

Amendment No. 40

Senate Amendment to Senate Bill No. 113 (BDR 11-434)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No 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. 113 (§ 10).

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.

WBD/BFG



Date: 4/8/2013

S.B. No. 113—Makes various changes to provisions governing the termination of parental rights. (BDR 11-434)



SENATE BILL NO. 113—SENATORS HAMMOND, JONES, HUTCHISON, ROBERSON,
HARDY; BROWER, CEGAVSKE, DENIS AND SEGERBLOM

FEBRUARY 13, 2013

JOINT SPONSORS: ASSEMBLYMEN PAUL ANDERSON,
HARDY, HICKEY AND OHRENSCHALL

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing the termination of parental rights. (BDR 11-434)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; requiring the Health Division of the Department of Health and Human Services to establish a Registry of Putative Fathers; providing for a summary petition for termination of parental rights in certain circumstances; revising various provisions governing the termination of parental rights and adoption of children of putative fathers; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill requires the Health Division of the Department of Health and Human Services to establish a Registry of Putative Fathers. A person who registers in the Registry is entitled to receive notice of a proceeding which is commenced in this State for the adoption of, or termination of parental rights regarding, a child. **Section 5** further requires the Health Division to establish and maintain a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry. **Section 6** of this bill ~~allows~~ requires a putative father who wishes to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child to register with the Registry by submitting a form within a certain period. **Section 6.5** of this bill provides that a putative father who fails to register with, or who withdraws his registration from, the Registry: (1) waives his right to receive notice of such proceedings; (2) is not a parent whose consent must be obtained before the child may be adopted; and (3) may not allege in any such proceedings that his failure to register with the Registry is excused because he did not have notice of the pregnancy. Existing law defines the term “putative father,” for purposes of provisions relating to the termination of parental rights, as any person who is or who is alleged to be the father of an illegitimate child. (NRS 128.016) **Section 14** of this bill revises that definition by adding that the term “putative father” also includes a person who is not the

presumed father, has not acknowledged paternity and has not been determined to be the legal father of the child. Therefore, any of those possible fathers may register with the Registry and are also included within other provisions relating to the termination of parental rights.

Section 7 of this bill allows a registrant in the Registry to withdraw his registration but provides that once withdrawn, the person may not submit another registration form for the same child. **Section 8** of this bill ~~authorizes certain agencies and persons to request a search of the Registry to determine whether a putative father has registered.~~ provides that information contained in the Registry is confidential, except that information contained in the Registry may be provided to the persons and entities expressly authorized by section 8 to request and receive information from the Registry. **Section 8** further provides for notification to the requesting ~~agency or~~ person or entity regarding whether a registration exists in the Registry and, if so, further provides for notification to the registrant. Under section 8, a person or entity who intentionally releases information from the Registry to a person or entity who is not authorized to receive such information is guilty of a misdemeanor.

Section 9 of this bill requires the ~~(State Board of)~~ Health Division to develop the form to be used to register with the Registry. **Section 10** of this bill ~~further~~ requires the State Board of Health to adopt regulations to carry out the provisions relating to the establishment of the Registry and to establish certain fees relating to searching the Registry. **Section 10** specifically prohibits, however, the imposition of a fee to register with, or withdraw a registration from, the Registry. ~~(Section 11 of this bill makes all information contained in the Registry confidential, but specifies certain entities and persons to whom information may be provided. Section 11 further makes it a misdemeanor to intentionally release information from the Registry to an entity or person who is not authorized to receive such information.)~~

If a child has been relinquished for adoption or is proposed to be relinquished for adoption, existing law provides a specific procedure to be followed. If the father has not consented to the adoption or is not known, the mother must petition the court to have the parental rights of the father terminated, and the court must make certain inquiries to identify and protect the interests of the natural father. If any possible father is identified, he must be provided notice. If no possible father is identified, existing law requires the court to enter an order terminating the parental rights of the unknown father. The possible father then has 6 months thereafter in which to appeal the termination of parental rights for lack of notice. After 6 months, the order may not be questioned by any person in any manner or upon any ground. (NRS 128.150)

