

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Fourth Session  
May 31, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 9:15 a.m., on Thursday, May 31, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Bernie Anderson, Chairman  
Assemblyman William Horne, Vice Chairman  
Assemblywoman Francis Allen  
Assemblyman John C. Carpenter  
Assemblyman Ty Cobb  
Assemblyman Marcus Conklin  
Assemblywoman Susan Gerhardt  
Assemblyman Ed Goedhart  
Assemblyman Garn Mabey  
Assemblyman Mark Manendo  
Assemblyman Harry Mortenson  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

Assemblyman John Ocegüera, (Excused)  
Assemblyman James Ohrenschall, (Excused)



**GUEST LEGISLATORS PRESENT:**

Senator Terry Care, Clark County Senatorial District No. 7  
Senator Warren B. Hardy, Clark County Senatorial District No. 12

**STAFF MEMBERS PRESENT:**

Jennifer M. Chisel, Committee Policy Analyst  
Risa Lang, Committee Counsel  
Danielle Mayabb, Committee Secretary  
Matt Mowbray, Committee Assistant

**OTHERS PRESENT:**

Wayne S. Keele, Practitioner, LDS Family Services, Sacramento, California  
Justin Jones, representing Families Supporting Adoption  
Rick Perry, Director, LDS Family Services, Sacramento, California  
Helen Foley, representing Catholic Charities Adoption Services  
Julianna Ormsby, representing Nevada Women's Lobby  
Jean Gunter, Program Manager, Office of Vital Records, Health Division, Department of Health and Human Services

**Chairman Anderson:**

[Meeting called to order. Roll called.] Let us open the hearing on Senate Bill 67 (1st Reprint).

**Senate Bill 67 (1st Reprint):** Provides for the establishment of a registry for putative fathers for purposes of facilitating the termination of parental rights and the adoption of certain children. (BDR 11-478)

**Senator Terry Care, Clark County Senatorial District No. 7:**

Senate Bill 67 (R1) is the putative father registry section from the Uniform Parentage Act. In 1983, the United States Supreme Court, in a case that came out of New York [*Lehr v. Robertson*, 463 U.S. 248 (1983)], ruled that putative father registries are constitutional. To date, approximately 35 states have a registry such as this in one form or another.

Let us say a man believes that he might become a father, or he believes that he is the father of a child who is still less than a year old and the mother has not yet executed some kind of valid consent for adoption. We are talking about a man who may be a jerk and irresponsible, but nonetheless thinks that he is or is about to be a dad. He wants to preserve his parental rights. He goes to the

Health Division of Health and Human Services and offers his name on this registry with all of his contact information. He would have to list the name of the woman who he believes might be the mother of the child that he may or may not have fathered. This is usually done in the form of an affidavit. He explains the circumstances why he thinks he is a father or might become a father. That information is confidential. In the bill, there are criminal sanctions for somebody who releases that information inappropriately. If the mother wants to give that child up for adoption, that is going to require the termination of her parental rights and the termination of the parental rights of the father. In many cases, the father is not even known. This allows the mother to access the registry with the State. If her name comes up in a search of the records, then the name of the putative father will also come up if he has registered. The father or putative father under this bill is entitled to notice of any proceedings for adoption or termination of parental rights. If he is given notice and wants to pursue his rights, then he can show up at the hearing. If he has not registered, the mother has the Department do the search and his name does not come up, then he has lost his parental rights. The idea here is to facilitate adoptions. There is some concern about what kind of information the State will have about the woman. All that is necessary is a name. All the State is going to do is cross-reference to see if the mother's name is in the registry. It actually extends more confidentiality to women who want to put up for adoption a child who is a year or less under these circumstances. Otherwise, under existing law she would have to put a notice in the newspaper and the legal publications to search for the father.

Section 9 is registration for notification. The putative father registers because it entitles him to notification in the event of a proceeding to terminate parental rights or for adoption. In subsection 2 are the circumstances where the man is not required to register. Section 10 is the notice of the proceedings. Section 11 discusses termination of parental rights for that child under one year of age. Section 13 is the operation of the registry and the required form. Let me point out that the bill here does not give you a form; it does not say specifically what sort of information would have to be filed with the registry. That is usually done by a regulation. The man would have to provide his contact information, the name of the woman, and, I suppose, her address if it is available. The information remains confidential. Section 14 is about the furnishing of the information and the confidentiality. Section 15 is the penalty for releasing the information. Section 16 allows the putative father to rescind the registration. Section 17 goes to an untimely registration—it does not count, it is not effective. Section 18, which is optional, says that there may be a fee for searching the registry. Section 20 is the certificate of search of registry. After conducting the search and the man's name does not come up, she can

then go to the court and say she had the search run and there is no putative father registered.

