

ASSEMBLY BILL NO. 8—COMMITTEE ON JUDICIARY

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

PREFILED DECEMBER 19, 2014

Referred to Committee on Judiciary

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

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
Effect on the State: No.

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

AN ACT relating to children; revising provisions concerning advertisements for the placement of children for adoption or permanent free care; prohibiting the use of restraints on children during court proceedings under certain circumstances unless ordered by the court; prohibiting certain transfers of children; prohibiting the trafficking of children; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that any person or organization, other than an agency  
2 which provides child welfare services or a licensed child-placing agency, who  
3 advertises in any periodical or newspaper, or by radio or other public medium, that  
4 the person or organization will place children for adoption or accept, supply,  
5 provide or obtain children for adoption is guilty of a misdemeanor. (NRS 127.310)  
6 **Section 1** of this bill specifically applies this prohibition to a person or organization  
7 who advertises through a computerized communication system, including, without  
8 limitation, electronic mail, an Internet website or an Internet account.  
9 **Section 3.5** of this bill prohibits the use of an instrument of restraint on a child  
10 during a court proceeding, unless: (1) the restraint is necessary to prevent the child  
11 from inflicting harm on himself or herself or another person or to prevent the  
12 child from escaping the courtroom; and (2) there is not a less restrictive alternative  
13 to prevent such harm or escape. **Section 3.5** further requires the court to hold a  
14 hearing to determine whether the use of an instrument of restraint on a child is  
15 necessary and to consider certain factors in making its determination. Under



16 **section 3.5**, the court must make specific findings of fact and conclusions of law to  
17 support its determination.

18 **Section 4** of this bill enacts provisions prohibiting the trafficking of children.  
19 **Section 4** provides that a person shall not recruit, transport, transfer, harbor,  
20 provide, obtain, maintain or solicit a child in furtherance of a transaction, or  
21 advertise or facilitate a transaction, pursuant to which a parent of a child or a person  
22 with custody of a child places the child in the physical custody of another person  
23 who is not related to the child, for the purpose of permanently avoiding or divesting  
24 himself or herself of responsibility for the child. **Section 4** further provides that  
25 certain placements of a child are not prohibited, including, without limitation, the  
26 placement of a child with a relative or stepparent, the placement of a child with or  
27 by a licensed child-placing agency or agency which provides child welfare services  
28 and the placement of a child with a person that is approved by a court of competent  
29 jurisdiction. A person who violates **section 4** is guilty of a category C felony, and  
30 **section 5** of this bill requires a court to order that a person convicted of a violation  
31 of **section 4** pay restitution to the victim of the crime.

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

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

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

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

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

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

25 4. A child-placing agency shall include in any advertisement  
26 concerning its services ~~[published in any periodical or newspaper or~~  
27 ~~by radio or other public medium]~~ a statement which:



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

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

5 **5. As used in this section:**

6 (a) *“Advertise” or “advertisement” means a communication*  
7 *that originates within this State by any public medium, including,*  
8 *without limitation, a newspaper, periodical, telephone book listing,*  
9 *outdoor advertising, sign, radio, television or a computerized*  
10 *communication system, including, without limitation, electronic*  
11 *mail, an Internet website or an Internet account.*

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

17 **Sec. 2.** (Deleted by amendment.)

18 **Sec. 3.** (Deleted by amendment.)

19 **Sec. 3.5.** Chapter 62D of NRS is hereby amended by adding  
20 thereto a new section to read as follows:

21 **1. An instrument of restraint may be used on a child during a**  
22 **court proceeding only if:**

23 (a) *The restraint is necessary to prevent the child from:*

24 (1) *Inflicting physical harm on himself or herself or*  
25 *another person; or*

26 (2) *Escaping from the courtroom; and*

27 (b) *There is not a less restrictive alternative to prevent such*  
28 *physical harm or escape from the courtroom, including, without*  
29 *limitation, the presence of court personnel, law enforcement*  
30 *officers or bailiffs.*

31 **2. Whenever practical, the judge shall provide the:**

32 (a) *Child and his or her attorney an opportunity to be heard*  
33 *and contest the use of an instrument of restraint before the judge*  
34 *orders the use of an instrument of restraint.*

35 (b) *Prosecuting attorney an opportunity to be heard and argue*  
36 *that the use of an instrument of restraint is necessary pursuant to*  
37 *subsection 1.*

38 **3. In making a determination pursuant to subsection 2 as to**  
39 **whether an instrument of restraint is necessary pursuant to**  
40 **subsection 1, the court shall consider the following factors:**

41 (a) *Any previous escapes or attempted escapes by the child.*

42 (b) *Evidence of a present plan of escape by the child.*

43 (c) *A substantiated threat by the child to harm himself or*  
44 *herself or another person.*

45 (d) *A history of self-destructive tendencies by the child.*



1 (e) Any substantiated threat of a rescue attempt by a person  
2 not in custody.