Section 12 of this bill provides a different and expedited procedure to terminate the parental rights of a father when the mother of a child relinquishes or proposes to relinquish a child for adoption when no legal relationship has been established between the child and the father, the father cannot be identified or the child otherwise becomes the subject of an adoption proceeding. In such a case, **section 12** authorizes the Attorney General or a district attorney authorized to file a petition to terminate parental rights, the agency or person to whom the child has been or is to be relinquished, or the mother or person who has custody of the child, to file a summary petition for termination of parental rights in certain circumstances. The summary petition allows the court to consider certain information and make a determination regarding whether to terminate parental rights without a hearing. **Section 23** of this bill further clarifies that the summary petition may not be used if there is a presumed father, a father whose relationship to the child has been judicially determined or a father as to whom the child is a legitimate child under the prior law of this State or under the law of another state, and removes the provisions which provide the current procedure for addressing termination in the situations covered by **section 12**. (NRS 128.150)

When a summary petition is filed, **sections 15-20** of this bill provide that the procedures otherwise required to be followed when relinquishment of a child for adoption is sought, including publication of notice, the manner of serving notice, provision of 6 months in which to appeal an adoption and other procedural requirements, do not apply. Instead, **section 12** provides a different procedure. ~~That~~ Before filing the summary petition, the petitioner is required to request a search of the Registry of Putative Fathers and then to send notice of the filing of a summary petition to any putative father who is identified. Such notice must inform the putative father that he has 30 days in which to appear before the court or to notify the court that he has attempted to establish parentage of the child or the court may terminate his parental rights. In addition to searching the Registry, **section 12** requires the petitioner to

~~to conduct a diligent search for~~ exercise due diligence to find any other putative father ~~based upon information included in an affidavit provided by the mother and other reasonably accessible information~~ who is known to the petitioner. If a putative father is found, he must be notified of his right to register with the Registry and that the failure to register will result in the termination of his parental rights. **Section 12** allows a certain period for a putative father to respond before the petition may be decided and further provides that the petition may not be decided sooner than 35 days after the birth of the child.

Existing law specifies the manner in which a court issues an order to terminate parental rights and provides that such an order is conclusive and binding. **Sections 21 and 22** of this bill make those provisions applicable when a court grants a summary petition for termination of parental rights pursuant to **section 12**.

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

Section 1. Chapter 128 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

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

Sec. 3. *"Registrant" means a putative father who has registered with the Registry pursuant to section 6 of this act.*

Sec. 4. *"Registry" means the Registry of Putative Fathers established pursuant to section 5 of this act.*

Sec. 5. 1. *The Health Division shall establish a Registry of Putative Fathers.*

2. *The Registry must include, without limitation, the following information pertaining to a registrant:*

(a) The name of the registrant;

(b) The date of birth of the registrant;

(c) The social security number of the registrant;

(d) The name, sex and date of birth of the child who is the subject of the registration, if known;

(e) The place of birth of the child who is the subject of the registration, if known;

~~*(f) The address at which the registrant wishes to receive notice of the filing of a petition for termination of parental rights; and*~~

~~*(g) The name of the mother of the child and any known aliases used by the mother*~~ *;*

(h) The address of the mother of the child, if known; and

(i) The social security number of the mother of the child, if known.

3. *A registrant is entitled to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child which is commenced in this State.*

4. *The Health Division shall establish and maintain a statewide campaign to ensure that the public is aware of the existence and purpose of the Registry.*

Sec. 6. 1. *A person who is the putative father of a child ~~may~~ and who wishes to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, the child which is commenced in this State must register with the Registry by submitting to the Health Division the registration form developed by the ~~State Board of Health~~ Division pursuant to section 9 of this act:*

(a) Before the birth of the child;

(b) Within 30 days after the birth of the child; or
(c) Within 30 days after the date on which notice is provided pursuant to subsection ~~14~~ 3 of section 12 of this act,
↳ whichever occurs later.

2. The Health Division shall not allow a person to register with the Registry after the periods specified in subsection 1.

3. A registration form shall be deemed to be filed in the Registry at the time of receipt that is recorded on the registration form by the Health Division.

4. A registrant shall notify the Health Division of any change in the information provided with the application for registration. The Health Division shall incorporate any such information into its records, but is not required to affirmatively seek to obtain current information from a registrant for incorporation in the Registry.