**Senator Warren B. Hardy, Clark County Senatorial District No. 12:**

I brought this bill forward because I wanted a woman faced with the heart-wrenching decision of having to put a child up for adoption to have an easier time in making that happen and with a process that protected her privacy. The opposition to the bill is going to testify that it infringes on the privacy rights of the mother. I do not understand that. Under current law, the mother has to disclose every person who could potentially be the father. She has to disclose every person she has slept with, and that is then published in the newspaper. This removes every one of those requirements.

**Assemblyman Mortenson:**

I heard you twice say that the woman consults the registry. What if the woman does not consult the registry? She wants to put her child up for adoption, but she ignores the registry. Is there an automatic mechanism that requires that the potential father be notified?

**Senator Care:**

Under current law, a search is required, and that is usually done through publication. It would behoove the mother to search the registry or have the State do it for her. If she does not do it, then I think she has to follow existing law.

**Assemblywoman Gerhardt:**

I appreciate the need for some type of mechanism to fulfill this need, but I have a little bit of a problem with it. If you are a father and you want rights of notification should the child you think belongs to you ever be put up for adoption, you have responsibility that goes along with that. The first responsibility is to prove—before you put your name on any kind of registry—that it is your child and accept the responsibilities associated with that. Oftentimes, I believe women, particularly young women who find themselves mothers, are in a desperate situation. They do not believe that the father will step up and assist either financially or emotionally in rearing that child. That sometimes puts them in a situation where they think adoption is the only option. I do not have a problem with this concept so long as the man proves that it is his child. He should step forward, take the paternity test, then by all means he can put his name on that list so that he receives notification. I do not think he should get consideration without proving paternity and being responsible.

**Senator Care:**

I agree with about 90 percent of what you just said, especially on the issue of responsibility. There may be a guy who thinks he is the father and, ultimately, since he has put his name on the registry—which entitles him to notice—he is going to have to prove he is the father. This is supposed to facilitate adoptions and make it easier for the woman in the cases where the child is less than one year old.

**Assemblyman Horne:**

We have been speaking about an instance where someone believes he may be the father of a child and then registering. What about instances where the man does not know?

**Senator Care:**

If he does not know, then too bad. That is not a requirement.

**Assemblyman Horne:**

That makes it a poison pill, at least for me. In 2001, when I was visiting the Legislature as a law student, I happened to wander into this room and read what bill was on; it was this bill. I was compelled to sign in to testify against the bill. While my reasons may be personal, I still think they are very real. Today, I have a 20-year-old daughter. Before my fight for her to be my daughter, I did not know that she was. I was not given notice that I was considered to be her father until she was almost two years of age. If this had been in effect, she would not be considered my daughter today. I cannot imagine putting a burden on someone to register just in case somebody he slept with may someday say that he is the father of a child. I take exception to this. Before the hearing today, one of the lobbyists was talking to some of my colleagues and there were terms used such as "men who do this and do not care" or maybe "promiscuous," and it was almost flippant. It took everything for me not to pipe up because this is something that gets missed every time this bill gets brought up. I do not know the numbers of men like me—who later find out they have a child and fight tooth-and-nail for years to be a part of their children's lives—but I will not stand by and let a piece of legislation come in which cuts us out of the picture because somebody wants it to be easier to adopt when we already have procedures in place to allow that to happen. We have notification laws. If a mother believes somebody is the father of her child, she can put a notice in the paper, find old addresses, and take those steps. If nothing comes up from that, then fine, but we do not just cut putative fathers out of the picture for ease of process. I strongly object to this bill.

**Chairman Anderson:**

I have a great deal of respect for parents who are trying to adopt in a seamless fashion; I think they are very courageous individuals to take on the responsibility and the love that is necessary to be a parent. It is an ongoing responsibility and commitment. I do not think that we give enough credit to people who are trying to do the right thing by the child.

