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SECOND REPRINT

A.B. 137

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; making an appropriation and authorizing certain expenditures; 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. **Section 7.5** of this bill makes
25 an appropriation to the Division of Health Care Financing and Policy of the
26 Department of Health and Human Services and authorizes certain related
27 expenditures to carry out the provisions of **section 6.7**.

28 Existing law defines "developmental disability" for the purpose of provisions
29 governing services for persons with developmental disabilities as a neurological
30 condition that manifests before a person attains the age of 22 years, is likely to
31 continue indefinitely and results in substantial functional limitations. (NRS
32 435.007) **Section 7** of this bill provides that a fetal alcohol spectrum disorder is a
33 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



1 (b) Any other type of midwife.

2 9. "Provider of health care or other services" means:

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

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

10 (c) A licensed nurse;

11 (d) A licensed psychologist;

12 (e) A licensed marriage and family therapist;

13 (f) A licensed clinical professional counselor;

14 (g) A licensed social worker;

15 (h) A licensed dietitian; or

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

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

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

24 1. Ensuring the availability and accessibility of primary care
25 health services;

26 2. Reducing the rate of infant mortality;

27 3. Reducing the incidence of preventable diseases and
28 handicapping conditions among children;

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

33 5. Preventing the consumption of alcohol by women during
34 pregnancy;

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

36 7. Increasing the number of children who are appropriately
37 immunized against disease;

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

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

43 10. Assisting the Division in developing a program of public
44 education that it is required to develop pursuant to NRS 442.385,



1 including, without limitation, preparing and obtaining information
2 relating to fetal alcohol ~~[syndrome;]~~ *spectrum disorders*;

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

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

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

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

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

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

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

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

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

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

37 2. Children who are suffering from fetal alcohol ~~[syndrome;]~~
38 *spectrum disorders*.

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

40 442.395 Except as otherwise provided in NRS 239.0115 and
41 439.538, if a pregnant woman is referred to the Division by a
42 provider of health care or other services for information relating to
43 programs for the prevention and treatment of fetal alcohol
44 ~~[syndrome;]~~ *spectrum disorders*, any report relating to the referral



1 or other associated documentation is confidential and must not be
2 used in any criminal prosecution of the woman.

3 **Sec. 6.** NRS 442.420 is hereby amended to read as follows:

4 442.420 The Division shall develop and maintain a system for
5 monitoring fetal alcohol [~~syndrome.~~] *spectrum disorders* that may
6 include, without limitation, a method of:

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

10 2. Identifying and evaluating deficiencies in existing systems
11 for delivering perinatal care; and

12 3. Collecting and analyzing data relating to systems for
13 delivering perinatal care.

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

15 232.320 1. The Director:

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

19 (1) The Administrator of the Aging and Disability Services
20 Division;

21 (2) The Administrator of the Division of Welfare and
22 Supportive Services;

23 (3) The Administrator of the Division of Child and Family
24 Services;

25 (4) The Administrator of the Division of Health Care
26 Financing and Policy; and

27 (5) The Administrator of the Division of Public and
28 Behavioral Health.

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

40 (c) Shall administer any state program for persons with
41 developmental disabilities established pursuant to the
42 Developmental Disabilities Assistance and Bill of Rights Act of
43 2000, 42 U.S.C. §§ 15001 et seq.

44 (d) Shall, after considering advice from agencies of local
45 governments and nonprofit organizations which provide social



1 services, adopt a master plan for the provision of human services in
2 this State. The Director shall revise the plan biennially and deliver a
3 copy of the plan to the Governor and the Legislature at the
4 beginning of each regular session. The plan must:

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

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

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

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

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

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

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

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

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

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

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

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



1 *Government during the application process to satisfy the*
2 *requirements of the Federal Government for obtaining a waiver or*
3 *amendment pursuant to this section.*

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

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

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

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

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

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

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

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

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

24 (b) Is likely to continue indefinitely;

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

28 (1) Taking care of oneself;

29 (2) Understanding and use of language;

30 (3) Learning;

31 (4) Mobility;

32 (5) Self-direction; and

33 (6) Capacity for independent living; and

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

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

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

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

43 9. *“Fetal alcohol spectrum disorder” has the meaning*
44 *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. 7.5.** 1. There is hereby appropriated from the State
43 General Fund to the Division of Health Care Financing and Policy
44 of the Department of Health and Human Services to provide the
45 Medicaid coverage described in subsection 1 of section 6.7 of this



1 act, for updates to the Medicaid Management Information System
2 and for personnel, travel, operating, equipment and information
3 services expenses associated with implementing the provisions of
4 section 6.7 of this act the following sums:

5	For the Fiscal Year 2023-2024	\$114,642
6	For the Fiscal Year 2024-2025	\$158,672

7 2. Any balance of the sums appropriated by subsection 1
8 remaining at the end of the respective fiscal years must not be
9 committed for expenditure after June 30 of the respective fiscal
10 years by the entity to which the appropriation is made or any entity
11 to which money from the appropriation is granted or otherwise
12 transferred in any manner, and any portion of the appropriated
13 money remaining must not be spent for any purpose after
14 September 20, 2024, and September 19, 2025, respectively, by
15 either the entity to which the money was appropriated or the entity
16 to which the money was subsequently granted or transferred, and
17 must be reverted to the State General Fund on or before
18 September 20, 2024, and September 19, 2025, respectively.

19 3. Expenditure of \$149,362 not appropriated from the State
20 General Fund or the State Highway Fund is hereby authorized
21 during Fiscal Year 2023-2024 by the Division of Health Care
22 Financing and Policy of the Department of Health and Human
23 Services for the same purposes as set forth in subsection 1.

24 4. Expenditure of \$403,165 not appropriated from the State
25 General Fund or the State Highway Fund is hereby authorized
26 during Fiscal Year 2024-2025 by the Division of Health Care
27 Financing and Policy of the Department of Health and Human
28 Services for the same purposes as set forth in subsection 1.

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

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

34 2. Sections 1 to 6, inclusive, 7, 7.5 and 8 of this act become
35 effective on July 1, 2023.

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

- 37 (a) Upon passage and approval for the purpose of performing
- 38 any preparatory administrative tasks that are necessary to carry out
- 39 the provisions of this act; and
- 40 (b) On January 1, 2024, for all other purposes.

