

SENATE BILL NO. 296—COMMITTEE ON  
HUMAN RESOURCES AND EDUCATION

(ON BEHALF OF THE DIVISION OF CHILD AND FAMILY SERVICES)

MARCH 24, 2005

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Referred to Committee on Human Resources and Education

**SUMMARY**—Makes various changes concerning newborn infants who are identified as being affected by illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure. (BDR 38-372)

**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.

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AN ACT relating to children; requiring certain persons to notify an agency which provides child welfare services of newborn infants who are identified as being affected by illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure and to refer persons responsible for the welfare of such infants to such agencies for counseling, training and other services; revising the provisions governing when a child is in need of protection because he is affected by alcohol use, illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure; providing a penalty; and providing other matters properly relating thereto.



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

1     **Section 1.** NRS 432B.160 is hereby amended to read as  
2 follows:

3     432B.160 1. Except as otherwise provided in subsection 2,  
4 immunity from civil or criminal liability extends to every person  
5 who in good faith:

6     (a) Makes a report pursuant to NRS 432B.220;

7     (b) Conducts an interview or allows an interview to be taken  
8 pursuant to NRS 432B.270;

9     (c) Allows or takes photographs or X rays pursuant to  
10 NRS 432B.270;

11     (d) Causes a medical test to be performed pursuant to  
12 NRS 432B.270;

13     (e) Provides a record, or a copy thereof, of a medical test  
14 performed pursuant to NRS 432B.270 to an agency which provides  
15 child welfare services to the child, a law enforcement agency that  
16 participated in the investigation of the report ~~of abuse or neglect of~~  
17 ~~the child~~ *made pursuant to NRS 432B.220* or the prosecuting  
18 attorney's office;

19     (f) Holds a child pursuant to NRS 432B.400, takes possession of  
20 a child pursuant to NRS 432B.630 or places a child in protective  
21 custody pursuant to any provision of this chapter;

22     (g) Performs any act pursuant to subsection 2 of NRS 432B.630;

23     (h) Refers a case or recommends the filing of a petition pursuant  
24 to NRS 432B.380; or

25     (i) Participates in a judicial proceeding resulting from a referral  
26 or recommendation.

27     2. The provisions of subsection 1 do not confer any immunity  
28 from liability for the negligent performance of any act pursuant to  
29 paragraph (b) of subsection 2 of NRS 432B.630.

30     3. In any proceeding to impose liability against a person for:

31     (a) Making a report pursuant to NRS 432B.220; or

32     (b) Performing any act set forth in paragraphs (b) to (i),  
33 inclusive, of subsection 1,

34     ↪ there is a presumption that the person acted in good faith.

35     **Sec. 2.** NRS 432B.170 is hereby amended to read as follows:

36     432B.170 Nothing in the provisions of this chapter or NRS  
37 432.100 to 432.130, inclusive, prohibits an agency which provides  
38 child welfare services from sharing information with other state or  
39 local agencies if:

40     1. The purpose for sharing the information is for the  
41 development of a plan for the care, treatment or supervision of a



1 child who has been abused or neglected , *or an infant who is born*  
2 *and has been affected by prenatal illegal substance abuse or has*  
3 *withdrawal symptoms resulting from prenatal drug exposure* or of  
4 a person responsible for the child's *or infant's* welfare;

5 2. The other agency has standards for confidentiality equivalent  
6 to those of the agency which provides child welfare services; and

7 3. Proper safeguards are taken to ensure the confidentiality of  
8 the information.

9 **Sec. 3.** NRS 432B.220 is hereby amended to read as follows:

10 432B.220 1. Any person who is described in subsection ~~3~~ 4  
11 and who, in his professional or occupational capacity, knows or has  
12 reasonable cause to believe that a child has been abused or neglected  
13 shall:

14 (a) Except as otherwise provided in subsection 2, report the  
15 abuse or neglect of the child to an agency which provides child  
16 welfare services or to a law enforcement agency; and

17 (b) Make such a report as soon as reasonably practicable but not  
18 later than 24 hours after the person knows or has reasonable cause to  
19 believe that the child has been abused or neglected.

