

Amendment No. 339

Assembly Amendment to Assembly Bill No. 500

(BDR 11-1156)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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 dashed underlining* is newly added transitory language.

BFG/RRY



Date: 4/19/2009

A.B. No. 500—Revises provisions relating to domestic relations. (BDR 11-1156)



ASSEMBLY BILL NO. 500—COMMITTEE ON JUDICIARY

MARCH 23, 2009

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations. (BDR 11-1156)

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

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to domestic relations; revising provisions relating to adoptions; revising provisions relating to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

~~Sections 4-10 of this bill amend existing law to provide that if a person or a person's spouse is within the fourth degree of consanguinity of a child and is adopting the child, such a person is not required to comply with certain requirements for adoption, such as home studies of the prospective adoptive parents. (NRS 127.042, 127.045, 127.052, 127.120, 127.127, 127.280, 127.2805.)~~

Section 11 of this bill revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements concerning services related to adoptions from persons or agencies that are not licensed to provide such services. (NRS 127.310)

~~Section 12 of this bill provides that a court may, under certain circumstances, terminate a father's parental rights if the father knew the child's mother was pregnant with the child and failed to support the mother during the pregnancy. (NRS 128.105.)~~

Section 13 of this bill provides that a court may find a parent unfit, and therefore, under certain circumstances, terminate his parental rights, if: ~~(1) the parent is imprisoned and either cannot care for the child or the imprisonment will negatively impact the parent-child relationship; or (2) the father~~ **the parent** is convicted of sexual ~~seduction or statutory sexual seduction of the mother~~ **assault** which resulted in the conception of the child. This section also provides that if a ~~father's~~ **parent's** parental rights are terminated because of the sexual assault ~~for statutory sexual seduction~~ which resulted in the conception of the child, the ~~father's parental~~ **parent's** obligation to provide support is not terminated. ~~and a court may order the parent to pay support for the child.~~ **and a court may order the parent to pay support for the child.** (NRS 128.106) **However, an order to pay support for the child does not create any other rights arising from the parent and child relationship, including, without limitation, inheritance rights.**

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption and may apply only prospectively to petitions for the termination of parental rights.

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

Section 1. NRS 125B.120 is hereby amended to read as follows:

125B.120 1. The obligation of a parent other than that under the laws providing for the support of poor relatives is discharged by complying with a court order for support or with the terms of a judicially approved settlement.

2. ~~[(The)]~~ *Except as otherwise provided in subsection ~~[(9)]~~ 7 of NRS 128.106, the legal adoption of the child into another family discharges the obligation of his natural parents for the period subsequent to the adoption.*

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act* govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, *and section 2 of this act*, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. ~~[NRS 127.043 is hereby amended to read as follows:~~

~~127.043 1. Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070.~~

~~2. The provisions of this section do not apply if one petitioner or the spouse of a petitioner is related to the child within the [third] fourth degree of consanguinity.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 127.045 is hereby amended to read as follows:~~

~~127.045 1. Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:~~

~~(a) Petition any court for the appointment of a guardian; or~~

~~(b) Be appointed the temporary guardian,~~

~~of the person of the child to be adopted.~~

~~2. The provisions of subsection 1 do not apply to any person who is related or whose spouse is related to the child within the [third] fourth degree of consanguinity.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 127.053 is hereby amended to read as follows:~~

~~127.053 No consent to a specific adoption executed in this State, or executed outside this State for use in this State, is valid unless it:~~

~~1. Identifies the child to be adopted by name, if any, sex and date of birth.~~

~~2. Is in writing and signed by the person consenting to the adoption as required in this chapter.~~

~~3. Is acknowledged by the person consenting and signing the consent to adoption in the manner and form required for conveyances of real property.~~

~~4. Contains, at the time of execution, the name of the person or persons to whom consent to adopt the child is given.~~

~~5. Is attested by at least two competent, disinterested witnesses who subscribe their names to the consent in the presence of the person consenting. If neither the petitioner nor the spouse of a petitioner is related to the child within the [third] fourth degree of consanguinity, then one of the witnesses must be a social worker employed by:~~

