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FIRST REPRINT

S.B. 25

SENATE BILL NO. 25—SENATOR O’CONNELL (BY REQUEST)

PREFILED JANUARY 19, 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 11-45)

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 ~~3.1~~ 6, if a
3 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; ~~for~~
10 (d) Has relinquished his parental rights or his parental rights have been
11 terminated ~~1.1~~ ; or
12 ~~(e) Has prohibited visitation between the child and the great-~~
13 ~~grandparents or grandparents of the child or between the child and the~~
14 ~~other children of either parent of the child,~~
15 the district court in the county in which the child resides may grant to the
16 great-grandparents and grandparents of the child and to other children of
17 either parent of the child a reasonable right to visit the child during his
18 minority . ~~1.1 if the court finds that the visits would be in the best interests of~~
19 ~~the child.1~~



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1 2. If the child has resided with a person with whom he has established
2 a meaningful relationship, the *district* court ~~{also} in the county in which~~
3 *the child resides* may grant to that person a reasonable right to visit the
4 child during his minority, regardless of whether the person is related to the
5 child. ~~{, if the court finds that the visits would be in the best interests of the~~
6 ~~child.}~~

7 3. *There is a rebuttable presumption that the granting of a right to*
8 *visitation to a party seeking visitation pursuant to subsection 1 or 2 is not*
9 *in the best interests of the child. To rebut this presumption, the party*
10 *seeking visitation must prove by clear and convincing evidence that the*
11 *child will suffer harm if a right to visitation is not granted to the party*
12 *seeking visitation.*

13 4. *The court may grant a party seeking visitation pursuant to*
14 *subsection 1 or 2 a reasonable right to visit the child during his minority*
15 *if the court finds that:*

16 (a) *The party seeking visitation has rebutted the presumption*
17 *established in subsection 3; and*

18 (b) *The visits would be in the best interests of the child.*

19 5. In determining whether ~~{to grant a right to visitation to a petitioner~~
20 ~~pursuant to subsection 1 or 2,}~~ *the party seeking visitation has rebutted the*
21 *presumption established in subsection 3 and whether the visits would be*
22 *in the best interests of the child,* the court shall consider:

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

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

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

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

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

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

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

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

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

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

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



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

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

6 ~~—4—~~ *arising solely from the facts and circumstances of the particular*
7 *dispute that specifically pertains to the need for granting a right to*
8 *visitation pursuant to subsection 1 or 2 against the wishes of a parent of*
9 *the child.*

10 6. If the parental rights of either or both natural parents of a child are
11 relinquished or terminated, and the child is placed in the custody of a
12 public agency or a private agency licensed to place children in homes, the
13 district court in the county in which the child resides may grant to the
14 great-grandparents and grandparents of the child and to other children of
15 either parent of the child a reasonable right to visit the child during his
16 minority if a petition therefor is filed with the court before the date on
17 which the parental rights are relinquished or terminated. In determining
18 whether to grant this right to a ~~petitioner,~~ *party seeking visitation*, the
19 court must find *, by a preponderance of the evidence*, that the visits would
20 be in the best interests of the child in light of the considerations set forth in
21 *paragraphs (a) to (i), inclusive, of subsection 3-5.*

22 ~~5-7~~ 7. Rights to visit a child may be granted:

- 23 (a) In a divorce decree;
24 (b) In an order of separate maintenance; or
25 (c) Upon a petition filed by an eligible person:
26 (1) After a divorce or separation or after the death of a parent, or
27 upon the relinquishment or termination of a parental right;
28 (2) If the parents of the child were not legally married and were
29 cohabitating, after the death of a parent or after the separation of the
30 parents of the child; ~~to~~

31 (3) *If the petition is based on the prohibition of visitation between*
32 *the child and the great-grandparents or grandparents of the child or*
33 *between the child and the other children of either parent of the child,*
34 *after a parent has prohibited such visitation; or*

35 (4) If the petition is based on the provisions of subsection 2, after the
36 eligible person ceases to reside with the child.

37 ~~6-8~~ 8. If a court terminates the parental rights of a parent who is
38 divorced or separated, any rights previously granted pursuant to subsection
39 1 also must be terminated, unless the court finds that visits by those
40 persons would be in the best interests of the child.

41 ~~7-9~~ 9. *If the court denies a petition for visitation filed pursuant to*
42 *paragraph (e) of subsection 1, the court shall award reasonable*
43 *attorney's fees and costs incurred by a party who opposed the granting of*
44 *the petition.*

45 10. For the purposes of this section, "separation" means:

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



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

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

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