Sec. 6.5. A putative father who fails to register with the Registry in accordance with the provisions of section 6 of this act or who withdraws his registration pursuant to section 7 of this act:

1. Waives his right to receive notice of a proceeding for the adoption of, or termination of parental rights regarding, a child which is commenced in this State;

2. Is not a parent whose consent must be obtained before the child may be adopted in accordance with the provisions of chapter 127 of NRS; and

3. May not allege in any proceeding brought pursuant to this chapter or chapter 127 of NRS that his failure to register with the Registry is excused because he did not have notice of the pregnancy. The fact that the putative father had sexual intercourse with the mother of the child shall be deemed to be notice to the putative father of the pregnancy.

Sec. 7. 1. Upon receipt of a written and notarized request of a registrant to withdraw his registration from the Registry, the Health Division shall:

(a) Remove from the Registry and destroy all information, whether tangible or intangible, pertaining to the registrant; and

(b) Refuse to disclose any information pertaining to the registrant or pertaining to the fact that the registrant registered with the Registry or requested the withdrawal of his registration.

2. A registrant who withdraws his registration pursuant to this section may not submit another registration form concerning the same child for whom he previously registered.

Sec. 8. 1. ~~1. An agency described in NRS 127.050, a person who has filed a petition for termination of parental rights pursuant to this chapter or an attorney acting on behalf of such a person may request the~~ Except as otherwise provided in this section, all information contained in the Registry is confidential and must not be released to any person.

2. ~~The Health Division~~ shall search the Registry to determine whether a putative father has registered in the Registry ~~at the request of:~~

(a) The Attorney General, a district attorney, an agency described in NRS 127.050 or any other person authorized to file a petition for the termination of parental rights pursuant to this chapter or an attorney acting on behalf of such a person, if the request is made for the purpose of determining whether notice of a proceeding for the adoption of, or termination of parental rights regarding, a child must be given to a putative father;

(b) A court of competent jurisdiction or a person authorized to receive the information pursuant to an order of a court of competent jurisdiction;

(c) A person who submits a written request for the performance of the search accompanied by a notarized statement from the putative father authorizing the search; or

(d) The State, any political subdivision of the State and any agency of the State or of a political subdivision of the State that is responsible for establishing and enforcing obligations of child support, but the information released must not be used for any purpose other than establishing and enforcing obligations of child support.

3. After conducting a search of the Registry, if the Health Division determines that a person has registered as the putative father of the child, the Health Division shall:

(a) Provide the ~~agency or~~ person ~~described in~~ or entity who requested the search pursuant to subsection ~~HH~~ 2 with a certified copy of the registration form submitted by the registrant which indicates the date and time of receipt of the registration form; and

(b) Notify the registrant by certified mail that:

(1) A ~~petition or summary petition, as applicable, for the termination of his parental rights has been filed;~~

~~(2) A~~ search of the Registry was conducted pursuant to this section; and

~~(3)~~ (2) A copy of his registration form was provided to ~~an agency or~~ a person ~~described in~~ or entity who requested the search pursuant to subsection ~~HH~~ 2.

~~3.~~ 4. After conducting a search of the Registry, if the Health Division determines that a person has not registered as the putative father of the child, the Health Division shall provide the ~~agency or~~ person ~~described in~~ or entity who requested the search pursuant to subsection ~~HH~~ 2 with a certified statement verifying that:

(a) A search of the Registry was conducted; and

(b) No person has registered as the putative father of the child.

5. Any person or entity who intentionally releases information from the Registry to another person or entity not authorized to receive the information pursuant to this section is guilty of a misdemeanor.

Sec. 9. 1. The ~~State Board of~~ Health Division shall develop a form to be used to register as a putative father with the Registry. The form must require the registrant to sign under penalty of perjury affirming that the information provided with the form is true and accurate to the best of the knowledge of the registrant.

2. The form developed by the ~~State Board of~~ Health Division must further state that:

(a) Timely registration entitles the registrant to be notified of a proceeding for adoption of the child or termination of parental rights pursuant to section 12 of this act.

(b) Registration does not commence a proceeding to establish paternity.

(c) Information disclosed on the form may be used against the registrant to establish paternity.

(d) Registration should also be completed in any other state where the conception or birth of the child occurred.

(e) The Health Division may assist a person to obtain information regarding a registry in another state.

(f) Services are available to establish paternity.

(g) Registration may be withdrawn pursuant to section 7 of this act.

