

ASSEMBLY BILL NO. 140—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Prohibits discrimination against persons with a physical disability in certain proceedings relating to children. (BDR 11-172)

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 child welfare; prohibiting discrimination against persons who are deaf, legally blind or otherwise physically disabled in certain proceedings relating to children; authorizing the Nevada Equal Rights Commission to investigate and resolve certain complaints alleging such discrimination; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law prohibits discrimination on the basis of disability in public  
2 accommodation, housing and employment. (NRS 118.100, 613.330, 651.070,  
3 651.075) **Sections 1, 2, 4, 5 and 10-12** of this bill prohibit a court from  
4 discriminating against a person in a proceeding concerning child custody or  
5 visitation, adoption, guardianship or child protection solely because the person  
6 seeking custody or visitation, adoption, guardianship or child protection is deaf, is  
7 legally blind or has another physical disability. However, **sections 1, 2, 4, 5 and 12**  
8 also expressly authorize a court to decide against a person who is deaf, is legally  
9 blind or has another physical disability if it finds, based on evidence presented to  
10 the court, that the person’s physical disability is likely to cause or contribute to or is  
11 causing or contributing to circumstances that are detrimental to the best interests of  
12 the child.  
13 **Section 3** of this bill similarly prohibits an agency which provides child welfare  
14 services or a child placing agency from determining that a prospective adoptive  
15 home is unsuitable for placement or detrimental to the interest of the child solely  
16 because the prospective adoptive parent or parents are deaf, are legally blind or  
17 have another physical disability, but authorizes such an agency to make such a



18 determination if it finds, based on its investigation, that the physical disability of  
19 the prospective adoptive parent or parents is likely to cause or contribute to  
20 circumstances that are detrimental to the best interests of the child if the child is  
21 placed in the home. **Section 3** also authorizes a prospective adoptive parent injured  
22 by a determination of an agency which provides child welfare services or a child  
23 placing agency which is contrary to these provisions to file a complaint with the  
24 Nevada Equal Rights Commission. **Sections 6-9** of this bill authorize the  
25 Commission to investigate and resolve such a complaint in the same manner as it  
26 investigates and resolves other complaints over which it has jurisdiction.

27 Existing law prohibits an agency which provides child welfare services from  
28 taking any action to remove a child from custody of the person responsible for the  
29 child's welfare if the agency determines there is no reasonable cause to believe the  
30 child is in need of protection. (NRS 432B.370) Existing law also authorizes a court  
31 that finds a child to be in need of protection to: (1) allow the child to remain in the  
32 custody of the parent or guardian of the child under such conditions as the court  
33 may prescribe; or (2) place the child in the custody of another person or certain  
34 agencies or institutions authorized to care for children. (NRS 432B.550) **Section 10**  
35 of this bill provides that a child is not in need of protection solely because a person  
36 responsible for the welfare of the child is deaf, is legally blind or has another  
37 physical disability.

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

1 **Section 1.** Chapter 125C of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *A court shall not deny custody or visitation rights to a person*  
4 *solely because the person is deaf, is blind or has another physical*  
5 *disability, but may deny custody or visitation rights to such a*  
6 *person if it finds, based on evidence presented to the court, that the*  
7 *person's physical disability is likely to cause or contribute to*  
8 *circumstances that are detrimental to the best interests of the child*  
9 *if the person is awarded custody or visitation rights. As used in*  
10 *this section, "blind" has the meaning ascribed to it in*  
11 *NRS 426.082.*

12 **Sec. 2.** NRS 127.150 is hereby amended to read as follows:

13 127.150 1. If the court finds that the best interests of the child  
14 warrant the granting of the petition, an order or decree of adoption  
15 must be made and filed, ordering that henceforth the child is the  
16 child of the petitioners. When determining whether the best interests  
17 of the child warrant the granting of a petition that is filed by a foster  
18 parent, the court shall give strong consideration to the emotional  
19 bond between the child and the foster parent. A copy of the order or  
20 decree must be sent to the nearest office of the agency which  
21 provides child welfare services by the petitioners within 7 days after  
22 the order or decree is issued. In the decree the court may change the  
23 name of the child, if desired.



1 2. Except as otherwise provided in this subsection, an order or  
2 decree of adoption may not be made until after the child has lived  
3 for 6 months in the home of the petitioners. This subsection does not  
4 apply if one of the petitioners is the stepparent of the child or is  
5 related to the child within the third degree of consanguinity.

