

Amendment No. 124

Assembly Amendment to Assembly Bill No. 137	(BDR 40-327)
<b>Proposed by:</b> Assembly Committee on Health and Human Services	
<b>Amends:</b> Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 137 (§ 7).
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ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date				
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JDK/EWR



Date: 4/12/2023

A.B. No. 137—Revises provisions relating to fetal alcohol spectrum disorders.  
(BDR 40-327)





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:**

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

Existing law requires the Department to administer Medicaid. (NRS 422.270) Section 6.7 of this bill requires the Director of the Department, to the extent that federal financial participation is available, to include under Medicaid coverage for certain supports and services provided to recipients of Medicaid with fetal alcohol spectrum disorders. Section 6.7 also authorizes the Department to apply to the Federal Government for any waiver granted pursuant to federal law or amendment necessary to the State Plan for Medicaid to receive federal funding to include such coverage in the

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State Plan. Section 6.3 of this bill makes a conforming change to indicate that the provisions of section 6.7 will be administered in the same manner as the provisions of existing law governing Medicaid.

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

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

**Section 1.** NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.
2. “Department” means the Department of Health and Human Services.
3. “Director” means the Director of the Department.
4. “Division” means the Division of Public and Behavioral Health of the Department.
5. “Fetal alcohol ~~[syndrome] includes fetal alcohol effects.~~ *spectrum disorder*” has the meaning ascribed to it in *NRS 432B.0655*.
6. “Freestanding birthing center” has the meaning ascribed to it in NRS 449.0065.
7. “Laboratory” has the meaning ascribed to it in NRS 652.040.
8. “Midwife” means:
  - (a) A person certified as:
    - (1) A Certified Professional Midwife by the North American Registry of Midwives, or its successor organization; or
    - (2) A Certified Nurse-Midwife by the American Midwifery Certification Board, or its successor organization; or
  - (b) Any other type of midwife.
9. “Provider of health care or other services” means:
  - (a) A clinical alcohol and drug counselor who is licensed, or an alcohol and drug counselor who is licensed or certified, pursuant to chapter 641C of NRS;
  - (b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;
  - (c) A licensed nurse;
  - (d) A licensed psychologist;
  - (e) A licensed marriage and family therapist;
  - (f) A licensed clinical professional counselor;
  - (g) A licensed social worker;
  - (h) A licensed dietitian; or
  - (i) The holder of a certificate of registration as a pharmacist.

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

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

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

- 1 2. Reducing the rate of infant mortality;
- 2 3. Reducing the incidence of preventable diseases and handicapping
- 3 conditions among children;
- 4 4. Identifying the most effective methods of preventing fetal alcohol
- 5 ~~syndrome~~ *spectrum disorder* and collecting information relating to the incidence
- 6 of fetal alcohol ~~syndrome~~ *spectrum disorders* in this state;
- 7 5. Preventing the consumption of alcohol by women during pregnancy;
- 8 6. Reducing the need for inpatient and long-term care services;
- 9 7. Increasing the number of children who are appropriately immunized
- 10 against disease;
- 11 8. Increasing the number of children from low-income families who are
- 12 receiving assessments of their health;
- 13 9. Ensuring that services to follow up the assessments are available,
- 14 accessible and affordable to children identified as in need of those services;
- 15 10. Assisting the Division in developing a program of public education that it
- 16 is required to develop pursuant to NRS 442.385, including, without limitation,
- 17 preparing and obtaining information relating to fetal alcohol ~~syndrome~~ *spectrum*
- 18 *disorders*;
- 19 11. Assisting the University of Nevada School of Medicine in reviewing,
- 20 amending and distributing the guidelines it is required to develop pursuant to NRS
- 21 442.390; and
- 22 12. Promoting the health of infants and persons who are pregnant, are giving
- 23 birth or have given birth by ensuring the availability and accessibility of affordable
- 24 perinatal services.

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

26 442.385 The Division shall develop and carry out a program of public

27 education to increase public awareness about the dangers of fetal alcohol

28 ~~syndrome~~ *spectrum disorders* and other adverse effects on a fetus that may result

29 from the consumption of alcohol during pregnancy. The program must include,

30 without limitation:

31 1. Educational messages that are directed toward the general public and

32 specific geographical areas and groups of persons in this State that are identified

33 pursuant to subsection 1 of NRS 442.420 as having women who are at a high risk

34 of consuming alcohol during pregnancy.

35 2. Providing training materials to school personnel to assist them in

36 identifying pupils who may be suffering from a fetal alcohol ~~syndrome~~ *spectrum*

37 *disorder* and offering to provide the parents of those pupils with a referral for

38 diagnostic services and treatment.

39 3. If a toll-free telephone service is otherwise provided by the Division, the

40 use of that telephone service for providing information relating to programs for the

41 treatment of substance use disorders, providers of health care or other services and

42 other available resources, and referrals to those programs, if appropriate. The

43 telephone number must be disclosed in the educational messages provided pursuant

44 to this section.

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

46 442.390 The University of Nevada School of Medicine shall develop

47 guidelines to assist a provider of health care or other services in identifying:

48 1. Pregnant women who are at a high risk of consuming alcohol during

49 pregnancy; and

50 2. Children who are suffering from fetal alcohol ~~syndrome~~ *spectrum*

51 *disorders*.

