

SENATE BILL NO. 412—SENATORS MATHEWS, RAWSON,
AMODEI, COFFIN AND WASHINGTON

MARCH 15, 1999

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for protective custody of children upon death of parent under certain circumstances. (BDR 38-831)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

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

AN ACT relating to children; providing for protective custody for children upon the death of a parent that is or may be a result of domestic violence; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 432B.330 is hereby amended to read as follows:
- 2 432B.330 1. A child is in need of protection if:
- 3 (a) He has been abandoned by a person responsible for his welfare;
- 4 (b) He is suffering from congenital drug addiction or the fetal alcohol
- 5 syndrome, because of the faults or habits of a person responsible for his
- 6 welfare;
- 7 (c) He has been subjected to abuse or neglect by a person responsible
- 8 for his welfare;
- 9 (d) He is in the care of a person responsible for his welfare and another
- 10 child has died as a result of abuse or neglect by that person; or
- 11 (e) He has been placed for care or adoption in violation of law.
- 12 2. A child may be in need of protection if the person responsible for his
- 13 welfare:
- 14 (a) Is unable to discharge his responsibilities to and for the child
- 15 because of incarceration, hospitalization or other physical or mental
- 16 incapacity;

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

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

(2) Education as required by law; or

(3) Adequate medical care; or

(c) Has been responsible for the abuse or neglect of a child who has resided with that person.

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

Sec. 2. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. An agent or officer of a law enforcement agency, an officer of the local juvenile probation department or the local department of juvenile services or a designee of an agency which provides protective services ~~may~~:

(a) May place a child in protective custody without the consent of the person responsible for the child's welfare if he has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) ***Shall place a child in protective custody upon the death of a parent of the child, without the consent of the person responsible for the welfare of the child, if the agent, officer or designee has reasonable cause to believe that the death of the parent of the child is or may be the result of an act that constitutes domestic violence pursuant to NRS 33.018.***

2. If there is reasonable cause to believe that the death of a parent of the child is or may be the result of an act that constitutes domestic violence pursuant to NRS 33.018, a protective custody hearing must be held pursuant to NRS 432B.470, whether the child was placed in protective custody or with a relative. If an agency other than an agency which provides protective services becomes aware that there is reasonable cause to believe that the death of a parent of the child is or may be the result of an act that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides protective services and a protective custody hearing must be scheduled.

3. An agency which provides protective services shall request the assistance of a law enforcement agency in the removal of the child if it has reasonable cause to believe that the child or the person placing the child in protective custody may be threatened with harm.

~~[2.]~~ **4.** Before taking a child for placement in protective custody, the person taking the child shall show his identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is

1 taken, the person taking the child shall show his identification to any other
2 person upon request. The identification required by this subsection must be
3 a single card that contains a photograph of the person taking the child and
4 identifies him as a person authorized pursuant to subsection 1 to place a
5 child in protective custody.

6 ~~[3.]~~ 5. A child placed in protective custody pending an investigation
7 and a hearing held pursuant to NRS 432B.470 must be placed in a hospital,
8 if the child needs hospitalization, or in a shelter, which may include a foster
9 home or other home or facility which provides care for those children, but
10 the child must not be placed in a jail or other place for detention,
11 incarceration or residential care of persons convicted of a crime or children
12 charged with delinquent acts.

13 ~~[4.]~~ 6. A person placing a child in protective custody shall:

14 (a) Immediately take steps to protect all other children remaining in the
15 home or facility, if necessary;

16 (b) Immediately make a reasonable effort to inform the person
17 responsible for the child's welfare that the child has been placed in
18 protective custody;

19 (c) Give preference in placement of the child to any person related
20 within the third degree of consanguinity to the child who is suitable and
21 able to provide proper care and guidance for the child, regardless of
22 whether the relative resides within this state; and

23 (d) As soon as practicable, inform the agency which provides protective
24 services and the appropriate law enforcement agency.

25 ~~[5.]~~ 7. If a child is placed with any person who resides outside this
26 state, the placement must be in accordance with NRS 127.330.

27 **Sec. 3.** NRS 432B.490 is hereby amended to read as follows:

28 432B.490 1. An agency which provides protective services:

29 (a) ~~[shall.]~~ *In cases where the death of a parent of the child is or may*
30 *be the result of an act that constitutes domestic violence pursuant to NRS*
31 *33.018, shall within 10 days after the hearing on protective custody*
32 *initiate a proceeding in court by filing a petition which meets the*
33 *requirements set forth in NRS 432B.510;*

34 (b) *In other cases where a hearing on protective custody is held, shall*
35 *within 10 days after the hearing on protective custody, unless good cause*
36 *exists, initiate a proceeding in court by filing a petition which meets the*
37 *requirements set forth in NRS 432B.510 or recommend against any further*
38 *action in court; or*

39 ~~[(b)]~~ (c) If a child is not placed in protective custody, may, after an
40 investigation is made under NRS 432B.010 to 432B.400, inclusive, file a
41 petition which meets the requirements set forth in NRS 432B.510.

1 2. If the agency recommends against further action, the court may, on
2 its own motion, initiate proceedings when it finds that it is in the best
3 interests of the child.

4 3. If a child has been placed in protective custody and if further action
5 in court is taken, an agency which provides protective services shall make
6 recommendations to the court concerning whether the child should be
7 returned to the person responsible for his welfare pending further action in
8 court.

~