6 3. If the court is not satisfied that the proposed adoption is in  
7 the best interests of the child, the court shall deny the petition and  
8 may order the child returned to the custody of the person or agency  
9 legally vested with custody. *The court shall not deny a petition  
10 solely because the petitioner is deaf, is blind or has another  
11 physical disability, but may deny a petition if it finds, based on  
12 evidence presented to the court, that the petitioner's physical  
13 disability is likely to cause or contribute to circumstances that are  
14 detrimental to the best interests of the child if the petition is  
15 granted. As used in this subsection, "blind" has the meaning  
16 ascribed to it in NRS 426.082.*

17 4. After a petition for adoption has been granted, there is a  
18 presumption that remaining in the home of the adopting parent is in  
19 the child's best interest.

20 **Sec. 3.** NRS 127.2817 is hereby amended to read as follows:

21 127.2817 1. The Division, in consultation with each agency  
22 which provides child welfare services, shall adopt regulations  
23 setting forth the criteria to be used by an agency which provides  
24 child welfare services or a child-placing agency for determining  
25 whether a prospective adoptive home is suitable or unsuitable for  
26 the placement of a child for adoption.

27 2. Upon the completion of an investigation conducted by an  
28 agency which provides child welfare services or a child-placing  
29 agency pursuant to NRS 127.120 or 127.2805, the agency which  
30 provides child welfare services or child-placing agency shall inform  
31 the prospective adoptive parent or parents of the results of the  
32 investigation. If, pursuant to the investigation, a determination is  
33 made that a prospective adoptive home is unsuitable for placement  
34 or detrimental to the interest of the child, the agency which provides  
35 child welfare services or child-placing agency shall provide the  
36 prospective adoptive parent or parents with an opportunity to review  
37 and respond to the investigation with the agency which provides  
38 child welfare services or child-placing agency before the issuance of  
39 the results of the investigation. Except as otherwise provided in  
40 NRS 239.0115, the identity of those persons who are interviewed or  
41 submit information concerning the investigation must remain  
42 confidential.

43 3. *An agency which provides child welfare services or a child  
44 placing agency shall not determine that a prospective adoptive  
45 home is unsuitable for placement or detrimental to the interest of*



1 *he child solely because the prospective adoptive parent or parents*  
2 *are deaf, are blind or have another physical disability, but may*  
3 *determine that a prospective adoptive home is unsuitable for*  
4 *placement or detrimental to the interest of the child if it finds,*  
5 *based on its investigation, that the physical disability of the*  
6 *prospective adoptive parent or parents is likely to cause or*  
7 *contribute to circumstances that are detrimental to the best*  
8 *interests of the child if the child is placed in the home. As used in*  
9 *this subsection, "blind" has the meaning ascribed to it in*  
10 *NRS 426.082.*

11 *4. A prospective adoptive parent injured by a determination of*  
12 *an agency which provides child welfare services or a child placing*  
13 *agency that violates subsection 3 may file a complaint to that*  
14 *effect with the Nevada Equal Rights Commission.*

15 **Sec. 4.** NRS 159A.054 is hereby amended to read as follows:

16 159A.054 1. If the court finds that the proposed protected  
17 minor is not in need of a guardian, the court shall dismiss the  
18 petition.

19 2. If the court finds that appointment of a guardian is required,  
20 the court shall appoint a guardian of the proposed protected minor's  
21 person, estate, or person and estate.

22 *3. The court shall not find that a proposed protected minor is*  
23 *in need of a guardian solely because the person currently*  
24 *responsible for the proposed protected minor is deaf, is blind or*  
25 *has another physical disability, but may find that a proposed*  
26 *protected minor is in need of a guardian if it finds, based on*  
27 *evidence presented to the court, that the physical disability of the*  
28 *person currently responsible for the proposed protected minor is*  
29 *causing or contributing to circumstances that are detrimental to*  
30 *the best interests of the proposed protected minor. As used in this*  
31 *subsection, "blind" has the meaning ascribed to it in*  
32 *NRS 426.082.*

33 **Sec. 5.** NRS 159A.061 is hereby amended to read as follows:

34 159A.061 1. The parents of a proposed protected minor, or  
35 either parent, if qualified and suitable, are preferred over all others  
36 for appointment as guardian for the person or estate or person and  
37 estate of the proposed protected minor. The appointment of a parent  
38 as guardian for the person or estate of a proposed protected minor  
39 must not conflict with a valid order for custody of the proposed  
40 protected minor.

