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Health and Welfare; Dependent Children-Aid and Support

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person is gravely disabled.³

3. See N.R.S. §433A.310.

Health and Welfare; dispositional hearing on placement of foster children

N.R.S. §62.225 (amended).

SB 578 (Committee on Judiciary); STATS 1981, Ch 751

Existing law requires that a court order placing a child in a foster home or similar institution be reviewed semi-annually by a judge or an appointed master.¹ The purpose of the review is to determine whether continued placement or supervision is in the best interest of the child and the public and whether the child is being treated fairly.² Chapter 751 requires dispositional hearings by the court within eighteen months of the review and at least annually thereafter.³ At the hearings the court must determine whether the child should (1) continue to be placed in the foster home or institution,⁴ (2) be returned to his or her parents or other relatives,⁵ (3) be placed for adoption or under legal guardianship,⁶ or (4) remain in the foster home or similar institution on a long-term basis.⁷

1. N.R.S. §62.225 1. See *id.* §62.225 5 (review not required if the child is a delinquent or was placed in the home of the child's parent).

2. *Id.* §62.225 1.

3. *Id.* §62.225 3.

4. *Id.* §62.225 4(b).

5. *Id.* §62.225 4(a).

6. *Id.* §62.225 4(c).

7. *Id.* §62.225 4(d).

Health and Welfare; dependent children—aid and support

N.R.S. §§425.060, 425.250, 425.350, 425.360, 425.400 (amended).

AB 158 (Stewart); STATS 1981, Ch 183

(§425.060 effective May 6, 1981)

Chapter 183 modifies requirements for aid to dependent children,¹ provides penalties for obtaining assistance by fraudulent means,² estab-

1. See generally N.R.S. §425.060.

2. See generally *id.* §425.250.

lishes a statutory duty of parental support,³ and broadens the availability of records for collection of support.⁴

Prior law required an otherwise eligible child to reside in Nevada for one year prior to application for assistance as a condition to receiving aid to dependent children.⁵ Chapter 183 eliminates the one-year residency requirement.⁶ Assistance⁷ must be provided to any dependent child⁸ who is otherwise eligible⁹ if the child is living in Nevada and either (1) the child or the caretaker relative is domiciled in Nevada or, (2) the caretaker relative is living in Nevada, not receiving assistance from another state, and has the promise of a job or is seeking employment in the state.¹⁰ The removal of the one-year residency requirement may have been influenced by the United States Supreme Court decisions holding that some durational residency requirements for certain benefits violate the equal protection clause.¹¹

Prior to the enactment of Chapter 183, obtaining assistance in a value of \$100 or more than the applicant was entitled by use of false representations or by fraudulent device was punishable as a gross misdemeanor.¹² Chapter 183 now specifies that any persons obtaining assistance, whether by one act or a series of acts, with the intent to cheat, or defraud the state, is punishable by imprisonment in the state prison for one to ten years or by a fine of up to \$10,000 or both.¹³ In addition, the violator may be required to make full restitution for the value of assistance fraudulently obtained.¹⁴

Chapter 183 declares that a parent's duty of support to minor children includes, but is not limited to, common law as well as statutory duties.¹⁵ Existing law, however, requires an applicant or recipient to

3. See generally *id.* §425.350.

4. See generally *id.* §425.400.

5. See STATUTES OF NEVADA 1955, c. 409, §6, at 839.

6. Compare N.R.S. §425.060 1 with STATUTES OF NEVADA 1955, c. 409, §6, at 839.

7. See N.R.S. §425.030 (definition of assistance).

8. See *id.* (definition of dependent child).

9. *Id.* §425.060.

10. See *id.*

11. See, e.g., *Shapiro v. Thompson*, 394 U.S. 618 (1969) (invalidating residency requirements as violating constitutional right to interstate travel); *Memorial Hospital v. Maricopa County*, 415 U.S. 250 (1974) (state failed to show the durational residence requirements "legitimately defensible" in that it furthers a compelling state interest); *Parks v. Harden*, 504 F.2d 861 (5th Cir. 1974) (eligibility for assistance under the aid to families with dependent children program is measured by federal not state standards).

