

Amendment No. 289

Senate Amendment to Senate Bill No. 67	(BDR 11-478)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	
Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 67 (§ 18).	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

BFG/KEL



Date: 4/11/2007

S.B. No. 67—Provides for the establishment of a registry of putative fathers for purposes of facilitating the termination of parental rights and the adoption of certain children. (BDR 11-478)



SENATE BILL NO. 67—SENATOR HARDY

PREFILED FEBRUARY 2, 2007

Referred to Committee on Judiciary

SUMMARY—Provides for the establishment of a registry ~~for~~ **for** putative fathers for purposes of facilitating the termination of parental rights and the adoption of certain children. (BDR 11-478)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; providing for the establishment of a registry ~~for~~ **for** putative fathers; requiring the Health Division of the Department of Health and Human Services to administer the registry ~~for~~ **for** putative fathers; requiring the State Board of Health to ~~adopt regulations concerning the~~ **develop a form for the registration of putative fathers in the** registry ~~for~~ **for** putative fathers; **allowing a court to terminate the parental rights of a putative father without notice to the putative father under certain circumstances;** revising the provisions governing the termination of parental rights and the adoption of children of putative fathers; **providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under existing law, if a mother relinquishes or proposes to relinquish for adoption a child who has only a putative father, a petition must be filed in district court to terminate the parental rights of the father unless the father's relationship to the child has been previously terminated or determined not to exist by a court. (NRS 128.150) The court must make inquiry of the mother and any appropriate person to identify and protect the interests of the natural father before terminating his parental rights. (NRS 128.150) Sections 5-7 of this bill establish a registry for putative fathers and create provisions relating to registration or withdrawal of registration from the registry. Section 8 of this bill establishes the process by which a search of the registry may be conducted to determine whether a person has registered as a putative father. Section 9 of this bill requires the State Board of Health to establish fees for conducting certain activities in connection with the registry and prohibits fees for other activities in connection with the registry. Section 10 of this bill requires information contained in the registry to be kept confidential. Section 11 of this bill authorizes the State Board of Health to adopt regulations to carry out the provisions of sections 2-10 of this bill. Section 12 of this bill allows certain persons to petition for the termination of the parental rights of a putative father to facilitate the adoption of a child and also establishes the criteria for such a petition, including notice requirements to persons who have registered in the registry as putative fathers.~~

Under existing law, if a mother wishes to relinquish her child for adoption and the child does not have a legal father, a petition must be filed to terminate the parental

rights of the father. If, after an inquiry, the court identifies a possible father of the child, the possible father must be given notice of the proceeding to terminate his parental rights. However, if, after the inquiry, the court is unable to identify a possible father, the court must, without notice to the unknown father, terminate the parental rights of the unknown father. (NRS 128.150)

This bill repeals these provisions of existing law, and sections 2-21 of this bill replace them with the provisions of the Uniform Parentage Act which create a registry for putative fathers. Section 8 of this bill creates a registry for putative fathers within the Health Division of the Department of Health and Human Services. The registry permits a putative father to be notified if there is a proceeding for the adoption of, or termination of parental rights regarding, a child he may have fathered. If a child is less than 1 year old, a petitioner for adoption or termination of parental rights must obtain a certificate of search of the registry and present it to the court. If the certificate shows that no putative father has registered before the mother executes a valid release for or consent to adoption, the putative father's parental rights may be terminated without notice. Once a child has reached the age of 1, however, notice must be given to every alleged father of the child before the father's parental rights may be terminated.

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

Delete existing sections 1 through 25 of this bill and replace with the following new sections 1 through 27:

Section 1. Chapter 128 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. "Division" means the Health Division of the Department of Health and Human Services.

Sec. 3. "Man" means a male individual of any age.

Sec. 4. "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 5. "Registrant" means a man who has registered with the registry pursuant to section 9 of this act.

Sec. 6. "Registry" means the registry of paternity established pursuant to section 8 of this act.

Sec. 7. "Support-enforcement agency" means a public officer or agency authorized to seek:

1. Enforcement of support orders or laws relating to the duty of support;

2. Establishment or modification of child support;

3. Determination of parentage; or

4. The location of child-support obligors and their income and assets.

Sec. 8. A registry of paternity is established in the Division.

Sec. 9. 1. Except as otherwise provided in subsection 2 or section 12 of this act, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered must register in the registry of paternity before the birth of the child or before the mother of the child executes a valid release for or consent to adoption.

