonable time after the appointment:*

40 (a) *Meet with the child and, in a manner appropriate to the*
41 *child's developmental level:*

42 (1) *Explain the role of the best interests advocate; and*

43 (2) *Ascertain the child's needs, circumstances and views;*

44 (b) *Investigate the facts relevant to the proceeding to the extent*
45 *the advocate considers appropriate, including interviewing*



1 *persons with significant knowledge of the child's history and*
2 *condition;*

3 *(c) Obtain and review copies of relevant records relating to the*
4 *child to the extent the advocate considers appropriate; and*

5 *(d) Consult with any child's attorney or best interests attorney*
6 *appointed in the proceeding.*

7 *2. Determine, in a manner appropriate to the child's*
8 *developmental level, the child's expressed objectives in the*
9 *proceeding.*

10 *3. Present the child's expressed objectives to the court, if the*
11 *child desires, by report or other submission.*

12 *4. Consider the child's expressed objectives in the proceeding*
13 *without being bound by them.*

14 *5. Maintain the confidentiality of information relating to the*
15 *proceeding except as necessary to perform the duties of best*
16 *interests advocate or as may be specifically provided by the law of*
17 *this State other than this chapter.*

18 *6. If the advocate considers it appropriate, and subject to the*
19 *requirements of subsection 5 of section 22 of this act, present*
20 *recommendations to the court by testimony or written report, or*
21 *both, regarding the child's best interests and the bases of those*
22 *recommendations.*

23 *7. Provide to the parties and to any attorney for the child*
24 *copies of any report or other document submitted to the court by*
25 *the advocate.*

26 *8. If the advocate considers it appropriate, encourage*
27 *settlement and the use of any alternative forms of dispute*
28 *resolution and participate in such processes to the extent permitted*
29 *under the law of this State.*

30 **Sec. 21.** *1. Except as otherwise provided in subsections 2*
31 *and 3, when the court makes an appointment under this chapter, it*
32 *shall issue an order, with notice to all parties, authorizing the*
33 *individual appointed to have access to:*

34 *(a) The child; and*

35 *(b) Confidential information regarding the child, including the*
36 *child's educational, medical and mental health records, any*
37 *agency or court files involving allegations of abuse or neglect of*
38 *the child, any delinquency records involving the child and other*
39 *information relevant to the issues in the proceeding.*

40 *2. A child's record that is privileged or confidential under law*
41 *other than this chapter may be released to an individual appointed*
42 *under this chapter only in accordance with that law, including any*
43 *requirements in that law for notice and opportunity to object to*
44 *release of records. Information that is privileged under the*
45 *attorney-client relationship may not be disclosed except as*



1 otherwise permitted by the law of this State other than this
2 chapter.

3 3. An order issued pursuant to subsection 1 must require that
4 a child's attorney, best interests attorney or best interests advocate
5 maintain the confidentiality of information released, except as
6 necessary for the resolution of the issues in the proceeding. The
7 court may impose any other condition or limitation on an order of
8 access which is required by law, the Nevada Rules of Professional
9 Conduct, the child's needs or the circumstances of the proceeding.

10 4. The custodian of any record regarding the child shall
11 provide access to the record to an individual authorized access by
12 order issued pursuant to subsection 1.

13 5. Except as otherwise provided in subsection 2, an order
14 issued pursuant to subsection 1 takes effect upon issuance.

15 **Sec. 22. 1.** A child's attorney, best interests attorney or best
16 interests advocate appointed under this chapter is entitled to:

17 (a) Receive a copy of each pleading or other record filed with
18 the court in the proceeding;

19 (b) Receive notice of and participate in each hearing in the
20 proceeding and participate and receive copies of all records in any
21 appeal that may be filed in the proceeding; and

22 (c) Participate in any case staffing or case management
23 conference regarding the child in an abuse or neglect proceeding.

24 2. A child's attorney, best interests attorney or best interests
25 advocate appointed under this chapter may not engage in ex parte
26 contact with the court except as authorized by law other than this
27 chapter.

28 3. A best interests advocate may not take any action that may
29 be taken only by an attorney licensed in this State, including
30 making opening and closing statements, examining witnesses in
31 court and engaging in discovery other than as a witness.

