

SENATE BILL NO. 432—COMMITTEE ON JUDICIARY

MARCH 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Authorizes the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child. (BDR 38-475)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 public welfare; authorizing the filing of a motion for the termination of parental rights as part of a proceeding relating to the abuse or neglect of a child; establishing provisions concerning the process for the termination of parental rights following the filing of such a motion; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes procedures governing the termination of parental  
2 rights. (Chapter 128 of NRS) Existing law also establishes procedures governing  
3 the protection of children from abuse and neglect. (Chapter 432B of NRS) **Section**  
4 **2** of this bill provides that if a juvenile court determines that a child is in need of  
5 protection, an agency which provides child welfare services is authorized to file a  
6 motion for the termination of parental rights as part of the proceeding concerning  
7 the abuse or neglect of the child. **Section 2** also requires an agency which provides  
8 child welfare services to file such a motion if a child has been placed outside of his  
9 or her home for a period of not less than 12 months. **Sections 2 and 10** of this bill  
10 provide that the provisions of existing law governing the termination of parental  
11 rights apply to all proceedings concerning the termination of parental rights that are  
12 commenced by an agency which provides child welfare services, but only to the  
13 extent they do not conflict with the provisions established in this bill.

14 **Section 3** of this bill establishes provisions concerning notice of the hearing on  
15 the motion for the termination of parental rights. **Section 4** of this bill authorizes a  
16 party who has been informed of the allegations set forth in the motion to contest  
17 such allegations and request an evidentiary hearing or voluntarily relinquish his or  
18 her parental rights. **Section 5** of this bill authorizes the court to order the parties to  
19 the proceeding, any prospective adoptive parent and a representative from an



20 agency which provides child welfare services to participate in mediation for the  
21 purpose of negotiating the terms of an open adoption agreement.

22 **Section 6** of this bill establishes certain procedural provisions relating to an  
23 evidentiary hearing on a motion for the termination of parental rights. **Section 7** of  
24 this bill requires the court to use its best efforts to ensure that a final decision on  
25 such a motion is rendered not later than 30 days after the conclusion of the  
26 evidentiary hearing, and **section 8** of this bill requires the appellate court of  
27 competent jurisdiction to use its best efforts to ensure that any appeal is resolved  
28 not later than 6 months after the appeal is filed or, if the court orders full briefings  
29 on the matter, not later than 12 months after the appeal is filed. **Section 9** of this bill  
30 requires that a petition for the restoration of parental rights be filed as part of a  
31 proceeding concerning the abuse or neglect of a child in certain circumstances.

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

1 **Section 1.** Chapter 432B of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this  
3 act.

4 **Sec. 2. 1.** *The provisions of chapter 128 of NRS, to the*  
5 *extent they do not conflict with the provisions of sections 2 to 9,*  
6 *inclusive, of this act, apply to all proceedings concerning the*  
7 *termination of parental rights that are commenced pursuant to*  
8 *this section by an agency which provides child welfare services.*

9 **2.** *Except as otherwise provided in subsection 3, if a child is*  
10 *determined to be a child in need of protection pursuant to NRS*  
11 *432B.550, an agency which provides child welfare services may, at*  
12 *any stage of a proceeding held pursuant to this chapter, file a*  
13 *motion for the termination of parental rights as part of the*  
14 *proceeding.*

15 **3.** *If a child has been placed outside of his or her home*  
16 *pursuant to this chapter for a period of not less than 12 months,*  
17 *an agency which provides child welfare services shall file a motion*  
18 *for the termination of parental rights as part of a proceeding held*  
19 *pursuant to this chapter.*

20 **Sec. 3. 1.** *After a motion for the termination of parental*  
21 *rights is filed pursuant to section 2 of this act, unless a party to be*  
22 *served voluntarily appears and consents to the hearing, and except*  
23 *as otherwise provided in subsection 3, a copy of the motion and*  
24 *notice of the hearing must be served, either together or separately,*  
25 *upon all parties to the proceeding by using any of the following*  
26 *methods:*

