

SENATE BILL NO. 303—SENATOR HAMMOND

MARCH 16, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to the protection of children. (BDR 38-1036)

FISCAL NOTE: Effect on Local Government: No.
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 the protection of children; revising provisions relating to the circumstances under which a child is considered to be in need of protection; revising provisions concerning proceedings related to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth the circumstances under which a child is or may be in
2 need of protection. (NRS 432B.330) Those circumstances are considered, without
3 limitation, by: (1) an agency which provides child welfare services to determine
4 whether to file a petition in juvenile court alleging that a child is in need of
5 protection; and (2) the juvenile court in an adjudicatory hearing to determine
6 whether a child was in need of protection at the time the child was removed from
7 the home. (NRS 62A.180, 432B.050, 432B.340, 432B.410, 432B.490, 432B.510,
8 432B.530) Under existing law, a child may be in need of protection if the person
9 responsible for the welfare of the child is responsible for the abuse or neglect of
10 another child who resided with that person. (NRS 432B.330) **Section 1** of this bill
11 provides that a child is, rather than may be, in need of protection if the child is
12 in the care of a person responsible for the welfare of the child and another child has
13 been subjected to abuse by that person.

14 Existing law sets forth the grounds necessary to terminate parental rights,
15 including, without limitation, conduct of a parent or parents that demonstrates a risk
16 of serious physical, mental or emotional injury to the child if the child were
17 returned to, or remains in, the home of his or her parent or parents. (NRS 128.105)
18 **Section 2** of this bill requires a court to consider certain factors in making a
19 determination that parental conduct satisfies that provision. **Section 4** of this bill
20 revises the conditions a court is required to consider in determining neglect by or
21 unfitness of a parent for the purpose of proceedings regarding the termination of
22 parental rights.



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

1 **Section 1.** NRS 432B.330 is hereby amended to read as
2 follows:

3 432B.330 1. A child is in need of protection if:

4 (a) The child has been abandoned by a person responsible for
5 the welfare of the child;

6 (b) The child has been subjected to abuse or neglect by a person
7 responsible for the welfare of the child;

8 (c) The child is in the care of a person responsible for the
9 welfare of the child and another child has ~~died~~ :

10 (1) *Died* as a result of abuse or neglect by that person; *or*

11 (2) *Been subjected to abuse by that person;*

12 (d) The child has been placed for care or adoption in violation of
13 law; or

14 (e) The child has been delivered to a provider of emergency
15 services pursuant to NRS 432B.630.

16 2. A child may be in need of protection if the person
17 responsible for the welfare of the child:

18 (a) Is unable to discharge his or her responsibilities to and for
19 the child because of incarceration, hospitalization, or other physical
20 or mental incapacity;

21 (b) Fails, although the person is financially able to do so or has
22 been offered financial or other means to do so, to provide for the
23 following needs of the child:

24 (1) Food, clothing or shelter necessary for the child's health
25 or safety;

26 (2) Education as required by law; or

27 (3) Adequate medical care; or

28 (c) Has been responsible for the ~~abuse-or~~ neglect of a child
29 who has resided with that person.

30 3. A child may be in need of protection if the death of a parent
31 of the child is or may be the result of an act by the other parent that
32 constitutes domestic violence pursuant to NRS 33.018.

33 4. A child may be in need of protection if the child is identified
34 as being affected by prenatal illegal substance abuse or as having
35 withdrawal symptoms resulting from prenatal drug exposure.

36 5. *As used in this section:*

37 (a) *"Abuse" means:*

38 (1) *Physical or mental injury of a nonaccidental nature;*

39 (2) *Sexual abuse or sexual exploitation; or*

40 (3) *Abandonment,*

41 *↳ of a child caused or allowed by a person responsible for the*
42 *welfare of the child under circumstances which indicate that the*



1 *child's health or welfare is harmed or threatened with harm. The*
2 *term does not include the actions described in subsection 2 of*
3 *NRS 432B.020.*

4 (b) *"Allow" means to do nothing to prevent or stop the abuse*
5 *or neglect of a child in circumstances where the person knows or*
6 *has reason to know that a child is abused or neglected.*

7 (c) *"Neglect" means failure to:*

8 (1) *Provide for the needs of a child set forth in paragraph*
9 *(b) of subsection 2; or*

10 (2) *Provide proper care, control and supervision of a child*
11 *as necessary for the well-being of the child because of the faults or*
12 *habits of the person responsible for the welfare of the child or the*
13 *neglect or refusal of the person to provide them when able to do*
14 *so.*