32 4. The court, a child's attorney or a best interests attorney
33 may compel any best interests advocate for a child to attend a trial
34 or hearing relating to the child and to testify as necessary for the
35 proper disposition of the proceeding.

36 5. The court shall ensure that any best interests advocate for
37 a child has an opportunity to testify or, if present at the hearing
38 and available for cross-examination, submit a report setting forth:

39 (a) The advocate's recommendations regarding the best
40 interests of the child; and

41 (b) The reasons for the advocate's recommendations.

42 6. A party may call any best interests advocate for the child as
43 a witness for the purpose of cross-examination regarding the
44 advocate's report even if the advocate is not listed as a witness by a
45 party.



1 7. *In a jury trial, disclosure to the jury of the contents of a*
2 *best interests advocate's report is subject to this State's rules of*
3 *evidence.*

4 **Sec. 23.** *1. Except as authorized by the Nevada Rules of*
5 *Professional Conduct or court rule, a child's attorney or best*
6 *interests attorney may not:*

7 *(a) Be compelled to produce the attorney's work product*
8 *developed during the appointment;*

9 *(b) Be required to disclose the source of information obtained*
10 *as a result of the appointment;*

11 *(c) Introduce into evidence a report prepared by the attorney;*
12 *or*

13 *(d) Testify in court.*

14 2. *This section does not alter the duty of an attorney to report*
15 *child abuse or neglect under NRS 432B.220.*

16 **Sec. 24.** *1. Only the child has a right of action for money*
17 *damages against a child's attorney, best interests attorney or best*
18 *interests advocate for inaction or action taken in the capacity of*
19 *child's attorney, best interests attorney or best interests advocate.*

20 2. *A best interests attorney or best interests advocate*
21 *appointed pursuant to this chapter is not liable for money damages*
22 *because of inaction or action taken in the capacity of best interests*
23 *attorney or best interests advocate unless the inaction or action*
24 *taken constituted willful misconduct or gross negligence.*

25 **Sec. 25.** *1. In an abuse or neglect proceeding, an individual*
26 *appointed as a best interests attorney or a child's attorney*
27 *pursuant to this chapter, other than a volunteer, is entitled to*
28 *reasonable and timely fees and expenses in an amount set by the*
29 *court to be paid from the county as provided in NRS 7.125 and*
30 *7.135 for an attorney appointed to represent a person charged with*
31 *a crime.*

32 2. *To receive payment under this section, the payee must*
33 *complete and submit to the court a written claim for payment,*
34 *whether interim or final, justifying the fees and expenses charged.*

35 3. *If the court, after hearing, determines that a party whose*
36 *conduct gave rise to a finding of abuse or neglect is able to defray*
37 *all or part of the fees and expenses set pursuant to subsection 1,*
38 *the court shall enter a judgment in favor of the county against the*
39 *party in an amount the court determines is reasonable.*

40 **Sec. 26.** *1. In a custody proceeding, an individual*
41 *appointed as a best interests attorney or a child's attorney*
42 *pursuant to this chapter, other than a volunteer, is entitled to*
43 *reasonable and timely fees and expenses in an amount set by the*
44 *court by reference to the reasonable and customary fees and*
45 *expenses for similar services in the jurisdiction.*



1 2. *The court may do one or more of the following:*

2 (a) *Allocate fees and expenses among the parties;*

3 (b) *Order a deposit to be made into an account designated by*
4 *the court for the use and benefit of the individual appointed under*
5 *this chapter; or*

6 (c) *Before the final hearing, order an amount in addition to*
7 *the amount ordered deposited under paragraph (b) to be paid into*
8 *the account.*

9 3. *To receive payment under this section, the individual must*
10 *complete and submit to the court a written claim for payment,*
11 *whether interim or final, justifying the fees and expenses charged.*

12 **Sec. 27.** *In applying and construing this chapter,*
13 *consideration must be given to the need to promote uniformity of*
14 *the law with respect to its subject matter among states that enact it.*

15 **Sec. 28.** Chapter 432B of NRS is hereby amended by adding
16 thereto the provisions set forth as sections 29, 30 and 31 of this act.