Sec. 10. 1. The State Board of Health shall adopt regulations to carry out the provisions of sections 2 to 11, inclusive, of this act, which must include,

1 without limitation, the fees to be charged pursuant to subsection 2 in an amount
2 sufficient to defray the cost of carrying out the provisions of sections 2 to 11,
3 inclusive, of this act.

4 2. The regulations adopted by the State Board of Health pursuant to
5 subsection 1 must provide for a reasonable fee to:

6 (a) Conduct a search of the Registry; or

7 (b) Provide a certified copy of a registration form or a certified statement
8 pursuant to section 8 of this act.

9 3. The State Board of Health shall not charge a governmental entity a fee
10 described in subsection 2.

11 4. The State Board of Health shall not charge a fee for:

12 (a) Registering with the Registry; or

13 (b) Withdrawing a registration from the Registry.

14 ~~4.4~~ 5. All money received by the Health Division pursuant to subsection 2
15 must be deposited in the State General Fund.

16 ~~5.4~~ 6. The Administrator of the Health Division may apply for or accept
17 any gifts, grants, donations or contributions from any source to carry out the
18 provisions of sections 2 to 11, inclusive, of this act. Any money the Administrator
19 receives pursuant to this subsection:

20 (a) Must be deposited in the State Treasury and accounted for separately in
21 the State General Fund;

22 (b) May only be used to carry out the provisions of sections 2 to 11, inclusive,
23 of this act; and

24 (c) Does not revert to the State General Fund at the end of any fiscal year.

25 Sec. 11. ~~1. Except as otherwise provided in this section and section 8 of~~
26 ~~this act, all information contained in the Registry is confidential and must not be~~
27 ~~released to any person.~~

28 2. ~~Information concerning a registrant may be released to:~~

29 ~~(a) A court of competent jurisdiction.~~

30 ~~(b) An agency or a person described in section 8 of this act who submits a~~
31 ~~written request for a search of the Registry.~~

32 ~~(c) A person who submits a written request for the information accompanied~~
33 ~~by a notarized statement from the registrant authorizing the release of the~~
34 ~~information.~~

35 ~~(d) A person authorized to receive the information pursuant to an order of a~~
36 ~~court of competent jurisdiction.~~

37 ~~(e) The State, any political subdivision of the State and any agency of the~~
38 ~~State or of a political subdivision of the State that is responsible for establishing~~
39 ~~and enforcing obligations of child support, but the information released must not~~
40 ~~be used for any purpose other than establishing and enforcing obligations of~~
41 ~~child support.~~

42 ~~3.1 Any person or governmental entity who intentionally releases~~
43 ~~information from the Registry to another person or entity not authorized~~
44 ~~pursuant to this section is guilty of a misdemeanor. (Deleted by amendment.)~~

45 Sec. 12. 1. If the mother of a child relinquishes or proposes to relinquish
46 for adoption a child who does not have:

47 (a) A presumed father pursuant to subsection 1 of NRS 126.051;

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

49 (c) A father as to whom the child is a legitimate child pursuant to chapter
50 126 of NRS, the prior law of this State or the law of another jurisdiction; or

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

52 ~~or~~ if a child otherwise becomes the subject of an adoption proceeding, the
53 Attorney General or a district attorney authorized to file a petition to terminate

parental rights pursuant to this chapter, 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, may file a summary petition to terminate parental rights pursuant to this section which, if granted, will terminate the parental rights of a father without notice or a hearing.

2. Before filing a summary petition pursuant to this section, the petitioner shall request a search of the Registry pursuant to section 8 of this act and send notice of the filing of a summary petition by certified mail to the address of any putative father identified in the Registry. The notice must include a statement in substantially the following form:

As a person who has registered with the Registry of Putative Fathers as the putative father of a child, any parental rights that you may have concerning the child will be subject to summary termination unless, within 30 days after the date on which this notice was mailed to you, you enter an appearance in or otherwise notify the court identified in the summary petition for termination of parental rights that you have attempted to establish parentage of the child.

3. If a putative father is known to the petitioner by means other than a search of the Registry, before filing a summary petition pursuant to this section, the petitioner shall exercise due diligence to find the putative father. If found, the petitioner shall notify the putative father by certified mail:

(a) Of the name of the birth mother and the date of birth or anticipated date of birth of the child;

(b) That he may be the father of the child;

(c) That the child is being placed for adoption; and

(d) That if he has any interest in establishing or asserting his parental rights, he must register with the Registry within 30 days after the birth of the child or within 30 days after the date on which notice is provided pursuant to this subsection, whichever occurs later, and that the failure to register with the Registry will result in the termination of his parental rights.