2. A man is not required to register if:

(a) A parent and child relationship between the man and the child has been established pursuant to the laws of this State; or

1 (b) The man files a petition to commence a proceeding to adjudicate his
2 paternity and serves the mother of the child with the petition before the mother of
3 the child executes a valid release for or consent to adoption.

4 3. A registrant shall promptly notify the registry, in a record, of any change
5 in the information registered. The Division shall incorporate all new information
6 received into its records but need not affirmatively seek to obtain current
7 information for incorporation in the registry.

8 Sec. 10. Notice of a proceeding for the adoption of, or termination of
9 parental rights regarding, a child must be given to a registrant who has timely
10 registered in the registry established pursuant to section 8 of this act. Notice must
11 be given in a manner prescribed for service of process in a civil action.

12 Sec. 11. The parental rights of a man who may be the father of a child may
13 be terminated without notice if:

14 1. The mother of the child relinquishes or proposes to relinquish the child
15 for adoption, or the child otherwise becomes the subject of an adoption
16 proceeding;

17 2. The child has not attained 1 year of age at the time of the termination of
18 parental rights;

19 3. The man did not register timely with the Division; and

20 4. The man is not exempt from registration under section 9 of this act.

21 Sec. 12. 1. If a child has attained 1 year of age, notice of a proceeding for
22 adoption of, or termination of parental rights regarding, the child must be given
23 to every putative father of the child, whether or not he has registered with the
24 Division.

25 2. Notice must be given in a manner prescribed for service of process in a
26 civil action.

27 Sec. 13. The State Board of Health shall prepare a form for registering
28 with the Division. The form must require the signature of the registrant. The
29 form must state that the form is signed under penalty of perjury. The form must
30 also state that:

31 1. A timely registration entitles the registrant to notice of a proceeding for
32 adoption of the child or termination of the registrant's parental rights;

33 2. A timely registration does not commence a proceeding to establish
34 paternity;

35 3. The information disclosed on the form may be used against the registrant
36 to establish paternity;

37 4. Services to assist in establishing paternity are available to the registrant
38 through the support-enforcement agency;

39 5. The registrant should also register in another state if conception or birth
40 of the child occurred in the other state;

41 6. Information on registries of other states is available from the Division;
42 and

43 7. Procedures exist to rescind the registration of a claim of paternity.

44 Sec. 14. 1. The Division need not seek to locate the mother of a child who
45 is the subject of a registration, but the Division shall send a copy of the notice of
46 registration to a mother if she has provided an address.

47 2. Information contained in the registry is confidential and may be released
48 on request only to:

49 (a) A court or a person designated by the court;

50 (b) The mother of the child who is the subject of the registration;

51 (c) An agency authorized by other law to receive the information;

52 (d) A licensed child-placing agency;

53 (e) A support-enforcement agency;

(f) A party or the party's attorney of record in a proceeding under chapter 126 of NRS or in a proceeding for adoption of, or termination of parental rights regarding, a child who is the subject of the registration; and

(g) The registry of paternity in another state.

3. As used in this section, "child-placing agency" has the meaning ascribed to it in NRS 127.220.

Sec. 15. An individual is guilty of a misdemeanor if the individual intentionally releases information from the registry to another individual or agency not authorized to receive the information under section 14 of this act.

Sec. 16. A registrant may rescind his registration at any time by sending to the registry a rescission in a record signed, or otherwise authenticated by him, and witnessed or notarized.

Sec. 17. If the Division knows that a man is registering in the registry after the mother of the child signs a valid release for or consent to adoption, the Division shall notify the registrant that on its face his registration was not filed timely.

Sec. 18. 1. A fee may not be charged for filing a registration or a rescission of registration.

2. Except as otherwise provided in subsection 3, the Division may charge a reasonable fee for making a search of the registry and for furnishing a certificate.

3. A support-enforcement agency and any other agency of this or another state or the Federal Government is not required to pay a fee authorized by subsection 2.

Sec. 19. 1. If a father and child relationship has not been established under chapter 126 of NRS for a child under 1 year of age, a petitioner for adoption of, or termination of parental rights regarding, the child must obtain a certificate of search of the registry of paternity.

2. If a petitioner for adoption of, or termination of parental rights regarding, a child has reason to believe that the conception or birth of the child may have occurred in another state, the petitioner must also obtain a certificate of search from the registry of paternity, if any, in that state.

Sec. 20. 1. The Division shall furnish to the requester a certificate of search of the registry on request of an individual, court or agency identified in section 14 of this act.

2. A certificate provided by the Division must be signed on behalf of the Division and state that:

(a) A search has been made of the registry; and

(b) A registration containing the information required to identify the registrant:

(1) Has been found and is attached to the certificate of search; or

(2) Has not been found.