17 **Sec. 29.** *“Best interests advocate” has the meaning ascribed*
18 *to it in section 5 of this act.*

19 **Sec. 30.** *“Best interests attorney” has the meaning ascribed*
20 *to it in section 6 of this act.*

21 **Sec. 31.** *“Child’s attorney” has the meaning ascribed to it in*
22 *section 7 of this act.*

23 **Sec. 32.** NRS 432B.010 is hereby amended to read as follows:

24 432B.010 As used in this chapter, unless the context otherwise
25 requires, the words and terms defined in NRS 432B.020 to
26 432B.110, inclusive, *and sections 29, 30 and 31 of this act*, have
27 the meanings ascribed to them in those sections.

28 **Sec. 33.** NRS 432B.250 is hereby amended to read as follows:

29 432B.250 Any person who is required to make a report
30 pursuant to NRS 432B.220 may not invoke any of the privileges set
31 forth in chapter 49 of NRS:

32 1. For his failure to make a report pursuant to NRS 432B.220;

33 2. In cooperating with an agency which provides child welfare
34 services or a ~~guardian ad litem~~ *best interests advocate* for a child;
35 or

36 3. In any proceeding held pursuant to NRS 432B.410 to
37 432B.590, inclusive.

38 **Sec. 34.** NRS 432B.290 is hereby amended to read as follows:

39 432B.290 1. Except as otherwise provided in subsections 2
40 and 3 and NRS 432B.165, 432B.175 and 432B.513, data or
41 information concerning reports and investigations thereof made
42 pursuant to this chapter may be made available only to:

43 (a) A physician, if the physician has before him a child who he
44 has reasonable cause to believe has been abused or neglected;



- 1 (b) A person authorized to place a child in protective custody, if
2 the person has before him a child who he has reasonable cause to
3 believe has been abused or neglected and the person requires the
4 information to determine whether to place the child in protective
5 custody;
- 6 (c) An agency, including, without limitation, an agency in
7 another jurisdiction, responsible for or authorized to undertake the
8 care, treatment or supervision of:
- 9 (1) The child; or
10 (2) The person responsible for the welfare of the child;
- 11 (d) A district attorney or other law enforcement officer who
12 requires the information in connection with an investigation or
13 prosecution of the abuse or neglect of a child;
- 14 (e) A court, for in camera inspection only, unless the court
15 determines that public disclosure of the information is necessary for
16 the determination of an issue before it;
- 17 (f) A person engaged in bona fide research or an audit, but
18 information identifying the subjects of a report must not be made
19 available to him;
- 20 (g) The *best interests attorney or child's attorney* and the
21 ~~guardian ad litem of the child;~~ *best interests advocate;*
- 22 (h) A grand jury upon its determination that access to these
23 records is necessary in the conduct of its official business;
- 24 (i) A federal, state or local governmental entity, or an agency of
25 such an entity, that needs access to the information to carry out its
26 legal responsibilities to protect children from abuse and neglect;
- 27 (j) A person or an organization that has entered into a written
28 agreement with an agency which provides child welfare services to
29 provide assessments or services and that has been trained to make
30 such assessments or provide such services;
- 31 (k) A team organized pursuant to NRS 432B.350 for the
32 protection of a child;
- 33 (l) A team organized pursuant to NRS 432B.405 to review the
34 death of a child;
- 35 (m) A parent or legal guardian of the child and an attorney of a
36 parent or guardian of the child, if the identity of the person
37 responsible for reporting the abuse or neglect of the child to a public
38 agency is kept confidential;
- 39 (n) The persons who are the subject of a report;
- 40 (o) An agency that is authorized by law to license foster homes
41 or facilities for children or to investigate persons applying for
42 approval to adopt a child, if the agency has before it an application
43 for that license or is investigating an applicant to adopt a child;
- 44 (p) Upon written consent of the parent, any officer of this State
45 or a city or county thereof or Legislator authorized, by the agency or



1 department having jurisdiction or by the Legislature, acting within
2 its jurisdiction, to investigate the activities or programs of an agency
3 which provides child welfare services if:

4 (1) The identity of the person making the report is kept
5 confidential; and

6 (2) The officer, Legislator or a member of his family is not
7 the person alleged to have committed the abuse or neglect;

8 (q) The Division of Parole and Probation of the Department of
9 Public Safety for use pursuant to NRS 176.135 in making a
10 presentence investigation and report to the district court or pursuant
11 to NRS 176.151 in making a general investigation and report;

12 (r) Any person who is required pursuant to NRS 432B.220 to
13 make a report to an agency which provides child welfare services or
14 to a law enforcement agency;

15 (s) The Rural Advisory Board to Expedite Proceedings for the
16 Placement of Children created pursuant to NRS 432B.602 or a local
17 advisory board to expedite proceedings for the placement of
18 children created pursuant to NRS 432B.604;

19 (t) The panel established pursuant to NRS 432B.396 to evaluate
20 agencies which provide child welfare services; or

21 (u) An employer in accordance with subsection 3 of
22 NRS 432.100.

