

SENATE BILL NO. 369—SENATOR MCGINNESS

MARCH 16, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing child custody, child support and paternity actions. (BDR 11-965)

FISCAL NOTE: Effect on Local Government: Yes.
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 provisions governing the withholding of income for payment of support for a child; creating a presumptive preference for joint custody of a child; creating a rebuttable presumption that both parents are fit to be awarded joint custody of a child; requiring the parents of a child to share equally the cost of supporting the child under certain circumstances; revising provisions governing the calculation of support for a child; revising provisions governing the presumptive effect of domestic violence upon custody determinations; providing for relief from certain determinations concerning parentage and support of a child; providing penalties; 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 125.450 is hereby amended to read as follows:
- 2 125.450 1. No court may grant a divorce, separate maintenance or
- 3 annulment pursuant to this chapter, if there are one or more minor children
- 4 residing in this state who are the issue of the relationship, without first
- 5 providing for the medical and other care, support, education and
- 6 maintenance of those children as required by chapter 125B of NRS.
- 7 2. ~~Every~~ *Except as otherwise provided in subsection 3, every* order
- 8 for the support of a child issued or modified after January 1, 1990, must
- 9 include an order directing the withholding or assignment of income for the
- 10 payment of the support unless one of the parties demonstrates and the court
- 11 finds good cause for the postponement of the withholding or assignment or
- 12 all parties otherwise agree in writing. Such an order for withholding or
- 13 assignment must be carried out in the manner provided in chapter 31A of
- 14 NRS for the withholding or assignment of income.



1 **3. An order for the support of a child must not include an order**
2 **directing the withholding or assignment of income for the payment of the**
3 **support if the court has:**

4 (a) **Awarded joint legal and physical custody of the child to the**
5 **parties; and**

6 (b) **Ordered that the costs of support of the child are to be shared**
7 **equally by the parties.**

8 **Sec. 2.** NRS 125.480 is hereby amended to read as follows:

9 125.480 1. In determining custody of a minor child in an action
10 brought ~~under~~ **pursuant to** this chapter, ~~the sole consideration of the~~
11 ~~court is the best interest of the child. If it appears to the court that joint~~
12 ~~custody would be in the best interest of the child, the court may grant~~
13 ~~custody to the parties jointly.~~

14 ~~2. Preference must not be given to either parent for the sole reason that~~
15 ~~the parent is the mother or the father of the child.~~

16 ~~3. The~~ **the** court shall award custody in the following order of
17 preference : ~~unless in a particular case the best interest of the child~~
18 ~~requires otherwise.~~

19 (a) To both parents jointly pursuant to NRS 125.490. ~~or to~~

20 (b) **To** either parent. If the court does not enter an order awarding joint
21 custody of a child after either parent has applied for joint custody, the court
22 shall **make a finding that the parents are not capable of cooperating in**
23 **the care of the child and** state in its decision the reason for its denial of the
24 parent's application. When awarding custody to either parent, the court
25 shall consider, among other factors, which parent is more likely to allow
26 the child to have frequent associations and a continuing relationship with
27 the noncustodial parent.

28 ~~(b)~~ (c) To a person or persons in whose home the child has been
29 living and where the child has had a wholesome and stable environment.

30 ~~(e)~~ (d) To any person related within the third degree of consanguinity
31 to the child whom the court finds suitable and able to provide proper care
32 and guidance for the child, regardless of whether the relative resides within
33 this state.

34 ~~(d)~~ (e) To any other person or persons whom the court finds suitable
35 and able to provide proper care and guidance for the child.

36 ~~4. In~~

37 **2. When awarding custody of a child other than joint custody, in**
38 determining the best interest of the child, the court shall consider, among
39 other things:

40 (a) The wishes of the child if the child is of sufficient age and capacity
41 to form an intelligent preference as to his custody;

42 (b) Any nomination by a parent of a guardian for the child; and

43 (c) Whether either parent or any other person seeking custody has
44 engaged in an act of domestic violence against the child, a parent of the
45 child or any other person residing with the child.

46 ~~5.~~ **3.** Except as otherwise provided in subsection ~~6 or~~ **4** , NRS
47 125C.210 ~~;~~ **or section 16 of this act**, a determination by the court after an
48 evidentiary hearing and finding by clear and convincing evidence that
49 ~~either parent or any other person~~ **any person, other than the parent of a**



1 **child**, seeking custody has engaged in one or more acts of domestic
2 violence against the child, a parent of the child or any other person residing
3 with the child creates a rebuttable presumption that sole or joint custody of
4 the child by the perpetrator of the domestic violence is not in the best
5 interest of the child. Upon making such a determination, the court shall set
6 forth:

7 (a) Findings of fact that support the determination that one or more acts
8 of domestic violence occurred; and

9 (b) Findings that the custody or visitation arrangement ordered by the
10 court adequately protects the child and the parent or other victim of
11 domestic violence who resided with the child.

12 ~~16-1~~ 4. If, after an evidentiary hearing held pursuant to subsection ~~15~~
13 3, the court determines that each party has engaged in acts of domestic
14 violence, it shall, if possible, then determine which person was the primary
15 physical aggressor. In determining which party was the primary physical
16 aggressor for the purposes of this section, the court shall consider:

17 (a) All prior acts of domestic violence involving either party;

18 (b) The relative severity of the injuries, if any, inflicted upon the
19 persons involved in those prior acts of domestic violence;

20 (c) The likelihood of future injury;

21 (d) Whether, during the prior acts, one of the parties acted in self-
22 defense; and

23 (e) Any other factors which the court deems relevant to the
24 determination.
25 In such a case, if it is not possible for the court to determine which party is
26 the primary physical aggressor, the presumption created pursuant to
27 subsection ~~15~~ 3 applies to both parties. If it is possible for the court to
28 determine which party is the primary physical aggressor, the presumption
29 created pursuant to subsection ~~15~~ 3 applies only to the party determined by
30 the court to be the primary physical aggressor.

31 ~~17-1~~ 5. As used in this section, "domestic violence" means the
32 commission of any act described in NRS 33.018.

33 **Sec. 3.** NRS 125.490 is hereby amended to read as follows:

34 125.490 1. There is a presumption, affecting the burden of proof, that
35 ~~joint~~ :

36 (a) *Both parents are fit to share equally the physical and legal custody*
37 *of a minor child of the marriage; and*

38 (b) *Joint custody ~~if the parents have agreed to an award of joint custody or so agree in open court~~ of a minor child ~~if the~~*
39 *~~parents have agreed to an award of joint custody or so agree in open court~~ ~~at a hearing for the purpose of determining the custody of the minor child~~*
40 *~~or children of the marriage.] is an appropriate award of custody.~~*

41
42 2. The court may award joint legal custody without awarding joint
43 physical custody in a case where the parents have agreed to joint legal
44 custody.