4. A summary petition to terminate parental rights must be verified, must be entitled "Summary Petition for Termination of Parental Rights" and must:

(a) Allege the facts necessary for a court to grant the petition;

(b) Contain the information set forth in NRS 128.050; and

(c) Be accompanied by an affidavit of the ~~mother,~~ petitioner which states:

(1) The name of each putative father of the child ~~if~~, if known, including the name of each putative father of the child who is identified in the Registry;

(2) ~~The probable place or places where conception of the child is believed to have occurred;~~

~~(3) The probable date when conception of the child is believed to have occurred;~~

~~(4) The last known address of each putative father of the child;~~

~~(5) The name of any relative or a friend of each putative father of the child, if known;~~

~~(6) The efforts, if any, by the mother to contact each putative father concerning the conception or birth of the child;~~

~~(7) The substance of any communication between the mother and each putative father concerning the conception or birth of the child;~~

~~(8) The efforts, if any, of each putative father to establish the parentage of the child;~~

~~(9) The date of any visitation between the child and each putative father, and~~

~~(10) The amount of any financial assistance provided by each putative father to the mother during the pregnancy or after the birth of the child.~~

~~3. The petitioner shall request a search of the Registry pursuant to section 8 of this act and send notice of the filing of a summary petition by certified mail to the address of any putative father identified in the Registry. The notice must contain a statement in substantially the following form:~~

~~As a person who has registered with the Registry of Putative Fathers as the putative father of a child, any parental rights that you may have concerning the child will be subject to summary termination unless, within 30 days after the date on which this notice was mailed to you, you enter an appearance in or otherwise notify the court identified in the summary petition for termination of parental rights that you have attempted to establish parentage of the child.~~

~~4. In addition to searching the Registry, the petitioner shall conduct a diligent search for the putative father before the petition is decided by the court. Such a search must be based upon the information provided in the affidavit of the mother pursuant to subsection 2 and any other reasonably accessible information. If a putative father is found pursuant to such a search, the putative father must be notified by certified mail:~~

~~(a) Of the name of the birth mother and the date of birth or anticipated date of birth of the child;~~

~~(b) That he may be the father of the child;~~

~~(c) That the child is being placed for adoption; and~~

~~(d) That if he has any interest in establishing or asserting his parental rights, he must register with the Registry within 30 days after the birth of the child or within 30 days after the date on which notice is provided pursuant to this subsection, whichever occurs later, and that the failure to register with the Registry will result in the termination of his parental rights.~~ That notice was provided to each putative father in accordance with subsection 2 or 3; and

(3) That 30 days or more have passed since the date on which notice was provided to each putative father pursuant to subsection 2 or 3.

5. If notice of a summary petition is mailed to one or more putative fathers identified in the Registry pursuant to subsection ~~13~~ 2, the petitioner may request permission from the court to submit the petition, together with a proposed order, to the court for decision. Such a request must not be made sooner than 35 days after:

(a) The birth of the child; or

(b) The date on which notice was mailed to each putative father, if each putative father has failed to:

(1) Enter an appearance; or

(2) Otherwise notify the court of any attempt or desire to establish parentage of the child,
↳ whichever is later.

6. If a putative father cannot be found or if a putative father who received notification pursuant to subsection ~~14~~ 3 does not register with the Registry within 30 days after the birth of the child or within 30 days after the date on which notice was provided pursuant to subsection ~~14~~ 3, whichever occurs later, the petitioner may request permission from the court to submit the petition, together

1 *with a proposed order, to the court for decision. Such a request must not be*
2 *submitted sooner than 35 days after:*

3 *(a) The birth of the child; or*

4 *(b) The date on which notice was provided pursuant to subsection ~~44~~ 3,*

5 *whichever is later.*

6 *7. A putative father who fails to register with the Registry pursuant to*
7 *section 6 of this act shall be deemed to have waived his right and opportunity to*
8 *receive further notice, other than the notice provided in this section, of*
9 *proceedings for the summary termination of his parental rights.*

10 *8. A court may grant a summary petition filed pursuant to this section if the*
11 *court finds that:*

12 *(a) The petitioner has satisfied the provisions of this section; and*

13 *(b) Granting of the petition is in the best interests of the child.*

14 *9. As used in this section, "agency" means an agency described in NRS*
15 *127.050.*

16 **Sec. 13.** NRS 128.010 is hereby amended to read as follows:

17 128.010 As used in this chapter, unless the context otherwise requires, the
18 words and terms defined in NRS 128.011 to 128.018, inclusive, *and sections 2, 3*
19 *and 4 of this act* have the meanings ascribed to them in those sections.

