

ASSEMBLY BILL NO. 174—COMMITTEE ON JUDICIARY

FEBRUARY 26, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing proceedings relating to the abuse or neglect of a child. (BDR 38-991)

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 provisions governing the procedure following a hearing to determine whether a child should remain in protective custody pending further action by the court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an agency which provides child welfare services that has taken a child into protective custody: (1) to file a petition alleging that the child is in need of protection within 10 days after the hearing on protective custody, if the death of the parent of the child is or may be the result of an act of the other parent that constitutes domestic violence; or (2) in all other cases, to file a petition alleging that the child is in need of protection within 10 days after the hearing on protective custody, unless good cause exists to extend that time, or recommend against further action. This bill provides that if the agency which provides child welfare services fails to file a petition alleging that the child is in need of protection within 10 days after the hearing on protective custody, the agency must either recommend against further action or file a motion to determine whether it is in the best interest of the child to return the child to the person responsible for the welfare of the child pending further action by the court. This bill further provides for notice of the hearing to a parent or other person responsible for the welfare of the child.

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

Section 1. NRS 432B.490 is hereby amended to read as follows:
432B.490 1. An agency which provides child welfare services:



* A B 1 7 4 *

(a) In cases where the death of a 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, shall within 10 days after the hearing on protective custody initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510;

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

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

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

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

4. If an agency which provides child welfare services fails to initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510 within 10 days after the hearing on protective custody, the agency shall:

(a) Recommend against further action; or

(b) File a motion to determine whether the child should be returned to the person responsible for the welfare of the child pending further action by the court.

5. Except as otherwise provided in this subsection, notice of the time and place of the hearing on a motion filed pursuant to paragraph (b) of subsection 4 must be given to a parent or other person responsible for the welfare of the child:

(a) By personal service of a written notice;

(b) Orally; or

(c) If the parent or other person responsible for the welfare of the child cannot be located after a reasonable effort, by posting a written notice on the door of the residence of the parent or other person.

➔ If the child was delivered to a provider of emergency services pursuant to the provisions of NRS 432B.630 and the location of the parent is unknown, the parent shall be deemed to have waived any notice of any hearing conducted pursuant to this section.



1 6. *If notice of a hearing on a motion filed pursuant to*
2 *paragraph (b) of subsection 4 is given by means of paragraph (b)*
3 *or (c) of subsection 5, a copy of the notice must be mailed to the*
4 *parent or other person responsible for the welfare of the child at*
5 *his or her last known address within 24 hours after the petition is*
6 *filed.*

7 7. *The court shall hold a hearing on a motion filed pursuant*
8 *to paragraph (b) of subsection 4 and may decide whether to return*
9 *the child to the person responsible for the welfare of the child as it*
10 *determines is in the best interest of the child.*

11 **Sec. 2.** This act becomes effective upon passage and approval.