45 3. For assistance in making a determination whether an award of joint
46 custody is ~~appropriate,~~ *consistent with the presumptions created by this*
47 *section,* the court may direct that an investigation be conducted ~~1-1~~
48 *to determine whether the parents are capable of cooperating in the care of*
49 *the child.*



1 **Sec. 4.** NRS 125.500 is hereby amended to read as follows:
2 125.500 1. Before the court makes an order awarding custody to any
3 person other than a parent, without the consent of the parents, it shall make
4 a finding that an award of custody to a parent would be detrimental to the
5 child. ~~and the award to a nonparent is required to serve the best interest of~~
6 ~~the child.~~

7 2. No allegation that parental custody would be detrimental to the
8 child, other than a statement of that ultimate fact, may appear in the
9 pleadings.

10 3. The court may exclude the public from any hearing on this issue.

11 **Sec. 5.** NRS 125.510 is hereby amended to read as follows:

12 125.510 1. In determining the custody of a minor child in an action
13 brought pursuant to this chapter, the court may, except as otherwise
14 provided in this section and chapter 130 of NRS:

15 (a) During the pendency of the action, at the final hearing or at any time
16 thereafter during the minority of any of the children of the marriage, make
17 ~~such~~ an order for the custody, care, education, maintenance and support
18 of the minor children ; ~~as appears in their best interest;~~ and

19 (b) ~~At any time~~ *Upon the request of a party*, modify or vacate its
20 order, even if the divorce was obtained by default without an appearance in
21 the action by one of the parties.

22 The party seeking such an order shall submit to the jurisdiction of the court
23 for the purposes of this subsection. The court may make such an order
24 upon the application of one of the parties or the legal guardian of the
25 minor.

26 2. Any order for joint custody may be modified or terminated by the
27 court upon the petition of one or both parents . ~~for on the court's own~~
28 ~~motion if it is shown that the best interest of the child requires the~~
29 ~~modification or termination.~~ The court shall state in its decision the
30 reasons for the order of modification or termination if either parent opposes
31 it.

32 3. Any order for custody of a minor child or children of a marriage
33 entered by a court of another state may, subject to the jurisdictional
34 requirements in chapter 125A of NRS, be modified at any time to an order
35 of joint custody.

36 4. A party may proceed pursuant to this section without counsel.

37 5. Any order awarding a party a limited right of custody to a child
38 must define that right with sufficient particularity to ensure that the rights
39 of the parties can be properly enforced . ~~and that the best interest of the~~
40 ~~child is achieved.~~ The order must include all specific times and other
41 terms of the limited right of custody. As used in this subsection, "sufficient
42 particularity" means a statement of the rights in absolute terms and not by
43 the use of the term "reasonable" or other similar term which is susceptible
44 to different interpretations by the parties.

45 6. All orders authorized by this section must be made in accordance
46 with the provisions of chapter 125A of NRS and must contain the
47 following language:



1 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,
2 CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF
3 THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS
4 PROVIDED IN NRS 193.130. NRS 200.359 provides that every person
5 having a limited right of custody to a child or any parent having no right of
6 custody to the child who willfully detains, conceals or removes the child
7 from a parent, guardian or other person having lawful custody or a right of
8 visitation of the child in violation of an order of this court, or removes the
9 child from the jurisdiction of the court without the consent of either the
10 court or all persons who have the right to custody or visitation is subject to
11 being punished for a category D felony as provided in NRS 193.130.

12
13 7. In addition to the language required pursuant to subsection 6, all
14 orders authorized by this section must specify that the terms of the Hague
15 Convention of October 25, 1980, adopted by the 14th Session of the Hague
16 Conference on Private International Law, apply if a parent abducts or
17 wrongfully retains a child in a foreign country.

18 8. If a parent of the child lives in a foreign country or has significant
19 commitments in a foreign country:

20 (a) The parties may agree, and the court shall include in the order for
21 custody of the child, that the United States is the country of habitual
22 residence of the child for the purposes of applying the terms of the Hague
23 Convention as set forth in subsection 7.

24 (b) Upon motion of one of the parties, the court may order the parent to
25 post a bond if the court determines that the parent poses an imminent risk
26 of wrongfully removing or concealing the child outside the country of
27 habitual residence. The bond must be in an amount determined by the court
28 and may be used only to pay for the cost of locating the child and returning
29 him to his habitual residence if the child is wrongfully removed from or
30 concealed outside the country of habitual residence. The fact that a parent
31 has significant commitments in a foreign country does not create a
32 presumption that the parent poses an imminent risk of wrongfully
33 removing or concealing the child.

34 9. Except where a contract providing otherwise has been executed
35 pursuant to NRS 123.080, the obligation for care, education, maintenance
36 and support of any minor child created by any order entered pursuant to
37 this section ceases:

38 (a) Upon the death of the person to whom the order was directed; ~~to~~

39 (b) When the child reaches 18 years of age if he is no longer enrolled in
40 high school, otherwise, when he reaches 19 years of age ~~to~~; or

41 *(c) Upon the order of a court of competent jurisdiction granting relief*
42 *pursuant to section 20 of this act.*

43 10. As used in this section, a parent has “significant commitments in a
44 foreign country” if he:

45 (a) Is a citizen of a foreign country;

46 (b) Possesses a passport in his name from a foreign country;

47 (c) Became a citizen of the United States after marrying the other parent
48 of the child; or

49 (d) Frequently travels to a foreign country.



1 **Sec. 6.** NRS 125B.010 is hereby amended to read as follows:
 2 125B.010 ~~{The}~~
 3 *1. Except as otherwise provided in subsection 2, the* provisions of this
 4 chapter apply to all parents of all children, whether or not legitimated.
 5 *2. The provisions of NRS 125B.070 and 125B.080 do not apply to*
 6 *parents:*
 7 *(a) Who are awarded joint physical and legal custody of a child*
 8 *pursuant to chapter 125 or 125C of NRS; and*
 9 *(b) Who share equally the cost of support for a child.*
 10 *3. A court that awards joint physical and legal custody of a child to*
 11 *the parents of the child shall specify in the order determining custody*
 12 *that the parents are required to share equally in the cost of support for*
 13 *the child.*
 14 *4. For purposes of this section:*
 15 *(a) A rebuttable presumption arises that parents are financially*
 16 *capable of sharing equally the cost of support for a child and that parents*
 17 *will in fact share equally the cost of support for a child when the parents*
 18 *of a child are awarded joint physical and legal custody of a child*
 19 *pursuant to chapter 125 or 125C of NRS.*
 20 *(b) The presumption created by this subsection may be overcome by*
 21 *evidence showing, by a preponderance of the evidence, that:*
 22 *(1) The cost of support for a child is not shared equally or as*
 23 *otherwise agreed to in writing by the parents; or*
 24 *(2) Any of the parties to the proceeding are receiving or have ever*
 25 *received public assistance, or are otherwise not financially capable of*
 26 *sharing equally the cost of support for a child.*
 27 *(c) The cost of support for a child includes, without limitation,*
 28 *payment for the maintenance, health care, education and support of a*
 29 *child.*
 30 *5. As used in this section, "public assistance" means any payment*
 31 *made by the welfare division of the department of human resources to or*
 32 *on behalf of a child pursuant to the provisions of Title 38 of NRS.*

33 **Sec. 7.** NRS 125B.020 is hereby amended to read as follows:
 34 125B.020 1. The parents of a child, ~~{H}~~ in this chapter referred to as
 35 "the ~~{child}~~ child," have a duty to provide *and share equally* the ~~{child}~~
 36 necessary maintenance, health care, education and support ~~{H}~~ of the child.
 37 2. They are also liable ~~{H}~~ *equally*, in the event of the child's death, for
 38 ~~{its}~~ *his* funeral expenses.
 39 3. The father is also liable to pay the expenses of the mother's
 40 pregnancy and confinement.
 41 4. The obligation of the parent to support the child ~~under~~ the laws for
 42 the support of poor relatives applies to children born out of wedlock.

