

SENATE BILL NO. 98—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

FEBRUARY 11, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child. (BDR 38-68)

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

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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 children; revising provisions governing certain reasonable efforts made by an agency which provides child welfare services to preserve and reunify the family of a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing federal law, each state is eligible to receive payments for
2 providing assistance to needy families with children and for providing child welfare
3 services if the state adopts a state plan for foster care and adoption assistance and
4 the plan is approved by the Secretary of the United States Department of Health
5 and Human Services. Each state plan must set forth provisions for providing that
6 assistance, including the imposition of a requirement that reasonable efforts be
7 made to preserve and reunify families: (1) before a child is placed in foster care in
8 order to prevent the need to remove the child from his or her home; and (2) to make
9 it possible to return the child safely to his or her home. Each state plan must also
10 provide that those reasonable efforts are not required to be made concerning a
11 parent of a child if a court makes certain determinations. (42 U.S.C. § 671)

12 Pursuant to the federal requirement to adopt a state plan, existing law in
13 Nevada requires an agency which provides child welfare services to make
14 reasonable efforts to preserve and reunify the family of a child under the same
15 circumstances as those set forth in federal law. (NRS 432B.393) This bill makes
16 various changes to those circumstances. Specifically, this bill: (1) revises the
17 findings that the court is required to make in determining whether an agency which



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18 provides child welfare services is required to make reasonable efforts to preserve
19 and reunify the family of a child; (2) revises the definition of “reasonable efforts”
20 to require the exercise of diligence and care in arranging appropriate, accessible and
21 available services that are designed to improve the ability of a family to provide a
22 safe and stable home for each child in the family; (3) requires the court, when
23 determining whether reasonable efforts have been made, to consider whether any
24 efforts made were contrary to the health and safety of the child and to consider the
25 efforts made, if any, to prevent the need to remove the child from the home
26 and the efforts to finalize the plan for the permanent placement of the child; and (4)
27 requires the court, when determining whether reasonable efforts are not required or
28 whether the agency which provides child welfare services has made those efforts, to
29 ensure that each determination is made by the court on a case-by-case basis, is
30 based upon specific evidence and is expressly stated by the court in its order.

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

1 **Section 1.** NRS 432B.393 is hereby amended to read as
2 follows:

3 432B.393 1. Except as otherwise provided in this section, an
4 agency which provides child welfare services shall make reasonable
5 efforts to preserve and reunify the family of a child:

6 (a) Before the placement of the child in foster care, to prevent or
7 eliminate the need to remove the child from the home; and

8 (b) To make it possible for the safe return of the child to the
9 home.

10 2. In determining the reasonable efforts required by subsection
11 1, the health and safety of the child must be the paramount concern.
12 The agency which provides child welfare services may make
13 reasonable efforts to place the child for adoption or with a legal
14 guardian concurrently with making the reasonable efforts required
15 pursuant to subsection 1. If the court determines that continuation of
16 the reasonable efforts required by subsection 1 is inconsistent with
17 the plan for the permanent placement of the child, the agency which
18 provides child welfare services shall make reasonable efforts to
19 place the child in a timely manner in accordance with that plan and
20 to complete whatever actions are necessary to finalize the permanent
21 placement of the child.

22 3. An agency which provides child welfare services is not
23 required to make the reasonable efforts required by subsection 1 if
24 the court finds that:

25 (a) A parent or other ~~primary caretaker of the child~~ *person*
26 *responsible for the child's welfare* has:

27 (1) Committed, aided or abetted in the commission of, or
28 attempted, conspired or solicited to commit murder or voluntary
29 manslaughter;



1 (2) Caused the abuse or neglect of the child, or of another
2 child of the parent or ~~primary caretaker,~~ *other person responsible*
3 *for the child's welfare*, which resulted in substantial bodily harm to
4 the abused or neglected child;

5 (3) Caused the abuse or neglect of the child, a sibling of the
6 child or another child in the household, and the abuse or neglect was
7 so extreme or repetitious as to indicate that any plan to return the
8 child to the home would result in an unacceptable risk to the health
9 or welfare of the child; or