41 2. Except as otherwise provided in subsection 4, if a parent of a  
42 proposed protected minor files a petition seeking appointment as  
43 guardian for the proposed protected minor, the parent is presumed to  
44 be suitable to serve as guardian for the proposed protected minor.



1 3. In determining whether the parents of a proposed protected  
2 minor, or either parent, or any other person who seeks appointment  
3 as guardian for the proposed protected minor is qualified and  
4 suitable, the court shall consider, if applicable and without  
5 limitation:

6 (a) Which parent has physical custody of the proposed protected  
7 minor;

8 (b) The ability of the parents, parent or other person to provide  
9 for the basic needs of the proposed protected minor, including,  
10 without limitation, food, shelter, clothing and medical care, taking  
11 into consideration any special needs of the proposed protected  
12 minor;

13 (c) Whether the parents, parent or other person has engaged in  
14 the habitual use of alcohol or any controlled substance during the  
15 previous 6 months, except the use of marijuana in accordance with  
16 the provisions of chapter 453A of NRS;

17 (d) Whether the parents, parent or other person has been  
18 convicted of a crime of moral turpitude, a crime involving domestic  
19 violence or a crime involving the abuse, neglect, exploitation,  
20 isolation or abandonment of a child, his or her spouse, his or her  
21 parent or any other adult;

22 (e) Whether the parents, parent or other person has been  
23 convicted in this State or any other jurisdiction of a felony; and

24 (f) Whether the parents, parent or other person has engaged in  
25 one or more acts of domestic violence against the proposed  
26 protected minor, a parent of the proposed protected minor or any  
27 other person who resides with the proposed protected minor.

28 4. A parent of a proposed protected minor is presumed to be  
29 unsuitable to care for the proposed protected minor if:

30 (a) The parent is unable to provide for any or all of the basic  
31 needs of the proposed protected minor, including, without  
32 limitation:

- 33 (1) Food;
- 34 (2) Shelter;
- 35 (3) Clothing;
- 36 (4) Medical care; and
- 37 (5) Education;

38 (b) Because of action or inaction, the parent poses a significant  
39 safety risk of either physical or emotional danger to the proposed  
40 protected minor; or

41 (c) The proposed protected minor has not been in the care,  
42 custody and control of the parent for the 6 months immediately  
43 preceding the filing of the petition. The presumption created by this  
44 paragraph is a rebuttable presumption.



1 5. Subject to the preference set forth in subsection 1 and except  
2 as otherwise provided in subsection 7, the court shall appoint as  
3 guardian the qualified person who is most suitable and is willing to  
4 serve.

5 6. In determining which qualified person is most suitable, the  
6 court shall, in addition to considering any applicable factors set forth  
7 in subsections 2, 3 and 4, give consideration, among other factors,  
8 to:

9 (a) Any nomination of a guardian for the proposed protected  
10 minor contained in a will or other written instrument executed by a  
11 parent of the proposed protected minor.

12 (b) Any request made by the proposed protected minor, if he or  
13 she is 14 years of age or older, for the appointment of a person as  
14 guardian for the proposed protected minor.

15 (c) The relationship by blood or adoption of the proposed  
16 guardian to the proposed protected minor. In considering  
17 preferences of appointment, the court may consider relatives of the  
18 half blood equally with those of the whole blood. The court may  
19 consider relatives in the following order of preference:

- 20 (1) Parent.  
21 (2) Adult sibling.  
22 (3) Grandparent.  
23 (4) Uncle or aunt.

24 (d) Any recommendation made by a master of the court or  
25 special master pursuant to NRS 159A.0615.

26 (e) Any recommendation made by:

27 (1) An agency which provides child welfare services, an  
28 agency which provides child protective services or a similar agency;  
29 or

30 (2) A guardian ad litem or court appointed special advocate  
31 who represents the proposed protected minor.

32 (f) Any request for the appointment of any other interested  
33 person that the court deems appropriate.

34 7. The court may award temporary guardianship pursuant to  
35 this section, supported by findings of suitability, pending a trial or  
36 evidentiary hearing if that appointment is supported by findings.