43 **Sec. 8.** NRS 125B.050 is hereby amended to read as follows:
 44 125B.050 1. If there is no court order for support, any demand in
 45 writing to a parent not having physical custody for payment of support on
 46 behalf of a minor child, mailed to the last known address of the parent, tolls
 47 the running of the statute of limitations for the bringing of an action for that
 48 support.



1 2. A motion for relief after judgment and an independent action to
2 enforce a judgment for support of a child may be commenced at any time.

3 3. If a court has issued an order for the support of a child, there is no
4 limitation on the time in which an action may be commenced to:

- 5 (a) Collect arrearages in the amount of that support; or
6 (b) Seek reimbursement of money paid as public assistance for that
7 child.

8 *4. If a court has granted a motion for relief, pursuant to section 20 of
9 this act, from a final judgment, court order, or administrative
10 determination or order that requires a person to pay support for a child
11 pursuant to this chapter or chapter 126 or 425 of NRS, there is no
12 limitation on the time in which an action may be commenced to seek
13 reimbursement of any amounts paid for support of a child pursuant to
14 the judgment, order or determination.*

15 **Sec. 9.** NRS 125B.070 is hereby amended to read as follows:

16 125B.070 1. As used in this section and NRS 125B.080, unless the
17 context otherwise requires:

18 (a) ~~“Gross”~~ *“Net monthly income”* means the total amount of income
19 from any source of a wage-earning employee *after any deductions*
20 *required by federal law* or the gross income from any source of a self-
21 employed person, after deduction of all legitimate business expenses ~~and~~
22 *and deductions required by federal law*, but without deduction for
23 ~~personal income taxes,~~ contributions for retirement benefits,
24 contributions to a pension or for any other personal expenses.

25 (b) “Obligation for support” means the amount *of the net monthly*
26 *income of the parent with the greater income* determined according to the
27 following schedule:

- 28 (1) For one child, 18 percent;
29 (2) For two children, 25 percent;
30 (3) For three children, 29 percent;
31 (4) For four children, 31 percent; and
32 (5) For each additional child, an additional 2 percent.

33 ~~{of a parent's gross monthly income, but not more than \$500 per month per~~
34 ~~child for an obligation for support determined pursuant to subparagraphs~~
35 ~~(1) to (4), inclusive,} unless the court sets forth findings of fact as to the
36 basis for a different amount pursuant to subsection 6 of NRS 125B.080.~~

37 2. *The obligation for support paid by a parent of two or more*
38 *children, whether or not all the children are the issue of the same*
39 *marriage:*

40 (a) *Must be determined by dividing the percentage of net monthly*
41 *income, as provided in the schedule in subsection 1, by the total number*
42 *of children for whom support will be paid; and*

43 (b) *Except as otherwise provided in this chapter, must provide each*
44 *child with an amount of support equal to the amount received by the*
45 *other children who receive support from the parent.*

46 3. On or before January 18, 1993, and on or before the third Monday
47 in January every 4 years thereafter, the State Bar of Nevada shall review
48 the formulas set forth in this section to determine whether any



1 modifications are advisable and report to the legislature their findings and
2 any proposed amendments.

3 **Sec. 10.** NRS 125B.080 is hereby amended to read as follows:

4 125B.080 Except as otherwise provided in NRS **125B.010 or** 425.450:

5 1. A court of this state shall apply the appropriate formula set forth in
6 paragraph (b) of subsection 1 of NRS 125B.070 to:

7 (a) Determine the required support in any case involving the support of
8 children.

9 (b) Any request filed after July 1, 1987, to change the amount of the
10 required support of children.

11 2. If the parties agree as to the amount of support required, the parties
12 shall certify that the amount of support is consistent with the appropriate
13 formula set forth in paragraph (b) of subsection 1 of NRS 125B.070. If the
14 amount of support deviates from the formula, the parties must stipulate
15 sufficient facts in accordance with subsection 9 which justify the deviation
16 to the court, and the court shall make a written finding thereon. Any
17 inaccuracy or falsification of financial information which results in an
18 inappropriate award of support is grounds for a motion to modify or adjust
19 the award.

20 3. If the parties disagree as to the amount of the ~~gross~~ **net** monthly
21 income of either party, the court shall determine the amount and may direct
22 either party to furnish financial information or other records, including
23 income tax returns for the preceding 3 years. Once a court has established
24 an obligation for support by reference to a formula set forth in paragraph
25 (b) of subsection 1 of NRS 125B.070, any subsequent modification or
26 adjustment of that support, except for any modification or adjustment made
27 pursuant to NRS 425.450 or as a result of a review conducted pursuant to
28 subsection 1 of NRS 125B.145, must be based upon changed
29 circumstances.

30 4. Notwithstanding the formulas set forth in paragraph (b) of
31 subsection 1 of NRS 125B.070, the minimum amount of support that may
32 be awarded by a court in any case is \$100 per month per child, unless the
33 court makes a written finding that the obligor is unable to pay the
34 minimum amount. Willful underemployment or unemployment is not a
35 sufficient cause to deviate from the awarding of at least the minimum
36 amount.

37 5. It is presumed that the basic needs of a child are met by the formulas
38 set forth in paragraph (b) of subsection 1 of NRS 125B.070. This
39 presumption may be rebutted by evidence proving that the needs of a
40 particular child are not met by the applicable formula.

41 6. If the amount of the awarded support for a child is greater or less
42 than the amount which would be established **under** the applicable formula,
43 the court shall:

44 (a) Set forth findings of fact as to the basis for the deviation from the
45 formula; and

46 (b) Provide in the findings of fact the amount of support that would
47 have been established under the applicable formula.

48 7. Expenses for health care which are not reimbursed, including
49 expenses for medical, surgical, dental, orthodontic and optical expenses,



1 must be borne equally by both parents in the absence of extraordinary
2 circumstances.

3 8. If a parent who has an obligation for support is willfully
4 underemployed or unemployed to avoid an obligation for support of a
5 child, that obligation must be based upon the parent's true potential earning
6 capacity.

