

ASSEMBLY BILL NO. 353—ASSEMBLYMEN GERHARDT, BUCKLEY, LESLIE, CONKLIN, ARBERRY, ATKINSON, BEERS, BOBZIEN, CLABORN, DENIS, GOEDHART, GOICOECHEA, HOGAN, KIHUEN, KOIVISTO, MANENDO, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARKS, PIERCE, SEGERBLOM, SMITH, STEWART AND WOMACK

MARCH 15, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning the restoration of parental rights. (BDR 11-851)

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 parental rights; providing for the restoration of parental rights in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the termination of parental rights in certain
2 circumstances. (NRS 128.010-128.160) Existing law further provides that a court
3 cannot change, modify or set aside an order terminating parental rights. (NRS
4 128.120) **Section 1** of this bill authorizes a court, upon its own motion or upon the
5 petition of a child who has not been adopted or the natural parent or parents of the
6 child, to order that the parental rights of the natural parent or parents be restored in
7 certain circumstances if the court determines by a preponderance of the evidence
8 that the child is not likely to be adopted and that restoration of parental rights is in
9 the best interest of the child.

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

1 **Section 1.** Chapter 128 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. A court may order the restoration of the parental rights of***
4 ***the natural parent or parents of a child pursuant to the provisions***
5 ***of this section if:***



* A B 3 5 3 *

(a) A court has terminated the parental rights of the natural parent or parents of the child;

(b) The child:

(1) Is 17 years of age or older and has not been adopted; or

(2) Is less than 17 years of age and has not been adopted within 3 years after the date on which the court terminated the parental rights of his natural parent or parents; and

(c) The court determines that adoption is no longer the plan for the child.

2. The court may order a hearing to determine whether the parental rights of the natural parent or parents of the child should be restored:

(a) Upon its own motion; or

(b) Upon petition by the child or the natural parent or parents of the child.

3. A child who is less than 17 years of age may file a petition to restore the parental rights of the natural parent or parents before the expiration of the 3-year period described in subsection 1 if the custodial agency that is responsible for custody and supervision of the child and the child stipulate that the child is not likely to be adopted.

4. A child over 12 years of age shall sign the petition in the absence of a showing of good cause as to why the child could not do so.

5. If it appears that the best interests of the child may be promoted by the restoration of the parental rights of the natural parent or parents, the court shall order:

(a) That a hearing be held;

(b) That notice of the hearing be given to the legal custodian or guardian of the child and the child's attorney of record or, if there is no attorney of record for the child, to the child; and

(c) That the child or legal custodian or guardian of the child provide notice of the hearing to the natural parent or parents whose parental rights were terminated.

6. The court shall order the restoration of parental rights pursuant to this section if after the hearing the court finds by a preponderance of the evidence that:

(a) The child is not likely to be adopted; and

(b) Restoration of the parental rights of the natural parent or parents is in the best interest of the child.

7. If the court restores the parental rights of the natural parent or parents of a child who is less than 12 years of age and for whom the new plan will not be reunification with a parent or legal guardian, the court shall specify the factual basis for its



findings that it is in the best interest of the child to restore the parental rights of the natural parent or parents.

Sec. 2. NRS 128.100 is hereby amended to read as follows:

128.100 1. In any proceeding for terminating parental rights, or any rehearing or appeal thereon, *or any proceeding for restoring parental rights*, the court may appoint an attorney to represent the child as his counsel and, if the child does not have a guardian ad litem appointed pursuant to NRS 432B.500, as his guardian ad litem. The child may be represented by an attorney at all stages of any proceedings for terminating parental rights. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

2. If the parent or parents of the child desire to be represented by counsel, but are indigent, the court may appoint an attorney for them.

3. Each attorney appointed under the provisions of this section is entitled to the same compensation and expenses from the county as provided in NRS 7.125 and 7.135 for attorneys appointed to represent persons charged with crimes.

Sec. 3. NRS 128.120 is hereby amended to read as follows:

128.120 Any order made and entered by the court under the provisions of NRS 128.110 is conclusive and binding upon the person declared to be free from the custody and control of his parent or parents, and upon all other persons who have been served with notice by publication or otherwise, as provided by this chapter. After the making of the order, *except as otherwise provided in section 1 of this act*, the court has no power to set aside, change or modify it, but nothing in this chapter impairs the right of appeal.

