

ASSEMBLY BILL NO. 137—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE JOINT INTERIM STANDING COMMITTEE
ON HEALTH & HUMAN SERVICES)

FEBRUARY 9, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to fetal alcohol spectrum disorders. (BDR 40-327)

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

CONTAINS UNFUNDED MANDATE (§ 7)
(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 fetal alcohol spectrum disorders; making certain provisions applicable to fetal alcohol spectrum disorders; requiring the Medicaid program to provide coverage of certain services to persons with fetal alcohol spectrum disorders; providing that fetal alcohol spectrum disorder is a developmental disability; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Advisory Board on Maternal and Child Health, the
2 Division of Public and Behavioral Health of the Department of Health and Human
3 Services and the University of Nevada School of Medicine to take certain actions to
4 monitor, prevent, identify and treat fetal alcohol syndrome. (NRS 442.137,
5 442.385, 442.390, 442.420) Existing law also provides that, if a pregnant woman is
6 referred to the Division by a provider of health care or other services for
7 information relating to programs for the prevention and treatment of fetal alcohol
8 syndrome, any report relating to the referral or other associated documentation is
9 confidential and not to be used in any criminal prosecution of the woman. (NRS
10 442.395) **Sections 2-6** of this bill expand the applicability of those provisions to
11 apply to all fetal alcohol spectrum disorders. **Section 1** of this bill defines the term
12 “fetal alcohol spectrum disorder” for the purposes of provisions relating to maternal
13 and child health to mean a continuum of birth defects caused by maternal
14 consumption of alcohol during pregnancy.



15 Existing law requires the Department to administer Medicaid. (NRS 422.270)
16 **Section 6.7** of this bill requires the Director of the Department, to the extent that
17 federal financial participation is available, to include under Medicaid coverage for
18 certain supports and services provided to recipients of Medicaid with fetal alcohol
19 spectrum disorders. **Section 6.7** also authorizes the Department to apply to the
20 Federal Government for any waiver granted pursuant to federal law or amendment
21 necessary to the State Plan for Medicaid to receive federal funding to include such
22 coverage in the State Plan. **Section 6.3** of this bill makes a conforming change to
23 indicate that the provisions of **section 6.7** will be administered in the same manner
24 as the provisions of existing law governing Medicaid.

25 Existing law defines “developmental disability” for the purpose of provisions
26 governing services for persons with developmental disabilities as a neurological
27 condition that manifests before a person attains the age of 22 years, is likely to
28 continue indefinitely and results in substantial functional limitations. (NRS
29 435.007) **Section 7** of this bill provides that a fetal alcohol spectrum disorder is a
30 developmental disability.

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

1 **Section 1.** NRS 442.003 is hereby amended to read as follows:
2 442.003 As used in this chapter, unless the context requires
3 otherwise:

4 1. “Advisory Board” means the Advisory Board on Maternal
5 and Child Health.

6 2. “Department” means the Department of Health and Human
7 Services.

8 3. “Director” means the Director of the Department.

9 4. “Division” means the Division of Public and Behavioral
10 Health of the Department.

11 5. “Fetal alcohol ~~syndrome~~ *includes fetal alcohol effects.*
12 *spectrum disorder*” *has the meaning ascribed to it in*
13 *NRS 432B.0655.*

14 6. “Freestanding birthing center” has the meaning ascribed to it
15 in NRS 449.0065.

16 7. “Laboratory” has the meaning ascribed to it in
17 NRS 652.040.

18 8. “Midwife” means:

19 (a) A person certified as:

20 (1) A Certified Professional Midwife by the North American
21 Registry of Midwives, or its successor organization; or

22 (2) A Certified Nurse-Midwife by the American Midwifery
23 Certification Board, or its successor organization; or

24 (b) Any other type of midwife.

25 9. “Provider of health care or other services” means:



1 (a) A clinical alcohol and drug counselor who is licensed, or an
2 alcohol and drug counselor who is licensed or certified, pursuant to
3 chapter 641C of NRS;

4 (b) A physician or a physician assistant who is licensed pursuant
5 to chapter 630 or 633 of NRS and who practices in the area of
6 obstetrics and gynecology, family practice, internal medicine,
7 pediatrics or psychiatry;

8 (c) A licensed nurse;

9 (d) A licensed psychologist;

10 (e) A licensed marriage and family therapist;

11 (f) A licensed clinical professional counselor;

12 (g) A licensed social worker;

13 (h) A licensed dietitian; or

14 (i) The holder of a certificate of registration as a pharmacist.