37 8. Notwithstanding the presumption set forth in subsection 4,  
38 in the event of competing petitions for the appointment of  
39 guardianship of a proposed protected minor, any finding of  
40 unsuitability of a parent of the proposed protected minor must be  
41 found by clear and convincing evidence after a hearing on the merits  
42 or an evidentiary hearing.

43 9. In determining whether to appoint a guardian of the person  
44 or estate of a proposed protected minor and who should be



1 appointed, the court must always act in the best interests of the  
2 proposed protected minor.

3 10. *A court shall not refuse to appoint a person as a guardian*  
4 *of the person or estate of a proposed protected minor solely*  
5 *because the person is deaf, is blind or has another physical*  
6 *disability, but may refuse to appoint a person as the guardian of*  
7 *the person or estate of a proposed protected minor if it finds, based*  
8 *on evidence presented to the court, that the person's physical*  
9 *disability is likely to cause or contribute to circumstances that are*  
10 *detrimental to the best interests of the proposed protected minor if*  
11 *the person is so appointed. As used in this subsection, "blind" has*  
12 *the meaning ascribed to it in NRS 426.082.*

13 11. As used in this section, "agency which provides child  
14 welfare services" has the meaning ascribed to it in NRS 432B.030.

15 **Sec. 6.** NRS 233.150 is hereby amended to read as follows:

16 233.150 The Commission may:

17 1. Order its Administrator to:

18 (a) With regard to public accommodation, investigate tensions,  
19 practices of discrimination and acts of prejudice against any person  
20 or group because of race, color, creed, sex, age, disability, sexual  
21 orientation, national origin, ancestry or gender identity or expression  
22 and may conduct hearings with regard thereto.

23 (b) With regard to housing, investigate tensions, practices of  
24 discrimination and acts of prejudice against any person or group  
25 because of race, color, creed, sex, age, disability, sexual orientation,  
26 gender identity or expression, national origin or ancestry, and may  
27 conduct hearings with regard thereto.

28 (c) With regard to employment, investigate:

29 (1) Tensions, practices of discrimination and acts of  
30 prejudice against any person or group because of race, color, creed,  
31 sex, age, disability, sexual orientation, gender identity or expression,  
32 national origin or ancestry, and may conduct hearings with regard  
33 thereto; and

34 (2) Any unlawful employment practice by an employer  
35 pursuant to the provisions of NRS 613.4353 to 613.4383, inclusive,  
36 and may conduct hearings with regard thereto.

37 (d) *With regard to adoption, investigate acts by agencies which*  
38 *provide child welfare services, as defined in NRS 432B.030, and*  
39 *child placing agencies that violate subsection 3 of NRS 127.2817.*

40 2. Mediate between or reconcile the persons or groups involved  
41 in those tensions, practices and acts.

42 3. Issue subpoenas for the attendance of witnesses or for the  
43 production of documents or tangible evidence relevant to any  
44 investigations or hearings conducted by the Commission.



1 4. Delegate its power to hold hearings and issue subpoenas to  
2 any of its members or any hearing officer in its employ.

3 5. Adopt reasonable regulations necessary for the Commission  
4 to carry out the functions assigned to it by law.

5 **Sec. 7.** NRS 233.160 is hereby amended to read as follows:

6 233.160 1. A complaint which alleges unlawful  
7 discriminatory practices in:

8 (a) Housing must be filed with the Commission not later than 1  
9 year after the date of the occurrence of the alleged practice or the  
10 date on which the practice terminated.

11 (b) Employment, ~~for~~ public accommodations *or adoption* must  
12 be filed with the Commission not later than 300 days after the date  
13 of the occurrence of the alleged practice.

14 ↪ A complaint is timely if it is filed with an appropriate federal  
15 agency within that period. A complainant shall not file a complaint  
16 with the Commission if any other state or federal administrative  
17 body or officer which has comparable jurisdiction to adjudicate  
18 complaints of discriminatory practices has made a decision upon a  
19 complaint based upon the same facts and legal theory.

20 2. The complainant shall specify in the complaint the alleged  
21 unlawful practice and sign it under oath.

22 3. The Commission shall send to the party against whom an  
23 unlawful discriminatory practice is alleged:

24 (a) A copy of the complaint;

25 (b) An explanation of the rights which are available to that  
26 party; and

27 (c) A copy of the Commission's procedures.