15 *↳ The term does not include the actions described in subsection 2*
16 *of NRS 432B.020.*

17 **Sec. 2.** Chapter 128 of NRS is hereby amended by adding
18 thereto a new section to read as follows:

19 *In determining the risk of serious mental or emotional injury to*
20 *a child if the child were returned to, or remains in, the home of his*
21 *or her parent or parents pursuant to NRS 128.105, the court shall*
22 *consider, without limitation, the following factors:*

23 1. *The length of time the child has been out of the care of his*
24 *or her parent or parents;*

25 2. *The placement options for the child;*

26 3. *The age of the child;*

27 4. *The developmental, cognitive and psychological needs of*
28 *the child;*

29 5. *Whether the child has formed a strong positive attachment*
30 *or bond with the substitute caregiver; and*

31 6. *Whether the removal of the child from the care of the*
32 *substitute caregiver is likely to result in psychological harm to the*
33 *child.*

34 **Sec. 3.** NRS 128.105 is hereby amended to read as follows:

35 128.105 The primary consideration in any proceeding to
36 terminate parental rights must be whether the best interests of the
37 child will be served by the termination. An order of the court for
38 the termination of parental rights must be made in light of the
39 considerations set forth in this section and NRS 128.106 to 128.109,
40 inclusive, *and section 2 of this act*, and based on evidence and
41 include a finding that:

42 1. The best interests of the child would be served by the
43 termination of parental rights; and



1 2. The conduct of the parent or parents was the basis for a
2 finding made pursuant to subsection 3 of NRS 432B.393 or
3 demonstrated at least one of the following:

4 (a) Abandonment of the child;

5 (b) Neglect of the child;

6 (c) Unfitness of the parent;

7 (d) Failure of parental adjustment;

8 (e) Risk of serious physical, mental or emotional injury to the
9 child if the child were returned to, or remains in, the home of his or
10 her parent or parents;

11 (f) Only token efforts by the parent or parents:

12 (1) To support or communicate with the child;

13 (2) To prevent neglect of the child;

14 (3) To avoid being an unfit parent; or

15 (4) To eliminate the risk of serious physical, mental or
16 emotional injury to the child; or

17 (g) With respect to termination of the parental rights of one
18 parent, the abandonment by that parent.

19 **Sec. 4.** NRS 128.106 is hereby amended to read as follows:

20 128.106 In determining neglect by or unfitness of a parent, the
21 court shall consider, without limitation, the following conditions
22 which may diminish suitability as a parent:

23 1. Emotional illness, mental illness or mental deficiency of the
24 parent which renders the parent consistently unable to care for
25 the immediate and continuing physical or psychological needs of the
26 child for extended periods of time. The provisions contained in NRS
27 128.109 apply to the case if the child has been placed outside his or
28 her home pursuant to chapter 432B of NRS.

29 2. Conduct toward a child of a physically, emotionally or
30 sexually cruel or abusive nature.

31 3. Conduct that violates any provision of NRS 200.463,
32 200.4631, 200.464 or 200.465.

33 4. Excessive use of intoxicating liquors, controlled substances
34 or dangerous drugs which renders the parent consistently unable to
35 care for the child.

36 5. Repeated or continuous failure by the parent, although
37 physically and financially able, to provide the child with adequate
38 food, clothing, shelter, education or other care and control necessary
39 for the child's physical, mental and emotional health and
40 development, but a person who, legitimately practicing his or her
41 religious beliefs, does not provide specified medical treatment for a
42 child is not for that reason alone a negligent parent.

43 6. Conviction of the parent for commission of a felony, if the
44 facts of the crime are of such a nature as to indicate the unfitness of
45 the parent to provide adequate care and control to the extent



1 necessary for the child's physical, mental or emotional health and
2 development.

3 7. ~~[Unexplained injury or death of a]~~ *Whether the child, a*
4 *sibling of the child [-] or another child in the care of the parent*
5 *suffered a physical injury resulting in substantial bodily harm, a*
6 *near fatality or fatality for which the parent has no reasonable*
7 *explanation and for which there is evidence that such physical*
8 *injury or death would not have occurred absent abuse or neglect*
9 *of the child by the parent.*

10 8. Inability of appropriate public or private agencies to reunite
11 the family despite reasonable efforts on the part of the agencies.

12 9. *As used in this section, "near fatality" has the meaning*
13 *ascribed to it in NRS 432B.175.*

14 **Sec. 5.** This act becomes effective on July 1, 2015.