15 **Sec. 2.** NRS 442.137 is hereby amended to read as follows:

16 442.137 The purpose of the Advisory Board is to advise the
17 Administrator of the Division concerning perinatal care to enhance
18 the survivability and health of infants and persons who are pregnant,
19 are giving birth and have given birth, and concerning programs to
20 improve the health of preschool children, to achieve the following
21 objectives:

22 1. Ensuring the availability and accessibility of primary care
23 health services;

24 2. Reducing the rate of infant mortality;

25 3. Reducing the incidence of preventable diseases and
26 handicapping conditions among children;

27 4. Identifying the most effective methods of preventing fetal
28 alcohol [~~syndrome~~] *spectrum disorder* and collecting information
29 relating to the incidence of fetal alcohol [~~syndrome~~] *spectrum*
30 *disorders* in this state;

31 5. Preventing the consumption of alcohol by women during
32 pregnancy;

33 6. Reducing the need for inpatient and long-term care services;

34 7. Increasing the number of children who are appropriately
35 immunized against disease;

36 8. Increasing the number of children from low-income families
37 who are receiving assessments of their health;

38 9. Ensuring that services to follow up the assessments are
39 available, accessible and affordable to children identified as in need
40 of those services;

41 10. Assisting the Division in developing a program of public
42 education that it is required to develop pursuant to NRS 442.385,
43 including, without limitation, preparing and obtaining information
44 relating to fetal alcohol [~~syndrome~~] *spectrum disorders*;



1 11. Assisting the University of Nevada School of Medicine in
2 reviewing, amending and distributing the guidelines it is required to
3 develop pursuant to NRS 442.390; and

4 12. Promoting the health of infants and persons who are
5 pregnant, are giving birth or have given birth by ensuring the
6 availability and accessibility of affordable perinatal services.

7 **Sec. 3.** NRS 442.385 is hereby amended to read as follows:

8 442.385 The Division shall develop and carry out a program of
9 public education to increase public awareness about the dangers of
10 fetal alcohol ~~[syndrome]~~ *spectrum disorders* and other adverse
11 effects on a fetus that may result from the consumption of alcohol
12 during pregnancy. The program must include, without limitation:

13 1. Educational messages that are directed toward the general
14 public and specific geographical areas and groups of persons in this
15 State that are identified pursuant to subsection 1 of NRS 442.420 as
16 having women who are at a high risk of consuming alcohol during
17 pregnancy.

18 2. Providing training materials to school personnel to assist
19 them in identifying pupils who may be suffering from *a* fetal alcohol
20 ~~[syndrome]~~ *spectrum disorder* and offering to provide the parents of
21 those pupils with a referral for diagnostic services and treatment.

22 3. If a toll-free telephone service is otherwise provided by the
23 Division, the use of that telephone service for providing information
24 relating to programs for the treatment of substance use disorders,
25 providers of health care or other services and other available
26 resources, and referrals to those programs, if appropriate. The
27 telephone number must be disclosed in the educational messages
28 provided pursuant to this section.

29 **Sec. 4.** NRS 442.390 is hereby amended to read as follows:

30 442.390 The University of Nevada School of Medicine shall
31 develop guidelines to assist a provider of health care or other
32 services in identifying:

33 1. Pregnant women who are at a high risk of consuming
34 alcohol during pregnancy; and

35 2. Children who are suffering from fetal alcohol ~~[syndrome.]~~
36 *spectrum disorders*.

37 **Sec. 5.** NRS 442.395 is hereby amended to read as follows:

38 442.395 Except as otherwise provided in NRS 239.0115 and
39 439.538, if a pregnant woman is referred to the Division by a
40 provider of health care or other services for information relating to
41 programs for the prevention and treatment of fetal alcohol
42 ~~[syndrome.]~~ *spectrum disorders*, any report relating to the referral
43 or other associated documentation is confidential and must not be
44 used in any criminal prosecution of the woman.