20 **Sec. 14.** NRS 128.016 is hereby amended to read as follows:

21 128.016 "Putative father" means a person who ~~is or is~~:

22 *1. Is alleged or reputed to be the father of an illegitimate child ~~44~~;*

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

24 *3. Has not acknowledged paternity of the child pursuant to NRS 126.053;*
25 *and*

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

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

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

30 *(c) An administrative agency or quasi-judicial entity pursuant to NRS*
31 *425.382 to 425.385, inclusive; or*

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

35 **Sec. 15.** NRS 128.050 is hereby amended to read as follows:

36 128.050 1. ~~44~~ *Except as otherwise provided in section 12 of this act,*
37 *proceedings must be entitled, "In the matter of the parental rights as to a*
38 *minor."*

39 *2. A petition must be verified and may be upon information and belief. It*
40 *must set forth plainly:*

41 *(a) The facts which bring the child within the purview of this chapter.*

42 *(b) The name, age and residence of the child.*

43 *(c) The names and residences of the parents of the child.*

44 *(d) The name and residence of the person or persons having physical custody*
45 *or control of the child.*

46 *(e) The name and residence of the child's legal guardian, if there is one.*

47 *(f) The name and residence of the child's nearest known relative residing*
48 *within the State, if no parent or guardian can be found.*

49 *(g) Whether the child is known to be an Indian child.*

50 *3. If any of the facts required by subsection 2 are not known by the petitioner,*
51 *the petition must so state.*

4. If the petitioner is a mother filing with respect to her unborn child, the petition must so state and must contain the name and residence of the father or putative father, if known.

5. If the petitioner or the child is receiving public assistance, the petition must so state.

Sec. 16. NRS 128.060 is hereby amended to read as follows:

128.060 1. ~~After~~ *Except as otherwise provided in section 12 of this act, 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 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 or her 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 or her 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. 17. NRS 128.070 is hereby amended to read as follows:

128.070 1. ~~When~~ *Except as otherwise provided in subsection 6, when* the father or mother of a minor child or the child's legal custodian or guardian resides out of the State, has departed from the State, or cannot, after due diligence, be found within the State, or conceals himself or herself to avoid the service of the notice of hearing, and the fact appears, by affidavit, to the satisfaction of the court thereof, and it appears, either by affidavit or by a verified petition on file, that the named father or mother or custodian or guardian is a necessary or proper party to the proceedings, the court may grant an order that the service be made by the publication of the notice of hearing. When the affidavit is based on the fact that the father or mother or custodian or guardian resides out of the State, and his or her present address is unknown, it is a sufficient showing of that fact if the affiant states generally in the affidavit that:

(a) At a previous time the person resided out of this State in a certain place (naming the place and stating the latest date known to the affiant when the person so resided there);

(b) That place is the last place in which the person resided to the knowledge of the affiant;

(c) The person no longer resides at that place;

(d) The affiant does not know the present place of residence of the person or where the person can be found; and

(e) The affiant does not know and has never been informed and has no reason to believe that the person now resides in this State.

➤ In such case, it shall be presumed that the person still resides and remains out of the State, and the affidavit shall be deemed to be a sufficient showing of due diligence to find the father or mother or custodian or guardian.

2. The order must direct the publication to be made in a newspaper, to be designated by the court, for a period of 4 weeks, and at least once a week during that time. In case of publication, where the residence of a nonresident or absent father or mother or custodian or guardian is known, the court shall also direct a copy of the notice of hearing and petition to be deposited in the post office, directed to the person to be served at his or her place of residence. When publication is ordered, personal service of a copy of the notice of hearing and petition, out of the State, is equivalent to completed service by publication and deposit in the post office, and the person so served has 20 days after the service to appear and answer or otherwise plead. The service of the notice of hearing shall be deemed complete in cases of publication at the expiration of 4 weeks from the first publication, and in cases when a deposit of a copy of the notice of hearing and petition in the post office is also required, at the expiration of 4 weeks from the deposit.