**Assemblywoman Allen:**

I have many friends who have adopted children. To expedite that process is something important, but I am not sure this is the right way to go. Have you put any thought into notifying the woman when a man has put the woman's name into the registry? I do not think there is any notification process.

**Senator Care:**

I do not know that there would be any reason. The information is confidential. No one is going to know what is there until the woman who wants to put the child up for adoption searches the registry. In that sense, there would not be any reason to notify the woman. She is going to know what her life experience has been. We are putting the onus on the man who thinks he might be the father.

**Assemblywoman Allen:**

What about in the case of an extramarital affair a woman had? She does not want her name listed on a registry somewhere. It is private, but it is not completely private.

**Senator Care:**

It is not for publication. No one is going to see it until the woman searches it. The whole idea is to make this easier for the child who is less than a year old to be put up for adoption. If the putative father has reason to believe he may be the father, then he registers and the bill kicks in. The intent here is to make this easier while extending greater confidentiality than what exists under current law.

**Assemblywoman Allen:**

In the other states that have implemented this, how many men go out and register? I cannot believe this is something that men do in overwhelming numbers.

**Senator Care:**

I do not have that information. Since the Supreme Court case in 1983, around 35 states have a registry similar to this.

**Assemblyman Mabey:**

I have a question about Section 11. It says "the parental rights of a man who may be the father of the child may be terminated without notice if the mother of the child relinquishes or proposes to relinquish the child for adoption," and it goes on. Could the birth mother go ahead and put her baby up for adoption even though she knows who the baby's father is?

**Senator Care:**

Let us talk about a child who is less than a year old because that is the situation this bill applies to. When you put a child up for adoption, you have to have termination of the parental rights of both the father and the mother. The mother is obviously consenting to that because she is putting the child up for adoption. The court is going to want to know what efforts she has made to locate the man who may be the father. If they were living together, it would seem to me that would be a case where the man would indeed register if he really had any interest in maintaining his parental rights. He is going to know there is likelihood that he is a father. That is the idea. If he does not register, then the court can say the registry was searched, his name did not come up, and they will go ahead and adopt the child out. That is how it is supposed to work.

**Assemblyman Mabey:**

Let us say there is a couple living together and they are not married. They separate a week before the baby is born. He is obviously the father, but then a couple of months later, the birth mother decides to give the baby up for adoption. He would not have known to register. Sometime later he finds out his baby has been given up for adoption. Could that happen?

**Senator Care:**

There might be a different law for that situation. There is also in law what is known as "the presumptive father." Those are the cases where there has been cohabitation for a certain period. That is different than what happens here.

**Assemblyman Mabey:**

The way I read it, the baby could be given up for adoption and then the father has lost his rights.

**Senator Care:**

I do not practice family law. I did not know about the hearing until yesterday and would have had experts here. The bill is brought forward in good faith and with good intentions.

**Wayne S. Keele, Practitioner, LDS Family Services, Sacramento, California:**

In Section 23 of this bill, it defines what a putative father, is. It defines that if there is a parent-child relationship, he is not a putative father so this registry would not apply to him.

**Chairman Anderson:**

Section 12 says, "if a child has attained one year of age, notice of a proceeding for adoption of, or termination of parental rights regarding, the child must be given to every putative father of the child whether or not he is registered with the Division." Does notice come from the list the woman has supplied?

**Senator Care:**

Yes. This only applies to a child who is not yet one year old. If you look at subsection 2, it says, "notice must be given in a manner prescribed for service of process in a civil action." That is where you have a legal notice that is published in the newspaper.

**Chairman Anderson:**

This is just a matter of posting legal notice and that is it?

**Senator Care:**

What we are saying here is that after the child is one year old, then current law applies.

**Chairman Anderson:**

What about the fiscal note? There are expenses relative to radio advertising. Are we going to let the world know that this new registry is in existence?

**Senator Care:**

It would seem to me that you would want to. There is a fiscal note for the first reprint, but what you just read is the fiscal note on the original bill. The fiscal note on the first reprint shows an impact of \$15,730 in 2007 to 2008 and \$8,357 in 2008 to 2009, with a future biannual impact of \$17,200. It dropped substantially with the first reprint.

**Chairman Anderson:**

Are they not going to advertise it?