1 **Sec. 6.** NRS 442.420 is hereby amended to read as follows:
2 442.420 The Division shall develop and maintain a system for
3 monitoring fetal alcohol [~~syndrome.~~] *spectrum disorders* that may
4 include, without limitation, a method of:

5 1. Identifying the geographical areas in this state in which
6 women are at a high risk of consuming alcohol during pregnancy
7 and groups of persons in this state that include such women;

8 2. Identifying and evaluating deficiencies in existing systems
9 for delivering perinatal care; and

10 3. Collecting and analyzing data relating to systems for
11 delivering perinatal care.

12 **Sec. 6.3.** NRS 232.320 is hereby amended to read as follows:

13 232.320 1. The Director:

14 (a) Shall appoint, with the consent of the Governor,
15 administrators of the divisions of the Department, who are
16 respectively designated as follows:

17 (1) The Administrator of the Aging and Disability Services
18 Division;

19 (2) The Administrator of the Division of Welfare and
20 Supportive Services;

21 (3) The Administrator of the Division of Child and Family
22 Services;

23 (4) The Administrator of the Division of Health Care
24 Financing and Policy; and

25 (5) The Administrator of the Division of Public and
26 Behavioral Health.

27 (b) Shall administer, through the divisions of the Department,
28 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
29 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
30 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*
31 *section 6.7 of this act*, 422.580, 432.010 to 432.133, inclusive,
32 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive,
33 and 445A.010 to 445A.055, inclusive, and all other provisions of
34 law relating to the functions of the divisions of the Department, but
35 is not responsible for the clinical activities of the Division of Public
36 and Behavioral Health or the professional line activities of the other
37 divisions.

38 (c) Shall administer any state program for persons with
39 developmental disabilities established pursuant to the
40 Developmental Disabilities Assistance and Bill of Rights Act of
41 2000, 42 U.S.C. §§ 15001 et seq.

42 (d) Shall, after considering advice from agencies of local
43 governments and nonprofit organizations which provide social
44 services, adopt a master plan for the provision of human services in
45 this State. The Director shall revise the plan biennially and deliver a



1 copy of the plan to the Governor and the Legislature at the
2 beginning of each regular session. The plan must:

3 (1) Identify and assess the plans and programs of the
4 Department for the provision of human services, and any
5 duplication of those services by federal, state and local agencies;

6 (2) Set forth priorities for the provision of those services;

7 (3) Provide for communication and the coordination of those
8 services among nonprofit organizations, agencies of local
9 government, the State and the Federal Government;

10 (4) Identify the sources of funding for services provided by
11 the Department and the allocation of that funding;

12 (5) Set forth sufficient information to assist the Department
13 in providing those services and in the planning and budgeting for the
14 future provision of those services; and

15 (6) Contain any other information necessary for the
16 Department to communicate effectively with the Federal
17 Government concerning demographic trends, formulas for the
18 distribution of federal money and any need for the modification of
19 programs administered by the Department.

20 (e) May, by regulation, require nonprofit organizations and state
21 and local governmental agencies to provide information regarding
22 the programs of those organizations and agencies, excluding
23 detailed information relating to their budgets and payrolls, which the
24 Director deems necessary for the performance of the duties imposed
25 upon him or her pursuant to this section.

26 (f) Has such other powers and duties as are provided by law.

27 2. Notwithstanding any other provision of law, the Director, or
28 the Director's designee, is responsible for appointing and removing
29 subordinate officers and employees of the Department.

30 **Sec. 6.7.** Chapter 422 of NRS is hereby amended by adding
31 thereto a new section to read as follows:

32 *1. The Director shall, to the extent that federal financial*
33 *participation is available, include under Medicaid coverage for*
34 *supports and services provided to recipients of Medicaid with fetal*
35 *alcohol spectrum disorders that are aimed at allowing such*
36 *recipients to remain living in the home of the recipient or in a*
37 *community-based setting.*

38 *2. The Department may apply to the Secretary of Health and*
39 *Human Services for any waiver granted pursuant to federal law,*
40 *amendment to the State Plan for Medicaid or other federal*
41 *authority that authorizes the Department to receive federal*
42 *funding to provide the coverage described in subsection 1. The*
43 *Department shall fully cooperate in good faith with the Federal*
44 *Government during the application process to satisfy the*



1 *requirements of the Federal Government for obtaining a waiver or*
2 *amendment pursuant to this section.*

3 3. *“Fetal alcohol spectrum disorder” has the meaning*
4 *ascribed to it in NRS 432B.0655.*

5 **Sec. 7.** NRS 435.007 is hereby amended to read as follows:

6 435.007 As used in this chapter, unless the context otherwise
7 requires:

8 1. “Administrative officer” means a person with overall
9 executive and administrative responsibility for those state or
10 nonstate intellectual and developmental disability centers designated
11 by the Administrator.