3. Personal service outside the State upon a father or mother over the age of 18 years or upon the minor's legal custodian or guardian may be made in any action where the person served is a resident of this State. When the facts appear, by affidavit, to the satisfaction of the court, and it appears, either by affidavit or by a verified petition on file, that the person in respect to whom the service is to be made is a necessary or proper party to the proceedings, the court may grant an order that the service be made by personal service outside the State. The service must be made by delivering a copy of the notice of hearing together with a copy of the petition in person to the person served. The methods of service are cumulative, and may be utilized with, after or independently of other methods of service.

4. Whenever personal service cannot be made, the court may require, before ordering service by publication or by publication and mailing, such further and additional search to determine the whereabouts of the person to be served as may be warranted by the facts stated in the affidavit of the petitioner to the end that actual notice be given whenever possible.

5. If one or both of the parents of the minor is unknown, or if the name of either or both of the parents of the minor is uncertain, then those facts must be set forth in the affidavit and the court shall order the notice to be directed and addressed to either the father or the mother of the person, and to all persons claiming to be the father or mother of the person. The notice, after the caption, must be addressed substantially as follows: "To the father and mother of the above-named person, and to all persons claiming to be the father or mother of that person."

6. The provisions of this section do not apply to a summary petition for termination of parental rights pursuant to section 12 of this act.

Sec. 18. NRS 128.080 is hereby amended to read as follows:

128.080 The notice *required pursuant to NRS 128.060 and 128.070* must be in substantially the following form:

In the Judicial District Court of the State of Nevada,
in and for the County of

In the matter of parental rights
as to, a minor.

Notice

To, the father or, the mother of the above-named person; or, to the father and mother of the above-named person, and to all persons

claiming to be the father or mother of this person; or, to related to the above-named minor as; and, to, the legal custodian or guardian of the above-named minor:

You are hereby notified that there has been filed in the above-entitled court a petition praying for the termination of parental rights over the above-named minor person, and that the petition has been set for hearing before this court, at the courtroom thereof, at, in the County of, on the day of the month of of the year at o'clockm., at which time and place you are required to be present if you desire to oppose the petition.

Dated (month) (day) (year)

.....
Clerk of Court

(SEAL)

By
Deputy

Sec. 19. NRS 128.085 is hereby amended to read as follows:

128.085 ~~{When}~~ *Except as otherwise provided in section 12 of this act:*

1. *If* 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}~~ *must* be served with notice of the hearing in the manner provided for in NRS 128.060, 128.070 and 128.080.

2. The hearing ~~{shall}~~ *must* not be held until the birth of the child or 6 months after the filing of the petition, whichever is later.

Sec. 20. NRS 128.090 is hereby amended to read as follows:

128.090 1. ~~{At}~~ *Except in the case of a summary petition for termination of parental rights filed pursuant to section 12 of this act, at* the time stated in the notice, or at the earliest time thereafter to which the hearing may be postponed, the court shall proceed to hear the petition.

2. The proceedings are civil in nature and are governed by the Nevada Rules of Civil Procedure. The court shall in all cases require the petitioner to establish the facts by clear and convincing evidence and shall give full and careful consideration to all of the evidence presented, with regard to the rights and claims of the parent of the child and to any and all ties of blood or affection, but with a dominant purpose of serving the best interests of the child.

3. Information contained in a report filed pursuant to NRS 432.0999 to 432.130, inclusive, or chapter 432B of NRS may not be excluded from the proceeding by the invoking of any privilege.

4. In the event of postponement, all persons served, who are not present or represented in court at the time of the postponement, must be notified thereof in the manner provided by the Nevada Rules of Civil Procedure.

5. Any hearing held pursuant to this section must be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court determines that holding such a hearing in open court will not be detrimental to the child.