7 9. The court shall consider the following factors when adjusting the
8 amount of support of a child upon specific findings of fact:

- 9 (a) The cost of health insurance;
- 10 (b) The cost of child care;
- 11 (c) Any special educational needs of the child;
- 12 (d) The age of the child;
- 13 (e) The responsibility of the parents for the support of others;
- 14 (f) The value of services contributed by either parent;
- 15 (g) Any public assistance paid to support the child;
- 16 (h) Any expenses reasonably related to the mother's pregnancy and
17 confinement;
- 18 (i) The cost of transportation of the child to and from visitation if the
19 custodial parent moved with the child from the jurisdiction of the court
20 which ordered the support and the noncustodial parent remained;
- 21 (j) The amount of time the child spends with each parent;
- 22 (k) Any other necessary expenses for the benefit of the child; and
- 23 (l) The relative *net monthly* income of both parents.

24 **Sec. 11.** NRS 125B.085 is hereby amended to read as follows:

25 125B.085 1. Except as otherwise provided in NRS 125B.012, every
26 court order for the support of a child issued or modified in this state on or
27 after October 1, ~~1997~~ 2001, must include a provision specifying
28 ~~whether~~ :

29 (a) *Whether the parent required to pay support is required to provide*
30 *coverage for the health care of the child and, if so, any details relating to*
31 *that requirement* ~~+~~ ; or

32 (b) *If there is no court order for support or if the order provides that*
33 *no support is due, that both parents, except as otherwise agreed to in*
34 *writing by the parents, are required to share equally in the cost of*
35 *providing coverage for the health care of the child.*

36 2. *An order issued pursuant to subsection 1 must specify the details*
37 *of an agreement between the parents, if any, to divide unequally the costs*
38 *of providing coverage for the health care of the child.*

39 **Sec. 12.** NRS 125B.120 is hereby amended to read as follows:

40 125B.120 1. The obligation of a parent other than ~~that under the~~
41 ~~laws providing~~ *an obligation* for the support of poor relatives is
42 discharged by ~~complying~~ :

43 (a) *Complying* with a court order for support ~~or~~ ;

44 (b) *Complying* with the terms of a judicially approved settlement ~~+~~ ; or

45 (c) *The grant of relief pursuant to section 20 of this act from a final*
46 *judgment, court order, or administrative determination or order that*
47 *requires a person to pay support for a child.*

48 2. The legal adoption of the child into another family discharges the
49 obligation of his natural parents for the period subsequent to the adoption.



1 **Sec. 13.** NRS 125B.140 is hereby amended to read as follows:
2 125B.140 1. Except as otherwise provided in *NRS 125B.012 and*
3 chapter 130 of NRS ~~and NRS 125B.012;~~ *and section 21 of this act:*

4 (a) If an order issued by a court provides for payment for the support of
5 a child, that order is a judgment by operation of law on or after the date a
6 payment is due. Such a judgment may not be retroactively modified or
7 adjusted and may be enforced in the same manner as other judgments of
8 this state.

9 (b) Payments for the support of a child pursuant to an order of a court
10 which have not accrued at the time either party gives notice that he has
11 filed a motion for modification or adjustment may be modified or adjusted
12 by the court upon a showing of changed circumstances, whether or not the
13 court has expressly retained jurisdiction of the modification or adjustment.

14 2. Except as otherwise provided in subsection 3 and NRS 125B.012,
15 125B.142 and 125B.144:

16 (a) Before execution for the enforcement of a judgment for the support
17 of a child, the person seeking to enforce the judgment must send a notice
18 by certified mail, restricted delivery, with return receipt requested, to the
19 responsible parent:

20 (1) Specifying the name of the court that issued the order for support
21 and the date of its issuance;

22 (2) Specifying the amount of arrearages accrued under the order;

23 (3) Stating that the arrearages will be enforced as a judgment; and

24 (4) Explaining that the responsible parent may, within 20 days after
25 the notice is sent, ask for a hearing before a court of this state concerning
26 the amount of the arrearages.

27 (b) The matters to be adjudicated at such a hearing are limited to a
28 determination of the amount of the arrearages and the jurisdiction of the
29 court issuing the order. At the hearing, the court shall take evidence and
30 determine the amount of the judgment and issue its order for that amount.

31 (c) The court shall determine and include in its order:

32 (1) Interest upon the arrearages at a rate established pursuant to NRS
33 99.040, from the time each amount became due; and

34 (2) A reasonable attorney's fee for the
35 proceeding,

36 unless the court finds that the responsible parent would experience an
37 undue hardship if required to pay such amounts. Interest continues to
38 accrue on the amount ordered until it is paid, and additional attorney's fees
39 must be allowed if required for collection.

40 (d) The court shall ensure that the social security number of the
41 responsible parent is:

42 (1) Provided to the welfare division of the department of human
43 resources.

44 (2) Placed in the records relating to the matter and, except as
45 otherwise required to carry out a specific statute, maintained in a
46 confidential manner.

47 3. Subsection 2 does not apply to the enforcement of a judgment for
48 arrearages if the amount of the judgment has been determined by any court.



1 **Sec. 14.** NRS 125B.142 is hereby amended to read as follows:
2 125B.142 1. If a responsible parent is in arrears in the payment for
3 the support of a child pursuant to an order of a court of this state, the order
4 may be recorded in the manner prescribed in NRS 17.150 for the recording
5 of a judgment lien in the office of the county recorder of any county.

6 2. From the time of its recordation, the order becomes a lien upon all
7 real and personal property owned by the responsible parent in the county in
8 which the order is recorded at the time the order is recorded, or which he
9 acquires in that county after the order is recorded, until the lien expires.

10 3. Except as otherwise provided in subsection 4, a person who wishes
11 to enforce a lien created pursuant to subsection 1 must, within 20 days after
12 he records the order as a lien, send a notice by certified mail, return receipt
13 requested, to the responsible parent:

14 (a) Specifying the name of the court that issued the order and the date of
15 its issuance;

16 (b) Specifying the amount of arrearages under the order;

17 (c) Stating that the order will be enforced as a judgment lien; and

18 (d) Explaining that the responsible parent may, within 20 days after the
19 notice is sent, request a hearing before the court concerning the amount of
20 the arrearages.

21 4. A person who seeks to enforce a lien pursuant to this section is not
22 required to send the notice required pursuant to subsection 3 if the amount
23 of arrearages has been determined by a court of this state.

24 5. If the responsible parent does not request a hearing, or a court of this
25 state has determined the amount of the arrearages owed by the responsible
26 parent, the lien must be given the effect and priority of a judgment lien.

27 6. A lien established pursuant to this section continues until the
28 arrearages are satisfied ~~+~~ *or discharged by the order of a court of
29 competent jurisdiction pursuant to section 21 of this act.*

30 **Sec. 15.** NRS 125B.145 is hereby amended to read as follows:

31 125B.145 1. ~~+~~ *Except as otherwise provided in sections 19 to 22,
32 inclusive, of this act, an* order for the support of a child must, upon the
33 filing of a request for review by:

34 (a) The welfare division of the department of human resources, its
35 designated representative or the district attorney, if the welfare division or
36 the district attorney has jurisdiction in the case; or

37 (b) A parent or legal guardian of the child,
38 be reviewed by the court at least every 3 years pursuant to this section to
39 determine whether the order should be modified or adjusted. Each review
40 conducted pursuant to this section must be in response to a separate
41 request.

