

ASSEMBLY BILL NO. 389—ASSEMBLYMEN COHEN, FRIERSON, DIAZ;
DONDERO LOOP, DUNCAN, FIORE, HEALEY AND SPIEGEL

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing parentage.
(BDR 11-922)

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 parentage; providing that a child is not required to be made a party to certain actions to determine the paternity of the child; revising provisions governing the representation of a child in certain actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, in an action to determine paternity, a child is required to be
2 made a party to the action. Existing law also requires the child, if he or she is a
3 minor, to be represented by his or her general guardian or a guardian ad litem
4 appointed by the court. (NRS 126.101) **Section 2** of this bill removes from existing
5 law the requirement that a child be made a party to an action to determine the
6 paternity of the child and instead authorizes the child to be made a party to the
7 action. **Section 2** also removes from existing law the requirement that: (1) a minor
8 child be represented by his or her general guardian or a guardian ad litem in an
9 action to determine the paternity of the child; and (2) in certain child support
10 actions brought by a district attorney, the district attorney must act as guardian ad
11 litem for the child or the Division of Welfare and Supportive Services of the
12 Department of Health and Human Services must be appointed as guardian ad litem
13 for the child.



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

Section 1. NRS 125B.150 is hereby amended to read as follows:

125B.150 1. The district attorney of the county of residence of the child, or of a parent, alleged parent or guardian who does not have physical custody of the child, shall take such action as is necessary to establish parentage of the child and locate and take legal action, including the establishment or adjustment of an obligation of support, against a person who has a duty to support the child when requested to do so by the parent, alleged parent or guardian or a public agency which provides assistance to the parent, alleged parent, guardian or child. If the court for cause transfers the action to another county, the clerk of the receiving court shall notify the district attorney of that county, and that district attorney shall proceed to prosecute the cause of action and take such further action as is necessary to establish parentage and to establish or adjust the obligation of support and to enforce the payment of support pursuant to this chapter or chapter 31A, 126, 130 or 425 of NRS.

2. In a county where the district attorney has deputies to aid the district attorney in the performance of his or her duties, the district attorney shall designate himself or herself or a particular deputy as responsible for performing the duties imposed by subsection 1.

3. ~~Except as otherwise provided in NRS 126.101, the~~ **The** district attorney and his or her deputies do not represent the parent, alleged parent, guardian or child in the performance of their duties pursuant to this chapter and chapter 31A, 126, 130 or 425 of NRS, but are rendering a public service as representatives of the State.

4. Officials of the Division of Welfare and Supportive Services of the Department of Health and Human Services are entitled to access to the information obtained by the district attorney if that information is relevant to the performance of their duties. The district attorney or his or her deputy shall inform each person who provides information pursuant to this section concerning the limitations on the confidentiality between lawyer and client under these circumstances.

5. Disclosures of criminal activity by a parent or child are not confidential.

6. The district attorney shall inform each parent who applies for the assistance of the district attorney in this regard that a procedure is available to collect unpaid support from any refund owed to the parent who has a duty to support the child because an excessive amount of money was withheld to pay the parent's federal income tax. The district attorney shall submit to the Division of



Welfare and Supportive Services all documents and information it requires to pursue such a collection if:

(a) The applicant is not receiving public assistance.

(b) The district attorney has in his or her records:

(1) A copy of the order of support for a child and any modifications of the order which specify their date of issuance and the amount of the ordered support;

(2) A copy of a record of payments received or, if no such record is available, an affidavit signed by the custodial parent attesting to the amount of support owed; and

(3) The current address of the custodial parent.

(c) From the records in the possession of the district attorney, the district attorney has reason to believe that the amount of unpaid support is not less than \$500.

➤ Before submitting the documents and information to the Division of Welfare and Supportive Services, the district attorney shall verify the accuracy of the documents submitted relating to the amount claimed as unpaid support and the name and social security number of the parent who has a duty to support the child. If the district attorney has verified this information previously, the district attorney need not reverify it before submitting it to the Division of Welfare and Supportive Services.

7. The Division of Welfare and Supportive Services shall adopt such regulations as are necessary to carry out the provisions of subsection 6.

Sec. 2. NRS 126.101 is hereby amended to read as follows:

126.101 1. ~~{The}~~ *If the court determines that it is necessary for the child ~~to~~ must be made a party to the action, the court may make the child* a party to the action. If the child is a minor ~~the child must be represented by his or her general guardian or a guardian ad litem appointed by the court.}~~ *and the court determines that it is necessary to appoint a guardian ad litem to represent the child, the court may appoint a guardian ad litem for the child.* The child's mother or father may not represent the child as guardian or otherwise. ~~If a district attorney brings an action pursuant to NRS 125B.150 and the interests of the child:~~

~~—(a) Are adequately represented by the appointment of the district attorney as the child's guardian ad litem, the district attorney shall act as guardian ad litem for the child without the need for court appointment.~~

~~—(b) Are not adequately represented by the appointment of the district attorney as the child's guardian ad litem, the Division of Welfare and Supportive Services of the Department of Health and Human Services must be appointed as guardian ad litem in the case.}~~



- 1 2. The natural mother and a man presumed to be the father
2 under NRS 126.051 must be made parties, but if more than one man
3 is presumed to be the natural father, only a man presumed pursuant
4 to subsection 2 or 3 of NRS 126.051 is an indispensable party. Any
5 other presumed or alleged father may be made a party.
- 6 3. The court may align the parties.

