

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 process for determining whether action must be taken to ensure the safety of a child who has been placed in protective custody without the consent of the person responsible for the child's welfare; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the placement of a child in protective custody without the consent of the person responsible for the child's welfare. (NRS 432B.390) **Section 1** of this bill provides that if a child is placed in protective custody pursuant to NRS 432B.390, the agency which provides child welfare services must, within 24 hours, conduct an assessment to determine if there is reasonable cause to believe that the child is in imminent risk of serious harm. If it is determined that the child is in imminent risk of serious harm, appropriate action must be taken to ensure the safety of the child. If it is determined that the child is not in imminent risk of serious harm, the child must be returned to the person responsible for the child's welfare and the person may be referred for welfare services available within the community.

Section 2 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations establishing reasonable and uniform standards for determining whether immediate action is necessary to protect a child from injury, abuse or neglect and whether a child is in imminent risk of serious harm. (NRS 432B.190)



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. Except as otherwise provided in subsection 2, within 24 hours after the placement of a child in protective custody pursuant to paragraph (a) of subsection 1 of NRS 432B.390, a designee of an agency which provides child welfare services shall conduct an assessment and determine whether the child is in imminent risk of serious harm. If it is determined that the child:

(a) Is not in imminent risk of serious harm:

(1) The child must be returned to the person responsible for the child's welfare; and

(2) The person responsible for the child's welfare may be referred to a family resource center for the coordination of services provided pursuant to NRS 430A.160 or any other public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children.

(b) Is in imminent risk of serious harm, the agency shall take appropriate action to ensure the safety of the child.

2. If the designee of an agency which provides welfare services refers the person responsible for the child's welfare pursuant to paragraph (a) of subsection 1, the person responsible for the child's welfare must, within a reasonable amount of time, provide proof that the person participated in the services for which the person was referred. If the person responsible for the child's welfare fails to provide such proof of participation, the designee of an agency which provides welfare services may deem the child in imminent risk of serious harm for purposes of this section and the agency may immediately take appropriate action to ensure the safety of the child.

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

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

(l) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child . ~~[-and]~~

2. *Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting*



1 forth reasonable and uniform standards for establishing whether
2 immediate action is necessary to protect the child from injury,
3 abuse or neglect for the purposes of determining whether to place
4 the child into protective custody pursuant to NRS 432B.390. Such
5 standards must consider:

6 (a) The availability of treatment and services to help prevent
7 further abuse or neglect and to improve the environment of the
8 child;

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

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

11 (d) The nature and extent of existing or previous injuries,
12 abuse or neglect and any evidence thereof; and

13 (e) Other relevant factors.

14 ➔ The Division of Child and Family Services shall ensure that the
15 appropriate persons or entities to whom the regulations adopted
16 pursuant to this subsection apply are provided with a copy of such
17 regulations.

18 3. Regulations, which are applicable to any person who is
19 responsible for an assessment conducted pursuant to section 1 of
20 this act, setting forth reasonable and uniform standards for
21 conducting the assessment and establishing whether a child is in
22 imminent risk of serious harm for purposes of determining
23 whether the child must remain in protective custody pursuant to
24 section 1 of this act or other appropriate action to ensure the
25 safety of the child. Such standards must consider:

26 (a) The availability of treatment and services to help prevent
27 further abuse or neglect and to improve the environment of the
28 child;

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

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

31 (d) The nature and extent of existing or previous injuries,
32 abuse or neglect and any evidence thereof;

33 (e) The age and vulnerability of the child, including, without
34 limitation, if the child is identified as being affected by prenatal
35 illegal substance abuse or as having withdrawal symptoms
36 resulting from prenatal drug exposure;

37 (f) If the child was returned to the person responsible for the
38 child's welfare pursuant to paragraph (a) of subsection 1 of
39 section 1 of this act, whether the person responsible for the child's
40 welfare participated in the services for which the person was
41 referred; and

42 (g) Other relevant factors.

43 ➔ The Division of Child and Family Services shall ensure that the
44 appropriate persons or entities to whom the regulations adopted



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pursuant to this subsection apply are provided with a copy of such regulations.

4. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~H~~, and *section 1 of this act.*

Sec. 3. 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 child welfare services:

(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. *A designee of an agency which provides child welfare services shall commence an assessment pursuant to section 1 of this act within 24 hours after the placement of the child in protective custody.*

(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 by the other parent that constitutes domestic violence pursuant to NRS 33.018.

2. When an agency which provides child welfare services receives a report pursuant to subsection 2 of NRS 432B.630, a designee of the agency which provides child welfare services shall immediately place the child in protective custody ~~H~~ and *commence an assessment pursuant to section 1 of this act within 24 hours after the placement of the child in protective custody.*

3. If there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent 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 child welfare services becomes aware that there is reasonable cause to believe that the death of a parent of a child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, that agency shall immediately notify the agency which provides child welfare services and a protective custody hearing must be scheduled.

4. An agency which provides child welfare services shall request the assistance of a law enforcement agency in the removal of a child if the agency has reasonable cause to believe that the child or



1 the person placing the child in protective custody may be threatened
2 with harm.

3 5. Before taking a child for placement in protective custody,
4 the person taking the child shall show his identification to any
5 person who is responsible for the child and is present at the time the
6 child is taken. If a person who is responsible for the child is not
7 present at the time the child is taken, the person taking the child
8 shall show his identification to any other person upon request. The
9 identification required by this subsection must be a single card that
10 contains a photograph of the person taking the child and identifies
11 him as a person authorized pursuant to this section to place a child
12 in protective custody.

13 6. A child placed in protective custody pending an
14 investigation and a hearing held pursuant to NRS 432B.470 must be
15 placed in a hospital, if the child needs hospitalization, or in a shelter,
16 which may include a foster home or other home or facility which
17 provides care for those children, but the child must not be placed in
18 a jail or other place for detention, incarceration or residential care of
19 persons convicted of a crime or children charged with delinquent
20 acts.

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

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

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

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

32 (d) As soon as practicable, inform the agency which provides
33 child welfare services and the appropriate law enforcement agency.

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