42 2. If the court:

43 (a) Does not have jurisdiction to modify the order, the court may
44 forward the request to any court with appropriate jurisdiction.

45 (b) Has jurisdiction to modify the order and, taking into account the best
46 interests of the child, determines that modification or adjustment of the
47 order is appropriate, the court shall enter an order modifying or adjusting
48 the previous order for support in accordance with the requirements of NRS
49 125B.070 and 125B.080.



1 3. The court shall ensure that:
2 (a) Each person who is subject to an order for the support of a child is
3 notified, not less than once every 3 years, that he may request a review of
4 the order pursuant to this section; or

5 (b) An order for the support of a child includes notification that each
6 person who is subject to the order may request a review of the order
7 pursuant to this section.

8 4. An order for the support of a child may be reviewed at any time on
9 the basis of changed circumstances ~~or~~ *or pursuant to a motion for relief*
10 *from an order for the support of a child pursuant to section 20 of this act.*

11 5. As used in this section "order for the support of a child" means such
12 an order that was issued or is being enforced by a court of this state.

13 **Sec. 16.** Chapter 125C of NRS is hereby amended by adding thereto a
14 new section to read as follows:

15 *1. Except as otherwise provided in NRS 125C.210, 125C.220,*
16 *125C.230, 432B.153 and 432B.157:*

17 *(a) When making a determination of the custody of a child, the court:*

18 *(1) Shall not consider evidence of a conviction for an act of*
19 *domestic violence by one parent against the other parent that was*
20 *committed during the marriage;*

21 *(2) Shall consider, in the manner provided in NRS 125C.230 or*
22 *432B.157, evidence of a conviction for an act of domestic violence by a*
23 *parent against the child, regardless of when the act was committed; and*

24 *(3) Shall consider, in the manner provided in NRS 125C.230 or*
25 *432B.157, evidence of a conviction for an act of domestic violence by one*
26 *parent against the other parent that was committed after the date of a*
27 *decree of legal separation or divorce concerning the parents.*

28 *(b) A rebuttable presumption exists that:*

29 *(1) Removing a child from the environment of a marriage in which*
30 *domestic violence has occurred and awarding joint physical and legal*
31 *custody to the parents is in the best interest of the child; and*

32 *(2) The parents of a child are not capable of cooperating in the care*
33 *of the child if a parent is convicted for an act of domestic violence*
34 *against the other parent after the date of a decree of legal separation or*
35 *divorce concerning the parents.*

36 *2. A presumption created pursuant to subsection 1 may be rebutted*
37 *by clear and convincing evidence.*

38 *3. As used in this section, "domestic violence" means the commission*
39 *of any act described in NRS 33.018.*

40 **Sec. 17.** NRS 125C.230 is hereby amended to read as follows:

41 125C.230 1. Except as otherwise provided in NRS 125C.210 and
42 125C.220, *and section 16 of this act*, a determination by the court after an
43 evidentiary hearing and finding by clear and convincing evidence that
44 ~~either parent or any other person~~ *a person, other than the parent of a*
45 *child*, seeking custody of a child has engaged in one or more acts of
46 domestic violence against the child, a parent of the child or any other
47 person residing with the child creates a rebuttable presumption that sole or
48 joint custody of the child by the perpetrator of the domestic violence is not



1 in the best interest of the child. Upon making such a determination, the
2 court shall set forth:

3 (a) Findings of fact that support the determination that one or more acts
4 of domestic violence occurred; and

5 (b) Findings that the custody or visitation arrangement ordered by the
6 court adequately protects the child and the parent or other victim of
7 domestic violence who resided with the child.

8 2. If, after an evidentiary hearing held pursuant to subsection 1, the
9 court determines that more than one party has engaged in acts of domestic
10 violence, it shall, if possible, determine which person was the primary
11 physical aggressor. In determining which party was the primary physical
12 aggressor for the purposes of this section, the court shall consider:

13 (a) All prior acts of domestic violence involving any of the parties;

14 (b) The relative severity of the injuries, if any, inflicted upon the
15 persons involved in those prior acts of domestic violence;

16 (c) The likelihood of future injury;

17 (d) Whether, during the prior acts, one of the parties acted in self-
18 defense; and

19 (e) Any other factors that the court deems relevant to the
20 determination.

21 In such a case, if it is not possible for the court to determine which party is
22 the primary physical aggressor, the presumption created pursuant to
23 subsection 1 applies to each of the parties. If it is possible for the court to
24 determine which party is the primary physical aggressor, the presumption
25 created pursuant to subsection 1 applies only to the party determined by the
26 court to be the primary physical aggressor.

27 3. As used in this section, "domestic violence" means the commission
28 of any act described in NRS 33.018.

29 **Sec. 18.** Chapter 126 of NRS is hereby amended by adding thereto the
30 provisions set forth as sections 19 to 22, inclusive, of this act.

31 **Sec. 19.** *To the extent that any provision of section 20, 21 or 22 of
32 this act is inconsistent with the provisions of chapter 130 of NRS
33 regarding the effect, enforcement or modification of an order relating to
34 the support of a child issued by a court other than a court of this state,
35 the provision of section 20, 21 or 22 of this act does not apply to the
36 order. The enforcement and any modification of such an order must
37 comply with the provisions of chapter 130 of NRS.*

38 **Sec. 20.** *1. Except as otherwise provided in chapter 130 of NRS, a
39 person may file a motion for relief from a final judgment, court order, or
40 administrative determination or order which determines that a person is
41 the father of a child pursuant to this chapter or chapter 425 of NRS or
42 that requires a person to pay support for a child pursuant to this chapter
43 or chapter 125B or 425 of NRS. A person seeking relief pursuant to this
44 section must file the motion in the district court of the county where the
45 original judgment, court order, or administrative determination or order
46 was entered.*

47 *2. A court shall grant relief on a motion brought pursuant to
48 subsection 1 if:*