3. A petitioner must file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

Sec. 21. A certificate of search of the registry of paternity in this or another state is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

Sec. 22. NRS 128.010 is hereby amended to read as follows:

128.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 128.011 to 128.018, inclusive, and sections 2 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 23. **NRS 128.016 is hereby amended to read as follows:**

128.016 "Putative father" means a person who ~~is or is~~ :

1. Is alleged or reputed to be the father of an illegitimate child ~~is~~;

2. Is not the presumed father of the child pursuant to NRS 126.051;

3. Has not acknowledged paternity of the child pursuant to NRS 126.053;

and

4. Has not been determined to have a parent and child relationship with the child by:

(a) A court of competent jurisdiction pursuant to the laws of this State;

(b) A court of competent jurisdiction in another state;

(c) An administrative agency or quasi-judicial entity pursuant to NRS 425.382 to 425.3852, inclusive; or

(d) An administrative agency or quasi-judicial entity in another state that is authorized to establish or to determine parentage or the existence of a parent and child relationship.

Sec. 24. **NRS 128.060 is hereby amended to read as follows:**

128.060 1. After a petition has been filed, unless the party or parties to be served voluntarily appear and consent to the hearing, the court shall direct the clerk to issue a notice, reciting briefly the substance of the petition and stating the date set for the hearing thereof, and requiring the person served therewith to appear before the court at the time and place if that person desires to oppose the petition.

2. ~~The~~ Except as otherwise provided in section 11 of this act, the following persons must be personally served with the notice:

(a) The father or mother of the minor person, if residing within this State, and if his or her place of residence is known to the petitioner, or, if there is no parent so residing, or if the place of residence of the father or mother is not known to the petitioner, then the nearest known relative of that person, if there is any residing within the State, and if his residence and relationship are known to the petitioner; and

(b) The minor's legal custodian or guardian, if residing within this State and if his place of residence is known to the petitioner.

3. If the petitioner or the child is receiving public assistance, the petitioner shall mail a copy of the notice of hearing and a copy of the petition to the Chief of the Child Enforcement Program of the Division of Welfare and Supportive Services of the Department of Health and Human Services by registered or certified mail return receipt requested at least 45 days before the hearing.

Sec. 25. **NRS 128.085 and 128.150 are hereby repealed.**

Sec. 26. **The amendatory provisions of this act apply with respect to a child who is born on or after October 1, 2007.**

Sec. 27. 1. **This section becomes effective upon passage and approval.**

2. **Sections 1 to 26, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations necessary to carry out this act and on October 1, 2007, for all other purposes.**

TEXT OF REPEALED SECTIONS

128.085 Petition by mother of unborn child: Notice to father or putative father; time of hearing. When the mother of an unborn child files a petition for termination of the father's parental rights, the father or putative father, if known, shall be served with notice of the hearing in the manner provided for

in NRS 128.060, 128.070 and 128.080. The hearing shall not be held until the birth of the child or 6 months after the filing of the petition, whichever is later.

128.150 Termination of parental rights of father when child becomes subject of adoption.

1. If a mother relinquishes or proposes to relinquish for adoption a child who has:

(a) A presumed father under subsection 1 of NRS 126.051;

(b) A father whose relationship to the child has been determined by a court; or

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction, and the father has not consented to the adoption of the child or relinquished the child for adoption, a proceeding must be brought pursuant to this chapter and a determination made of whether a parent and child relationship exists and if so, if it should be terminated.

2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

(a) A presumed father under subsection 1 of NRS 126.051;

(b) A father whose relationship to the child has been determined by a court;

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction; or

(d) A father who can be identified in any other way,

or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

3. In an effort to identify and protect the interests of the natural father, the court which is conducting a proceeding pursuant to this chapter shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following:

(a) Whether the mother was married at the time of conception of the child or at any time thereafter.

(b) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(c) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

(d) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.

4. If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 6 of this section or with this chapter, as applicable. If any of them fails to appear or, if appearing, fails to claim custodial rights, such failure constitutes abandonment of the child. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

5. If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the

child. Subject to the disposition of any appeal, upon the expiration of 6 months after an order terminating parental rights is issued under this subsection, or this chapter, the order cannot be questioned by any person in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice or lack of jurisdiction of the parties or of the subject matter.

6. Notice of the proceeding must be given to every person identified as the natural father or a possible natural father in the manner provided by law and the Nevada Rules of Civil Procedure for the service of process in a civil action, or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard.