
SENATE BILL NO. 305—SENATORS RATTI, FORD, SEGERBLOM,
MANENDO, PARKS; ATKINSON, CANCELA, SPEARMAN AND
WOODHOUSE

MARCH 17, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions regarding certain proceedings concerning children. (BDR 38-926)

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

CONTAINS UNFUNDED MANDATE (§§ 1, 4)
(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 child welfare; requiring a court to appoint an attorney to represent a child in certain proceedings; providing that a guardian ad litem appointed for a child who may be in need of protection is not entitled to compensation; excluding certain persons from appointment as a guardian ad litem; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes, but does not require, the court to appoint an attorney to
2 represent a child who is alleged to have been abused or neglected in civil child
3 protection proceedings and proceedings to terminate parental rights. (NRS 128.100,
4 432B.420) **Sections 1 and 4** of this bill: (1) require the court to appoint an attorney
5 to represent a child who is alleged to have been abused or neglected in such
6 proceedings; and (2) provide that the child is deemed to be a party to such
7 proceedings. **Section 3** of this bill makes a conforming change.
8 Existing law requires a court to appoint a guardian ad litem for a child after a
9 petition is filed that the child is in need of protection. (NRS 432B.500) **Section 2** of
10 this bill provides that a guardian ad litem who is so appointed is not entitled to
11 compensation or payment for expenses, and excludes certain persons from
12 appointment.



* S B 3 0 5 *

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

1 **Section 1.** NRS 432B.420 is hereby amended to read as
2 follows:

3 432B.420 1. A parent or other person responsible for the
4 welfare of a child who is alleged to have abused or neglected the
5 child may be represented by an attorney at all stages of any
6 proceedings under NRS 432B.410 to 432B.590, inclusive. Except as
7 otherwise provided in subsection ~~2,~~ 3, if the person is indigent, the
8 court may appoint an attorney to represent the person.

9 2. *A child who is alleged to have been abused or neglected*
10 *shall be deemed to be a party to any proceedings under NRS*
11 *432B.410 to 432B.590, inclusive.* The court ~~may, if it finds it~~
12 ~~appropriate,~~ *shall* appoint an attorney to represent the child. The
13 child ~~may~~ *must* be represented by an attorney at all stages of any
14 proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive.
15 ~~If the child is represented by an attorney, the~~ *The* attorney
16 *representing the child* has the same authority and rights as an
17 attorney representing ~~a~~ *any other* party to the proceedings.

18 ~~2,~~ 3. If the court determines that the parent of an Indian child
19 for whom protective custody is sought is indigent, the court:

20 (a) Shall appoint an attorney to represent the parent; *and*

21 (b) ~~May appoint an attorney to represent the Indian child; and~~
22 ~~—(c)~~ May apply to the Secretary of the Interior for the payment
23 of the fees and expenses of such an attorney,
24 ↳ as provided in the Indian Child Welfare Act.

25 ~~3,~~ 4. Each attorney, other than a public defender, if appointed
26 under the provisions of subsection 1 ~~1,~~ *or 2,* is entitled to the same
27 compensation and payment for expenses from the county as
28 provided in NRS 7.125 and 7.135 for an attorney appointed to
29 represent a person charged with a crime. ~~Except as otherwise~~
30 ~~provided in NRS 432B.500, an attorney appointed to represent a~~
31 ~~child may also be appointed as guardian ad litem for the child.~~

32 **Sec. 2.** NRS 432B.500 is hereby amended to read as follows:

33 432B.500 1. After a petition is filed that a child is in need of
34 protection pursuant to NRS 432B.490, the court shall appoint a
35 guardian ad litem for the child. The person so appointed:

36 (a) Must meet the requirements of NRS 432B.505 or, if such a
37 person is not available, a representative of an agency which provides
38 child welfare services, a juvenile probation officer, an officer of the
39 court or another volunteer.

40 (b) Must not be a parent or other person responsible for the
41 child's welfare.