- 27 (a) *Personal service;*  
28 (b) *First-class mail to the last known address of the person; or*  
29 (c) *If the whereabouts of the person are unknown, obtaining*  
30 *an order from the court that service may be made by publication in*



1 *accordance with the procedure set forth in subsections 1, 3, 4 and*  
2 *5 of NRS 128.070 and subsection 2.*

3 *2. If a court orders that service be made by publication*  
4 *pursuant to paragraph (c) of subsection 1, personal service must*  
5 *also be attempted before service of the notice is deemed to be*  
6 *complete. The court order must direct the publication to be made*  
7 *in a newspaper designated by the court at least once every week*  
8 *for a period of 4 weeks. If personal service is also attempted,*  
9 *service of the notice shall be deemed to be complete at the*  
10 *expiration of such a period.*

11 *3. Service shall be deemed to be complete if a party to be*  
12 *served appears in court for a hearing held pursuant to this chapter*  
13 *and the court provides the party with a copy of the motion, notifies*  
14 *the party of the date of the hearing on the motion and records*  
15 *such service.*

16 *4. Except as otherwise provided in subsection 5, a copy of the*  
17 *motion and notice of the hearing on the motion must be sent by*  
18 *certified mail to:*

19 *(a) The attorneys and any guardians ad litem for the child and*  
20 *the parent of the child who is the subject of the motion;*

21 *(b) Any prospective adoptive parent of the child who is the*  
22 *subject of the motion; and*

23 *(c) Any known relative of the child who is the subject of the*  
24 *motion within the fifth degree of consanguinity who is residing in*  
25 *this State.*

26 *5. If an attorney has consented to electronic service, a copy of*  
27 *the motion and notice of the hearing on the motion may be sent to*  
28 *the attorney electronically instead of by certified mail.*

29 *6. Any party to the proceeding may file a written response to*  
30 *the motion.*

31 **Sec. 4. 1.** *At the time stated in the notice of the hearing, or*  
32 *at the earliest time thereafter to which the hearing may be*  
33 *postponed, the parties to the proceeding shall, except as otherwise*  
34 *provided in this subsection, appear in person before the court and*  
35 *must be informed of the specific allegations set forth in the motion*  
36 *for the termination of parental rights. The court may allow a party*  
37 *to participate in the proceeding by telephone or videoconference if*  
38 *he or she is unable to appear in person because he or she is*  
39 *incarcerated outside this State or hospitalized and cannot be*  
40 *transported to the court.*

41 *2. After a party has been informed of the allegations set forth*  
42 *in the motion, he or she may:*

43 *(a) Contest such allegations and request an evidentiary*  
44 *hearing, in which case an evidentiary hearing must be scheduled;*  
45 *or*



1       ***(b) Voluntarily relinquish his or her parental rights with or***  
2 ***without the possibility of an open adoption agreement established***  
3 ***through mediation pursuant to section 5 of this act, in which case***  
4 ***a hearing must be scheduled for the purpose of confirming such***  
5 ***voluntary relinquishment.***

6       ***3. If an evidentiary hearing is scheduled pursuant to***  
7 ***paragraph (a) of subsection 2, the court may also order a party to***  
8 ***the proceeding to participate in mediation pursuant to section 5 of***  
9 ***this act.***

10       ***4. If a party to the proceeding does not appear at the time***  
11 ***stated in the notice and the court determines that he or she was***  
12 ***given proper notice pursuant to section 3 of this act, the court may***  
13 ***proceed to hear evidence and render its decision or postpone***  
14 ***hearing any evidence until an evidentiary hearing is conducted***  
15 ***concerning any other party to the proceeding.***

16       ***5. If the court postpones hearing evidence pursuant to***  
17 ***subsection 4:***

