

Amendment No. 156

Assembly Amendment to Assembly Bill No. 111

(BDR 11-197)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes 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 underlining* is newly added transitory language.

AMI/RRY



Date: 4/12/2011

A.B. No. 111—Revises provisions relating to domestic relations. (BDR 11-197)



ASSEMBLY BILL NO. 111—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

PREFILED FEBRUARY 3, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations. (BDR 11-197)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; authorizing certain prospective adoptive parents to attend by telephone hearings concerning a petition for adoption; revising the residency requirements for certain adoptions; ~~revising provisions relating to the hearing required for determining whether to include in a decree of adoption rights~~ authorizing a court in an adoption proceeding to grant a sibling of the child a right to visitation ~~with siblings~~ under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes prospective adoptive parents to attend, by telephone or in person, any hearings held by the court concerning a petition for adoption if the prospective adoptive parents reside in another state or jurisdiction and the adoption is of a child who is in the custody of an agency which provides child welfare services. ~~or a child-placing agency licensed by the Division of Child and Family Services of the Department of Health and Human Services.~~

Existing law requires prospective adoptive parents to reside in Nevada for a period of at least 6 months before a petition for adoption may be granted. (NRS 127.060) **Section 3** of this bill provides an exception to that requirement for petitions for the adoption of a child who is in the custody of an agency which provides child welfare services. ~~or a child-placing agency licensed by the Division.~~ Thus, persons who have lived in Nevada for less than 6 months and residents of another state or jurisdiction are exempt from the residency requirement if the petition for adoption is filed for the adoption of a child who is in the custody of an agency which provides child welfare services. ~~or a child-placing agency licensed by the Division.~~

Existing law ~~requires a court to conduct a hearing to determine whether to grant visitation rights with a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. (NRS 127.2827) Section 6 of this bill requires the clerk of the court to give notice of the time and place of the hearing to any interested party in the adoption. Section 6 further requires that the hearing must be held at a date and time that is different from the date and time of the hearing held by the court to enter a decree of adoption or to deny the petition for adoption.~~ authorizes, with certain

exceptions, the court, in an adoption proceeding for a child, to grant the right to visitation only to certain relatives of the child, including siblings of the child, who have previously been granted a similar right of visitation pursuant to NRS 125C.050. (NRS 127.171) Section 4.5 of this bill similarly authorizes the court in such an adoption proceeding to grant a right of visitation to a sibling of a child if the child is in the custody of an agency which provides child welfare services and the sibling has previously been granted a similar right of visitation pursuant to NRS 432B.580. Section 4.5 further requires the agency which provides child welfare services to provide the court with a copy of any such order for visitation.

Existing law requires the court to hold a hearing to review the placement of a child in need of protection at least semiannually. (NRS 432B.580) Section 6.5 of this bill requires the notice of the hearing to: (1) include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of section 4.5 requiring a previous grant of a similar right of visitation; and (2) be given to a sibling of the child who has been adopted and who has been granted a right to visitation pursuant to section 4.5. Section 6.5 further provides that certain confidential information must not be included in such a notice of hearing.

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

Section 1. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The prospective adoptive parents may attend by telephone, in lieu of attending in person, any hearings held by the court concerning the petition for adoption if:

~~1. (a) The prospective adoptive parents reside in another state or jurisdiction; ~~and~~~~

~~2. (b) The petition for adoption is filed for the adoption of a child who is in the custody of an agency which provides child welfare services ~~or~~ or a child-placing agency licensed by the Division pursuant to this chapter; and~~

(c) A representative of the agency responsible for supervising the child in the state where the child will be placed appears at the hearing by telephone.

2. The appearance of the prospective adoptive parents and the representative of the agency described in paragraph (c) of subsection 1 must occur at the office of the agency or at the home of the prospective adoptive parents, as determined by the agency.

3. If the prospective adoptive parents are attending a hearing by telephone pursuant to subsection 1, the court shall place the telephone call to a telephone number known to be a telephone number of the agency described in paragraph (c) of subsection 1 or of the prospective adoptive parents.

Sec. 2. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, and section 1 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, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 3. NRS 127.060 is hereby amended to read as follows:

127.060 1. ~~1. Except as otherwise provided in subsection 3, the~~ petition for adoption shall not be granted unless the petitioners have resided in the State of Nevada for a period of 6 months prior to the granting of the petition.

2. The same petitioners may, in one petition, petition for the adoption of two or more children, if the children be brothers or sisters or brother and sister.

3. *The provisions of subsection 1 do not apply if the petition for adoption is filed for the adoption of a child who is in the custody of an agency which provides child welfare services ~~or~~ or a child-placing agency licensed by the Division pursuant to this chapter.*

Sec. 4. NRS 127.110 is hereby amended to read as follows:

127.110 1. A petition for adoption of a child who currently resides in the home of the petitioners may be filed at any time after the child has lived in the home for 30 days.

2. The petition for adoption must state, in substance, the following:

(a) The full name and age of the petitioners and *, unless the petition is a petition for adoption described in subsection 3 of NRS 127.060,* the period the petitioners have resided in the State of Nevada before the filing of the petition.