**Senator Care:**

I do not know what they would do. Obviously, they would want to get the word out. The numbers dropped after we made the substitutions of the acts.

**Assemblywoman Gerhardt:**

I am trying to get a grasp of the mechanics of asking for information from this registry. Is this something that a person does in writing? Do you receive a pass-code and access it from your computer? I am thinking about how we do this and still protect the mother's privacy. A reporter could not go in posing as a mother and search the registry to see if there were any names she recognized. The father's privacy should be protected as well. How does this work?

**Senator Care:**

The search is done upon request. No private party does the search. The search is done by the State when the request has been submitted. Most of this is going to be worked out in regulations, but it would seem to me that the Division is going to want to know that the person making the request represents the mother who is putting the child up for adoption.

**Chairman Anderson:**

In Section 15, the penalty for divulging this information is a misdemeanor, provided it is intentional.

**Senator Care:**

That is what the drafting committee proposed. I would not mind if it were a stiffer penalty than that.

**Chairman Anderson:**

I do not want to put it in the category of rolling a stop sign because that is at the bottom end of the food chain in terms of harm.

**Senator Care:**

This is criminal. I have no objection to the Committee altering that language.

**Justin Jones, representing Families Supporting Adoption:**

I am an adoptive father, and I am hoping to adopt another child this year. I wanted to echo what much of Senators Care and Hardy provided to you. I wanted to address some of the concerns that were expressed by members of the Committee.

In regards to Assemblywoman Gerhardt's concerns about who the information would be released to, I would refer the Committee to Section 14 of the bill. Who may receive information from the registry is limited to a court, the mother of the child who is the subject of the registration, child placing agencies, the child support enforcement agency, the parties' attorney of record, and also the registry of another state. The specifics of that will be worked out in

regulations, but it is limited. It is not as if someone can walk off the street and claim that they are the mother and obtain access to that information.

With regard to Mr. Horne's concerns, I have spoken to him on other occasions about his circumstance, and I understand that was a very difficult thing he went through. This bill gets at exactly the type of situation he found himself placed in. He may not have been aware he was a father; however, he was aware he may be a father. This bill would give a potential father the opportunity to let the mother know that he wanted to assert his parental rights. As it stands right now, he would have had no recourse. If the mother does not disclose who the father is, then he is never going to be given notice unless he reads *Nevada Legal Times* over a course of nine months in order to find out whether that person he had sexual relations with placed a child up for adoption.

This is a difficult issue, but I do believe that the bill protects those fathers better than they are protected under current law. I would urge the Committee to approve this bill. It is in the best interest of the birth mothers, the birth fathers, and the adoptive parents.

**Chairman Anderson:**

Did you speak in support of the bill in the other House? And did you speak in favor of the original form, or this form?

**Justin Jones:**

I did. We had reviewed Senator Hardy's original language, and we believed that the language in S.B. 71 from the Uniform Parentage Act provided more protection to everyone in the process, and that is why we supported this language.

**Assemblyman Carpenter:**

How is a person who is supposedly a father going to know that he needs to register in order to protect his rights? Are you going to educate people?

**Justin Jones:**

There is an education process. Originally, there was money allotted for a media campaign. The Department will be doing some sort of campaign, and that is up to them. The bill does not alleviate the adoption agency's responsibility to ask the mother who the potential father may be and to provide notice to those potential fathers. They still have to go through that process. Not all potential fathers are going to know about the registry. A media campaign would help. Not all men read *Nevada Legal Times* every week to ensure that they do not appear in there as a potential father.

**Assemblyman Carpenter:**

Where in this bill, or in another statute, do the agencies need to ask the mother who she thinks the father is? Where is that provided for?

**Rick Perry, Director, LDS Family Services, Sacramento, California:**

The statutes indicate that an affidavit is prepared that provides the circumstances that led to the pregnancy of the birth mother. She would list who the father was, or possible fathers, and how they could be located. The agency, according to statutes, has to go through what is called a "diligent search" to try to find that birth father and notify him that the mother has an interest in placing the child up for adoption. The agency then does whatever possible to make the location. The real challenge that we are facing here is that the current system causes this issue to be dealt with months after the child is placed for adoption.

**Chairman Anderson:**

What you are describing is current law that the birth mother has to indicate that she either knows or does not know who the father is?

**Rick Perry:**

That is correct.

