

ASSEMBLY BILL NO. 147—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE SUBCOMMITTEE TO OVERSEE THE
CONSULTANT TO STUDY THE HEALTH, SAFETY, WELFARE,
AND CIVIL AND OTHER RIGHTS OF CHILDREN IN THE CARE OF
CERTAIN GOVERNMENTAL ENTITIES OR PRIVATE FACILITIES)

FEBRUARY 22, 2007

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning the placement of
a child into protective custody. (BDR 38-869)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to the protection of children; prohibiting a person
who takes a child who is under the age of 6 years into
protective custody from placing the child in certain group
shelters; requiring a court to establish a plan with an
agency which provides child welfare services for the
transfer of a child who is under the age of 6 years and
who has been placed in a group shelter to another
placement; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Existing law provides for a child to be removed from his home and placed into
protective custody in certain circumstances. When the child is removed, he may be
placed in a hospital or a shelter, which may include a foster home or other home or
facility. (NRS 432B.390) **Section 1** of this bill provides that a child placed in
protective custody who is under the age of 6 years may not be placed in a group
shelter which provides care and supervision to more than 16 children. **Sections 3**
and 4 of this bill further require the court to establish whether a child under the age
of 6 years has been placed in such a group home in violation of statute and, if so, to
prepare a plan with the agency which provides child welfare services to have the



* A B 1 4 7 *

child moved to a different placement. (NRS 432B.480, 432B.510) **Section 1** also requires the Director of the Department of Health and Human Services to submit an annual report to the Legislature concerning any child under the age of 6 years who was placed in a group shelter during the previous 12 months.

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 a new section to read as follows:

1. An employee of an agency which provides child welfare services or its designee, an agent or officer of a law enforcement agency, an officer of a local juvenile probation department or the local department of juvenile services or any other person who places a child in protective custody pursuant to this chapter shall not transfer a child who is under the age of 6 years to, or place such a child in, a group shelter.

2. If a child is transferred to or placed in a group shelter in violation of subsection 1, the agency which provides child welfare services that is responsible for the child shall immediately notify the Director of the Department of Health and Human Services and shall move the child to another placement as soon as possible.

3. The Director of the Department shall, on or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a written report concerning any child under the age of 6 years who was placed in a group shelter during the previous 12 months. Such a report must include, without limitation:

(a) An explanation of the situation that required the transfer of the child to or placement of the child in a group shelter;

(b) A summary of any actions that were taken to ensure the health, welfare and safety of the child; and

(c) The length of time that the child was required to remain in the group shelter.

↪ The Director of the Legislative Counsel Bureau shall cause such report to be made available to each Senator and Assemblyman.

4. As used in this section, "group shelter" means any type of facility that provides care and shelter during the day and night to 16 or more children who are in protective custody of an agency which provides child welfare services.

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



1 local department of juvenile services, or a designee of an agency
2 which provides child welfare services:

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

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

13 2. When an agency which provides child welfare services
14 receives a report pursuant to subsection 2 of NRS 432B.630, a
15 designee of the agency which provides child welfare services shall
16 immediately place the child in protective custody.

17 3. If there is reasonable cause to believe that the death of a
18 parent of a child is or may be the result of an act by the other parent
19 that constitutes domestic violence pursuant to NRS 33.018, a
20 protective custody hearing must be held pursuant to NRS 432B.470,
21 whether the child was placed in protective custody or with a
22 relative. If an agency other than an agency which provides child
23 welfare services becomes aware that there is reasonable cause to
24 believe that the death of a parent of a child is or may be the result of
25 an act by the other parent that constitutes domestic violence
26 pursuant to NRS 33.018, that agency shall immediately notify the
27 agency which provides child welfare services and a protective
28 custody hearing must be scheduled.

29 4. An agency which provides child welfare services shall
30 request the assistance of a law enforcement agency in the removal of
31 a child if the agency has reasonable cause to believe that the child or
32 the person placing the child in protective custody may be threatened
33 with harm.

34 5. Before taking a child for placement in protective custody,
35 the person taking the child shall show his identification to any
36 person who is responsible for the child and is present at the time the
37 child is taken. If a person who is responsible for the child is not
38 present at the time the child is taken, the person taking the child
39 shall show his identification to any other person upon request. The
40 identification required by this subsection must be a single card that
41 contains a photograph of the person taking the child and identifies
42 him as a person authorized pursuant to this section to place a child
43 in protective custody.

44 6. A child placed in protective custody pending an
45 investigation and a hearing held pursuant to NRS 432B.470 must be



1 placed in a hospital, if the child needs hospitalization, or in a shelter,
2 which may include , *without limitation*, a foster home or other
3 home or facility which provides care for those children, ~~{but the}~~
4 *except as otherwise provided in section 1 of this act. Such a* child
5 must not be placed in a jail or other place for detention,
6 incarceration or residential care of persons convicted of a crime or
7 children charged with delinquent acts.