- 1 (a) *The court receives in evidence results from a test for genetic*
2 *identification administered not more than 6 months before the filing of*
3 *the motion that indicate a 0 percent probability that the person is the*
4 *father of the child;*
5 (b) *A test for genetic identification conducted pursuant to NRS*
6 *126.121 or otherwise conducted pursuant to the order of a court of*
7 *competent jurisdiction in this state, if any, conducted before the filing of*
8 *a motion pursuant to subsection 1 did not indicate a probability that the*
9 *person is the father of the child;*
10 (c) *The child was not the result of a contract with a surrogate for*
11 *assisted conception pursuant to NRS 126.045;*
12 (d) *The child was not conceived as a result of artificial insemination*
13 *pursuant to NRS 126.061; and*
14 (e) *The person has not adopted the child pursuant to chapter 127 of*
15 *NRS.*
16 3. *A court shall not deny relief on a motion brought pursuant to*
17 *subsection 1 if, at the time of the occurrence of an act described in this*
18 *subsection, the person did not know that he was not the father of the*
19 *child and the person:*
20 (a) *Married the mother of the child;*
21 (b) *Was named as the father of the child in the certificate of birth of*
22 *the child;*
23 (c) *Was required to support the child because of a written agreement*
24 *or stipulation to support the child, or by a court order or an*
25 *administrative order;*
26 (d) *Executed an affidavit for voluntary acknowledgment of paternity*
27 *pursuant to NRS 126.053, regardless of whether or not the*
28 *acknowledgment has been rescinded or has become final by operation of*
29 *law;*
30 (e) *Was presumed to be the natural father of the child pursuant to the*
31 *circumstances listed in NRS 126.051;*
32 (f) *Except as otherwise provided in this section, was determined to be*
33 *the father of the child in an action for determination of parentage*
34 *pursuant to this chapter or chapter 125B or 425 of NRS; or*
35 (g) *Otherwise admitted or acknowledged himself to be the father of*
36 *the child.*
37 4. *A court shall not grant relief on a motion brought pursuant to*
38 *subsection 1 if the court determines, by a preponderance of the evidence,*
39 *that the person knew that he was not the natural father of the child*
40 *before the person:*
41 (a) *Failed to plead or defend in an action or proceeding to determine*
42 *paternity and a default was entered against him pursuant to this chapter*
43 *or chapter 125B or 425 of NRS; or*
44 (b) *Otherwise admitted or acknowledged himself to be the father of*
45 *the child.*
46 5. *In any action for relief pursuant to this section, if the results of*
47 *tests for genetic identification submitted in connection with the motion*
48 *for relief are solely provided by the moving party, the court, upon the*
49 *motion of any party to the action, shall order the mother of the child, the*



1 *child and the person, other than the person who filed the motion*
2 *pursuant to this section, alleged to be the father, if any, to submit to tests*
3 *for genetic identification. The clerk of the court shall schedule the tests*
4 *for genetic identification not later than 30 days after the court issues its*
5 *order.*

6 *6. If a party refuses to submit to or fails to appear for a test for*
7 *genetic identification that is ordered pursuant to this section, the court*
8 *may presume that the result of the test would be adverse to the interests*
9 *of that party or may enforce its order if the rights of others and the*
10 *interests of justice so require.*

11 *7. A test for genetic identification conducted for purposes of this*
12 *section must be made by qualified physicians or other qualified persons*
13 *pursuant to restrictions and directions as the court or judge deems*
14 *proper. Whenever such a test is ordered and made, the results of the test*
15 *must be received in evidence and must be made available to a judge*
16 *conducting a hearing pursuant to this section.*

17 *8. Except as otherwise provided in this section, a motion brought*
18 *pursuant to this section is governed by the Nevada Rules of Civil*
19 *Procedure.*

20 **Sec. 21.** *1. If a person files a motion for relief pursuant to section*
21 *20 of this act and the court determines that no parent and child*
22 *relationship exists between the person filing the motion and the child, the*
23 *court:*

24 *(a) May order reasonable attorney's fees and other costs of the action,*
25 *including tests for genetic identification, to be paid by the parties in*
26 *proportions and at times determined by the court. In no event may the*
27 *state be assessed any costs when it is a party to an action to determine*
28 *parentage.*

29 *(b) Shall determine, after notice and a hearing on the matter, whether*
30 *the best interest of the child requires the modification or termination of*
31 *an order pursuant to NRS 125C.050 that grants visitation of the child to*
32 *a relative of the person who was granted relief pursuant to section 20 of*
33 *this act.*

34 *(c) Shall issue an order directing the state registrar of vital statistics to*
35 *prepare a new certificate of birth consistent with the findings of the court*
36 *pursuant to NRS 126.221.*

37 *(d) If arrearages for support of a child are owed, may issue an order*
38 *discharging part or all of the arrearages, penalties and interest as to the*
39 *person who was granted relief pursuant to section 20 of this act.*

40 *2. If relief from a judgment, court order, or administrative*
41 *determination or order for the payment of support for a child is not*
42 *granted pursuant to section 20 of this act, the court shall require the*
43 *person who filed the motion for relief to pay all reasonable attorney's*
44 *fees, court costs and any fees for tests for genetic identification of the*
45 *opposing party.*

46 *3. The provisions of this section do not limit an action by a person*
47 *who was granted relief pursuant to section 20 of this act to recover*
48 *support for a child paid pursuant to the judgment, order or determination*
49 *from which relief was granted.*



1 **Sec. 22.** *1. Except for good cause shown, if a court grants a*
2 *motion for relief brought pursuant to section 20 of this act, a person is*
3 *precluded from filing, after a motion for relief is granted, an action*
4 *pursuant to this chapter or chapter 125B or 425 of NRS to establish a*
5 *parent and child relationship between the person who was granted relief*
6 *and the child who was the subject of the judgment, court order, or*
7 *administrative determination or order from which relief was granted.*

8 *2. After a court grants a motion for relief brought pursuant to*
9 *section 20 of this act, if a person files an action pursuant to this chapter*
10 *or chapter 125B or 425 of NRS and the court determines that no parent*
11 *and child relationship exists between the person and the child, the court*
12 *shall order the person who filed the action to pay all reasonable*
13 *attorney's fees and costs of the action of the opposing party.*

14 *3. For purposes of this section, "good cause shown" includes,*
15 *without limitation, fraud or mistake of material fact shown by clear and*
16 *convincing evidence.*

17 **Sec. 23.** NRS 126.051 is hereby amended to read as follows:

18 126.051 1. A man is presumed to be the natural father of a child if:

19 (a) He and the child's natural mother are or have been married to each
20 other and the child is born during the marriage, or within 285 days after the
21 marriage is terminated by death, annulment, declaration of invalidity or
22 divorce, or after a decree of separation is entered by a court.

23 (b) He and the child's natural mother were cohabiting for at least 6
24 months before the period of conception and continued to cohabit through
25 the period of conception.

26 (c) Before the child's birth, he and the child's natural mother have
27 attempted to marry each other by a marriage solemnized in apparent
28 compliance with law, although the attempted marriage is invalid or could
29 be declared invalid, and:

30 (1) If the attempted marriage could be declared invalid only by a
31 court, the child is born during the attempted marriage, or within 285 days
32 after its termination by death, annulment, declaration of invalidity or
33 divorce; or

34 (2) If the attempted marriage is invalid without a court order, the
35 child is born within 285 days after the termination of cohabitation.

36 (d) While the child is under the age of majority, he receives the child
37 into his home and openly holds out the child as his natural child.

38 (e) Blood tests or tests for genetic identification made pursuant to NRS
39 126.121 show a probability of 99 percent or more that he is the father.

40 2. A presumption under this section may be rebutted in an appropriate
41 action only by clear and convincing evidence. If two or more presumptions
42 arise which conflict with each other, the presumption which on the facts is
43 founded on the weightier considerations of policy and logic controls. The
44 presumption is rebutted by a court decree establishing paternity of the child
45 by another man ~~†~~ *or by an order of the court granting relief pursuant to*
46 *section 20 of this act.*

47 **Sec. 24.** NRS 126.053 is hereby amended to read as follows:

48 126.053 1. After the expiration of the period described in subsection
49 2, an affidavit for the voluntary acknowledgment of paternity developed by



1 the state board of health pursuant to NRS 440.283 shall be deemed to have
2 the same effect as a judgment or order of a court determining the existence
3 of the relationship of parent and child if the affidavit is signed in this or
4 any other state by the mother and father of the child. An affidavit for the
5 voluntary acknowledgment of paternity that is signed pursuant to this
6 subsection is not required to be ratified by a court of this state before the
7 affidavit is deemed to have the same effect as a judgment or order of a
8 court determining the existence of the relationship of parent and child.

