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SENATE BILL NO. 292—SENATOR CANCELA

MARCH 18, 2019

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Referred to Committee on Health and Human Services

**SUMMARY**—Requires certain payments to be provided to certain persons with whom a child is placed by a court. (BDR 38-54)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 1, 2)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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**AN ACT** relating to child welfare; requiring certain payments to be made to a relative or fictive kin who assumes primary responsibility for caring for a child under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes the placement of a child who is placed in protective  
2 custody or determined to be in need of protection with a person who is: (1) related  
3 within the fifth degree of consanguinity or a fictive kin; and (2) suitable and able to  
4 provide proper care and guidance for the child. (NRS 432B.390, 432B.550)  
5 “Fictive kin” is defined as a person who is not related by blood to a child but who  
6 has a significant emotional and positive relationship with the child. This bill  
7 requires an agency which provides child welfare services to provide any amount  
8 that would otherwise be paid if a child was placed in foster care to the relative or  
9 fictive kin with whom such a child is placed and who assumes primary  
10 responsibility for caring for the child.

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

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

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

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

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

17     2. When an agency which provides child welfare services  
18 receives a report pursuant to subsection 2 of NRS 432B.630, a  
19 designee of the agency which provides child welfare services shall  
20 immediately place the child in protective custody.

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

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

38     5. Before taking a child for placement in protective custody,  
39 the person taking the child shall show his or her identification to any  
40 person who is responsible for the child and is present at the time the  
41 child is taken. If a person who is responsible for the child is not  
42 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. Whenever possible, a child placed pursuant to subsection 6  
20 must be placed together with any siblings of the child. Such a child  
21 must not be placed in a jail or other place for detention,  
22 incarceration or residential care of persons convicted of a crime or  
23 children charged with delinquent acts.

24 8. A person placing a child in protective custody pursuant to  
25 subsection 1 shall:

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

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

31 (c) As soon as practicable, inform the agency which provides  
32 child welfare services and the appropriate law enforcement agency,  
33 except that if the placement violates the provisions of NRS  
34 432B.3905, the person shall immediately provide such notification.

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

37 10. *If a child is placed with a person who is related within the*  
38 *fifth degree of consanguinity or a fictive kin pursuant to*  
39 *paragraph (b) of subsection 6 and the person accepts primary*  
40 *responsibility for caring for the child, the agency which provides*  
41 *child welfare services must provide the relative or fictive kin with*  
42 *any amount of payment that would otherwise be provided if the*  
43 *child had been placed in foster care.*



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

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

5 432B.550 1. If the court finds that a child is in need of  
6 protection, it may, by its order, after receipt and review of the report  
7 from the agency which provides child welfare services:

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

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

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

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

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

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

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

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

43 4. Except as otherwise provided in this subsection, a copy of  
44 the report prepared for the court by the agency which provides child  
45 welfare services must be sent to the custodian and the parent or legal



1 guardian. If the child was delivered to a provider of emergency  
2 services pursuant to NRS 432B.630:

3 (a) The parent who delivered the child to the provider shall be  
4 deemed to have waived his or her right to a copy of the report; and

5 (b) A copy of the report must be sent to the parent who did not  
6 deliver the child to the provider, if the location of such parent is  
7 known.

8 5. In determining the placement of a child pursuant to this  
9 section, if the child is not permitted to remain in the custody of the  
10 parents of the child or guardian:

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

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

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

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

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

26 7. *If a child is placed with a person who is related within the*  
27 *fifth degree of consanguinity or a fictive kin pursuant to*  
28 *subparagraph (1) of paragraph (b) of subsection 5 and the person*  
29 *accepts primary responsibility for the care of the child, the agency*  
30 *which provides child welfare services must provide the relative or*  
31 *fictive kin with any amount of payment that would otherwise be*  
32 *provided if the child had been placed in foster care.*

33 8. Within 60 days after the removal of a child from the home of  
34 the child, the court shall:

35 (a) Determine whether:

36 (1) The agency which provides child welfare services has  
37 made the reasonable efforts required by paragraph (a) of subsection  
38 1 of NRS 432B.393; or

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

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

42 ~~8.7~~ 9. As used in this section, "fictive kin" means a person  
43 who is not related by blood to a child but who has a significant  
44 emotional and positive relationship with the child.



1     **Sec. 3.** The provisions of NRS 354.599 do not apply to any  
2 additional expenses of a local government that are related to the  
3 provisions of this act.

4     **Sec. 4.** This act becomes effective on July 1, 2019.





