

ASSEMBLY BILL NO. 315—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

MARCH 18, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises various provisions concerning the abuse or neglect of a child. (BDR 38-73)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 child welfare; establishing a procedure for use in obtaining a warrant before placing a child in protective custody; revising provisions governing investigations of reports concerning the possible abuse or neglect of a child; requiring that a warrant be obtained before placing a child in protective custody, except in certain circumstances; authorizing a master to issue a warrant to place a child in protective custody in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an agency which provides child welfare services to immediately initiate an investigation upon receipt of a report concerning the possible abuse or neglect of a child if the report indicates that: (1) the child is 5 years of age or younger; (2) there is a high risk of serious harm to the child; (3) the child has died; or (4) the child is living in a household in which another child has died, been seriously injured or shows signs of abuse. (NRS 432B.260) **Section 2** of this bill deletes the provision that would trigger an immediate investigation if an agency which provides child welfare services receives a report concerning possible child abuse involving a child that is 5 years of age or younger.

Existing law authorizes an agent, officer or designee of a law enforcement agency or other agency which provides child welfare services to place a child in protective custody without the consent of the person responsible for the child's welfare if the agent, officer or designee has reasonable cause to believe that



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14 immediate action is needed to protect the child from injury, abuse or neglect.
15 Existing law also requires such an agent, officer or designee to place a child in
16 protective custody without the consent of the person responsible for the welfare of
17 the child upon the death of a parent of the child if the agent, officer or designee has
18 reasonable cause to believe that the death of the parent of the child is or may be the
19 result of an act by the other parent which constitutes domestic violence. (NRS
20 432B.390) **Section 3** of this bill requires an agent, officer or designee of a law
21 enforcement agency or other agency which provides child welfare services to
22 obtain a warrant before placing a child in protective custody without the consent of
23 the person responsible for the welfare of the child unless there is probable cause to
24 believe that the child is likely to experience serious bodily harm in the time it
25 would take to obtain a warrant. **Section 1** of this bill provides the procedural
26 framework for obtaining such a warrant, including authorizing a master to issue the
27 warrant.

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

1 **Section 1.** Chapter 432B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *In addition to any other procedure authorized by law, the*
4 *following procedure may be used to seek a warrant pursuant to*
5 *NRS 432B.390:*

6 *1. An agent or officer of a law enforcement agency, an*
7 *officer of the local juvenile probation department or the local*
8 *department of juvenile services, or a designee of an agency which*
9 *provides child welfare services may bring an application for the*
10 *issuance of a warrant before a judge or master.*

11 *2. The application may be made by written affidavit or sworn*
12 *testimony that sets forth the facts which establish probable cause*
13 *to believe that the child will experience injury, abuse or neglect if*
14 *not placed into protective custody or that the death of a parent of*
15 *the child is or may be the result of an act by the other parent*
16 *which constitutes domestic violence pursuant to NRS 33.018. For*
17 *the purposes of this subsection:*

18 *(a) An affidavit may be presented to the judge or master via*
19 *facsimile or electronic transmission.*

20 *(b) Sworn testimony may be made in person or by telephone so*
21 *long as the testimony is recorded in a manner which ensures that*
22 *the recording can be transcribed or otherwise maintained as part*
23 *of the court record.*

24 *3. If the judge or master determines that the facts presented*
25 *are sufficient to establish probable cause to believe that the child*
26 *will experience injury, abuse or neglect if not placed in protective*
27 *custody or that the death of a parent of the child is or may be the*
28 *result of an act by the other parent which constitutes domestic*
29 *violence pursuant to NRS 33.018, the judge or master may orally*



1 *or in writing authorize a warrant to place the child into protective*
2 *custody by a person authorized to place the child pursuant to*
3 *NRS 432B.390.*

4 *4. If the application was made by sworn testimony by*
5 *telephone, the judge or master may orally authorize the applicant*
6 *to sign the name of the judge or master on a duplicate original*
7 *warrant. A duplicate original warrant shall be deemed to be a*
8 *warrant. The duplicate original warrant must be returned to the*
9 *judge or master who authorized the signing of it as soon as*
10 *practicable. The judge or master shall endorse his or her name*
11 *and enter the date on the warrant when it is returned. Any failure*
12 *of the judge or master to make such an endorsement and entry*
13 *does not in itself invalidate the warrant.*

14 *5. The authorization of a warrant becomes effective immediately. If*
15 *a master authorizes a warrant pursuant to this section, a judge shall, as*
16 *soon as practicable, review the authorization and:*

17 *(a) Approve the warrant; or*

18 *(b) Stay the warrant and order such relief as may be*
19 *appropriate.*

20 **Sec. 2.** NRS 432B.260 is hereby amended to read as follows:

21 432B.260 1. Upon the receipt of a report concerning the
22 possible abuse or neglect of a child, an agency which provides child
23 welfare services or a law enforcement agency shall promptly notify
24 the appropriate licensing authority, if any. A law enforcement
25 agency shall promptly notify an agency which provides child
26 welfare services of any report it receives.