9 2. A person who signs an acknowledgment of paternity in this state
10 may rescind the acknowledgment:

11 (a) Within 60 days after the acknowledgment is signed by both persons;
12 or

13 (b) Before the date on which an administrative or judicial proceeding
14 relating to the child begins if that person is a party to the
15 proceeding,
16 whichever occurs earlier.

17 3. After the expiration of the period during which an acknowledgment
18 may be rescinded pursuant to subsection 2, the acknowledgment may not
19 be challenged except upon the grounds of fraud, duress or material mistake
20 of fact. The burden of proof is on the person challenging the
21 acknowledgment to establish that the acknowledgment was signed because
22 of fraud, duress or material mistake of fact.

23 4. Except upon a showing of good cause, a person's obligation for the
24 support of a child must not be suspended during a hearing to challenge a
25 voluntary acknowledgment of paternity ~~or~~ *or during a hearing for relief*
26 *pursuant to section 20 of this act.*

27 5. *For purposes of this section, evidence of results from a test for*
28 *genetic identification administered not more than 6 months before the*
29 *filing of a motion pursuant to section 20 of this act that indicate a 0*
30 *percent probability that a person is the father of the child shall be*
31 *deemed to establish that the acknowledgment was signed because of a*
32 *material mistake of fact.*

33 **Sec. 25.** NRS 126.161 is hereby amended to read as follows:

34 126.161 1. A judgment or order of a court, or a judgment or order
35 entered pursuant to an expedited process, determining the existence or
36 nonexistence of the relationship of parent and child is determinative for all
37 purposes.

38 2. If such a judgment or order of this state is at variance with the
39 child's birth certificate, the judgment or order must direct that a new birth
40 certificate be issued as provided in NRS 440.270 to 440.340, inclusive.

41 3. If the child is a minor, such a judgment or order of this state must
42 provide for his support as required by chapter 125B of NRS and must
43 include an order directing the withholding or assignment of income for the
44 payment of the support unless:

45 (a) One of the parties demonstrates and good cause is found by the court
46 , or pursuant to the expedited process, for the postponement of the
47 withholding or assignment; ~~or~~

48 (b) *The parties have been awarded joint legal and physical custody*
49 *with the costs of support of the child shared equally by the parties; or*



1 (c) All parties otherwise agree in writing.
2 4. Such a judgment or order of this state may:
3 (a) Contain any other provision directed against the appropriate party to
4 the proceeding, concerning the duty of support, the custody and
5 guardianship of the child, visitation with the child, the furnishing of bond
6 or other security for the payment of the judgment, or any other matter in
7 the best interest of the child.
8 (b) Direct the father to pay the reasonable expenses of the mother's
9 pregnancy and confinement. The court may limit the father's liability for
10 past support of the child to the proportion of the expenses already incurred
11 which the court deems just.
12 5. Such a judgment or order of this state must include the social
13 security numbers of the mother and father.
14 6. As used in this section, "expedited process" means a voluntary
15 acknowledgment of paternity, judicial procedure or an administrative
16 procedure established by this or another state, as that term is defined in
17 NRS 130.10179, to facilitate the collection of an obligation for the support
18 of a child.
19 **Sec. 26.** NRS 425.360 is hereby amended to read as follows:
20 425.360 1. Any payment of public assistance pursuant to this chapter
21 creates a debt for support to the division by the responsible parent, whether
22 or not the parent received prior notice that his child was receiving public
23 assistance.
24 2. The division is entitled to the amount to which a dependent child or
25 a person having the care, custody and control of a dependent child would
26 have been entitled for support, to the extent of the assignment of those
27 rights to support pursuant to NRS 425.350, and may prosecute or maintain
28 any action for support or execute any administrative remedy existing under
29 the laws of this state to obtain reimbursement of money expended for
30 public assistance from any liable third party, including an insurer, group
31 health plan as defined in section 607(1) of the Employee Retirement
32 Income Security Act of 1974 ~~{(29 U.S.C.A.) , 29 U.S.C. § 1167(1) , D}~~
33 service benefit plan, or health maintenance organization. If a court enters
34 judgment for an amount of support to be paid by a responsible parent, the
35 division is entitled to the amount of the debt created by that judgment to
36 the extent of the assignment of rights to support pursuant to NRS 425.350,
37 and the judgment awarded shall be deemed to be in favor of the division to
38 that extent. This entitlement applies to, but is not limited to, a temporary
39 order for spousal support, a family maintenance order or an alimony order,
40 whether or not allocated to the benefit of the child on the basis of providing
41 necessities for the caretaker of the child, up to the amount paid by the
42 division in public assistance to or for the benefit of a dependent child. The
43 division may petition the appropriate court for modification of its order on
44 the same grounds as a party to the action.
45 3. If there is no court order for support, or if the order provides that no
46 support is due but the facts on which the order was based have changed,
47 the amount due is the amount computed pursuant to NRS 125B.070 and
48 125B.080, using the Nevada average wage, determined by the employment
49 security division of the department of employment, training and



1 rehabilitation, if the ~~gross~~ *net monthly* income of the responsible parent
2 cannot be otherwise ascertained.

3 4. Debts for support may ~~not~~ be incurred by a parent or any other
4 person who is the recipient of public assistance for the benefit of a
5 dependent child for the period when the parent or other person is a
6 recipient.

7 *5. Except as otherwise provided in subsection 6, the parents of a*
8 *dependent child who is the beneficiary of public assistance are jointly*
9 *and severally liable for repayment of debts for the support of the*
10 *dependent child during the period when a parent or any other person is*
11 *the recipient of public assistance for the benefit of a dependent child.*

12 *6. A parent is not liable for the debts for support incurred*
13 *fraudulently by the other parent or person who is the recipient of public*
14 *assistance for the benefit of a dependent child if the parent did not*
15 *facilitate the perpetration of the fraud.*

16 **Sec. 27.** NRS 425.3828 is hereby amended to read as follows:

17 425.3828 1. If a written response setting forth objections and
18 requesting a hearing is received by the office issuing the notice and finding
19 of financial responsibility within the specified period, a hearing must be
20 held pursuant to NRS 425.3832 and notice of the hearing must be sent to
21 the parent by regular mail.

22 2. If a written response and request for hearing is not received by the
23 office issuing the notice and finding of financial responsibility within the
24 specified period, the master may enter a recommendation for the support of
25 a dependent child in accordance with the notice and shall:

26 (a) Include in that recommendation:

27 (1) If the paternity of the dependent child is established by the
28 recommendation, a declaration of that fact.

29 (2) The amount of monthly support to be paid, including directions
30 concerning the manner of payment.

31 (3) The amount of arrearages owed.