20 2. If a person who is required to make a report pursuant to  
21 subsection 1 knows or has reasonable cause to believe that the abuse  
22 or neglect of the child involves an act or omission of:

23 (a) A person directly responsible or serving as a volunteer for or  
24 an employee of a public or private home, institution or facility  
25 where the child is receiving child care outside of his home for a  
26 portion of the day, the person shall make the report to a law  
27 enforcement agency.

28 (b) An agency which provides child welfare services or a law  
29 enforcement agency, the person shall make the report to an agency  
30 other than the one alleged to have committed the act or omission,  
31 and the investigation of the abuse or neglect of the child must be  
32 made by an agency other than the one alleged to have committed the  
33 act or omission.

34 3. *Any person who is described in paragraph (a) of*  
35 *subsection 4 who delivers or provides medical services to a*  
36 *newborn infant and who, in his professional or occupational*  
37 *capacity, knows or has reasonable cause to believe that the*  
38 *newborn infant has been affected by prenatal illegal substance*  
39 *abuse or has withdrawal symptoms resulting from prenatal drug*  
40 *exposure shall, as soon as reasonably practicable but not later*  
41 *than 24 hours after the person knows or has reasonable cause to*  
42 *believe that the newborn infant is so affected or has such*  
43 *symptoms, notify an agency which provides child welfare services*  
44 *of the condition of the infant and refer each person who is*  
45 *responsible for the welfare of the infant to an agency which*



1 *provides child welfare services for appropriate counseling,*  
2 *training or other services. A notification and referral to an agency*  
3 *which provides child welfare services pursuant to this subsection*  
4 *shall not be construed to require prosecution for any illegal*  
5 *action.*

6 4. A report must be made pursuant to subsection 1 by the  
7 following persons:

8 (a) A physician, dentist, dental hygienist, chiropractor,  
9 optometrist, podiatric physician, medical examiner, resident, intern,  
10 professional or practical nurse, physician assistant, psychiatrist,  
11 psychologist, marriage and family therapist, alcohol or drug abuse  
12 counselor, *clinical social worker*, athletic trainer, advanced  
13 emergency medical technician or other person providing medical  
14 services licensed or certified in this State. [REDACTED]

15 (b) Any personnel of a hospital or similar institution engaged in  
16 the admission, examination, care or treatment of persons or an  
17 administrator, manager or other person in charge of a hospital or  
18 similar institution upon notification of suspected abuse or neglect of  
19 a child by a member of the staff of the hospital. [REDACTED]

20 (c) A coroner. [REDACTED]

21 (d) A clergyman, practitioner of Christian Science or religious  
22 healer, unless he has acquired the knowledge of the abuse or neglect  
23 from the offender during a confession. [REDACTED]

24 (e) A social worker and an administrator, teacher, librarian or  
25 counselor of a school. [REDACTED]

26 (f) Any person who maintains or is employed by a facility or  
27 establishment that provides care for children, children's camp or  
28 other public or private facility, institution or agency furnishing care  
29 to a child. [REDACTED]

30 (g) Any person licensed to conduct a foster home. [REDACTED]

31 (h) Any officer or employee of a law enforcement agency or an  
32 adult or juvenile probation officer. [REDACTED]

33 (i) An attorney, unless he has acquired the knowledge of the  
34 abuse or neglect from a client who is or may be accused of the abuse  
35 or neglect. [REDACTED]

36 (j) Any person who maintains, is employed by or serves as a  
37 volunteer for an agency or service which advises persons regarding  
38 abuse or neglect of a child and refers them to persons and agencies  
39 where their requests and needs can be met. [REDACTED]

40 (k) Any person who is employed by or serves as a volunteer for  
41 an approved youth shelter. As used in this paragraph, "approved  
42 youth shelter" has the meaning ascribed to it in NRS 244.422. [REDACTED]  
43 and]

44 (l) Any adult person who is employed by an entity that provides  
45 organized activities for children.