18       ***(a) No further notice to the absent party is required; and***

19       ***(b) All parties to the proceeding, other than the absent party,***  
20 ***who are not present or represented in court at the time of the***  
21 ***postponement must be served notice of the postponement in the***  
22 ***manner prescribed by Rule 5 of the Nevada Rules of Civil***  
23 ***Procedure.***

24       ***Sec. 5. 1. The court may, upon its own motion or the***  
25 ***motion of a party to the proceeding, order the parties, any***  
26 ***prospective adoptive parent and a representative from an agency***  
27 ***which provides child welfare services to participate in mediation***  
28 ***for the purpose of negotiating the terms of an open adoption***  
29 ***agreement.***

30       ***2. A party to the proceeding may make a motion for***  
31 ***mediation at any time after the commencement of a proceeding for***  
32 ***the termination of parental rights but not less than 5 judicial days***  
33 ***before a scheduled evidentiary hearing.***

34       ***3. Persons ordered to participate in mediation pursuant to***  
35 ***subsection 1 shall complete such mediation not later than 20***  
36 ***calendar days after the court issues the order for mediation.***

37       ***4. If the persons ordered to participate in mediation agree to***  
38 ***the terms of an open adoption, the terms must be set forth in a***  
39 ***written agreement at the time of mediation.***

40       ***Sec. 6. 1. During an evidentiary hearing, any oral or***  
41 ***written reports or information contained in a report filed pursuant***  
42 ***to this chapter that are received by the court may be relied upon to***  
43 ***the extent of the probative value thereof. The court shall afford the***  
44 ***parties and their attorneys an opportunity to examine and***  
45 ***controvert each written report that is received into evidence and to***



1 *cross-examine each person who made the written report, when*  
2 *reasonably available.*

3 *2. At the request of a party to the proceeding, the court may*  
4 *permit a witness to testify by telephone or videoconference if the*  
5 *court determines that it is able to adequately assess witness*  
6 *credibility. Except as otherwise permitted by the court, a party to*  
7 *the proceeding may not testify by telephone or videoconference*  
8 *unless he or she is incarcerated outside this State or hospitalized*  
9 *and cannot be transported to the court.*

10 *Sec. 7. The court shall use its best efforts to ensure that a*  
11 *final decision on a motion for the termination of parental rights*  
12 *which includes detailed findings of facts is rendered not later than*  
13 *30 days after the conclusion of the evidentiary hearing. Such a*  
14 *decision must be rendered orally in court and subsequently set*  
15 *forth in a written order. The order of the court must include a*  
16 *notice of the right of a party to appeal the decision of the court.*

17 *Sec. 8. Except as otherwise provided in this subsection, if a*  
18 *party appeals the decision of the court pursuant to section 7 of this*  
19 *act, the appellate court of competent jurisdiction shall use its best*  
20 *efforts to ensure that the matter is resolved not later than 6 months*  
21 *after the appeal is filed. If the appellate court orders full briefings*  
22 *on the matter, it shall use its best efforts to ensure that the matter*  
23 *is resolved not later than 12 months after the appeal is filed.*

24 *Sec. 9. If a person seeks to restore the parental rights of a*  
25 *natural parent or parents pursuant to NRS 128.170 to 128.190,*  
26 *inclusive, and the child whose natural parent or parents have had*  
27 *their parental rights terminated or have relinquished their*  
28 *parental rights is subject to the jurisdiction of the juvenile court*  
29 *pursuant to this chapter, the petition for the restoration of*  
30 *parental rights must be filed as part of a proceeding held pursuant*  
31 *to this chapter.*

32 *Sec. 10. Chapter 128 of NRS is hereby amended by adding*  
33 *thereto a new section to read as follows:*

34 *The provisions of this chapter, to the extent they do not conflict*  
35 *with the provisions of sections 2 to 9, inclusive, of this act, apply to*  
36 *all proceedings concerning the termination of parental rights that*  
37 *are commenced pursuant to section 2 of this act by an agency*  
38 *which provides child welfare services.*







