

Assembly Bill No. 155—Assemblymen Eisen, Frierson; Benitez-Thompson, Carrillo, Dondero Loop, Duncan, Flores, Healey, Kirkpatrick and Oscarson

Joint Sponsors: Senators Jones and Hardy

CHAPTER.....

AN ACT relating to children; revising provisions governing persons who are required to report the abuse or neglect of a child; revising provisions governing the punishment for the failure of a person to report the abuse or neglect of a child; revising provisions governing investigations of reports concerning the possible abuse or neglect of a child; revising provisions relating to the abandonment of a newborn child to a provider of emergency services; requiring the Legislative Committee on Health Care to review certain provisions governing a person who provides a service related to health care; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, persons in certain professions and occupations are required, if the person in his or her professional or occupational capacity knows or has reasonable cause to believe that a child has been abused or neglected, to report the abuse or neglect to an agency which provides child welfare services or to a law enforcement agency. (NRS 432B.220) Section 2 of this bill revises the manner in which those persons are specified in existing law and provides that those persons must be informed in writing or by electronic communication of their duty as mandatory reporters. Those persons must also provide a written acknowledgment or an electronic record of having been so informed. The party responsible for informing the person and maintaining a copy of the acknowledgment or record is: (1) the entity responsible for the licensure, certification or endorsement of the person in this State if such licensure, certification or endorsement is required in the person's professional or occupational capacity; or (2) the employer of the person if no licensure, certification or endorsement in this State is required. Section 5 of this bill requires those mandatory reporters currently holding a license, certificate or endorsement in this State to be informed of their duty as mandatory reporters at the next renewal of their license, certificate or endorsement and requires those current mandatory reporters who are not required to be licensed, certified or endorsed by this State to be informed of their duty as mandatory reporters by their employer on or before December 31, 2013.

Section 1.5 of this bill requires the Legislative Committee on Health Care to review, after each regular session of the Nevada Legislature, any chapter added to title 39, 40 or 54 of NRS that authorizes or requires the issuance of a license, permit or certificate to a person who provides any service related to health care to determine if the person should be included as a person required to report the abuse or neglect of a child. Section 1.5 also requires the Committee, before the next regular session of the Legislature, to prepare and submit to the Legislature a report concerning the findings of the Committee. The report must include, without limitation, any recommended legislation.



Existing law requires an attorney to report the abuse or neglect of a child unless the attorney acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect. (NRS 432B.220) **Section 1.7** of this bill provides that an attorney is not required to report the abuse or neglect of a child if the attorney acquired the knowledge of the abuse or neglect from a client during a privileged communication if the client: (1) has been or may be accused of committing the abuse or neglect; or (2) is the victim of the abuse or neglect and is in foster care, except that the attorney may report the abuse or neglect with the consent of the child.

Under existing law, a failure to report the abuse or neglect of a child by a person with a duty to report the abuse or neglect is punishable as a misdemeanor. (NRS 432B.240) **Section 3** of this bill provides that a first violation of the duty to report is punishable as a misdemeanor, and any subsequent violation is punishable as a gross misdemeanor.

Existing law requires an agency which provides child welfare services to immediately initiate an investigation upon receipt of a report concerning the possible abuse or neglect of a child if the report indicates that: (1) the child is 5 years of age or younger; (2) there is a high risk of serious harm to the child; (3) the child has died; or (4) the child is living in a household in which another child has died, been seriously injured or shows signs of abuse. (NRS 432B.260) **Section 3.5** of this bill deletes the requirement for an immediate investigation when the report concerns the possible abuse or neglect of a child who is 5 years of age or younger.

Under existing law, a parent may voluntarily leave a child who is not more than 30 days old with a provider of emergency services under certain circumstances, thereby presumably abandoning the child. That law is commonly referred to as Nevada's "Safe Haven Law." (NRS 432B.630) **Section 4** of this bill expands the definition of "provider of emergency services" to include a volunteer fire department and any ambulance service holding a permit issued in this State.

EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 and 1.7 of this act.

Sec. 1.5. *The Legislative Committee on Health Care shall:*

1. After each regular session of the Legislature, review any chapter added to title 39, 40 or 54 of NRS that authorizes or requires the issuance of a license, permit or certificate to a person who provides any service related to health care to determine if the person should be included as a person required to make a report pursuant to NRS 432B.220; and

2. Before the beginning of the next regular session of the Legislature, prepare a report concerning its findings pursuant to subsection 1 and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The



report must include, without limitation, any recommended legislation.

Sec. 1.7. 1. Notwithstanding the provisions of NRS 432B.220, an attorney shall not make a report of the abuse or neglect of a child if the attorney acquired knowledge of the abuse or neglect from a client during a privileged communication if the client:

(a) Has been or may be accused of committing the abuse or neglect; or

(b) Is the victim of the abuse or neglect, is in foster care and did not give consent to the attorney to report the abuse or neglect.

2. Nothing in this section shall be construed as relieving an attorney from:

(a) Except as otherwise provided in subsection 1, the duty to report the abuse or neglect of a child pursuant to NRS 432B.220; or

(b) Complying with any ethical duties of attorneys as set forth in the Nevada Rules of Professional Conduct, including, without limitation, any duty to take reasonably necessary actions to protect the client of the attorney if the client is not capable of making adequately considered decisions because of age, mental impairment or any other reason. Such actions may include, without limitation, consulting with other persons who may take actions to protect the client and, when appropriate, seeking the appointment of a guardian ad litem, conservator or guardian.