12 2. “Administrator” means the Administrator of the Division.

13 3. “Child” means any person under the age of 18 years who
14 may be eligible for intellectual disability services or developmental
15 disability services.

16 4. “Department” means the Department of Health and Human
17 Services.

18 5. “Developmental disability” means autism, cerebral palsy,
19 epilepsy , *a fetal alcohol spectrum disorder* or any other
20 neurological condition diagnosed by a qualified professional that:

21 (a) Is manifested before the person affected attains the age of 22
22 years;

23 (b) Is likely to continue indefinitely;

24 (c) Results in substantial functional limitations, as measured by
25 a qualified professional, in three or more of the following areas of
26 major life activity:

- 27 (1) Taking care of oneself;
- 28 (2) Understanding and use of language;
- 29 (3) Learning;
- 30 (4) Mobility;
- 31 (5) Self-direction; and
- 32 (6) Capacity for independent living; and

33 (d) Results in the person affected requiring a combination of
34 individually planned and coordinated services, support or other
35 assistance that is lifelong or has an extended duration.

36 6. “Director of the Department” means the administrative head
37 of the Department.

38 7. “Division” means the Aging and Disability Services
39 Division of the Department.

40 8. “Division facility” means any unit or subunit operated by the
41 Division for the care, treatment and training of consumers.

42 9. *“Fetal alcohol spectrum disorder” has the meaning*
43 *ascribed to it in NRS 432B.0655.*



1 **10.** “Intellectual disability” means significantly subaverage
2 general intellectual functioning existing concurrently with deficits in
3 adaptive behavior and manifested during the developmental period.

4 ~~{10.}~~ **11.** “Intellectual and developmental disability center”
5 means an organized program for providing appropriate services and
6 treatment to persons with intellectual disabilities and persons with
7 developmental disabilities. An intellectual and developmental
8 disability center may include facilities for residential treatment and
9 training.

10 ~~{11.}~~ **12.** “Medical director” means the chief medical officer of
11 any program of the Division for persons with intellectual disabilities
12 or developmental disabilities.

13 ~~{12.}~~ **13.** “Mental illness” has the meaning ascribed to it in
14 NRS 433.164.

15 ~~{13.}~~ **14.** “Parent” means the parent of a child. The term does
16 not include the parent of a person who has attained the age of 18
17 years.

18 ~~{14.}~~ **15.** “Person” includes a child and any other consumer
19 with an intellectual disability and a child or any other consumer with
20 a developmental disability who has attained the age of 18 years.

21 ~~{15.}~~ **16.** “Person professionally qualified in the field of
22 psychiatric mental health” has the meaning ascribed to it in
23 NRS 433.209.

24 ~~{16.}~~ **17.** “Residential facility for groups” means a structure
25 similar to a private residence which will house a small number of
26 persons in a homelike atmosphere.

27 ~~{17.}~~ **18.** “Training” means a program of services directed
28 primarily toward enhancing the health, welfare and development of
29 persons with intellectual disabilities or persons with developmental
30 disabilities through the process of providing those experiences that
31 will enable the person to:

32 (a) Develop his or her physical, intellectual, social and
33 emotional capacities to the fullest extent;

34 (b) Live in an environment that is conducive to personal dignity;
35 and

36 (c) Continue development of those skills, habits and attitudes
37 essential to adaptation in contemporary society.

38 ~~{18.}~~ **19.** “Treatment” means any combination of procedures or
39 activities, of whatever level of intensity and whatever duration,
40 ranging from occasional counseling sessions to full-time admission
41 to a residential facility.

42 **Sec. 8.** The provisions of NRS 354.599 do not apply to any
43 additional expenses of a local government that are related to the
44 provisions of this act.



1 **Sec. 9.** 1. This section becomes effective upon passage and
2 approval.

3 2. Sections 1 to 6, inclusive, 7 and 8 of this act become
4 effective on July 1, 2023.

5 3. Sections 6.3 and 6.7 of this act become effective:

6 (a) Upon passage and approval for the purpose of performing
7 any preparatory administrative tasks that are necessary to carry out
8 the provisions of this act; and

9 (b) On January 1, 2024, for all other purposes.

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