23 2. An agency investigating a report of the abuse or neglect of a
24 child shall, upon request, provide to a person named in the report as
25 allegedly causing the abuse or neglect of the child:

26 (a) A copy of:

27 (1) Any statement made in writing to an investigator for the
28 agency by the person named in the report as allegedly causing the
29 abuse or neglect of the child; or

30 (2) Any recording made by the agency of any statement
31 made orally to an investigator for the agency by the person named in
32 the report as allegedly causing the abuse or neglect of the child; or

33 (b) A written summary of the allegations made against the
34 person who is named in the report as allegedly causing the abuse or
35 neglect of the child. The summary must not identify the person
36 responsible for reporting the alleged abuse or neglect.

37 3. An agency which provides child welfare services shall
38 disclose the identity of a person who makes a report or otherwise
39 initiates an investigation pursuant to this chapter if a court, after
40 reviewing the record in camera and determining that there is reason
41 to believe that the person knowingly made a false report, orders the
42 disclosure.

43 4. Any person, except for:

44 (a) The subject of a report;



1 (b) A district attorney or other law enforcement officer initiating
2 legal proceedings; or

3 (c) An employee of the Division of Parole and Probation of the
4 Department of Public Safety making a presentence investigation and
5 report to the district court pursuant to NRS 176.135 or making a
6 general investigation and report pursuant to NRS 176.151,

7 ➔ who is given access, pursuant to subsection 1, to information
8 identifying the subjects of a report and who makes this information
9 public is guilty of a misdemeanor.

10 5. The Division of Child and Family Services shall adopt
11 regulations to carry out the provisions of this section.

12 **Sec. 35.** NRS 432B.420 is hereby amended to read as follows:

13 432B.420 1. A parent or other person responsible for the
14 welfare of a child who is alleged to have abused or neglected the
15 child may be represented by an attorney at all stages of any
16 proceedings under NRS 432B.410 to 432B.590, inclusive. Except as
17 otherwise provided in subsection 2, if the person is indigent, the
18 court may appoint an attorney to represent him. The court ~~[may, if it~~
19 ~~finds it appropriate.] shall~~ appoint ~~[an] a best interests~~ attorney ~~or a~~
20 ~~child's attorney~~ to represent the child ~~[. The child may be~~
21 ~~represented by an attorney at all stages of any proceedings held~~
22 ~~pursuant to NRS 432B.410 to 432B.590, inclusive. If the child is~~
23 ~~represented by an attorney, the attorney has the same authority and~~
24 ~~rights as an attorney representing a party to the proceedings.] in~~
25 ~~accordance with the provisions of sections 2 to 27, inclusive, of~~
26 ~~this act.~~

27 2. If the court determines that the parent of an Indian child for
28 whom protective custody is sought is indigent, the court:

29 (a) Shall appoint an attorney to represent the parent;

30 (b) ~~[May] Shall~~ appoint ~~[an] a best interests attorney or child's~~
31 attorney to represent the Indian child ~~[;] in accordance with the~~
32 ~~provisions of sections 2 to 27, inclusive, of this act;~~ and

33 (c) May apply to the Secretary of the Interior for the payment of
34 the fees and expenses of such an attorney,

35 ➔ as provided in the Indian Child Welfare Act.