28 **Sec. 8.** NRS 233.180 is hereby amended to read as follows:

29 233.180 If, after the Administrator has conducted a preliminary  
30 investigation into an alleged unlawful discriminatory practice in  
31 housing, employment, ~~for~~ public accommodations ~~for~~ *or adoption*,  
32 the Commission determines that the practice will cause immediate  
33 and irreparable harm to any person aggrieved by the practice, the  
34 Commission, after the informal meeting and before holding a public  
35 hearing upon the matter, may apply on behalf of such person to the  
36 district court for a temporary restraining order or preliminary  
37 injunction as provided in the Nevada Rules of Civil Procedure.

38 **Sec. 9.** NRS 233.190 is hereby amended to read as follows:

39 233.190 1. Except as otherwise provided in this section or  
40 NRS 239.0115, any information gathered by the Commission in the  
41 course of its investigation of an alleged unlawful discriminatory  
42 practice in housing, employment, ~~for~~ public accommodations *or*  
43 *adoption* is confidential.

44 2. The Commission may disclose information gathered  
45 pursuant to subsection 1 to:





1 (a) Any governmental entity as appropriate or necessary to carry  
2 out its duties pursuant to this chapter; or

3 (b) To any other person if the information is provided in a  
4 manner which does not include any information that may be used to  
5 identify the complainant, the party against whom the unlawful  
6 discriminatory practice is alleged or any person who provided  
7 information to the Commission during the investigation.

8 3. Except as otherwise provided in subsection 4, the  
9 Commission shall disclose information gathered pursuant to  
10 subsection 1 to the complainant and the party against whom the  
11 unlawful discriminatory practice is alleged if:

12 (a) Each has consented to such disclosure; or

13 (b) The Commission has determined to conduct a hearing on the  
14 matter or apply for a temporary restraining order or an injunction or  
15 an action has been filed in court concerning the complaint.

16 4. The Commission may not disclose to the complainant or the  
17 party against whom the unlawful discriminatory practice is alleged:

18 (a) Any information obtained during negotiations for a  
19 settlement or attempts at mediating or conciliating the complaint.

20 (b) Any investigative notes or reports made by the Commission.

21 (c) Any information that may be used to identify a person who  
22 provided information to the Commission during the investigation  
23 and who has requested anonymity.

24 5. Except as otherwise provided in this section or NRS  
25 239.0115, if the Commission's attempts at mediating or conciliating  
26 the cause of the grievance succeed, the information gathered  
27 pursuant to subsection 1 must remain confidential.

28 6. If the Commission proceeds with a hearing or applies for  
29 injunctive relief, confidentiality concerning any information, except  
30 negotiations for a settlement or attempts at mediating or conciliating  
31 the cause of the grievance, is no longer required.

32 **Sec. 10.** NRS 432B.330 is hereby amended to read as follows:

33 432B.330 1. A child is in need of protection if:

34 (a) The child has been abandoned by a person responsible for  
35 the welfare of the child;

36 (b) The child has been subjected to abuse or neglect by a person  
37 responsible for the welfare of the child;

38 (c) The child is in the care of a person responsible for the  
39 welfare of the child and another child has:

40 (1) Died as a result of abuse or neglect by that person; or

41 (2) Been subjected to abuse by that person, unless the person  
42 has successfully completed a plan for services that was  
43 recommended by an agency which provides child welfare services  
44 pursuant to NRS 432B.340 to address the abuse of the other child;



1 (d) The child has been placed for care or adoption in violation of  
2 law; or

3 (e) The child has been delivered to a provider of emergency  
4 services pursuant to NRS 432B.630.

5 2. A child may be in need of protection if the person  
6 responsible for the welfare of the child:

7 (a) Is unable to discharge his or her responsibilities to and for  
8 the child because of incarceration, hospitalization, or other physical  
9 or mental incapacity;

10 (b) Fails, although the person is financially able to do so or has  
11 been offered financial or other means to do so, to provide for the  
12 following needs of the child:

13 (1) Food, clothing or shelter necessary for the child's health  
14 or safety;

15 (2) Education as required by law; or

16 (3) Adequate medical care;

17 (c) Has been responsible for the neglect of a child who has  
18 resided with that person; or

19 (d) Has been responsible for the abuse of another child  
20 regardless of whether that person has successfully completed a plan  
21 for services that was recommended by an agency which provides  
22 child welfare services pursuant to NRS 432B.340 to address the  
23 abuse of the other child.

24 3. A child may be in need of protection if the death of a parent  
25 of the child is or may be the result of an act by the other parent that  
26 constitutes domestic violence pursuant to NRS 33.018.

