

ASSEMBLY BILL NO. 531—COMMITTEE ON HEALTH
AND HUMAN SERVICES

MARCH 15, 1999

Referred to Committee on Health and Human Services

SUMMARY—Clarifies and limits liability of certain persons who provide foster care for children in their care. (BDR 38-1637)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 foster homes; clarifying and limiting the liability of certain persons who provide foster care for children in their care; limiting the criminal liability of such persons for the truancy of children in their care; and providing other matters properly relating thereto.

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided by specific statute, a person who is licensed by the division pursuant to NRS 424.030 to conduct a family foster home or group foster home is not liable for any act of a child in his foster care unless the person licensed by the division took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 2. NRS 424.090 is hereby amended to read as follows:

424.090 ***The provisions of*** NRS 424.010 to 424.100, inclusive, ***and section 1 of this act*** do not apply to homes in which:

1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.

2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.

1 4. Care is provided to enable a child to take advantage of educational
2 facilities that are not available in his home community.

3 5. Any child or children are received, cared for and maintained
4 pending completion of proceedings for adoption of such child or children,
5 except as otherwise provided in NRS 127.2815.

6 **Sec. 3.** NRS 41.470 is hereby amended to read as follows:

7 41.470 1. ~~{Any}~~ **Except as otherwise provided in section 1 of this**
8 **act, any** act of willful misconduct of a minor which results in any injury or
9 death to another person or injury to the private property of another or to
10 public property is imputed to the parents or guardian having custody and
11 control of the minor for all purposes of civil damages, and the parents or
12 guardian having custody or control are jointly and severally liable with the
13 minor for all damages resulting from the willful misconduct.

14 2. The joint and several liability of one or both parents or guardian
15 having custody or control of a minor under this section ~~{shall}~~ **must** not
16 exceed \$10,000 for any such act of willful misconduct of the minor.

17 3. The liability imposed by this section is in addition to any **other**
18 liability ~~{now}~~ imposed by law.

19 **Sec. 4.** NRS 62.085 is hereby amended to read as follows:

20 62.085 1. If a child is alleged to be delinquent or in need of
21 supervision, the child and his parents, guardian or custodian must be
22 advised by the court or its representative that the child is entitled to be
23 represented by an attorney at all stages of the proceedings, unless waived.
24 If indigent, the parent, guardian or custodian of the child may request the
25 appointment of an attorney to represent the child pursuant to the provisions
26 in NRS 171.188. If not indigent and:

27 (a) An attorney is not retained for the child; or

28 (b) It does not appear that an attorney will be retained,
29 an attorney must be appointed for the child, unless waived.

30 2. ~~{If}~~ **Except as otherwise provided in section 1 of this act, if** an
31 attorney is appointed to represent a child ~~{, the}~~ :

32 **(a) The** parents of that child shall pay the reasonable fees and expenses
33 of the attorney unless they are indigent ~~{,}~~ **; or**

34 **(b) If the parents of the child are** indigent, the court may require the
35 parent ~~{, guardian or custodian}~~ **or guardian** of the child to reimburse the
36 county or state in accordance with his ability to pay.

37 3. The parent, guardian or custodian may be represented by an attorney
38 at all stages of the proceedings. In no case may an attorney be appointed for
39 him unless the court makes written findings that such an appointment is
40 required in the interest of justice and specifying the reasons thereof.

41 4. Each attorney, other than a public defender, ~~{if}~~ appointed under the
42 provisions of this section ~~{,}~~ is entitled to the same compensation and

1 expenses from the county as provided in NRS 7.125 and 7.135 for
2 attorneys appointed to represent persons charged with crimes.

3 **Sec. 5.** NRS 392.210 is hereby amended to read as follows:

4 392.210 ~~{Any}~~

5 **1. Except as otherwise provided in subsection 2, a** parent, guardian or
6 other person who has control or charge of any child and to whom notice has
7 been given of the child's truancy as provided in NRS 392.130 and 392.140,
8 and who fails to prevent the child's subsequent truancy within that school
9 year, is guilty of a misdemeanor.

10 **2. A person who is licensed by the division of child and family**
11 **services of the department of human resources pursuant to NRS 424.030**
12 **to conduct a family foster home or group foster home is liable pursuant**
13 **to subsection 1 for a child in his foster care only if the person has**
14 **received notice of the truancy of the child as provided in NRS 392.130**
15 **and 392.140, and negligently fails to prevent the subsequent truancy of**
16 **the child within that school year.**

17 **Sec. 6.** The amendatory provisions of this act do not affect any
18 liability of a person incurred:

19 1. Before October 1, 1999; or

20 2. As a result of any act committed by a child before October 1, 1999.