

SENATE BILL NO. 356—SENATOR HORSFORD

MARCH 19, 2007

JOINT SPONSOR: ASSEMBLYWOMAN KIRKPATRICK

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions relating to the protection of children from abuse and neglect. (BDR 38-1059)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: 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 the protection of children; revising the standard used for determining whether a child may be placed in protective custody; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill revises the standard used to determine whether a child
2 may be placed in protective custody without the consent of the person responsible
3 for his welfare from reasonable cause to believe that immediate action is necessary
4 to protect the child from injury, abuse or neglect to reasonable cause to believe that
5 the child is in imminent danger of serious harm. **Section 1** of this bill requires the
6 Division of Child and Family Services of the Department of Health and Human
7 Services to adopt regulations establishing reasonable and uniform standards for
8 determining whether a child is in imminent danger of serious harm. The regulations
9 apply to any person who is authorized to place a child in protective custody, and the
10 Division is required to ensure that such persons are provided with a copy of the
11 regulations. (NRS 432B.190)



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

Section 1. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Evaluating the development and contents of a plan submitted for approval pursuant to NRS 432B.395;

(k) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a



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1 person at the time an agency which provides child welfare services
2 makes initial contact with the person in the course of the
3 investigation and at the time the agency takes the child for
4 placement in protective custody, and the legal right of such a person
5 to be informed of any allegation of abuse or neglect of a child which
6 is made against the person at the initial time of contact with the
7 person by the agency; and

8 (II) Persons who are parties to a proceeding held pursuant
9 to NRS 432B.410 to 432B.590, inclusive, during all stages of the
10 proceeding; and

11 (I) Making the necessary inquiries required pursuant to NRS
12 432B.397 to determine whether a child is an Indian child . ~~}; and~~

13 2. *Regulations, which are applicable to any person who is*
14 *authorized to place a child in protective custody without the*
15 *consent of the person responsible for the child's welfare, setting*
16 *forth reasonable and uniform standards for establishing whether a*
17 *child is in imminent danger of serious harm for purposes of*
18 *determining whether to place the child into protective custody*
19 *pursuant to NRS 432B.390. Such standards must consider:*

20 (a) *The availability of treatment and services to help prevent*
21 *further abuse or neglect and to improve the environment of the*
22 *child;*

23 (b) *The potential harm to the child in remaining in his home;*

24 (c) *The potential harm to the child if removed from his home;*

25 (d) *The nature and extent of existing or previous injuries,*
26 *abuse or neglect and any evidence thereof; and*

27 (e) *Other relevant factors.*

28 *↪ The Division of Child and Family Services shall ensure that the*
29 *appropriate persons or entities to whom the regulations adopted*
30 *pursuant to this subsection apply are provided with a copy of such*
31 *regulations.*

32 3. Such other regulations as are necessary for the
33 administration of NRS 432B.010 to 432B.606, inclusive.

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

35 432B.390 1. An agent or officer of a law enforcement
36 agency, an officer of the local juvenile probation department or the
37 local department of juvenile services, or a designee of an agency
38 which provides child welfare services:

39 (a) May place a child in protective custody without the consent
40 of the person responsible for the child's welfare if he has reasonable
41 cause to believe that ~~immediate action is necessary to protect the~~
42 ~~child from injury, abuse or neglect.~~ *the child is in imminent*
43 *danger of serious harm.*

44 (b) Shall place a child in protective custody upon the death of a
45 parent of the child, without the consent of the person responsible for



1 the welfare of the child, if the agent, officer or designee has
2 reasonable cause to believe that the death of the parent of the child
3 is or may be the result of an act by the other parent that constitutes
4 domestic violence pursuant to NRS 33.018.

5 2. When an agency which provides child welfare services
6 receives a report pursuant to subsection 2 of NRS 432B.630, a
7 designee of the agency which provides child welfare services shall
8 immediately place the child in protective custody.

9 3. If there is reasonable cause to believe that the death of a
10 parent of a child is or may be the result of an act by the other parent
11 that constitutes domestic violence pursuant to NRS 33.018, a
12 protective custody hearing must be held pursuant to NRS 432B.470,
13 whether the child was placed in protective custody or with a
14 relative. If an agency other than an agency which provides child
15 welfare services becomes aware that there is reasonable cause to
16 believe that the death of a parent of a child is or may be the result of
17 an act by the other parent that constitutes domestic violence
18 pursuant to NRS 33.018, that agency shall immediately notify the
19 agency which provides child welfare services and a protective
20 custody hearing must be scheduled.

21 4. An agency which provides child welfare services shall
22 request the assistance of a law enforcement agency in the removal of
23 a child if the agency has reasonable cause to believe that the child or
24 the person placing the child in protective custody may be threatened
25 with harm.

26 5. Before taking a child for placement in protective custody,
27 the person taking the child shall show his identification to any
28 person who is responsible for the child and is present at the time the
29 child is taken. If a person who is responsible for the child is not
30 present at the time the child is taken, the person taking the child
31 shall show his identification to any other person upon request. The
32 identification required by this subsection must be a single card that
33 contains a photograph of the person taking the child and identifies
34 him as a person authorized pursuant to this section to place a child
35 in protective custody.

36 6. A child placed in protective custody pending an
37 investigation and a hearing held pursuant to NRS 432B.470 must be
38 placed in a hospital, if the child needs hospitalization, or in a shelter,
39 which may include a foster home or other home or facility which
40 provides care for those children, but the child must not be placed in
41 a jail or other place for detention, incarceration or residential care of
42 persons convicted of a crime or children charged with delinquent
43 acts.

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



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- 1 (a) Immediately take steps to protect all other children
- 2 remaining in the home or facility, if necessary;
- 3 (b) Immediately make a reasonable effort to inform the person
- 4 responsible for the child's welfare that the child has been placed in
- 5 protective custody;
- 6 (c) Give preference in placement of the child to any person
- 7 related within the third degree of consanguinity to the child who is
- 8 suitable and able to provide proper care and guidance for the child,
- 9 regardless of whether the relative resides within this State; and
- 10 (d) As soon as practicable, inform the agency which provides
- 11 child welfare services and the appropriate law enforcement agency.
- 12 8. If a child is placed with any person who resides outside this
- 13 State, the placement must be in accordance with NRS 127.330.