1 ~~[4.]~~ 5. A report may be made by any other person.  
2 ~~[5.]~~ 6. If a person who is required to make a report pursuant to  
3 subsection 1 knows or has reasonable cause to believe that a child  
4 has died as a result of abuse or neglect, the person shall, as soon as  
5 reasonably practicable, report this belief to the appropriate medical  
6 examiner or coroner, who shall investigate the report and submit to  
7 an agency which provides child welfare services his written  
8 findings. The written findings must include, if obtainable, the  
9 information required pursuant to the provisions of subsection 2 of  
10 NRS 432B.230.

11 **Sec. 4.** NRS 432B.230 is hereby amended to read as follows:  
12 432B.230 1. A person may make a report pursuant to NRS  
13 432B.220 by telephone or, in light of all the surrounding facts and  
14 circumstances which are known or which reasonably should be  
15 known to the person at the time, by any other means of oral, written  
16 or electronic communication that a reasonable person would believe,  
17 under those facts and circumstances, is a reliable and swift means of  
18 communicating information to the person who receives the report. If  
19 the report is made orally, the person who receives the report must  
20 reduce it to writing as soon as reasonably practicable.

21 2. The report must contain the following information, if  
22 obtainable:

23 (a) The name, address, age and sex of the child;  
24 (b) The name and address of the child's parents or other person  
25 responsible for his care;

26 (c) The nature and extent of the abuse or neglect of the child ~~[;]~~,  
27 *the effect of prenatal illegal substance abuse on the newborn*  
28 *infant or the nature of the withdrawal symptoms resulting from*  
29 *prenatal drug exposure of the newborn infant;*

30 (d) Any evidence of previously known or suspected ~~[abuse]~~ :  
31 (1) *Abuse* or neglect of the child or the child's siblings; or  
32 (2) *Effects of prenatal illegal substance abuse on or*  
33 *evidence of withdrawal symptoms resulting from prenatal drug*  
34 *exposure of the newborn infant;*

35 (e) The name, address and relationship, if known, of the person  
36 who is alleged to have abused or neglected the child; and

37 (f) Any other information known to the person making the  
38 report that the agency which provides child welfare services  
39 considers necessary.

40 **Sec. 5.** NRS 432B.260 is hereby amended to read as follows:  
41 432B.260 1. Upon the receipt of a report concerning the  
42 possible abuse or neglect of a child, an agency which provides child  
43 welfare services or a law enforcement agency shall promptly notify  
44 the appropriate licensing authority, if any. A law enforcement



1 agency shall promptly notify an agency which provides child  
2 welfare services of any report it receives.

3 2. Upon receipt of a report concerning the possible abuse or  
4 neglect of a child, an agency which provides child welfare services  
5 or a law enforcement agency shall immediately initiate an  
6 investigation if the report indicates that:

- 7 (a) The child is 5 years of age or younger;
- 8 (b) There is a high risk of serious harm to the child; or
- 9 (c) The child is living in a household in which another child has  
10 died, or the child is seriously injured or has visible signs of physical  
11 abuse.

12 3. Except as otherwise provided in subsection 2, upon receipt  
13 of a report concerning the possible abuse or neglect of a child or  
14 notification from a law enforcement agency that the law  
15 enforcement agency has received such a report, an agency which  
16 provides child welfare services shall conduct an evaluation not later  
17 than 3 days after the report or notification was received to determine  
18 whether an investigation is warranted. For the purposes of this  
19 subsection, an investigation is not warranted if:

- 20 (a) The child is not in imminent danger of harm;
- 21 (b) The child is not vulnerable as the result of any untreated  
22 injury, illness or other physical, mental or emotional condition that  
23 threatens his immediate health or safety;
- 24 (c) The alleged abuse or neglect *of the child or the alleged*  
25 *effect of prenatal illegal substance abuse on or the withdrawal*  
26 *symptoms resulting from prenatal drug exposure of the newborn*  
27 *infant* could be eliminated if the child and his family receive or  
28 participate in social or health services offered in the community, or  
29 both; or

30 (d) The agency determines that the:

31 (1) Alleged abuse or neglect was the result of the reasonable  
32 exercise of discipline by a parent or guardian of the child involving  
33 the use of corporal punishment, including, without limitation,  
34 spanking or paddling; and

35 (2) Corporal punishment so administered was not so  
36 excessive as to constitute abuse or neglect as described in  
37 NRS 432B.150.