(b) The age of the child sought to be adopted and the period that the child has lived in the home of petitioners before the filing of the petition.

(c) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.

(d) Their desire that the name of the child be changed, together with the new name desired.

(e) That the petitioners are fit and proper persons to have the care and custody of the child.

(f) That they are financially able to provide for the child.

(g) That there has been a full compliance with the law in regard to consent to adoption.

(h) That there has been a full compliance with NRS 127.220 to 127.310, inclusive.

(i) Whether the child is known to be an Indian child.

3. No order of adoption may be entered unless there has been full compliance with the provisions of NRS 127.220 to 127.310, inclusive.

Sec. 4.5. *NRS 127.171 is hereby amended to read as follows:*

127.171 1. Except as otherwise provided in NRS 127.187 to 127.1895, inclusive, in a proceeding for the adoption of a child, the court may grant a reasonable right to visit to ~~feertain~~ *:*

(a) A sibling of the child if the child is in the custody of an agency which provides child welfare services and a similar right has been granted previously pursuant to NRS 432B.580; and

(b) Certain relatives of the child only if a similar right had been granted previously pursuant to NRS 125C.050.

2. *The agency which provides child welfare services shall provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580.*

3. The court may not grant a right to visit the child to any person other than as specified in subsection 1.

Sec. 5. NRS 127.188 is hereby amended to read as follows:

127.188 1. Before a court may enter an order or decree of adoption of a child, the court must address in person:

(a) ~~Each~~ *Except as otherwise provided in subsection 2, each* prospective adoptive parent of the child to be adopted;

(b) Each director or other authorized representative of the agency which provides child welfare services or the licensed child-placing agency involved in the adoption proceedings concerning the child; and

(c) Each attorney representing a prospective adoptive parent, the child, the agency which provides child welfare services or the licensed child-placing agency in the adoption proceedings concerning the child,

1 and inquire whether the person has actual knowledge that the prospective
2 adoptive parent or parents of the child and natural parent or parents of the child
3 have entered into an agreement that provides for postadoptive contact pursuant to
4 NRS 127.187.

5 2. *The court may for purposes of subsection 1 address a prospective*
6 *adoptive parent described in section 1 of this act by telephone.*

7 3. If the court determines that the prospective adoptive parent or parents and
8 the natural parent or parents have entered into an agreement that provides for
9 postadoptive contact, the court shall:

10 (a) Order the prospective adoptive parent or parents to provide a copy of the
11 agreement to the court; and

12 (b) Incorporate the agreement into the order or decree of adoption.

13 **Sec. 6. ~~[NRS 127.2827 is hereby amended to read as follows:~~**

14 ~~127.2827 1. If a child who is in the custody of an agency which provides~~
15 ~~child welfare services is placed for adoption, the agency must provide the court~~
16 ~~which is conducting the adoption proceedings with a copy of any order for~~
17 ~~visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and~~
18 ~~the court must conduct a hearing to determine whether to include an order for~~
19 ~~visitation with a sibling in the decree of adoption.~~

20 ~~2. The clerk of the court shall give written notice of the time and place of~~
21 ~~the hearing described in subsection 1 to any interested party in the adoption,~~
22 ~~including, without limitation, the adoptive parent, the adoptive child, a sibling of~~
23 ~~the adoptive child, the agency which provides child welfare services or a licensed~~
24 ~~child placing agency.~~

25 ~~3. Any interested party in the adoption, [including, without limitation, the~~
26 ~~adoptive parent, the adoptive child, a sibling of the adoptive child, the agency~~
27 ~~which provides child welfare services or a licensed child placing agency] as~~
28 ~~described in subsection 2, may petition the court to participate in the determination~~
29 ~~of whether to include an order of visitation with a sibling in the decree of adoption.~~

30 ~~[3.] 4. The hearing to determine whether to include an order of visitation~~
31 ~~with a sibling in the decree of adoption must be held at a date and time that is~~
32 ~~different from the date and time of the hearing held by the court to enter a decree~~
33 ~~of adoption or to deny the petition for adoption.~~

34 ~~5. The sole consideration of the court in making a determination concerning~~
35 ~~visitation with a sibling pursuant to this section is the best interest of the child.]~~
36 **(Deleted by amendment.)**

37 **Sec. 6.5. NRS 432B.580 is hereby amended to read as follows:**

38 432B.580 1. Except as otherwise provided in this section and NRS
39 432B.513, if a child is placed pursuant to NRS 432B.550 other than with a parent,
40 the placement must be reviewed by the court at least semiannually, and within 90
41 days after a request by a party to any of the prior proceedings. Unless the parent,
42 guardian or the custodian objects to the referral, the court may enter an order
43 directing that the placement be reviewed by a panel appointed pursuant to NRS
44 432B.585.

