

Amendment No. 220

Assembly Amendment to Assembly Bill No. 147

(BDR 38-869)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

HAC/LJM



Date: 4/19/2007

A.B. No. 147—Makes various changes concerning the placement of a child into protective custody. (BDR 38-869)



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;]~~ **a child care institution under certain circumstances;** 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]~~ **child care institution** to another placement ~~[+]~~ **under certain circumstances;** 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]~~ 3 years may not be placed in a ~~[group shelter which provides care and supervision to more than 16 children.]~~ **child care institution unless appropriate foster care is unavailable in the county in which the child resides, the child requires medical services that cannot be provided at any other placement or it is necessary to avoid separating siblings. Section 6 of this bill amends section 1 to provide that on and after January 1, 2009, this prohibition applies to any child under the age of 6 years. Sections 3 and 4** of this bill further require the court to establish whether a child under the age of ~~[6]~~ 3 years has been placed in such a ~~[group home]~~ **child care institution** in violation of statute and, if so, to prepare a plan with the agency which provides child welfare services to have the 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]~~ 3 years who was placed in a ~~[group shelter]~~ **child**

care institution during the previous 12 months. Section 6 of this bill amends section 1 to provide that the report applies to children under the age of 6 years.

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 :

(a) Except as otherwise provided in subsection 2, shall not transfer a child who is under the age of ~~16~~ 3 years to, or place such a child in, a ~~group shelter~~ child care institution unless appropriate foster care is not available at the time of placement in the county in which the child resides; and

(b) Shall make all reasonable efforts to place siblings in the same location.

2. A child under the age of 3 years may be placed in a child care institution:

(a) If the child requires medical services and such medical services could not be provided at any other placement; or

(b) If necessary to avoid separating siblings.

3. If a child is transferred to or placed in a ~~group shelter~~ child care institution 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.

~~3.4~~ 4. 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 ~~16~~ 3 years who was placed in a ~~group shelter~~ child care institution 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~~ child care institution;

(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~~ child care institution.

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

~~4.4~~ 5. As used in this section, ~~“group shelter” means~~ “child care institution”:

(a) Means any type of home or facility that ~~provides~~ :

(1) 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 ~~or~~ ;or

(2) Provides care and shelter during the day and night, through the use of caregivers who work in shifts, to children who are in protective custody of an agency which provides child welfare services.

(b) Does not include a home or facility that provides medical services to children.

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

2 432B.390 1. An agent or officer of a law enforcement agency, an officer of
3 the local juvenile probation department or the local department of juvenile services,
4 or a designee of an agency which provides child welfare services:

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

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

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

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

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

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

39 6. A child placed in protective custody pending an investigation and a hearing
40 held pursuant to NRS 432B.470 must be placed in a hospital, if the child needs
41 hospitalization, or in a shelter, which may include , *without limitation*, a foster
42 home or other home or facility which provides care for those children, ~~but the~~
43 *except as otherwise provided in section 1 of this act. Such a* child must not be
44 placed in a jail or other place for detention, incarceration or residential care of
45 persons convicted of a crime or children charged with delinquent acts.

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

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

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

52 (c) Give preference in placement of the child to any person related within the
53 third degree of consanguinity to the child who is suitable and able to provide proper

1 care and guidance for the child, regardless of whether the relative resides within
2 this State; and

3 (d) As soon as practicable, inform the agency which provides child welfare
4 services and the appropriate law enforcement agency ~~§~~, *except that if the*
5 *placement violates the provisions of section 1 of this act, the person shall*
6 *immediately provide such notification.*

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

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

10 432B.480 1. At each hearing conducted pursuant to NRS 432B.470:

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

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

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

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

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

21 (c) ~~If the child is under the age of 6 years, the~~ *The court shall determine*
22 *whether the child has been placed in a home or facility that complies with the*
23 *requirements of section 1 of this act. If the placement does not comply with*
24 *the requirements of section 1 of this act, the court shall establish a plan with the*
25 *agency which provides child welfare services for the prompt transfer of the child*
26 *into a home or facility that complies with the requirements of section 1 of this act.*

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

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

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

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

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

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

42 432B.510 1. A petition alleging that a child is in need of protection may be
43 signed only by:

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

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

46 (c) The district attorney.

47 2. The district attorney shall countersign every petition alleging need of
48 protection, and shall represent the interests of the public in all proceedings. If the
49 district attorney fails or refuses to countersign the petition, the petitioner may seek a
50 review by the Attorney General. If the Attorney General determines that a petition
51 should be filed, he shall countersign the petition and shall represent the interests of
52 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 reside in this State or cannot be found within the State, or if their addresses are unknown, the petition must state the name of any known adult relative residing within the State ~~“or ,~~ if there is none, the known adult relative residing nearest to the court.

(d) Whether the child is in protective custody ~~“and ,~~ if so ~~“the”~~:

(1) The agency responsible for placing the child in protective custody and the reasons therefor ~~“; and~~

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. *Section 1 of this act is hereby amended to read 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:

(a) Except as otherwise provided in subsection 2, shall not transfer a child who is under the age of ~~14~~ 6 years to, or place such a child in, a child care institution unless appropriate foster care is not available at the time of placement in the county in which the child resides; and

(b) Shall make all reasonable efforts to place siblings in the same location.

2. A child under the age of ~~14~~ 6 years may be placed in a child care institution:

(a) If the child requires medical services and such medical services could not be provided at any other placement; or

(b) If necessary to avoid separating siblings.

3. If a child is transferred to or placed in a child care institution 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.

4. 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 ~~14~~ 6 years who was placed in a child care institution 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 child care institution;

(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 child care institution.

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

5. As used in this section, "child care institution":

(a) Means any type of home or facility that:

(1) 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; or

(2) Provides care and shelter during the day and night, through the use of caregivers who work in shifts, to children who are in protective custody of an agency which provides child welfare services.

(b) Does not include a home or facility that provides medical services to children.

~~Sec. 6.~~ **Sec. 7. 1.** As soon as possible, but not later than ~~12 weeks after the effective date of this act,~~ **January 15, 2008,** an agency which provides child welfare services shall determine whether any children for whom the agency is responsible ~~are~~ **are** in the custody of a ~~group shelter~~ **child care institution** in violation of the provisions of section 1 of this act and shall establish a plan for the transfer of any such children into a home or facility that complies with the provisions of section 1 of this act. The agency shall provide the Director of the Department of Health and Human Services with a list of any such children and the plans for their transfer.

2. As soon as possible, but not later than January 15, 2009, an agency which provides child welfare services shall determine whether any children for whom the agency is responsible are in the custody of a child care institution in

1 violation of the provisions of section 6 of this act and shall establish a plan for
2 the transfer of any such children into a home or facility that complies with the
3 provisions of section 6 of this act. The agency shall provide the Director of the
4 Department of Health and Human Services with a list of any such children and
5 the plans for their transfer.

6 ~~[Sec. 7.]~~ Sec. 8. 1. This section and sections 1 to 5, inclusive, and 7 of
7 this act ~~[becomes]~~ become effective on ~~[July 1, 2007.]~~ January 1, 2008.

8 2. Section 1 of this act expires by limitation on December 31, 2008.

9 3. Section 6 of this act becomes effective on January 1, 2009.