

ASSEMBLY BILL NO. 34—ASSEMBLYWOMAN BERMAN

PREFILED JANUARY 24, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing granting of rights to visitation with child to persons other than parents of child. (BDR 11-193)

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 domestic relations; revising the provisions governing the granting of rights to visitation with a child to persons other than the parents of the child; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 125C.050 is hereby amended to read as follows:
2 125C.050 1. Except as otherwise provided in ~~[subsection 3.]~~ *this*
3 *section*, if a parent of an unmarried minor child:
4 (a) Is deceased;
5 (b) Is divorced or separated from the parent who has custody of the
6 child;
7 (c) Has never been legally married to the other parent of the child, but
8 cohabitated with the other parent and is deceased or is separated from the
9 other parent; or
10 (d) Has relinquished his parental rights or his parental rights have been
11 terminated,
12 the district court in the county in which the child resides may grant to the
13 great-grandparents and grandparents of the child and to other children of
14 either parent of the child a reasonable right to visit the child during his
15 minority, if *a parent of the child has denied or unreasonably restricted*
16 *visits with the child and if* the court finds that the *party seeking visitation*
17 *has proved by clear and convincing evidence that the* visits would be in
18 the best interests of the child.
19 2. If the child has resided with a person with whom he has established
20 a meaningful relationship, the court also may grant to that person a
21 reasonable right to visit the child during his minority, regardless of whether

the person is related to the child, if *a parent of the child has denied or unreasonably restricted visits with the child and if the court finds that the party seeking visitation has proved by clear and convincing evidence that the visits would be in the best interests of the child.*

3. ~~[(a)]~~ *To be granted a right to visitation pursuant to subsection 1 or 2, a party seeking visitation must rebut, by clear and convincing evidence, the presumption that the denial or restriction of visitation with the child by a parent of the child is in the best interests of the child. In addition to considering this presumption, in* determining whether to grant a right to visitation to a ~~[petitioner]~~ *party seeking visitation* pursuant to subsection 1 or 2, the court shall consider:

(a) The love, affection and other emotional ties existing between the party seeking visitation and the child.

(b) The capacity and disposition of the party seeking visitation to:

(1) Give the child love, affection and guidance and serve as a role model to the child;

(2) Cooperate in providing the child with food, clothing and other material needs during visitation; and

(3) Cooperate in providing the child with health care or alternative care recognized and permitted under the laws of this state in lieu of health care.

(c) The prior relationship between the child and the party seeking visitation, including, without limitation, whether the child resided with the party seeking visitation and whether the child was included in holidays and family gatherings with the party seeking visitation.

(d) The moral fitness of the party seeking visitation.

(e) The mental and physical health of the party seeking visitation.

(f) The reasonable preference of the child, if the child has a preference, and if the child is determined to be of sufficient maturity to express a preference.

(g) The willingness and ability of the party seeking visitation to facilitate and encourage a close and continuing relationship between the child and the parent or parents of the child as well as with other relatives of the child.

(h) The medical and other needs of the child related to health as affected by the visitation.

(i) The support provided by the party seeking visitation, including, without limitation, whether the party has contributed to the financial support of the child.

(j) Any other factor considered relevant by the court to a particular dispute.

4. If the parental rights of either or both natural parents of a child are relinquished or terminated, and the child is placed in the custody of a public agency or a private agency licensed to place children in homes, the district court in the county in which the child resides may grant to the great-grandparents and grandparents of the child and to other children of either parent of the child a reasonable right to visit the child during his minority if a petition therefor is filed with the court before the date on which the parental rights are relinquished or terminated. In determining

1 whether to grant this right to a ~~[petitioner,]~~ *party seeking visitation*, the
2 court must find that the *party seeking visitation has proved by clear and*
3 *convincing evidence that the* visits would be in the best interests of the
4 child in light of the considerations set forth in *paragraphs (a) to (j),*
5 *inclusive, of* subsection 3.

6 5. Rights to visit a child may be granted:

7 (a) In a divorce decree;

8 (b) In an order of separate maintenance; or

9 (c) Upon a petition filed by an eligible person:

10 (1) After a divorce or separation or after the death of a parent, or
11 upon the relinquishment or termination of a parental right;

12 (2) If the parents of the child were not legally married and were
13 cohabitating, after the death of a parent or after the separation of the
14 parents of the child; or

15 (3) If the petition is based on the provisions of subsection 2, after the
16 eligible person ceases to reside with the child.

17 6. If a court terminates the parental rights of a parent who is divorced
18 or separated, any rights previously granted pursuant to subsection 1 also
19 must be terminated, unless the court finds that visits by those persons
20 would be in the best interests of the child.

21 7. For the purposes of this section, "separation" means:

22 (a) A legal separation or any other separation of a married couple if the
23 couple has lived separate and apart for 30 days or more and has no present
24 intention of resuming a marital relationship; or

25 (b) If a couple was not legally married but cohabitating, a separation of
26 the couple if the couple has lived separate and apart for 30 days or more
27 and has no present intention of resuming cohabitation or entering into a
28 marital relationship.

29 **Sec. 2.** The amendatory provisions of this act apply to a petition for
30 visitation that is filed on or after the effective date of this act.

31 **Sec. 3.** This act becomes effective upon passage and approval.

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