45 2. An agency acting as the custodian of the child shall, before any hearing for
46 review of the placement of a child, submit a report to the court, or to the panel if it
47 has been designated to review the matter, which includes:

48 (a) An evaluation of the progress of the child and the family of the child and
49 any recommendations for further supervision, treatment or rehabilitation; and

50 (b) Information concerning the placement of the child in relation to the child's
51 siblings, including, without limitation:

52 (1) Whether the child was placed together with the siblings;

(2) Any efforts made by the agency to have the child placed together with the siblings;

(3) Any actions taken by the agency to ensure that the child has contact with the siblings; and

(4) If the child is not placed together with the siblings:

(I) The reasons why the child is not placed together with the siblings; and

(II) A plan for the child to visit the siblings, which must be approved by the court.

3. Except as otherwise provided in this subsection, a copy of the report submitted pursuant to subsection 2 must be given to the parents, the guardian ad litem and the attorney, if any, representing the parent or the child. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 and the parent has not appeared in the action, the report need not be sent to that parent.

4. After a plan for visitation between a child and the siblings of the child submitted pursuant to subparagraph (4) of paragraph (b) of subsection 2 has been approved by the court, the agency which provides child welfare services must request the court to issue an order requiring the visitation set forth in the plan for visitation. If a person refuses to comply with or disobeys an order issued pursuant to this subsection, the person may be punished as for a contempt of court.

5. The court or the panel shall hold a hearing to review the placement, unless the parent, guardian or custodian files a motion with the court to dispense with the hearing. If the motion is granted, the court or panel may make its determination from any report, statement or other information submitted to it.

6. Except as otherwise provided in this subsection and paragraph (c) of subsection 4 of NRS 432B.520, notice of the hearing must be given by registered or certified mail to:

(a) All the parties to any of the prior proceedings; ~~and~~

(b) Any persons planning to adopt the child ~~and~~;

(c) A sibling of the child, if known, who has been granted a right to visitation of the child pursuant to NRS 127.171 and his or her attorney, if any; and

(d) Any other relatives of the child or providers of foster care who are currently providing care to the child.

~~Notice~~

7. The notice of the hearing ~~need~~ required to be given pursuant to subsection 6:

(a) Must include a statement indicating that if the child is placed for adoption the right to visitation of the child is subject to the provisions of NRS 127.171;

(b) Must not include any confidential information described in NRS 127.140; and

(c) Need not be given to a parent whose rights have been terminated pursuant to chapter 128 of NRS or who has voluntarily relinquished the child for adoption pursuant to NRS 127.040.

~~7.8.~~ The court or panel may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 6 an opportunity to be heard at the hearing.

~~8.9.~~ The court or panel shall review:

(a) The continuing necessity for and appropriateness of the placement;

(b) The extent of compliance with the plan submitted pursuant to subsection 2 of NRS 432B.540;

(c) Any progress which has been made in alleviating the problem which resulted in the placement of the child; and

(d) The date the child may be returned to, and safely maintained in, the home or placed for adoption or under a legal guardianship.

~~9-10.~~ 10. The provision of notice and an opportunity to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

Sec. 6.7. NRS 432B.590 is hereby amended to read as follows:

432B.590 1. Except as otherwise provided in NRS 432B.513, the court shall hold a hearing concerning the permanent placement of a child:

(a) Not later than 12 months after the initial removal of the child from the home of the child and annually thereafter.

(b) Within 30 days after making any of the findings set forth in subsection 3 of NRS 432B.393.

➤ Notice of this hearing must be given by registered or certified mail to all the persons to whom notice must be given pursuant to subsection 6 of NRS 432B.580.

2. The court may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 1 an opportunity to be heard at the hearing.

3. At the hearing, the court shall review any plan for the permanent placement of the child adopted pursuant to NRS 432B.553 and determine:

(a) Whether the agency with legal custody of the child has made the reasonable efforts required by subsection 1 of NRS 432B.553; and

(b) Whether, and if applicable when:

(1) The child should be returned to the parents of the child or placed with other relatives;

(2) It is in the best interests of the child to:

(I) Initiate proceedings to terminate parental rights pursuant to chapter 128 of NRS so that the child can be placed for adoption;

(II) Initiate proceedings to establish a guardianship pursuant to chapter 159 of NRS; or

(III) Establish a guardianship in accordance with NRS 432B.466 to 432B.468, inclusive; or

(3) The agency with legal custody of the child has produced documentation of its conclusion that there is a compelling reason for the placement of the child in another permanent living arrangement.

➤ The court shall prepare an explicit statement of the facts upon which each of its determinations is based. If the court determines that it is in the best interests of the child to terminate parental rights, the court shall use its best efforts to ensure that the procedures required by chapter 128 of NRS are completed within 6 months after the date the court makes that determination, including, without limitation, appointing a private attorney to expedite the completion of the procedures. The provisions of this subsection do not limit the jurisdiction of the court to review any decisions of the agency with legal custody of the child regarding the permanent placement of the child.

4. If a child has been placed outside of the home and has resided outside of the home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

5. This hearing may take the place of the hearing for review required by NRS 432B.580.

6. The provision of notice and an opportunity to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the

1 child or any other relative , any adoptive parent of a sibling of the child or a
2 provider of foster care to become a party to the hearing.

3 **Sec. 7.** This act becomes effective on July 1, 2011.