12. See STATUTES OF NEVADA 1977, c. 381, §35, at 727.

13. See N.R.S. §§425.240, 425.250 2 (this offense is now considered a felony).

14. See *id.*

15. See *id.* §425.350 1. See also *id.* §§126.241, 201.020; Miller, *Federal Law and the Enforcement of Child Support Orders: A Critical Look at Subchapter 4 Part D of the Social Services Amendments of 1974*, 6 N.Y.U. REV. L. & SOC. CHANGE, 23-42 (1976) (an estimated 80% of AFDC recipients receive assistance because of a deserting parent. Between the years of 1961 and 1973, the number of children eligible for AFDC because of a deserting parent more than tripled.);

make an assignment to the Welfare Division of the Department of Human Resources (hereinafter referred to as the Division) of all rights to support from any parent responsible for support as an incident to accepting assistance.¹⁶ Chapter 183 now requires the assignment to include support rights from any other person on behalf of the applicant or any other family member for whom the applicant or recipient is applying for or receiving assistance.¹⁷ The assignment of these rights constitutes a support debt owed by the responsible parent to the State.¹⁸ The amount of the support debt is equal to the lesser of (1) the amount of assistance paid, (2) the amount due under court order, or (3) the amount due under the formula developed by the Division.¹⁹ Collection of the support debt is limited to the amount accrued and unpaid under a court order for six years preceding the commencement of the action.²⁰ If there is no court order for support or if the court order provides that no support is due, the amount of the support debt must be determined with the formula established by regulation of the Division for the three years preceding the commencement of the action, less any amounts paid during that period.²¹ Furthermore, Chapter 183 requires that an attempt be made by the Division to notify the responsible parent as soon as possible that the child is receiving public assistance,²² however, the obligation of the support debt is not affected by failure of the parent to receive prior notice that the child was receiving public assistance.²³

Existing law maintains a unit within the Division to coordinate information about deserting responsible parents.²⁴ Chapter 183 now adds financial institutions, businesses that provide credit reports, and public utilities to the list of agencies from which the Division may request information.²⁵ Furthermore, prior law limited the availability of the records on deserting responsible parents to the attorney general, a district attorney, or a court of competent jurisdiction.²⁶ Chapter 183 expands the availability to include the resident parent, legal guardian, attorney, or agent of a child who is not receiving federal aid to depen-

Comment, *Child Support Enforcement and Establishment of Paternity as Tools of Welfare Reform—Social Services Amendments of 1974, pt. B*, 42 U.S.C. §§651-60 (Supp. V, 1975), 52 WASH. L. REV. 169 (1976).

16. See N.R.S. §425.350 2.

17. See *id.*

18. See *id.* §425.360 1.

19. See *id.* §425.350 5.

20. See *id.* §425.350 4(a).

21. See *id.* §425.350 4(b).

22. See *id.* §425.350 2.

23. See *id.* §425.360 2.

24. See *id.* §425.400 1.

25. See *id.* §425.400 2(d), (e).

26. See STATUTES OF NEVADA 1977, c. 381, §17, at 722.

dent children.²⁷ Existing law also provides that the Division or the prosecuting attorney will be supplied on request with all information on hand relative to the location, income and property of such parent.²⁸ Thus, a danger may exist that the Welfare Division will begin to accumulate and disseminate potentially incriminating information against private individuals.²⁹ This problem may be minimized, however, if the information made available is limited to names, addresses, and phone numbers.³⁰

In summary, Chapter 183 amends statutes governing aid to dependent children to conform with constitutional standards governing residency requirements for obtaining public assistance,³¹ has established a statutory duty of parental support,³² has broadened the availability of records for collection of support,³³ and has provided penalties for obtaining assistance by fraudulent means.³⁴

27. See N.R.S. §425.400 3(d).

28. *Id.* §425.400 2(e).

29. See generally Miller, *supra*, at 15.

30. See N.R.S. §425.400 2(e).

31. See *id.* §425.060.

32. See *id.* §425.350 1(a), (b).

33. See *id.* §425.400 2, 3.

34. See *id.* §425.250 1.

Health and Welfare; cruelty to animals

N.R.S. §574.— (new); §§574.050, 574.100 (amended).

SB 405 (Committee on Natural Resources); STATS 1981, Ch 364

Existing law specifies that anyone who treats an animal¹ cruelly² is guilty of a misdemeanor.³ Prior to the enactment of Chapter 364, however, Nevada law did not provide for the seizure, care, and disposition of animals that have been cruelly treated.⁴ Chapter 364 gives any officer with the authority to make an arrest for cruelty to animals the power to take possession of an abused animal and provide it with shelter and care.⁵ In addition, the officer may have the animal humanely destroyed if the owner gives written permission.⁶

1. See N.R.S. §574.050 1 (definition of animal).

2. See *id.* §574.050 2 (definition of cruelty).

3. See *id.* §574.100.

4. Compare *id.* §574.— with *id.* §§574.010-574.200.

5. See *id.* §574.— 1. *But see id.* §574.— 6 (Chapter 364 does not apply to animals located on land utilized for agricultural use). See also *id.* §§361A.030 (definition of agricultural use), 574.040 1 (persons authorized to take possession of abused animals).

6. See *id.* §574.— 1.