36 3. ~~[Each] An~~ attorney, other than a public defender, ~~[if]~~
37 appointed under the provisions of subsection 1 ~~[;] to represent a~~
38 ~~parent or other person responsible for the welfare of a child who is~~
39 ~~alleged to have abused or neglected a child~~ is entitled to the same
40 compensation and payment for expenses from the county as
41 provided in NRS 7.125 and 7.135 for an attorney appointed to
42 represent a person charged with a crime. ~~[Except as otherwise~~
43 ~~provided in NRS 432B.500, an attorney appointed to represent a~~
44 ~~child may also be appointed as guardian ad litem for the child. He]~~
45 ~~If the court appoints a best interests advocate to represent the~~



1 *child in accordance with the provisions of sections 2 to 27,*
2 *inclusive, of this act, the best interests advocate* may not receive
3 any compensation for his services. ~~[as a guardian ad litem.]~~

4 **Sec. 36.** NRS 432B.467 is hereby amended to read as follows:

5 432B.467 1. In determining whether to grant a petition for
6 the appointment of a guardian filed pursuant to NRS 432B.466, the
7 court may consider all relevant and material evidence that is
8 admissible pursuant to this chapter, including, without limitation,
9 any report submitted by a ~~[special advocate appointed as a guardian~~
10 ~~ad litem]~~ *best interests advocate* for the child pursuant to ~~[NRS~~
11 ~~432B.500.]~~ *sections 2 to 27, inclusive, of this act.*

12 2. If a court appoints a guardian for a child pursuant to NRS
13 432B.4665, the court may order a reasonable right of visitation to
14 any person whose right to custody or visitation of the child was
15 terminated as a result of the appointment of the guardian if the court
16 finds that the visitation is in the best interests of the child.

17 **Sec. 37.** NRS 432B.4675 is hereby amended to read as
18 follows:

19 432B.4675 Upon the entry of a final order by the court
20 establishing a guardianship pursuant to NRS 432B.4665:

21 1. The custody of the child by the agency which has legal
22 custody of the child is terminated;

23 2. The proceedings concerning the child conducted pursuant to
24 NRS 432B.410 to 432B.590, inclusive, terminate; and

25 3. Unless subsequently ordered by the court to assist the court,
26 the following agencies and persons are excused from any
27 responsibility to participate in the guardianship case:

28 (a) The agency which has legal custody of the child; and

29 (b) Any counsel, *best interests attorney, child's attorney* or
30 ~~[guardian ad litem]~~ *best interests advocate* appointed by the court to
31 assist in the proceedings conducted pursuant to NRS 432B.410 to
32 432B.590, inclusive.

33 **Sec. 38.** NRS 432B.500 is hereby amended to read as follows:

34 432B.500 1. After a petition is filed that a child is in need of
35 protection pursuant to NRS 432B.490, the court ~~[shall appoint a~~
36 ~~guardian ad litem]~~ *may appoint a best interests advocate* for the
37 child ~~[.]~~ *in accordance with the provisions of sections 2 to 27,*
38 *inclusive, of this act.* The person so appointed:

39 (a) Must meet the requirements of NRS 432B.505 or, if such a
40 person is not available, a representative of an agency which provides
41 child welfare services, a juvenile probation officer, an officer of the
42 court or another volunteer.

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



1 2. No compensation may be allowed a person serving as a
2 ~~[guardian ad litem]~~ *best interests advocate* pursuant to this section.

3 3. A ~~[guardian ad litem]~~ *best interests advocate* appointed
4 ~~[pursuant to this section]~~ *in accordance with the provisions of*
5 *sections 2 to 27, inclusive, of this act* shall [:

6 ~~—(a) Represent and protect the best interests of the child until~~
7 ~~excused by the court;~~

8 ~~—(b) Thoroughly research and ascertain the relevant facts of each~~
9 ~~case for which he is appointed, and ensure that the court receives an~~
10 ~~independent, objective account of those facts;~~

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

14 ~~—(d) Explain to the child the role of the guardian ad litem and,~~
15 ~~when appropriate, the nature and purpose of each proceeding in his~~
16 ~~case;~~

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

21 ~~—(f) Appear at all proceedings regarding the child;~~

22 ~~—(g) Inform the court of the desires of the child, but exercise his~~
23 ~~independent judgment regarding the best interests of the child;~~

24 ~~—(h) Present recommendations to the court and provide reasons in~~
25 ~~support of those recommendations;~~

26 ~~—(i) Request the court to enter orders that are clear, specific and,~~
27 ~~when appropriate, include periods for compliance;~~

28 ~~—(j) Review the progress of each case for which he is appointed,~~
29 ~~and advocate for the expedient completion of the case; and~~

30 ~~—(k) Perform such other duties as the court orders.]~~ *perform the*
31 *duties prescribed in sections 2 to 27, inclusive, of this act.*