38 4. If the agency determines that an investigation is warranted,  
39 the agency shall initiate the investigation not later than 3 days after  
40 the evaluation is completed.

41 5. Except as otherwise provided in this subsection, if the  
42 agency determines that an investigation is not warranted, the agency  
43 may, as appropriate:

- 44 (a) Provide counseling, training or other services relating to  
45 child abuse and neglect to the family of the child, or refer the family



1 to a person who has entered into an agreement with the agency to  
2 provide those services; or

3 (b) Conduct an assessment of the family of the child to  
4 determine what services, if any, are needed by the family and, if  
5 appropriate, provide any such services or refer the family to a  
6 person who has entered into a written agreement with the agency to  
7 make such an assessment.

8 ➔ If an agency determines that an investigation is not warranted for  
9 the reason set forth in paragraph (d) of subsection 3, the agency  
10 shall take no further action in regard to the matter and shall expunge  
11 all references to the matter from its records.

12 6. If an agency which provides child welfare services enters  
13 into an agreement with a person to provide services to a child or his  
14 family pursuant to subsection 5, the agency shall require the person  
15 to notify the agency if the child or his family refuse or fail to  
16 participate in the services, or if the person determines that there is a  
17 serious risk to the health or safety of the child.

18 7. An agency which provides child welfare services that  
19 determines that an investigation is not warranted may, at any time,  
20 reverse that determination and initiate an investigation.

21 8. An agency which provides child welfare services and a law  
22 enforcement agency shall cooperate in the investigation, if any, of a  
23 report of abuse or neglect of a child.

24 **Sec. 6.** NRS 432B.330 is hereby amended to read as follows:

25 432B.330 1. A child is in need of protection if:

26 (a) He has been abandoned by a person responsible for his  
27 welfare;

28 (b) ~~He is suffering from congenital drug addiction or fetal~~  
29 ~~alcohol syndrome because of the faults or habits of a person~~  
30 ~~responsible for his welfare;~~

31 ~~—(c)~~ He has been subjected to abuse or neglect by a person  
32 responsible for his welfare;

33 ~~[(d)]~~ (c) He is in the care of a person responsible for his welfare  
34 and another child has died as a result of abuse or neglect by that  
35 person;

36 ~~[(e)]~~ (d) He has been placed for care or adoption in violation of  
37 law; or

38 ~~[(f)]~~ (e) He has been delivered to a provider of emergency  
39 services pursuant to NRS 432B.630.

40 2. A child may be in need of protection if the person  
41 responsible for his welfare:

42 (a) Is unable to discharge his responsibilities to and for the child  
43 because of incarceration, hospitalization, or other physical or mental  
44 incapacity;



1 (b) Fails, although he is financially able to do so or has been  
2 offered financial or other means to do so, to provide for the  
3 following needs of the child:

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

6 (2) Education as required by law; or

7 (3) Adequate medical care; or

8 (c) Has been responsible for the abuse or neglect of a child who  
9 has resided with that person.

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

13 ***4. A child may be in need of protection if he is identified as***  
14 ***being affected by prenatal illegal substance abuse or as having***  
15 ***withdrawal symptoms resulting from prenatal drug exposure.***

16 **Sec. 7.** NRS 432B.400 is hereby amended to read as follows:

17 432B.400 A physician treating a child or a person in charge of  
18 a hospital or similar institution may hold a child for no more than 24  
19 hours if there is reasonable cause to believe that the child has been  
20 abused or neglected ***or has been affected by prenatal illegal***  
21 ***substance abuse or has withdrawal symptoms resulting from***  
22 ***prenatal drug exposure*** and that he is in danger of further harm if  
23 released. The physician or other person shall immediately notify a  
24 law enforcement agency or an agency which provides child welfare  
25 services that he is holding the child.