8 7. A person placing a child in protective custody pursuant to
9 subsection 1 shall:

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

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

15 (c) Give preference in placement of the child to any person
16 related within the third degree of consanguinity to the child who is
17 suitable and able to provide proper care and guidance for the child,
18 regardless of whether the relative resides within this State; and

19 (d) As soon as practicable, inform the agency which provides
20 child welfare services and the appropriate law enforcement agency
21 ~~{}~~, *except that if the placement violates the provisions of section 1*
22 *of this act, the person shall immediately provide such notification.*

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

25 **Sec. 3.** NRS 432B.480 is hereby amended to read as follows:

26 432B.480 1. At each hearing conducted pursuant to
27 NRS 432B.470:

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

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

33 (1) Contrary to the welfare of the child for him to reside at
34 his home; or

35 (2) In the best interests of the child to place him outside of
36 his home.

37 ➤ The court shall prepare an explicit statement of the facts upon
38 which each of its determinations is based. If the court makes an
39 affirmative finding regarding either subparagraph (1) or (2), the
40 court shall issue an order keeping the child in protective custody
41 pending a disposition by the court.

42 (c) *If the child is under the age of 6 years, the court shall*
43 *determine whether the child has been placed in a home or facility*
44 *that complies with the requirements of section 1 of this act. If the*
45 *placement does not comply with the requirements of section 1 of*



this act, the court shall establish a plan with the agency which provides child welfare services for the prompt transfer of the child into a home or facility that complies with the requirements of section 1 of this act.

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

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

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

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

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

Sec. 4. NRS 432B.510 is hereby amended to read as follows:


432B.510 1. A petition alleging that a child is in need of protection may be signed only by:

(a) A representative of an agency which provides child welfare services;

(b) A law enforcement officer or probation officer; or

(c) The district attorney.

2. The district attorney shall countersign every petition alleging need of protection, and shall represent the interests of the public in all proceedings. If the district attorney fails or refuses to countersign the petition, the petitioner may seek a review by the Attorney General. If the Attorney General determines that a petition should be filed, he shall countersign the petition and shall represent the interests of the public in all subsequent proceedings.

3. Every petition must be entitled  "In the Matter of , a child," and must be verified by the person who signs it.

4. Every petition must set forth specifically:

(a) The facts which bring the child within the jurisdiction of the court as indicated in NRS 432B.410.

(b) The name, date of birth and address of the residence of the child.

(c) The names and addresses of the residences of his parents and any other person responsible for the child's welfare, and spouse if any. If his parents or other person responsible for his welfare do not



1 reside in this State or cannot be found within the State, or if their
2 addresses are unknown, the petition must state the name of any
3 known adult relative residing within the State ~~§~~ or , if there is none,
4 the known adult relative residing nearest to the court.

5 (d) Whether the child is in protective custody ~~§~~ and , if so ~~§~~
6 ~~the~~ :

7 (1) *The* agency responsible for placing the child in protective
8 custody and the reasons therefor ~~§~~ ; and

9 (2) *Whether the child has been placed in a home or facility*
10 *in compliance with the provisions of section 1 of this act. If the*
11 *placement does not comply with the provisions of section 1 of this*
12 *act, the petition must include a plan for transferring the child to a*
13 *placement which complies with the provisions of section 1 of this*
14 *act.*

15 5. When any of the facts required by subsection 4 are not
16 known, the petition must so state.

17 **Sec. 5.** NRS 432B.540 is hereby amended to read as follows:

18 432B.540 1. If the court finds that the allegations of the
19 petition are true, it shall order that a report be made in writing by an
20 agency which provides child welfare services, concerning:

21 (a) Except as otherwise provided in paragraph (b), the
22 conditions in the child's place of residence, the child's record in
23 school, the mental, physical and social background of his family, its
24 financial situation and other matters relevant to the case; or

25 (b) If the child was delivered to a provider of emergency
26 services pursuant to NRS 432B.630, any matters relevant to the
27 case.

28 2. If the agency believes that it is necessary to remove the child
29 from the physical custody of his parents, it must submit with the
30 report a plan designed to achieve a placement of the child in a safe
31 setting as near to the residence of his parent as is consistent with the
32 best interests and special needs of the child. The plan must include
33 ~~§~~ , *without limitation:*

34 (a) A description of the type, safety and appropriateness of the
35 home or institution in which the child could be placed, *including,*
36 *without limitation, if the child is under the age of 6 years, a*
37 *statement that the home or institution would comply with the*
38 *provisions of section 1 of this act,* a plan for ensuring that he would
39 receive safe and proper care and a description of his needs;

40 (b) A description of the services to be provided to the child and
41 to a parent to facilitate the return of the child to the custody of his
42 parent or to ensure his permanent placement;

43 (c) The appropriateness of the services to be provided under the
44 plan; and



1 (d) A description of how the order of the court will be carried
2 out.

3 **Sec. 6.** As soon as possible, but not later than 2 weeks after the
4 effective date of this act, an agency which provides child welfare
5 services shall determine whether any children for whom the agency
6 is responsible is in the custody of a group shelter in violation of the
7 provisions of section 1 of this act and shall establish a plan for the
8 transfer of any such children into a home or facility that complies
9 with the provisions of section 1 of this act. The agency shall provide
10 the Director of the Department of Health and Human Services with
11 a list of any such children and the plans for their transfer.

12 **Sec. 7.** This act becomes effective on July 1, 2007.