32 **Sec. 39.** NRS 432B.505 is hereby amended to read as follows:

33 432B.505 1. To qualify for appointment as a ~~[guardian ad~~
34 ~~litem]~~ *best interests advocate* pursuant to ~~[NRS 432B.500]~~ *sections*
35 *2 to 27, inclusive, of this act* in a judicial district that includes a
36 county whose population is less than 100,000, a ~~[special]~~ *best*
37 *interests* advocate must be a volunteer from the community who
38 completes an initial 12 hours of specialized training and, annually
39 thereafter, completes 6 hours of specialized training. The training
40 must be approved by the court and include information regarding:

41 (a) The dynamics of the abuse and neglect of children;

42 (b) Factors to consider in determining the best interests of a
43 child, including planning for the permanent placement of the child;

44 (c) The interrelationships between the family system, legal
45 process and system of child welfare;



- 1 (d) Skills in mediation and negotiation;
- 2 (e) Federal, state and local laws affecting children;
- 3 (f) Cultural, ethnic and gender-specific issues;
- 4 (g) Domestic violence;
- 5 (h) Resources and services available in the community for
- 6 children in need of protection;
- 7 (i) Child development;
- 8 (j) Standards for ~~[guardians ad litem;]~~ *best interests advocates;*
- 9 (k) Confidentiality issues; and
- 10 (l) Such other topics as the court deems appropriate.

11 2. To qualify for appointment as a ~~[guardian ad litem]~~ *best*
12 *interests advocate* pursuant to ~~[NRS 432B.500]~~ *sections 2 to 27,*
13 *inclusive, of this act* in a judicial district that does not include a
14 county whose population is less than 100,000, a ~~[special]~~ *best*
15 *interests* advocate must be qualified pursuant to the standards for
16 training of the National Court Appointed Special Advocate
17 Association or its successor. If such an Association ceases to exist,
18 the court shall determine the standards for training.

19 **Sec. 40.** NRS 432B.570 is hereby amended to read as follows:
20 432B.570 1. A motion for revocation or modification of an
21 order issued pursuant to NRS 432B.550 or 432B.560 may be filed
22 by the custodian of the child, the governmental organization or
23 person responsible for supervising the care of the child, the
24 ~~[guardian ad litem]~~ *best interests advocate* of the child , *the best*
25 *interests attorney or child's attorney,* or a parent or guardian ~~[]~~
26 *of the child.* Notice of this motion must be given by registered or
27 certified mail to all parties of the adjudicatory hearing, the custodian
28 and the governmental organization or person responsible for
29 supervising the care of the child.

30 2. The court shall hold a hearing on the motion and may
31 dismiss the motion or revoke or modify any order as it determines is
32 in the best interest of the child.

33 **Sec. 41.** NRS 432B.580 is hereby amended to read as follows:
34 432B.580 1. Except as otherwise provided in this section and
35 NRS 432B.513, if a child is placed pursuant to NRS 432B.550 other
36 than with a parent, the placement must be reviewed by the court at
37 least semiannually, and within 90 days after a request by a party to
38 any of the prior proceedings. Unless the parent, guardian or ~~[the]~~
39 custodian *of the child* objects to the referral, the court may enter an
40 order directing that the placement be reviewed by a panel appointed
41 pursuant to NRS 432B.585.

42 2. An agency acting as the custodian of the child shall, before
43 any hearing for review of the placement of a child, submit a report
44 to the court, or to the panel if it has been designated to review the
45 matter, which includes:



1 (a) An evaluation of the progress of the child and his family and
2 any recommendations for further supervision, treatment or
3 rehabilitation; and

4 (b) Information concerning the placement of the child in relation
5 to his siblings, including, without limitation:

6 (1) Whether the child was placed together with his siblings;

7 (2) Any efforts made by the agency to have the child placed
8 together with his siblings;

9 (3) Any actions taken by the agency to ensure that the child
10 has contact with his siblings; and

11 (4) If the child is not placed together with his siblings:

12 (I) The reasons why the child is not placed together with
13 his siblings; and

14 (II) A plan for the child to visit his siblings, which must
15 be approved by the court.