1 ***(c) Must not be an attorney appointed to represent the child***
2 ***pursuant to NRS 432B.420.***

3 ***(d) Is not entitled to compensation or payment for expenses.***

4 2. A guardian ad litem appointed pursuant to this section shall:

5 (a) Represent and protect the best interests of the child until
6 excused by the court;

7 (b) Thoroughly research and ascertain the relevant facts of each
8 case for which the guardian ad litem is appointed, and ensure that
9 the court receives an independent, objective account of those facts;

10 (c) Meet with the child wherever the child is placed as often as
11 is necessary to determine that the child is safe and to ascertain the
12 best interests of the child;

13 (d) Explain to the child the role of the guardian ad litem and,
14 when appropriate, the nature and purpose of each proceeding in the
15 case;

16 (e) Participate in the development and negotiation of any plans
17 for and orders regarding the child, and monitor the implementation
18 of those plans and orders to determine whether services are being
19 provided in an appropriate and timely manner;

20 (f) Appear at all proceedings regarding the child;

21 (g) Inform the court of the desires of the child, but exercise
22 independent judgment regarding the best interests of the child;

23 (h) Present recommendations to the court and provide reasons in
24 support of those recommendations;

25 (i) Request the court to enter orders that are clear, specific and,
26 when appropriate, include periods for compliance;

27 (j) Review the progress of each case for which the guardian ad
28 litem is appointed, and advocate for the expedient completion of the
29 case; and

30 (k) Perform such other duties as the court orders.

31 **Sec. 3.** NRS 128.023 is hereby amended to read as follows:

32 128.023 1. If proceedings pursuant to this chapter involve the
33 termination of parental rights of the parent of an Indian child, the
34 court shall:

35 (a) Cause the Indian child's tribe to be notified in writing in the
36 manner provided in the Indian Child Welfare Act. If the Indian child
37 is eligible for membership in more than one tribe, each tribe must be
38 notified.

39 (b) Transfer the proceedings to the Indian child's tribe in
40 accordance with the Indian Child Welfare Act.

41 (c) If a tribe declines or is unable to exercise jurisdiction,
42 exercise its jurisdiction as provided in the Indian Child Welfare Act.

43 2. If the court determines that the parent of an Indian child for
44 whom termination of parental rights is sought is indigent, the court:

45 (a) Shall appoint an attorney to represent the parent; ***and***



1 (b) ~~May appoint an attorney to represent the Indian child; and~~
2 ~~—(c)~~ May apply to the Secretary of the Interior for the payment
3 of the fees and expenses of such an attorney,
4 ↪ as provided in the Indian Child Welfare Act.

5 **Sec. 4.** NRS 128.100 is hereby amended to read as follows:

6 128.100 1. ~~¶~~ *Except as otherwise provided in subsection*
7 *2, in any proceeding for terminating parental rights, or any*
8 *rehearing or appeal thereon, or any proceeding for restoring parental*
9 *rights, the court may appoint an attorney to represent the child as his*
10 *or her counsel . ~~[and, if the child does not have a guardian ad litem~~*
11 *~~appointed pursuant to NRS 432B.500, as his or her guardian ad~~*
12 *~~litem.]~~ The child may be represented by an attorney at all stages of*
13 *any proceedings for terminating parental rights. If the child is*
14 *represented by an attorney, the attorney has the same authority and*
15 *rights as an attorney representing a party to the proceedings.*

16 2. *In any proceeding for the termination of parental rights to*
17 *a child who has been placed outside of his or her home pursuant*
18 *to chapter 432B of NRS, or any rehearing or appeal thereon, or*
19 *any proceeding for restoring parental rights to such a child, the*
20 *court shall appoint an attorney to represent the child as his or her*
21 *counsel. The child shall be deemed to be a party to any proceeding*
22 *described in this section and must be represented by an attorney at*
23 *all stages of such proceedings. The attorney representing the child*
24 *has the same authority and rights as an attorney representing any*
25 *other party to the proceedings.*

26 3. If the parent or parents of the child desire to be represented
27 by counsel, but are indigent, the court may appoint an attorney for
28 them.

29 ~~¶~~ 4. Each attorney appointed under the provisions of this
30 section is entitled to the same compensation and expenses from the
31 county as provided in NRS 7.125 and 7.135 for attorneys appointed
32 to represent persons charged with crimes.

33 **Sec. 5.** The provisions of NRS 354.599 do not apply to any
34 additional expenses of a local government that are related to the
35 provisions of this act.

36 **Sec. 6.** This act becomes effective on July 1, 2017.