27 4. A child may be in need of protection if the child is identified  
28 as being affected by a fetal alcohol spectrum disorder or prenatal  
29 substance abuse or as having withdrawal symptoms resulting from  
30 prenatal drug exposure.

31 5. *A child is not in need of protection solely because the*  
32 *person responsible for the welfare of the child is deaf, is blind, as*  
33 *defined in NRS 426.082, or has another physical disability.*

34 6. As used in this section:

35 (a) "Abuse" means:

36 (1) Physical or mental injury of a nonaccidental nature; or

37 (2) Sexual abuse or sexual exploitation,

38 ↪ of a child caused or allowed by a person responsible for the  
39 welfare of the child under circumstances which indicate that the  
40 child's health or welfare is harmed or threatened with harm. The  
41 term does not include the actions described in subsection 2 of  
42 NRS 432B.020.

43 (b) "Allow" means to do nothing to prevent or stop the abuse or  
44 neglect of a child in circumstances where the person knows or has  
45 reason to know that a child is abused or neglected.



1 (c) "Neglect" means abandonment or failure to:

2 (1) Provide for the needs of a child set forth in paragraph (b)  
3 of subsection 2; or

4 (2) Provide proper care, control and supervision of a child as  
5 necessary for the well-being of the child because of the faults or  
6 habits of the person responsible for the welfare of the child or the  
7 neglect or refusal of the person to provide them when able to do so.

8 ↪ The term does not include the actions described in subsection 2  
9 of NRS 432B.020.

10 **Sec. 11.** NRS 432B.480 is hereby amended to read as follows:

11 432B.480 1. At each hearing conducted pursuant to  
12 NRS 432B.470:

13 (a) At the commencement of the hearing, the court shall advise  
14 the parties of their right to be represented by an attorney and of their  
15 right to present evidence.

16 (b) The court shall determine whether there is reasonable cause  
17 to believe that it would be:

18 (1) Contrary to the welfare of the child for the child to reside  
19 at his or her home; or

20 (2) In the best interests of the child to place the child outside  
21 of his or her home.

22 ↪ The court shall prepare an explicit statement of the facts upon  
23 which each of its determinations is based. *The court shall not make*  
24 *an affirmative finding regarding either subparagraph (1) or (2)*  
25 *solely because the person responsible for the welfare of the child is*  
26 *deaf, is blind, as defined in NRS 426.082, or has another physical*  
27 *disability.* If the court makes an affirmative finding regarding either  
28 subparagraph (1) or (2), the court shall issue an order keeping the  
29 child in protective custody pending a disposition by the court.

30 (c) The court shall determine whether the child has been placed  
31 in a home or facility that complies with the requirements of NRS  
32 432B.3905. If the placement does not comply with the requirements  
33 of NRS 432B.3905, the court shall establish a plan with the agency  
34 which provides child welfare services for the prompt transfer of the  
35 child into a home or facility that complies with the requirements of  
36 NRS 432B.3905.

37 2. If the court issues an order keeping the child in protective  
38 custody pending a disposition by the court and it is in the best  
39 interests of the child, the court may:

40 (a) Place the child in the temporary custody of a grandparent,  
41 great-grandparent or other person related within the fifth degree of  
42 consanguinity to the child who the court finds has established a  
43 meaningful relationship with the child, with or without supervision  
44 upon such conditions as the court prescribes, regardless of whether  
45 the relative resides within this State; or



1 (b) Grant the grandparent, great-grandparent or other person  
2 related within the fifth degree of consanguinity to the child a  
3 reasonable right to visit the child while the child is in protective  
4 custody.

5 3. If the court finds that the best interests of the child do not  
6 require that the child remain in protective custody, the court shall  
7 order the immediate release of the child.

8 4. If a child is placed with any person who resides outside this  
9 State, the placement must be in accordance with NRS 127.330.