~~(a) An agency which provides child welfare services;~~

~~(b) An agency licensed in this state to place children for adoption;~~

~~(c) A comparable state or county agency of another state; or~~

~~(d) An agency authorized under the laws of another state to place children for adoption, if the natural parent resides in that state.] (Deleted by amendment.)~~

Sec. 7. [NRS 127.120 is hereby amended to read as follows:]

~~127.120 1. A petition for adoption of a child must be filed in duplicate with the county clerk. The county clerk shall send one copy of the petition to the agency which provides child welfare services.~~

~~2. The agency which provides child welfare services shall make an investigation and report as provided in this section. If one petitioner or the spouse of a petitioner is related to the child within the [third] fourth degree of consanguinity, the court may, in its discretion, waive the investigation by the agency which provides child welfare services. A copy of the order waiving the investigation must be sent to the nearest office of the agency which provides child welfare services by the petitioners within 7 days after the order is issued.~~

~~3. The agency which provides child welfare services or a licensed child-placing agency designated to do so by the court shall:~~

~~(a) Verify the allegations of the petition;~~

~~(b) Investigate the condition of the child, including, without limitation, whether the child is an Indian child; and~~

~~(c) Make proper inquiry to determine whether the proposed adopting parents are suitable for the child.~~

~~4. The agency which provides child welfare services or the designated child-placing agency shall, before the date on which the child has lived for a period of 6 months in the home of the petitioners or within 30 days after receiving the copy of the petition for adoption, whichever is later, submit to the court a full written report of its findings pursuant to subsection 3, which must contain, without limitation, a specific recommendation for or against approval of the petition and a statement of whether the child is known to be an Indian child, and shall furnish to the court any other information regarding the child or proposed home which the court requires. The court, on good cause shown, may extend the time, designating a time certain, within which to submit the report.~~

~~5. If the court is dissatisfied with the report submitted by the agency which provides child welfare services or the designated child-placing agency, the court may order an independent investigation to be conducted and a report submitted by an agency or person selected by the court. The costs of the investigation and report may be assessed against the petitioner or charged against the county in which the adoption proceeding is pending.] (Deleted by amendment.)~~

Sec. 8. [NRS 127.127 is hereby amended to read as follows:]

~~127.127 The petitioners shall file with the court, within 15 days after the petition is filed or 5 months after the child begins to live in their home, whichever is later, an affidavit executed by them and their attorney setting forth all fees, donations and expenses paid by them in furtherance of the adoption. A copy of the affidavit must be sent to the agency which provides child welfare services. If one petitioner or the spouse of a petitioner is related to the child within the [third] fourth degree of consanguinity, the court may waive the filing of the affidavit.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 127.280 is hereby amended to read as follows:~~

~~127.280 1. A child may not be placed in the home of prospective adoptive parents for the 30 day residence in that home which is required before the filing of a petition for adoption, except where a child and one of the prospective adoptive parents are related within the [third] *fourth* degree of consanguinity, unless:~~

~~(a) The agency which provides child welfare services or a child-placing agency first receives written notice of the proposed placement from:~~

~~(1) The prospective adoptive parents of the child;~~

~~(2) The person recommending the placement; or~~

~~(3) A natural parent;~~

~~(b) The investigation required by the provisions of NRS 127.2805 has been completed; and~~

~~(c) In the case of a specific adoption, the natural parent placing the child for adoption has had an opportunity to review the report on the investigation of the home, if possible.~~

~~2. Upon receipt of written notice from any person other than the natural parent, the agency which provides child welfare services or child-placing agency shall communicate with the natural parent to confirm his intention to place the child for adoption with the prospective adoptive parents identified in the written notice.]~~

(Deleted by amendment.)

Sec. 10. ~~[NRS 127.2805 is hereby amended to read as follows:~~

~~127.2805 1. The agency which provides child welfare services or a child-placing agency shall, within 60 days after receipt of confirmation of the natural parents' intent to place the child for adoption and a completed application for adoption from the prospective adoptive parents, complete an investigation of the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption. The investigation must also embrace any other relevant factor relating to the qualifications of the prospective adoptive parents and may be a substitute for the investigation required to be conducted by the agency which provides child welfare services on behalf of the court when a petition for adoption is pending, if the petition for adoption is filed within 6 months after the completion of the investigation required by this subsection. If a child-placing agency undertakes the investigation, it shall provide progress reports to the agency which provides child welfare services in such a format and at such times as the agency which provides child welfare services requires to ensure that the investigation will be completed within the 60 day period. If, at any time, the agency which provides child welfare services determines that it is unlikely that the investigation will be completed in a timely manner, the agency which provides child welfare services shall take over the investigation and complete it within the 60 day period or as soon thereafter as practicable.~~

