

**ASSEMBLY BILL 273: NEW PROCEDURES FOR PERMANENTLY PLACING AN ABUSED OR
NEGLECTED CHILD WITH A GUARDIAN¹**

Statutes Affected: NEV. REV. STAT. 49.295;159.176;432.039;432B.250;
432B.420;432B.440;432B.450;432B.459;432B.513;
432B.555;432B.590.

Adds a new section to NEV. REV. STAT. Chapter 432B.

Statutes of Nevada: Assemb. B. 273, 72d Sess. (Nev. 2003) (Judiciary); 2003
Nev. Stat. 103. _____

I. Introduction

Chapter 159 of NEVADA REVISED STATUTES sets forth requirements for obtaining guardianship of a minor.² Although Chapter 432B of NEVADA REVISED STATUTES governs child abuse and neglect hearings, it contains no mechanism to establish a permanent guardianship.³ Accordingly, to establish guardianship for an abused or neglected child, a person seeking guardianship must begin new proceedings that are separate from the child abuse and neglect proceedings.⁴ The result is that an individual seeking guardianship in Clark County is often required to initiate guardian proceedings with a new judge who is unfamiliar with the child's abuse and neglect proceedings.⁵ To streamline guardianship proceedings for abused and neglected children, the Legislature's Interim Committee on Children, Youth, and Families proposed Nevada Assembly Bill 273, authorizing a court to grant permanent guardianship in a proceeding pursuant to Chapter 432B of NEVADA REVISED STATUTES (Protection of Children from Abuse and Neglect).⁶ This legislative change is effective on October 1, 2003.⁷

II. Summary of Assembly Bill 273

Under Nevada Assembly Bill 273 ("AB 273"), a petition may be filed to appoint a guardian to a child who has suffered abuse or neglect when the plan for permanent placement of that child involves a request for guardianship.⁸ A petition can only be filed after the court has determined that the child needs protection.⁹ The petition must include

¹ By Karissa Neff

² *Legislative Comm. on Children, Youth & Families*, LEGISLATIVE COUNSEL BUREAU BULLETIN NO. 03-15, 13-14 (January 2003) [hereinafter .BULLETIN].

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Minutes of S. Comm. on Human Res. & Facilities for Apr. 30, 2003: Hearing on Assem. B. 273 Before the S. Comm. on Human Res. & Facilities*, 2003 Leg., 72nd Sess. (Nev. 2003), available at <http://www.leg.state.nv.us/72nd/Minutes/Senate/HR/Final/2810.html> (last visited Sept. 2, 2003). [hereinafter *Minutes of S. Comm. on Human Res. for Apr. 30, 2003*].

⁸ *Id.*

⁹ *Id.*

required information mandated by the state's existing guardianship laws under Chapter 159 of NEVADA REVISED STATUTES.¹⁰ AB 273 further requires the petition to state why the appointment of a guardian is in the child's best interest, rather than having the child's parent maintain custody or placing the child up for adoption.¹¹

Further, AB 273 allows the court to appoint an individual as guardian of the child if it determines that the proposed guardian is fit and meets requirements set forth by Chapter 159 of NEVADA REVISED STATUTES, including qualification standards.¹² The bill also provides one exception to the Chapter 159 requirements.¹³ This exception allows a court to appoint a guardian for a six-month maximum period, even though that guardian does not satisfy the residency requirements, if the court determines that the appointment of the guardian will facilitate permanent placement of the child.¹⁴ Lastly, the court must obtain the child's consent to guardianship, when the child is fourteen years or older.¹⁵

When a guardian is appointed under AB 273 provisions, he or she has the same limitations, duties, and powers of guardians appointed and governed by Chapter 159 of NEVADA REVISED STATUTES.¹⁶ Accordingly, when a guardian is appointed, the court retains jurisdiction to enforce, modify, or terminate the guardianship until the child turns eighteen.¹⁷ AB 273 also requires the court to issue an order to the agency that provides child welfare services, requiring that agency to file proposed changes for the child's guardianship.¹⁸

III. Analysis

AB 273 streamlines guardianship proceedings for abused and neglected children in two ways: (1) it expedites permanent placement of the child, and (2) it creates judicial economy.¹⁹

First, where permanent guardianship is the desired outcome, the legislation enables the guardianship proceeding to occur at the same time as the child abuse and neglect proceedings.²⁰ Combining the proceedings facilitates the child's ability to find a permanent living situation.²¹ Second, AB 273 creates judicial economy.²² Without this legislation, guardianship proceedings for abused and neglected children would be conducted separately from the abuse and neglect proceeding,²³ resulting in multiple presiding judges, separate law suits, and separate filing fees.²⁴ AB 273 allows the

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *See* BULLETIN, *supra* note 1.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

guardianship proceeding to be conducted concurrently with the abuse and neglect proceedings, reducing litigation expenses.²⁵

Lastly, AB 273 allows non-Nevada residents to be appointed as guardians for a maximum period of six months.²⁶ Chapter 159 of NEVADA REVISED STATUTES does not currently allow a non-Nevada resident to become a guardian.²⁷ This change allows such individual to be granted guardianship and to then establish guardianship in the state where the child will be residing.²⁸ Accordingly, the state of Nevada does not have to incur expenses associated with supervising guardianship of children living out of state.²⁹

Permanent guardianships granted for abused and neglected children pursuant to AB 273, and via the NEVADA REVISED STATUTES 432B (Protection of Children from Abuse and Neglect) proceeding, still remain subject to Chapter 159 of NEVADA REVISED STATUTES.³⁰ Thus, in order to ensure that the child's best interest remains protected, any amendments, substitutions of guardians, or changes in guardianship must comply with Chapter 159 of NEVADA REVISED STATUTES.³¹

IV. Conclusion

AB 273 had unanimous support in the Assembly and raised little debate in the Senate Human Resources and Facilities Committee.³² The legislation facilitates procedures for granting permanent guardianship for abused and neglected children, reduces litigation costs by consolidating abuse and neglect hearings with guardianship hearings, and reduces the time period by which the child obtains a permanent living situation.³³

²⁵ *Minutes of S. Comm. on Human Res. for Apr. 30, 2003, supra note 6.*

²⁶ *Id.*

²⁷ *Id.* (statement of Hon. Judge Deborah Schumacher, Family Division, Second Judicial Dist.).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*