27 2. Upon receipt of a report concerning the possible abuse or
28 neglect of a child, an agency which provides child welfare services
29 or a law enforcement agency shall immediately initiate an
30 investigation if the report indicates that:

31 ~~(a) The child is 5 years of age or younger;~~

32 ~~—(b) There is a high risk of serious harm to the child;~~

33 ~~(e)~~ (b) The child has suffered a fatality; or

34 ~~(d)~~ (c) The child is living in a household in which another
35 child has died, or the child is seriously injured or has visible signs of
36 physical abuse.

37 3. Except as otherwise provided in subsection 2, upon receipt
38 of a report concerning the possible abuse or neglect of a child or
39 notification from a law enforcement agency that the law
40 enforcement agency has received such a report, an agency which
41 provides child welfare services shall conduct an evaluation not later
42 than 3 days after the report or notification was received to determine
43 whether an investigation is warranted. For the purposes of this
44 subsection, an investigation is not warranted if:

45 (a) The child is not in imminent danger of harm;



(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens the immediate health or safety of the child;

(c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from any prenatal drug exposure of the newborn infant could be eliminated if the child and the family of the child are referred to or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment, including, without limitation, spanking or paddling; and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, *and section 1 of this act*, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

➤ If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.



7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or the family of the child pursuant to subsection 6, the agency shall require the person to notify the agency if the child or the family refuses or fails to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. An agency which provides child welfare services that determines that an investigation is not warranted may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 3. NRS 432B.390 is hereby amended to read as follows:

432B.390 1. ~~1.A.1~~ Except as otherwise provided in subsections 2 and 3, 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, ***after obtaining a warrant***, place a child in protective custody without the consent of the person responsible for the child's welfare if the agent, officer or designee has reasonable cause to believe that immediate action is necessary to protect the child from injury, abuse or neglect.

(b) Shall, ***after obtaining a warrant***, 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. *If there is probable cause to believe that the child is likely to experience serious bodily harm in the time that would be required to obtain a warrant, 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 may place a child in protective custody without the consent of the person responsible for the child's welfare and without obtaining a warrant.*

3. 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.

~~3.1~~ 4. 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



1 protective custody hearing must be held pursuant to NRS 432B.470,
2 whether the child was placed in protective custody or with a
3 relative. If an agency other than an agency which provides child
4 welfare services becomes aware that there is reasonable cause to
5 believe that the death of a parent of a child is or may be the result of
6 an act by the other parent that constitutes domestic violence
7 pursuant to NRS 33.018, that agency shall immediately notify the
8 agency which provides child welfare services and a protective
9 custody hearing must be scheduled.

10 ~~14~~ 5. An agency which provides child welfare services shall
11 request the assistance of a law enforcement agency in the removal of
12 a child if the agency has reasonable cause to believe that the child or
13 the person placing the child in protective custody may be threatened
14 with harm.

15 ~~15~~ 6. Before taking a child for placement in protective
16 custody, the person taking the child shall show his or her
17 identification to any person who is responsible for the child and is
18 present at the time the child is taken. If a person who is responsible
19 for the child is not present at the time the child is taken, the person
20 taking the child shall show his or her identification to any other
21 person upon request. The identification required by this subsection
22 must be a single card that contains a photograph of the person taking
23 the child and identifies the person as a person authorized pursuant to
24 this section to place a child in protective custody.

25 ~~16~~ 7. A child placed in protective custody pending an
26 investigation and a hearing held pursuant to NRS 432B.470 must be
27 placed, except as otherwise provided in NRS 432B.3905, in the
28 following order of priority:

29 (a) In a hospital, if the child needs hospitalization.

30 (b) With a person who is related within the fifth degree of
31 consanguinity or a fictive kin, and who is suitable and able to
32 provide proper care and guidance for the child, regardless of
33 whether the relative or fictive kin resides within this State.

34 (c) In a foster home that is licensed pursuant to chapter 424 of
35 NRS.

36 (d) In any other licensed shelter that provides care to such
37 children.

38 ~~17~~ 8. Whenever possible, a child placed pursuant to
39 subsection ~~16~~ 7 must be placed together with any siblings of the
40 child. Such a child must not be placed in a jail or other place for
41 detention, incarceration or residential care of persons convicted of a
42 crime or children charged with delinquent acts.

43 ~~18~~ 9. A person placing a child in protective custody pursuant
44 to subsection 1 ~~or~~ 2 shall:



- 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; and
6 (c) As soon as practicable, inform the agency which provides
7 child welfare services and the appropriate law enforcement agency,
8 except that if the placement violates the provisions of NRS
9 432B.3905, the person shall immediately provide such notification.
10 ~~19~~ 10. If a child is placed with any person who resides
11 outside this State, the placement must be in accordance with
12 NRS 127.330.
13 ~~10~~ 11. As used in this section, "fictive kin" means a person
14 who is not related by blood to a child but who has a significant
15 emotional and positive relationship with the child.