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

2       442.395 Except as otherwise provided in NRS 239.0115 and 439.538, if a  
3 pregnant woman is referred to the Division by a provider of health care or other  
4 services for information relating to programs for the prevention and treatment of  
5 fetal alcohol ~~[syndrome,]~~ *spectrum disorders*, any report relating to the referral or  
6 other associated documentation is confidential and must not be used in any criminal  
7 prosecution of the woman.

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

9       442.420 The Division shall develop and maintain a system for monitoring  
10 fetal alcohol ~~[syndrome,]~~ *spectrum disorders* that may include, without limitation,  
11 a method of:

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

15       2. Identifying and evaluating deficiencies in existing systems for delivering  
16 perinatal care; and

17       3. Collecting and analyzing data relating to systems for delivering perinatal  
18 care.

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

20       232.320 1. The Director:

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

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

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

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

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

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

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

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

41       (d) Shall, after considering advice from agencies of local governments and  
42 nonprofit organizations which provide social services, adopt a master plan for the  
43 provision of human services in this State. The Director shall revise the plan  
44 biennially and deliver a copy of the plan to the Governor and the Legislature at the  
45 beginning of each regular session. The plan must:

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

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

50           (3) Provide for communication and the coordination of those services  
51 among nonprofit organizations, agencies of local government, the State and the  
52 Federal Government;

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

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

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

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

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

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

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

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

26 **2. The Department may apply to the Secretary of Health and Human**  
27 **Services for any waiver granted pursuant to federal law, amendment to the State**  
28 **Plan for Medicaid or other federal authority that authorizes the Department to**  
29 **receive federal funding to provide the coverage described in subsection 1. The**  
30 **Department shall fully cooperate in good faith with the Federal Government**  
31 **during the application process to satisfy the requirements of the Federal**  
32 **Government for obtaining a waiver or amendment pursuant to this section.**

33 **3. "Fetal alcohol spectrum disorder" has the meaning ascribed to it in NRS**  
34 **432B.0655.**

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

36 435.007 As used in this chapter, unless the context otherwise requires:

37 1. "Administrative officer" means a person with overall executive and  
38 administrative responsibility for those state or nonstate intellectual and  
39 developmental disability centers designated by the Administrator.

40 2. "Administrator" means the Administrator of the Division.

41 3. "Child" means any person under the age of 18 years who may be eligible  
42 for intellectual disability services or developmental disability services.

43 4. "Department" means the Department of Health and Human Services.

44 5. "Developmental disability" means autism, cerebral palsy, epilepsy, ***a fetal***  
45 ***alcohol spectrum disorder*** or any other neurological condition diagnosed by a  
46 qualified professional that:

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

48 (b) Is likely to continue indefinitely;

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

51 (1) Taking care of oneself;

52 (2) Understanding and use of language;

53 (3) Learning;

- 1 (4) Mobility;  
2 (5) Self-direction; and  
3 (6) Capacity for independent living; and

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

7 6. "Director of the Department" means the administrative head of the  
8 Department.

9 7. "Division" means the Aging and Disability Services Division of the  
10 Department.

11 8. "Division facility" means any unit or subunit operated by the Division for  
12 the care, treatment and training of consumers.

13 9. *"Fetal alcohol spectrum disorder" has the meaning ascribed to it in NRS*  
14 *432B.0655.*

15 10. "Intellectual disability" means significantly subaverage general  
16 intellectual functioning existing concurrently with deficits in adaptive behavior and  
17 manifested during the developmental period.

18 ~~10.~~ 11. "Intellectual and developmental disability center" means an  
19 organized program for providing appropriate services and treatment to persons with  
20 intellectual disabilities and persons with developmental disabilities. An intellectual  
21 and developmental disability center may include facilities for residential treatment  
22 and training.

23 ~~11.~~ 12. "Medical director" means the chief medical officer of any program  
24 of the Division for persons with intellectual disabilities or developmental  
25 disabilities.

26 ~~12.~~ 13. "Mental illness" has the meaning ascribed to it in NRS 433.164.

27 ~~13.~~ 14. "Parent" means the parent of a child. The term does not include the  
28 parent of a person who has attained the age of 18 years.

29 ~~14.~~ 15. "Person" includes a child and any other consumer with an  
30 intellectual disability and a child or any other consumer with a developmental  
31 disability who has attained the age of 18 years.

32 ~~15.~~ 16. "Person professionally qualified in the field of psychiatric mental  
33 health" has the meaning ascribed to it in NRS 433.209.

34 ~~16.~~ 17. "Residential facility for groups" means a structure similar to a  
35 private residence which will house a small number of persons in a homelike  
36 atmosphere.

37 ~~17.~~ 18. "Training" means a program of services directed primarily toward  
38 enhancing the health, welfare and development of persons with intellectual  
39 disabilities or persons with developmental disabilities through the process of  
40 providing those experiences that will enable the person to:

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

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

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

46 ~~18.~~ 19. "Treatment" means any combination of procedures or activities, of  
47 whatever level of intensity and whatever duration, ranging from occasional  
48 counseling sessions to full-time admission to a residential facility.

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

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

52 **2.** Sections 1 to 6, inclusive, 7 and 8 of this act ~~becomes~~ become effective  
53 on July 1, 2023.



- 1 3. Sections 6.3 and 6.7 of this act become effective:  
2 (a) Upon passage and approval for the purpose of performing any  
3 preparatory administrative tasks that are necessary to carry out the provisions  
4 of this act; and  
5 (b) On January 1, 2024, for all other purposes.