16 3. Except as otherwise provided in this subsection, a copy of
17 the report submitted pursuant to subsection 2 must be given to the
18 parents, the ~~guardian ad litem~~ *best interests advocate, the best*
19 *interests attorney or child's attorney* and the attorney, if any,
20 representing the parent. ~~for the child.~~ If the child was delivered to a
21 provider of emergency services pursuant to NRS 432B.630 and the
22 parent has not appeared in the action, the report need not be sent to
23 that parent.

24 4. After a plan for visitation between a child and his siblings
25 submitted pursuant to subparagraph (4) of paragraph (b) of
26 subsection 2 has been approved by the court, the agency which
27 provides child welfare services must request the court to issue an
28 order requiring the visitation set forth in the plan for visitation. If a
29 person refuses to comply with or disobeys an order issued pursuant
30 to this subsection, he may be punished as for a contempt of court.

31 5. The court or the panel shall hold a hearing to review the
32 placement, unless the parent, guardian or custodian files a motion
33 with the court to dispense with the hearing. If the motion is granted,
34 the court or panel may make its determination from any report,
35 statement or other information submitted to it.

36 6. Except as otherwise provided in this subsection and
37 paragraph (c) of subsection 6 of NRS 432B.520, notice of the
38 hearing must be given by registered or certified mail to:

39 (a) All the parties to any of the prior proceedings; and

40 (b) Any persons planning to adopt the child, relatives of the
41 child or providers of foster care who are currently providing care to
42 the child.

43 ➔ Notice of the hearing need not be given to a parent whose rights
44 have been terminated pursuant to chapter 128 of NRS or who has



1 voluntarily relinquished the child for adoption pursuant to
2 NRS 127.040.

3 7. The court or panel may require the presence of the child at
4 the hearing and shall provide to each person to whom notice was
5 given pursuant to subsection 6 an opportunity to be heard at the
6 hearing.

7 8. The court or panel shall review:

8 (a) The continuing necessity for and appropriateness of the
9 placement;

10 (b) The extent of compliance with the plan submitted pursuant
11 to subsection 2 of NRS 432B.540;

12 (c) Any progress which has been made in alleviating the
13 problem which resulted in the placement of the child; and

14 (d) The date the child may be returned to, and safely maintained
15 in, his home or placed for adoption or under a legal guardianship.

16 9. The provision of notice and an opportunity to be heard
17 pursuant to this section does not cause any person planning to adopt
18 the child, or any relative or provider of foster care to become a party
19 to the hearing.

20 **Sec. 42.** NRS 432B.6079 is hereby amended to read as
21 follows:

22 432B.6079 In determining pursuant to NRS 432B.6076 and
23 432B.608 whether to issue or renew an order for the admission of a
24 child who is in the custody of an agency which provides child
25 welfare services to a facility, the court shall consider:

26 1. The reports of any examinations or evaluations of a child by
27 any psychologist, psychiatrist or other physician;

28 2. Any information concerning the child provided to the court
29 by a licensed clinical social worker or other professional or any
30 adult caretaker who is knowledgeable about the child or a ~~[guardian~~
31 ~~ad litem]~~ *best interests attorney, child's attorney or best interests*
32 *advocate* appointed for the child pursuant to ~~[NRS 432B.500;]~~
33 *sections 2 to 27, inclusive, of this act;*

34 3. The wishes of the child concerning his care, treatment and
35 training and placement in a facility;

36 4. The best interests of the child, including, without limitation,
37 whether the court believes the child might experience any
38 psychological trauma from court-ordered admission;

39 5. Any alternative care, treatment or training options; and

40 6. Any other information the court deems relevant concerning
41 the child.

42 **Sec. 43.** Chapter 128 of NRS is hereby amended by adding
43 thereto the provisions set forth as sections 44, 45 and 46 of this act.

44 **Sec. 44.** *"Best interests advocate" has the meaning ascribed*
45 *to it in section 5 of this act.*



1 **Sec. 45.** *“Best interests attorney” has the meaning ascribed*
2 *to it in section 6 of this act.*

3 **Sec. 46.** *“Child’s attorney” has the meaning ascribed to it in*
4 *section 7 of this act.*

5 **Sec. 47.** NRS 128.010 is hereby amended to read as follows:

6 128.010 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 128.011 to 128.018,
8 inclusive, *and sections 44, 45 and 46 of this act* have the meanings
9 ascribed to them in those sections.