Sec. 2. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a



portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A ~~{physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, music therapist, athletic trainer, advanced emergency medical technician or other}~~ person providing ~~{medical}~~ services licensed or certified in this State ~~{-}~~ *pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.*

(b) Any personnel of a ~~{hospital or similar institution}~~ *medical facility licensed pursuant to chapter 449 of NRS who are* engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of ~~{a hospital or similar institution}~~ *such a medical facility* upon notification of



suspected abuse or neglect of a child by a member of the staff of the ~~hospital.~~ *medical facility.*

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A ~~social worker and an administrator, teacher, librarian or counselor of~~ *person working in a school* ~~who is licensed or endorsed pursuant to chapter 391 or 641B of NRS.~~

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed *pursuant to chapter 424 of NRS* to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) ~~Attorney~~ *Except as otherwise provided in section 1.7 of this act,* ~~an attorney . [; unless the attorney has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.]~~

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report



pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. *The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:*

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. *The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:*

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

Sec. 3. NRS 432B.240 is hereby amended to read as follows:

432B.240 Any person who knowingly and willfully violates the provisions of NRS 432B.220 is guilty of:

1. *For the first violation, a misdemeanor.*

2. *For each subsequent violation, a gross misdemeanor.*

Sec. 3.5. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child



welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

- (a) ~~{The child is 5 years of age or younger;~~
- ~~—(b)}~~ There is a high risk of serious harm to the child;
- ~~{(c)}~~ (b) The child has suffered a fatality; or
- ~~{(d)}~~ (c) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

- (a) The child is not in imminent danger of harm;
- (b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;
- (c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or
- (d) The agency determines that the:
 - (1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment, including, without limitation, spanking or paddling; and
 - (2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.



5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

➤ If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. An agency which provides child welfare services that determines that an investigation is not warranted may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 4. NRS 432B.630 is hereby amended to read as follows:

432B.630 1. A provider of emergency services shall take immediate possession of a child who is or appears to be not more than 30 days old:

(a) When:

(1) The child is voluntarily delivered to the provider by a parent of the child; and



(2) The parent does not express an intent to return for the child; or

(b) When the child is delivered to the provider by another provider of emergency services pursuant to paragraph (b) of subsection 2.

2. A provider of emergency services who takes possession of a child pursuant to subsection 1 shall:

(a) Whenever possible, inform the parent of the child that:

(1) By allowing the provider to take possession of the child, the parent is presumed to have abandoned the child;

(2) By failing or refusing to provide an address where the parent can be located, the parent waives any notice of the hearing to be conducted pursuant to NRS 432B.470; and

(3) Unless the parent contacts the local agency which provides child welfare services, action will be taken to terminate his or her parental rights regarding the child.

(b) Perform any act necessary to maintain and protect the physical health and safety of the child. If the provider is a public fire-fighting agency ~~{or}~~ , *a volunteer fire department*, a law enforcement agency ~~{or}~~ *or an ambulance service*, the provider shall immediately cause the safe delivery of the child to a hospital, an obstetric center or an independent center for emergency medical care licensed pursuant to chapter 449 of NRS.

(c) As soon as reasonably practicable but not later than 24 hours after the provider takes possession of the child, report that possession to an agency which provides child welfare services and, if the provider is not a law enforcement agency, to a law enforcement agency. The law enforcement agency shall notify the Clearinghouse and investigate further, if necessary, using any other resources to determine whether the child has been reported as a missing child. Upon conclusion of the investigation, the law enforcement agency shall inform the agency which provides child welfare services of its determination. The agency which provides child welfare services shall maintain that information for statistical and research purposes.

3. A parent who delivers a child to a provider of emergency services pursuant to paragraph (a) of subsection 1:

(a) Shall leave the child:

(1) In the physical possession of a person who the parent has reasonable cause to believe is an employee of the provider; or

(2) On the property of the provider in a manner and location that the parent has reasonable cause to believe will not threaten the physical health or safety of the child, and immediately contact the



provider, through the local emergency telephone number or otherwise, and inform the provider of the delivery and location of the child. A provider of emergency services is not liable for any civil damages as a result of any harm or injury sustained by a child after the child is left on the property of the provider pursuant to this subparagraph and before the provider is informed of the delivery and location of the child pursuant to this subparagraph or the provider takes physical possession of the child, whichever occurs first.

(b) Shall be deemed to have given consent to the performance of all necessary emergency services and care for the child.

(c) Must not be required to provide any background or medical information regarding the child, but may voluntarily do so.

(d) Unless there is reasonable cause to believe that the child has been abused or neglected, excluding the mere fact that the parent has delivered the child to the provider pursuant to subsection 1:

(1) Must not be required to disclose any identifying information, but may voluntarily do so;

(2) Must be allowed to leave at any time; and

(3) Must not be pursued or followed.

4. As used in this section:

(a) "Clearinghouse" has the meaning ascribed to it in NRS 432.150.

(b) "Provider of emergency services" means:

(1) A hospital, an obstetric center or an independent center for emergency medical care licensed pursuant to chapter 449 of NRS;

(2) A public fire-fighting agency ~~[-or-]~~ , *including, without limitation, a volunteer fire department;*

(3) A law enforcement agency ~~[-]~~ ; or

(4) *An ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS.*

Sec. 5. 1. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 of NRS 432B.220, as amended by section 2 of this act, who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State and who is already licensed, certified or endorsed on October 1, 2013, shall, upon the next renewal of the license, certificate or endorsement:



(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to that section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to that section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

2. The employer of a person who is described in subsection 4 of NRS 432B.220, as amended by section 2 of this act, who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State and who is already employed on October 1, 2013, must, on or before December 31, 2013:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to that section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to that section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

