

ASSEMBLY BILL NO. 92—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON HEALTH CARE)

FEBRUARY 11, 2013

Referred to Committee on Health and Human Services

SUMMARY—Revises certain provisions governing the placement
of children with a person other than a parent.
(BDR 38-506)

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 the protection of children; revising certain
provisions governing the placement of children who are
taken into protective custody or placed with someone
other than a parent; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

Existing law establishes the order of priority in which to place a child who is taken into protective custody and allows the child to be placed with a relative within the fifth degree of consanguinity or a fictive kin. Existing law defines "fictive kin" as a person who is not related to a child but with whom the child has developed a significant emotional and positive relationship. (NRS 432B.390) **Section 1** of this bill provides that, under certain circumstances, a child may be placed with such a relative or a fictive kin who has had a substantiated report of child abuse or neglect made against him or her.

Existing law also establishes the order of preference applicable to the placement of a child with someone other than a parent. (NRS 432B.550) **Section 2** of this bill similarly provides that, under certain circumstances, a court is authorized to place a child with a relative within the fifth degree of consanguinity or a fictive kin who has had a substantiated report of child abuse or neglect made against him or her.



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

Section 1. 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 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 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.

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

5. Before taking a child for placement in protective custody, the person taking the child shall show his or her identification to any person who is responsible for the child and is present at the time the child is taken. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child



1 shall show his or her identification to any other person upon request.
2 The identification required by this subsection must be a single card
3 that contains a photograph of the person taking the child and
4 identifies the person as a person authorized pursuant to this section
5 to place a child in protective custody.

6 6. A child placed in protective custody pending an
7 investigation and a hearing held pursuant to NRS 432B.470 must be
8 placed, except as otherwise provided in NRS 432B.3905, in the
9 following order of priority:

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

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

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

17 (d) In any other licensed shelter that provides care to such
18 children.

19 7. *A child placed pursuant to subsection 6 may be placed with*
20 *a relative or fictive kin who has had a substantiated report of child*
21 *abuse or neglect made against him or her if:*

22 (a) *The relative or fictive kin and the applicable agency which*
23 *provides child welfare services developed an appropriate plan*
24 *relating to the substantiated report of child abuse or neglect; and*

25 (b) *The relative or fictive kin completed the plan to the*
26 *satisfaction of the applicable agency which provides child welfare*
27 *services.*

28 8. Whenever possible, a child placed pursuant to subsection 6
29 must be placed together with any siblings of the child. Such a child
30 must not be placed in a jail or other place for detention,
31 incarceration or residential care of persons convicted of a crime or
32 children charged with delinquent acts.

33 ~~18-1~~ 9. A person placing a child in protective custody pursuant
34 to subsection 1 shall:

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

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

40 (c) As soon as practicable, inform the agency which provides
41 child welfare services and the appropriate law enforcement agency,
42 except that if the placement violates the provisions of NRS
43 432B.3905, the person shall immediately provide such notification.

44 ~~19-1~~ 10. If a child is placed with any person who resides outside
45 this State, the placement must be in accordance with NRS 127.330.



~~10-1~~ 11. As used in this section, “fictive kin” means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

Sec. 2. NRS 432B.550 is hereby amended to read as follows:

432B.550 1. If the court finds that a child is in need of protection, it may, by its order, after receipt and review of the report from the agency which provides child welfare services:

(a) Permit the child to remain in the temporary or permanent custody of the parents of the child or a guardian with or without supervision by the court or a person or agency designated by the court, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe;

(b) Place the child in the temporary or permanent custody of a relative, a fictive kin or other person the court finds suitable to receive and care for the child with or without supervision, and with or without retaining jurisdiction of the case, upon such conditions as the court may prescribe; or

(c) Place the child in the temporary custody of a public agency or institution authorized to care for children, the local juvenile probation department, the local department of juvenile services or a private agency or institution licensed by the Department of Health and Human Services or a county whose population is 100,000 or more to care for such a child.

➤ In carrying out this subsection, the court may, in its sole discretion and in compliance with the requirements of chapter 159 of NRS, consider an application for the guardianship of the child. If the court grants such an application, it may retain jurisdiction of the case or transfer the case to another court of competent jurisdiction.

2. If, pursuant to subsection 1, a child is placed other than with a parent:

(a) The parent retains the right to consent to adoption, to determine the child’s religious affiliation and to reasonable visitation, unless restricted by the court. If the custodian of the child interferes with these rights, the parent may petition the court for enforcement of the rights of the parent.

(b) The court shall set forth good cause why the child was placed other than with a parent.

3. If, pursuant to subsection 1, the child is to be placed with a relative or fictive kin, the court may consider, among other factors, whether the child has resided with a particular relative or fictive kin for 3 years or more before the incident which brought the child to the court’s attention.

4. *A child placed pursuant to subsection 1 may be placed with a relative or fictive kin who has had a substantiated report of child abuse or neglect made against him or her if:*



(a) The relative or fictive kin and the applicable agency which provides child welfare services developed an appropriate plan relating to the substantiated report of child abuse or neglect; and

(b) The relative or fictive kin completed the plan to the satisfaction of the applicable agency which provides child welfare services.

5. Except as otherwise provided in this subsection, a copy of the report prepared for the court by the agency which provides child welfare services must be sent to the custodian and the parent or legal guardian. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the location of the parent is unknown, the report need not be sent to that parent.

~~5-1~~ 6. In determining the placement of a child pursuant to this section, if the child is not permitted to remain in the custody of the parents of the child or guardian:

(a) It must be presumed to be in the best interests of the child to be placed together with the siblings of the child.

(b) Preference must be given to placing the child in the following order:

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

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

~~16-1~~ 7. Any search for a relative with whom to place a child pursuant to this section must be completed within 1 year after the initial placement of the child outside of the home of the child. If a child is placed with any person who resides outside of this State, the placement must be in accordance with NRS 127.330.

~~17-1~~ 8. Within 60 days after the removal of a child from the home of the child, the court shall:

(a) Determine whether:

(1) The agency which provides child welfare services has made the reasonable efforts required by paragraph (a) of subsection 1 of NRS 432B.393; or

(2) No such efforts are required in the particular case; and

(b) Prepare an explicit statement of the facts upon which its determination is based.

~~18-1~~ 9. As used in this section, "fictive kin" means a person who is not related by blood to a child but who has a significant emotional and positive relationship with the child.