32 (4) Whether coverage for health care must be provided for the
33 dependent child.

34 (5) Any requirements to be imposed pursuant to subparagraph (13) of
35 paragraph (b) of subsection 2 of NRS 425.382, regarding a plan for the
36 payment of support by the parent or the participation of the parent in work
37 activities.

38 (6) The names of the parents or legal guardians of the child.

39 (7) The name of the person to whom, and the name and date of birth
40 of the dependent child for whom, support is to be paid.

41 (8) A statement that the property of the parent is subject to an
42 attachment or other procedure for collection, including, but not limited to,
43 withholding of wages, garnishment, liens and execution on liens.

44 (9) A statement that objections to the recommendation may be filed
45 with the district court and served upon the other party within 10 days after
46 receipt of the recommendation.

47 (b) Ensure that the social security numbers of the parents or legal
48 guardians of the child and the person to whom support is to be paid are:

49 (1) Provided to the enforcing authority.



* S B 3 6 9 *

1 (2) Placed in the records relating to the matter and, except as
2 otherwise required to carry out a specific statute, maintained in a
3 confidential manner.

4 3. The parent must be sent a copy of the recommendation for the
5 support of a dependent child by regular mail addressed to the last known
6 address of the parent, or if applicable, the last known address of the
7 attorney for the parent.

8 4. The recommendation for the support of a dependent child is final
9 upon approval by the district court pursuant to NRS 425.3844. The chief
10 may take action to enforce and collect upon the order of the court
11 approving the recommendation, including arrearages, from the date of the
12 approval of the recommendation.

13 5. If a written response and request for hearing is not received by the
14 office issuing the notice and finding of financial responsibility within the
15 specified period, and the master enters a recommendation for the support of
16 a dependent child, the court may grant relief from the recommendation on
17 the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of
18 Civil Procedure ~~+~~ *or in the manner provided in section 20 of this act.*

19 **Sec. 28.** NRS 432B.157 is hereby amended to read as follows:

20 432B.157 1. Except as otherwise provided in NRS 125C.210 and
21 432B.153, *and section 16 of this act*, a determination by the court after an
22 evidentiary hearing and finding by clear and convincing evidence that
23 ~~{either parent or any other person}~~ *a person, other than the parent of a*
24 *child*, seeking custody of a child has engaged in one or more acts of
25 domestic violence against the child, a parent of the child or any other
26 person residing with the child creates a rebuttable presumption that it is not
27 in the best interest of the child for the perpetrator of the domestic violence
28 to have custody of the child. Upon making such a determination, the court
29 shall set forth:

30 (a) Findings of fact that support the determination that one or more acts
31 of domestic violence occurred; and

32 (b) Findings that the custody or visitation arrangement ordered by the
33 court adequately protects the child and the parent or other victim of
34 domestic violence who resided with the child.

35 2. If , after an evidentiary hearing held pursuant to subsection 1 , the
36 court determines that more than one party has engaged in acts of domestic
37 violence, it shall, if possible, determine which person was the primary
38 physical aggressor. In determining which party was the primary physical
39 aggressor for the purposes of this section, the court shall consider:

40 (a) All prior acts of domestic violence involving any of the parties;

41 (b) The relative severity of the injuries, if any, inflicted upon the
42 persons involved in those prior acts of domestic violence;

43 (c) The likelihood of future injury;

44 (d) Whether, during the prior acts, one of the parties acted in self-
45 defense; and

46 (e) Any other factors that the court deems relevant to the
47 determination.

48 In such a case, if it is not possible for the court to determine which party is
49 the primary physical aggressor, the presumption created pursuant to



1 subsection 1 applies to each of the parties. If it is possible for the court to
2 determine which party is the primary physical aggressor, the presumption
3 created pursuant to subsection 1 applies only to the party determined by the
4 court to be the primary physical aggressor.

5 3. A court, agency, institution or other person who places a child in
6 protective custody shall not release a child to the custody of a person who a
7 court has determined pursuant to subsection 1 has engaged in one or more
8 acts of domestic violence against the child, a parent of the child or any
9 other person residing with the child unless:

10 (a) A court determines that it is in the best interest of the child for the
11 perpetrator of the domestic violence to have custody of the child; or

12 (b) Pursuant to the provisions of subsection 2, the presumption created
13 pursuant to subsection 1 does not apply to the person to whom the court
14 releases the child.

15 4. As used in this section, "domestic violence" means the commission
16 of any act described in NRS 33.018.

17 **Sec. 29.** NRS 629.151 is hereby amended to read as follows:

18 629.151 It is unlawful to obtain any genetic information of a person
19 without first obtaining the informed consent of the person or the person's
20 legal guardian pursuant to NRS 629.181, unless the information is
21 obtained:

22 1. By a federal, state, county or city law enforcement agency to
23 establish the identity of a person or dead human body;

24 2. To determine the parentage or identity of a person pursuant to NRS
25 56.020;

26 3. To determine the paternity of a person pursuant to NRS 126.121 ,
27 *section 20 of this act* or *NRS 425.384*;

28 4. For use in a study where the identities of the persons from whom the
29 genetic information is obtained are not disclosed to the person conducting
30 the study;

31 5. To determine the presence of certain preventable or inheritable
32 disorders in an infant pursuant to NRS 442.008 or a provision of federal
33 law; or

34 6. Pursuant to an order of a court of competent jurisdiction.

35 **Sec. 30.** NRS 629.171 is hereby amended to read as follows:

36 629.171 It is unlawful to disclose or to compel a person to disclose the
37 identity of a person who was the subject of a genetic test or to disclose
38 genetic information of that person in a manner that allows identification of
39 the person, without first obtaining the informed consent of that person or
40 his legal guardian pursuant to NRS 629.181, unless the information is
41 disclosed:

42 1. To conduct a criminal investigation, an investigation concerning the
43 death of a person or a criminal or juvenile proceeding;

44 2. To determine the parentage or identity of a person pursuant to NRS
45 56.020;

46 3. To determine the paternity of a person pursuant to NRS 126.121 ,
47 *section 20 of this act* or *NRS 425.384*;

48 4. Pursuant to an order of a court of competent jurisdiction;



- 1 5. By a physician and is the genetic information of a deceased person
- 2 that will assist in the medical diagnosis of persons related to the deceased
- 3 person by blood;
- 4 6. To a federal, state, county or city law enforcement agency to
- 5 establish the identity of a person or dead human body;
- 6 7. To determine the presence of certain preventable or inheritable
- 7 preventable disorders in an infant pursuant to NRS 442.008 or a provision
- 8 of federal law; ~~or~~
- 9 8. To carry out the provisions of NRS 442.300 to 442.330, inclusive;
- 10 *or*
- 11 9. By an agency of criminal justice pursuant to NRS 179A.075.
- 12 **Sec. 31.** The amendatory provisions of this act do not apply to:
- 13 1. An offense committed before October 1, 2001.
- 14 2. An action filed before October 1, 2001.
- 15 3. A judgment, order or determination determining parentage or
- 16 requiring the payment of support for a child entered before October 1,
- 17 2001.