10 **Sec. 48.** NRS 128.023 is hereby amended to read as follows:

11 128.023 1. If proceedings pursuant to this chapter involve the
12 termination of parental rights of the parent of an Indian child, the
13 court shall:

14 (a) Cause the Indian child’s tribe to be notified in writing in the
15 manner provided in the Indian Child Welfare Act. If the Indian child
16 is eligible for membership in more than one tribe, each tribe must be
17 notified.

18 (b) Transfer the proceedings to the Indian child’s tribe in
19 accordance with the Indian Child Welfare Act.

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

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

24 (a) Shall appoint an attorney to represent the parent;

25 (b) ~~May~~ *Shall* appoint ~~an~~ *a best interests attorney or a*
26 *child’s attorney* to represent the Indian child ~~in~~ *in accordance with*
27 *the provisions of sections 2 to 27, inclusive, of this act;* and

28 (c) May apply to the Secretary of the Interior for the payment of
29 the fees and expenses of such an attorney,

30 ↳ as provided in the Indian Child Welfare Act.

31 **Sec. 49.** NRS 128.100 is hereby amended to read as follows:

32 128.100 1. In any proceeding for terminating parental rights,
33 or any rehearing or appeal thereon, or any proceeding for restoring
34 parental rights, the court ~~may~~ *shall* appoint ~~an~~ *a best interests*
35 *attorney or a child’s* attorney to represent the child as his counsel *in*
36 *accordance with the provisions of sections 2 to 27, inclusive, of*
37 *this act.* ~~[and, if the child does not have a guardian ad litem~~
38 ~~appointed pursuant to NRS 432B.500, as his guardian ad litem. The~~
39 ~~child may be represented by an attorney at all stages of any~~
40 ~~proceedings for terminating parental rights. If the child is~~
41 ~~represented by an attorney, the attorney has the same authority and~~
42 ~~rights as an attorney representing a party to the proceedings.]~~

43 2. If the parent or parents of the child desire to be represented
44 by counsel, but are indigent, the court may appoint an attorney for
45 them.



1 3. ~~Each~~ *An* attorney appointed under the provisions of this
2 section *to represent the parent or parents of the child* is entitled to
3 the same compensation and expenses from the county as provided in
4 NRS 7.125 and 7.135 for attorneys appointed to represent persons
5 charged with crimes. *If the court appoints a best interests advocate*
6 *to represent the child in accordance with the provisions of sections*
7 *2 to 27, inclusive, of this act, the best interests advocate may not*
8 *receive any compensation for his services.*

9 **Sec. 50.** NRS 128.180 is hereby amended to read as follows:

10 128.180 1. Before a hearing is held on a petition that is filed
11 pursuant to NRS 128.170, the court shall direct the clerk to issue a
12 notice, reciting briefly the substance of the petition and stating the
13 date set for the hearing thereof, and requiring the person served
14 therewith to appear before the court at the time and place if that
15 person desires to provide testimony or evidence concerning the
16 petition.

17 2. The following persons must be personally served with the
18 notice:

19 (a) The natural parent or parents for whom parental rights are
20 sought to be restored;

21 (b) The legal custodian and the legal guardian of the child who
22 is the subject of the petition;

23 (c) If the parental rights of the natural parent or parents for
24 whom parental rights are sought to be restored were terminated, the
25 person or governmental entity that petitioned for the termination if
26 different from the persons notified pursuant to paragraph (b); ~~and~~

27 (d) The *best interests attorney or child's* attorney of record of
28 the child who is the subject of the petition ~~for, if none, the child.~~ ;
29 *and*

30 (e) *The best interests advocate of the child, if a best interests*
31 *advocate has been appointed for the child.*

32 3. The persons who are served with notice pursuant to
33 subsection 2 must be provided an opportunity to present testimony
34 and evidence during the hearing.

35 **Sec. 51.** 1. The amendatory provisions of this act apply to
36 any abuse or neglect proceeding under NRS 432B.410 to 432B.590,
37 inclusive, or a court proceeding under chapter 128 of NRS in which
38 termination of parental rights is at issue commenced on or after
39 October 1, 2009.

40 2. The amendatory provisions of this act do not affect
41 children's rights or standing under law other than this act or give
42 standing or party status not provided under law other than this act.