**Chairman Anderson:**

We will not be repealing that section?

**Rick Perry:**

Not as far as I know.

**Risa Lang, Committee Counsel:**

I was trying to see if there was another place where that was required, but this bill does repeal *Nevada Revised Statutes* (NRS) 128.150 where it specifies that the court must make an inquiry. I will see if it is required anywhere else, but it does look like it is being repealed.

**Chairman Anderson:**

So, there may be some unintended consequences.

**Rick Perry:**

There are contiguous states to Nevada that currently have the putative father registry, including Idaho, Oregon, Utah, and Arizona. The primary purpose of the putative father registry is to create a clear path for a birth father to register his interest in an adoption. In the current system, the child would often be placed for adoption before the rights of an unsigned father are addressed, and

that is typically done through litigation. If you go through a publishing process, it is usually three to four months before there would be a hearing where a father could appear and show his interest. This is the worst possible situation for all concerned—the adoptive parents, the child, the birth father, the birth mother, and even the family court. The court does not want to have to deal with the situation months after a child has been placed with an adoptive family. Clearly, it is simple for the birth father to register his interest.

The mother could sign a relinquishment 72 hours after the child is born. The agency would be required to check the registry to see if there was a father who had registered. If there was a father who registered, then that would put the adoption process on hold until that issue was resolved between the parents. We are trying to create safe adoptions where we have parentage issues resolved before the child is placed into the adoptive home.

**Helen Foley, representing Catholic Charities Adoption Services:**

We want to lend our support to the bill. A father who is not married to a woman has no opportunity until after they are put in court to say he believes he is the father and wants to have some rights. We think this is very emotional, but we think it makes the system stronger.

**Chairman Anderson:**

Is there anyone else in favor of the bill? [There was no one.] Let us move to the opposition.

**Julianna Ormsby, representing Nevada Women's Lobby:**

Many of my concerns have already been brought up and are included in my testimony ([Exhibit C](#)). I would be happy to clarify anything. I have done a lot of research.

**Chairman Anderson:**

I notice in the second paragraph of your testimony that "putative father registries are invasive repositories of women's personal information that do not require a woman's consent." Could you elaborate on that issue?

**Julianna Ormsby:**

The concern is about the unintended consequences. If you look at Section 14, subsection 1 and 2, that is a fairly large group of people who have access to this information, or who could potentially have access. In paragraph (c), it says, "agency authorized by other law to receive the information." What is that? Who is that? We may think that it is clear who has access now, but in a future legislative session, could this change? Could it be opened up to more people? Say we have a great outreach effort and we start to collect a lot of information,

would other agencies or people then find this to be a valuable resource? There is too much that is unknown. There is too much potential for placing false information on the list.

**Chairman Anderson:**

We will make sure your document is part of the record for the day. Is there anyone else in opposition or neutral on the bill? Senator Care has indicated that there was a new fiscal note, but I cannot find it. I see someone from the state agency who can clarify.

**Jean Gunter, Program Manager, Office of Vital Records, Health Division, Department of Health and Human Services:**

We do have a new fiscal note on this bill. It is significantly less. There are not as many requirements as there were. The new fiscal note only covers enacting regulations.

**Chairman Anderson:**

The old fiscal note had a marketing element of \$150,000. Are you not going to be doing any advertising about this new program if it comes into place?

**Jean Gunter:**

In one version of this bill, there was a requirement for advertising to publicize the existence of the registry, but it was removed. We removed the fiscal note since it was not required any longer.

**Chairman Anderson:**

So you are not going to be letting anybody know that this is now a change in the state law?

**Jean Gunter:**

There was a requirement for it, but it was taken out. I do not think that there would be any publicity.

**Chairman Anderson:**

Thank you for the clarification. Is there anyone who wants to be heard on the bill? [There was no one.] We will close the hearing on S.B. 67 (R1).

We are adjourned [at 10:23 a.m.].

RESPECTFULLY SUBMITTED:

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Danielle Mayabb  
Committee Secretary

APPROVED BY:

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Assemblyman Bernie Anderson, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** May 31, 2007

**Time of Meeting:** 9:15 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A	*****	Agenda
	B	*****	Attendance Roster
SB 67 (R1)	C	Julianna Ormsby, Nevada Women's Lobby	Testimony