10 **Sec. 12.** NRS 432B.550 is hereby amended to read as follows:

11 432B.550 1. If the court finds that a child is in need of  
12 protection, it may, by its order, after receipt and review of the report  
13 from the agency which provides child welfare services:

14 (a) Permit the child to remain in the temporary or permanent  
15 custody of the parents of the child or a guardian with or without  
16 supervision by the court or a person or agency designated by the  
17 court, and with or without retaining jurisdiction of the case, upon  
18 such conditions as the court may prescribe;

19 (b) Place the child in the temporary or permanent custody of a  
20 relative, a fictive kin or other person the court finds suitable to  
21 receive and care for the child with or without supervision, and with  
22 or without retaining jurisdiction of the case, upon such conditions as  
23 the court may prescribe; or

24 (c) Place the child in the temporary custody of a public agency  
25 or institution authorized to care for children, the local juvenile  
26 probation department, the local department of juvenile services or a  
27 private agency or institution licensed by the Department of Health  
28 and Human Services or a county whose population is 100,000 or  
29 more to care for such a child.

30 ↪ In carrying out this subsection, the court may, in its sole  
31 discretion and in compliance with the requirements of chapter 159A  
32 of NRS, consider an application for the guardianship of the child. If  
33 the court grants such an application, it may retain jurisdiction of the  
34 case or transfer the case to another court of competent jurisdiction.

35 2. *The court shall not deny placement of a child in the*  
36 *temporary or permanent custody of a person pursuant to*  
37 *subsection 1 solely because the person is deaf, is blind or has*  
38 *another physical disability, but may refuse to place a child in the*  
39 *temporary or permanent custody of a person if it finds, based on*  
40 *evidence presented to the court, that the person's physical*  
41 *disability is likely to cause or contribute to circumstances that are*  
42 *detrimental to the best interests of the child if the child is placed in*  
43 *the custody of the person. As used in this subsection, "blind" has*  
44 *the meaning ascribed to it in NRS 426.082.*



1 3. If, pursuant to subsection 1, a child is placed other than with  
2 a parent:

3 (a) The parent retains the right to consent to adoption, to  
4 determine the child's religious affiliation and to reasonable  
5 visitation, unless restricted by the court. If the custodian of the child  
6 interferes with these rights, the parent may petition the court for  
7 enforcement of the rights of the parent.

8 (b) The court shall set forth good cause why the child was  
9 placed other than with a parent.

10 ~~3.~~ 4. If, pursuant to subsection 1, the child is to be placed  
11 with a relative or fictive kin, the court may consider, among other  
12 factors, whether the child has resided with a particular relative or  
13 fictive kin for 3 years or more before the incident which brought the  
14 child to the court's attention.

15 ~~4.~~ 5. Except as otherwise provided in this subsection, a copy  
16 of the report prepared for the court by the agency which provides  
17 child welfare services must be sent to the custodian and the parent  
18 or legal guardian. If the child was delivered to a provider of  
19 emergency services pursuant to NRS 432B.630:

20 (a) The parent who delivered the child to the provider shall be  
21 deemed to have waived his or her right to a copy of the report; and

22 (b) A copy of the report must be sent to the parent who did not  
23 deliver the child to the provider, if the location of such parent is  
24 known.

25 ~~5.~~ 6. In determining the placement of a child pursuant to this  
26 section, if the child is not permitted to remain in the custody of the  
27 parents of the child or guardian:

28 (a) It must be presumed to be in the best interests of the child to  
29 be placed together with the siblings of the child.

30 (b) Preference must be given to placing the child in the  
31 following order:

32 (1) With any person related within the fifth degree of  
33 consanguinity to the child or a fictive kin, and who is suitable and  
34 able to provide proper care and guidance for the child, regardless of  
35 whether the relative or fictive kin resides within this State.

36 (2) In a foster home that is licensed pursuant to chapter 424  
37 of NRS.

38 ~~6.~~ 7. Any search for a relative with whom to place a child  
39 pursuant to this section must be completed within 1 year after the  
40 initial placement of the child outside of the home of the child. If a  
41 child is placed with any person who resides outside of this State, the  
42 placement must be in accordance with NRS 127.330.

43 ~~7.~~ 8. Within 60 days after the removal of a child from the  
44 home of the child, the court shall:



1 (a) Determine whether:

2 (1) The agency which provides child welfare services has  
3 made the reasonable efforts required by paragraph (a) of subsection  
4 1 of NRS 432B.393; or

5 (2) No such efforts are required in the particular case; and

6 (b) Prepare an explicit statement of the facts upon which its  
7 determination is based.

8 ~~8.1~~ **9.** As used in this section, “fictive kin” means a person  
9 who is not related by blood to a child but who has a significant  
10 emotional and positive relationship with the child.

11 **Sec. 13.** This act becomes effective on July 1, 2019.





