

Amendment No. 819

Assembly Amendment to Assembly Bill No. 137 First Reprint (BDR 40-327)

Proposed by: Assembly Committee on Ways and Means

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will:

- (1) MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 137 R1 (§ 7).
- (2) ADD an appropriation where one does not currently exist in A.B. 137 R1.

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: 5/31/2023

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; 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 Division of
2 Public and Behavioral Health of the Department of Health and Human Services and the
3 University of Nevada School of Medicine to take certain actions to monitor, prevent, identify
4 and treat fetal alcohol syndrome. (NRS 442.137, 442.385, 442.390, 442.420) Existing law also
5 provides that, if a pregnant woman is referred to the Division by a provider of health care or
6 other services for information relating to programs for the prevention and treatment of fetal
7 alcohol syndrome, any report relating to the referral or other associated documentation is
8 confidential and not to be used in any criminal prosecution of the woman. (NRS 442.395)
9 **Sections 2-6** of this bill expand the applicability of those provisions to apply to all fetal
10 alcohol spectrum disorders. **Section 1** of this bill defines the term “fetal alcohol spectrum
11 disorder” for the purposes of provisions relating to maternal and child health to mean a
12 continuum of birth defects caused by maternal consumption of alcohol during pregnancy.
13 Existing law requires the Department to administer Medicaid. (NRS 422.270) **Section 6.7**
14 of this bill requires the Director of the Department, to the extent that federal financial
15 participation is available, to include under Medicaid coverage for certain supports and
16 services provided to recipients of Medicaid with fetal alcohol spectrum disorders. **Section 6.7**
17 also authorizes the Department to apply to the Federal Government for any waiver granted
18 pursuant to federal law or amendment necessary to the State Plan for Medicaid to receive

19 federal funding to include such coverage in the State Plan. **Section 6.3** of this bill makes a
20 conforming change to indicate that the provisions of **section 6.7** will be administered in the
21 same manner as the provisions of existing law governing Medicaid. **Section 7.5 of this bill**
22 **makes an appropriation to the Division of Health Care Financing and Policy of the**
23 **Department of Health and Human Services and authorizes certain related expenditures**
24 **to carry out the provisions of section 6.7.**

25 Existing law defines “developmental disability” for the purpose of provisions governing
26 services for persons with developmental disabilities as a neurological condition that manifests
27 before a person attains the age of 22 years, is likely to continue indefinitely and results in
28 substantial functional limitations. (NRS 435.007) **Section 7** of this bill provides that a fetal
29 alcohol spectrum disorder is a 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 otherwise:
3 1. “Advisory Board” means the Advisory Board on Maternal and Child
4 Health.
5 2. “Department” means the Department of Health and Human Services.
6 3. “Director” means the Director of the Department.
7 4. “Division” means the Division of Public and Behavioral Health of the
8 Department.
9 5. “Fetal alcohol ~~[syndrome] includes fetal alcohol effects.~~ *spectrum*
10 *disorder*” has the meaning ascribed to it in *NRS 432B.0655*.
11 6. “Freestanding birthing center” has the meaning ascribed to it in NRS
12 449.0065.
13 7. “Laboratory” has the meaning ascribed to it in NRS 652.040.
14 8. “Midwife” means:
15 (a) A person certified as:
16 (1) A Certified Professional Midwife by the North American Registry of
17 Midwives, or its successor organization; or
18 (2) A Certified Nurse-Midwife by the American Midwifery Certification
19 Board, or its successor organization; or
20 (b) Any other type of midwife.
21 9. “Provider of health care or other services” means:
22 (a) A clinical alcohol and drug counselor who is licensed, or an alcohol and
23 drug counselor who is licensed or certified, pursuant to chapter 641C of NRS;
24 (b) A physician or a physician assistant who is licensed pursuant to chapter 630
25 or 633 of NRS and who practices in the area of obstetrics and gynecology, family
26 practice, internal medicine, pediatrics or psychiatry;
27 (c) A licensed nurse;
28 (d) A licensed psychologist;
29 (e) A licensed marriage and family therapist;
30 (f) A licensed clinical professional counselor;
31 (g) A licensed social worker;
32 (h) A licensed dietitian; or
33 (i) The holder of a certificate of registration as a pharmacist.
34 **Sec. 2.** NRS 442.137 is hereby amended to read as follows:
35 442.137 The purpose of the Advisory Board is to advise the Administrator of
36 the Division concerning perinatal care to enhance the survivability and health of
37 infants and persons who are pregnant, are giving birth and have given birth, and

1 concerning programs to improve the health of preschool children, to achieve the
2 following objectives:

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

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

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

29 442.385 The Division shall develop and carry out a program of public
30 education to increase public awareness about the dangers of fetal alcohol
31 ~~syndrome~~ *spectrum disorders* and other adverse effects on a fetus that may result
32 from the consumption of alcohol during pregnancy. The program must include,
33 without limitation:

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

38 2. Providing training materials to school personnel to assist them in
39 identifying pupils who may be suffering from a fetal alcohol ~~syndrome~~ *spectrum*
40 *disorder* and offering to provide the parents of those pupils with a referral for
41 diagnostic services and treatment.

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

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

49 442.390 The University of Nevada School of Medicine shall develop
50 guidelines to assist a provider of health care or other services in identifying:

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

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

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

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

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

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

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

17 2. Identifying and evaluating deficiencies in existing systems for delivering
18 perinatal care; and

19 3. Collecting and analyzing data relating to systems for delivering perinatal
20 care.

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

22 232.320 1. The Director:

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

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

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

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

28 (4) The Administrator of the Division of Health Care Financing and
29 Policy; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 *3. "Fetal alcohol spectrum disorder" has the meaning ascribed to it in NRS*
37 *432B.0655.*

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

39 435.007 As used in this chapter, unless the context otherwise requires:

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

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

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

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

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

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

51 (b) Is likely to continue indefinitely;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Develop his or her physical, intellectual, social and emotional capacities to the fullest extent;
- (b) Live in an environment that is conducive to personal dignity; and
- (c) Continue development of those skills, habits and attitudes essential to adaptation in contemporary society.

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

Sec. 7.5. 1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of

1 Health and Human Services to provide the Medicaid coverage described in
2 subsection 1 of section 6.7 of this act, for updates to the Medicaid Management
3 Information System and for personnel, travel, operating, equipment and
4 information services expenses associated with implementing the provisions of
5 section 6.7 of this act the following sums:

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

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

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

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

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

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

32 2. Sections 1 to 6, inclusive, 7.7.5 and 8 of this act become effective on July
33 1, 2023.

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

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

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