~~2. If the placement is to be made in a home outside of this state, the agency which provides child welfare services or child-placing agency must receive a copy of a report, completed by the appropriate authority, of an investigation of the home and the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption, unless the child and one of the prospective adoptive parents are related within the [third] *fourth* degree of consanguinity].~~ **(Deleted by amendment.)**

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child

welfare services who, without holding a valid unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➤ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty ~~for civil liability~~ for publishing or broadcasting an advertisement that violates the provisions of this section ~~if it~~ *unless the periodical, newspaper, radio station or other public medium ~~did not know~~ knew that the advertisement violated the provisions of this section.*

Sec. 12. ~~NRS 128.105 is hereby amended to read as follows:~~

~~128.105 The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and NRS 128.106 to 128.109, inclusive, and based on evidence and include a finding that:~~

~~1. The best interests of the child would be served by the termination of parental rights; and~~

~~2. The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of NRS 432B.393 or demonstrated at least one of the following:~~

~~(a) Abandonment of the child;~~

~~(b) Neglect of the child;~~

~~(c) Unfitness of the parent;~~

~~(d) Failure of parental adjustment;~~

~~(e) Risk of serious physical, mental or emotional injury to the child if he were returned to, or remains in, the home of his parent or parents;~~

~~(f) Only token efforts by the parent or parents:~~

~~(1) To support or communicate with the child;~~

~~(2) To prevent neglect of the child;~~

~~(3) To avoid being an unfit parent; or~~

~~(4) To eliminate the risk of serious physical, mental or emotional injury to the child; [or]~~

~~(g) With respect to termination of the parental rights of one parent, the abandonment by that parent [.] ; or~~

~~(h) If a father or putative father knew the child's mother was pregnant with the child, failure by the father or putative father, without reasonable cause, to provide for the support of the child's mother during the pregnancy, resulting in an abandoned mother as defined in NRS 128.011; (Deleted by amendment.)~~

Sec. 13. NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing

physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.463, 200.464 or 200.465.

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

~~6. Imprisonment of the parent for at least 1 year from the date of the child's entry into foster care, which results in the inability of the parent to care for the child, and no appropriate relative can care for the child during this time or the parent has not otherwise provided for the child's care.~~

~~7. Imprisonment of the parent which has a demonstrable negative effect on the quality of the relationship between the parent and the child.~~

~~8.~~ Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

9. [9.] Conviction of the [father or putative father] parent of sexual assault [or statutory sexual seduction] resulting in the conception of the child. If a court terminates parental rights based on a finding that the [father] parent is unfit pursuant to this subsection, the obligation of the [father or putative father] parent to support the child pursuant to chapter 125B of NRS is not terminated. [A court shall] and the court may issue an order of support for the child, requiring the [father or putative father] parent to comply with the support obligations pursuant to chapter 125B of NRS. If a court issues an order of support pursuant to this subsection, the order does not create:

(a) A right for the child to inherit property from or through the parent who is subject to the order of support issued pursuant to this subsection;

(b) A right for the parent who is subject to the order of support issued pursuant to this subsection to inherit property from or through the child; or

(c) Any of the other rights, privileges or obligations arising from the parent and child relationship.

~~10.~~ 8. Unexplained injury or death of a sibling of the child.

~~8.~~ 9. Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.

Sec. 14. The amendatory provisions of:

1. Sections ~~[2 to 10, inclusive]~~ 1 and 13 of this act apply to a petition for ~~[adoption that is filed]~~ the termination of parental rights pursuant to chapter ~~[127]~~ 128 of NRS ~~[before]~~ that is filed on or after October 1, 2009.

2. Sections ~~[1, 12 and 13]~~ 2 and 3 of this act apply to a petition for ~~[the termination of parental rights]~~ adoption that is filed pursuant to chapter ~~[128]~~ 127 of NRS ~~[that is filed]~~ before, on or after October 1, 2009.