10 (4) Abandoned the child for 60 or more days, and the identity
11 of the parent of the child is unknown and cannot be ascertained
12 through reasonable efforts;

13 (b) A parent of the child has, for the previous 6 months, had the
14 ability to contact or communicate with the child and made no more
15 than token efforts to do so;

16 (c) The parental rights of a parent to a sibling of the child have
17 been terminated by a court order upon any basis other than the
18 execution of a voluntary relinquishment of those rights by a natural
19 parent, and the court order is not currently being appealed;

20 (d) The child or a sibling of the child was previously removed
21 from the home, adjudicated to have been abused or neglected,
22 returned to the home and subsequently removed from the home as a
23 result of additional abuse or neglect;

24 (e) The child is less than 1 year of age, the father of the child is
25 not married to the mother of the child and the father of the child:

26 (1) Has failed within 60 days after learning of the birth of the
27 child, to visit the child, to commence proceedings to establish his
28 paternity of the child or to provide financial support for the child; or

29 (2) Is entitled to seek custody of the child but fails to do so
30 within 60 days after learning that the child was placed in foster care;

31 ~~or~~

32 (f) The child was delivered to a provider of emergency services
33 pursuant to NRS 432B.630 ~~H~~;

34 (g) *The child, a sibling of the child or another child in the*
35 *household has been sexually abused or has been subjected to*
36 *neglect by pervasive instances of failure to protect the child from*
37 *sexual abuse; or*

38 (h) *A parent of the child is required to register as a sex*
39 *offender pursuant to the provisions of chapter 179D of NRS or the*
40 *provisions of the federal Adam Walsh Child Protection and Safety*
41 *Act of 2006, 42 U.S.C. §§ 16901 et seq.*

42 4. Except as otherwise provided in subsection 6, for the
43 purposes of this section, unless the context otherwise requires,
44 "reasonable efforts" have been made if an agency which provides
45 child welfare services to children with legal custody of a child has



1 exercised diligence and care in arranging appropriate , *accessible*
2 and available services ~~{for the child,}~~ *that are designed to improve*
3 *the ability of a family to provide a safe and stable home for each*
4 *child in the family,* with the health and safety of the child as its
5 paramount concerns. The exercise of such diligence and care
6 includes, without limitation, obtaining necessary and appropriate
7 information concerning the child for the purposes of NRS 127.152,
8 127.410 and 424.038.

9 5. In determining whether reasonable efforts have been made
10 pursuant to subsection 4, the court shall:

11 (a) Evaluate the evidence and make findings based on whether a
12 reasonable person would conclude that reasonable efforts were
13 made;

14 (b) Consider any input from the child;

15 (c) Consider the efforts made and the evidence presented since
16 the previous finding of the court concerning reasonable efforts;

17 (d) Consider the diligence and care that the agency is legally
18 authorized and able to exercise;

19 (e) Recognize and take into consideration the legal obligations
20 of the agency to comply with any applicable laws and regulations;

21 (f) Base its determination on the circumstances and facts
22 concerning the particular family or plan for the permanent
23 placement of the child at issue;

24 (g) Consider whether *any of the efforts made were contrary to*
25 *the health and safety of the child;*

26 (h) *Consider the efforts made, if any, to prevent the need to*
27 *remove the child from the home and to finalize the plan for the*
28 *permanent placement of the child;*

29 (i) *Consider whether* the provisions of subsection 6 are
30 applicable; and

31 ~~{(h)}~~ (j) Consider any other matters the court deems relevant.

32 6. An agency which provides child welfare services may
33 satisfy the requirement of making reasonable efforts pursuant to this
34 section by taking no action concerning a child or making no effort to
35 provide services to a child if it is reasonable, under the
36 circumstances, to do so.

37 7. *In determining whether reasonable efforts are not required*
38 *pursuant to subsection 3 or whether reasonable efforts have been*
39 *made pursuant to subsection 4, the court shall ensure that each*
40 *determination is:*

41 (a) *Made by the court on a case-by-case basis;*

42 (b) *Based upon specific evidence; and*

43 (c) *Expressly stated by the court in its order.*