3 (f) Whether the child is subject to a proceeding for  
4 certification for criminal proceedings as an adult pursuant to  
5 NRS 62B.390.

6 (g) Any other factor that is relevant in determining whether  
7 the use of an instrument of restraint on the child is necessary  
8 pursuant to subsection 1.

9 4. The determination of the judge pursuant to subsection 2  
10 must contain specific findings of fact and conclusions of law  
11 supporting the determination.

12 5. If an instrument of restraint is used on a child, the  
13 restraint must allow the child limited movement of his or her  
14 hands to hold any document or writing necessary to participate in  
15 the proceeding.

16 6. As used in this section, "instrument of restraint" includes,  
17 without limitation, handcuffs, chains, irons and straightjackets.

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

20 1. Except as otherwise provided in this section, a person shall  
21 not:

22 (a) Recruit, transport, transfer, harbor, provide, obtain,  
23 maintain or solicit a child in furtherance of a transaction, or  
24 advertise or facilitate a transaction, pursuant to which a parent of  
25 the child or a person with custody of the child places the child in  
26 the physical custody of another person who is not a relative of the  
27 child, for the purpose of permanently avoiding or divesting himself  
28 or herself of responsibility for the child.

29 (b) Sell, transfer or arrange for the sale or transfer of a child  
30 to another person for money or anything of value or receive a  
31 child in exchange for money or anything of value.

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

33 (a) A placement of a child with a relative, stepparent, child-  
34 placing agency or an agency which provides child welfare  
35 services;

36 (b) A placement of a child by a child-placing agency or an  
37 agency which provides child welfare services;

38 (c) A temporary placement of a child with another person by a  
39 parent of the child or a person with legal or physical custody of  
40 the child, with an intent to return for the child, including, without  
41 limitation, a temporary placement of a child while the parent of  
42 the child or the person with legal or physical custody of the child  
43 is on vacation, incarcerated, serving in the military, receiving  
44 medical treatment or incapacitated;



1 (d) A placement of a child in accordance with NRS 127.330,  
2 159.205 or 159.215;

3 (e) A placement of a child that is approved by a court of  
4 competent jurisdiction; or

5 (f) Delivery of a child to a provider of emergency services  
6 pursuant to NRS 432B.630.

7 3. A person who violates the provisions of subsection 1 is  
8 guilty of trafficking in children and shall be punished for a  
9 category C felony as provided in NRS 193.130.

10 4. As used in this section:

11 (a) "Advertise" has the meaning ascribed to it in NRS 127.310.

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

14 (c) "Child" means a person who is less than 18 years of age.

15 (d) "Child-placing agency" has the meaning ascribed to it in  
16 NRS 127.220.

17 **Sec. 5.** NRS 200.469 is hereby amended to read as follows:

18 200.469 1. In addition to any other penalty, the court may  
19 order a person convicted of violation of any provision of NRS  
20 200.467 or 200.468 **or section 4 of this act** to pay restitution to the  
21 victim as provided in subsection 2.

22 2. Restitution ordered pursuant to this section may include,  
23 without limitation:

24 (a) The cost of medical and psychological treatment, including,  
25 without limitation, physical and occupational therapy and  
26 rehabilitation;

27 (b) The cost of transportation, temporary housing and child care;

28 (c) The return of property, the cost of repairing damaged  
29 property or the full value of the property if it is destroyed or  
30 damaged beyond repair;

31 (d) Expenses incurred by a victim in relocating away from the  
32 defendant or his or her associates, if the expenses are verified by law  
33 enforcement to be necessary for the personal safety of the victim;

34 (e) The cost of repatriation of the victim to his or her home  
35 country, if applicable; and

36 (f) Any and all other losses suffered by the victim as a result of  
37 the violation of any provision of NRS 200.467 or 200.468 **or**  
38 **section 4 of this act.**

39 3. The return of the victim to his or her home country or other  
40 absence of the victim from the jurisdiction does not prevent the  
41 victim from receiving restitution.

42 4. As used in this section, "victim" means any person:

43 (a) Against whom a violation of any provision of NRS 200.467  
44 or 200.468 **or section 4 of this act** has been committed; or



1 (b) Who is the surviving child of such a person.

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