Sec. 21. NRS 128.110 is hereby amended to read as follows:

128.110 1. Whenever the ~~{procedure}~~ *procedures* described in this chapter ~~{has}~~ *have* been followed, and upon finding grounds for the termination of parental rights pursuant to NRS 128.105 at a hearing upon the petition ~~{}~~ *or without a hearing in the case of a summary petition for termination of parental rights filed*

1 *pursuant to section 12 of this act*, the court shall make a written order, signed by
2 the judge presiding in the court, judicially depriving the parent or parents of the
3 custody and control of, and terminating the parental rights of the parent or parents
4 with respect to the child, and declaring the child to be free from such custody or
5 control, and placing the custody and control of the child in some person or agency
6 qualified by the laws of this State to provide services and care to children, or to
7 receive any children for placement. The termination of parental rights pursuant to
8 this section *or section 12 of this act* does not terminate the right of the child to
9 inherit from his or her parent or parents, except that the right to inherit terminates if
10 the child is adopted as provided in NRS 127.160.

11 2. If the child is placed in the custody and control of a person or agency
12 qualified by the laws of this State to receive children for placement, the person or
13 agency, in seeking to place the child:

14 (a) May give preference to the placement of the child with any person related
15 within the fifth degree of consanguinity to the child whom the person or agency
16 finds suitable and able to provide proper care and guidance for the child, regardless
17 of whether the relative resides within this State.

18 (b) Shall, if practicable, give preference to the placement of the child together
19 with his or her siblings.

20 ➤ Any search for a relative with whom to place a child pursuant to this subsection
21 must be completed within 1 year after the initial placement of the child outside of
22 his or her home.

23 **Sec. 22.** NRS 128.120 is hereby amended to read as follows:

24 128.120 Any order made and entered by the court under the provisions of
25 NRS 128.110 *or section 12 of this act* is conclusive and binding upon the person
26 declared to be free from the custody and control of his or her parent or parents, and
27 upon all other persons who have been served with notice by publication or
28 otherwise, as provided by this chapter. After the making of the order, except as
29 otherwise provided in NRS 128.190, the court has no power to set aside, change or
30 modify it, but nothing in this chapter impairs the right of appeal.

31 **Sec. 23.** NRS 128.150 is hereby amended to read as follows:

32 128.150 1. If a mother relinquishes or proposes to relinquish for adoption a
33 child who has:

34 (a) A presumed father pursuant to NRS 126.051;

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

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

38 ➤ and the father has not consented to the adoption of the child or relinquished the
39 child for adoption, a proceeding must be brought pursuant to this chapter and a
40 determination made of whether a parent and child relationship exists and, if so, if it
41 should be terminated. *Such a determination may not be made in the manner set
42 forth in section 12 of this act.*

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

45 ~~—(a) A presumed father pursuant to NRS 126.051;~~

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

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

49 ~~—(d) A father who can be identified in any other way;~~

50 ~~➤ or if a child otherwise becomes the subject of an adoption proceeding, the
51 agency or person to whom the child has been or is to be relinquished, or the mother
52 or the person having custody of the child, shall file a petition in the district court to~~

1 ~~terminate the parental rights of the father, unless the father's relationship to the~~
2 ~~child has been previously terminated or determined not to exist by a court.~~

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

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

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

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

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

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

22 ~~— 5. If, after the inquiry, the court is unable to identify the natural father or any~~
23 ~~possible natural father and no person has appeared claiming to be the natural father~~
24 ~~and claiming custodial rights, the court shall enter an order terminating the~~
25 ~~unknown natural father's parental rights with reference to the child. Subject to the~~
26 ~~disposition of any appeal, upon the expiration of 6 months after an order~~
27 ~~terminating parental rights is issued under this subsection, or this chapter, the order~~
28 ~~cannot be questioned by any person in any manner or upon any ground, including~~
29 ~~fraud, misrepresentation, failure to give any required notice or lack of jurisdiction~~
30 ~~of the parties or of the subject matter.~~

31 ~~— 6. Notice~~ *Except in the case of a summary petition for termination of*
32 *parental rights filed pursuant to section 12 of this act, notice* of the proceeding
33 must be given to every person identified as the natural father or a ~~possible~~ *person*
34 *presumed to be the* natural father in the manner provided by law and the Nevada
35 Rules of Civil Procedure for the service of process in a civil action, or in any
36 manner the court directs. Proof of giving the notice must be filed with the court
37 before the petition is heard.

38 **Sec. 24.** The amendatory provisions of this act apply with respect to any
39 child who is born on or after ~~October 1, 2013,~~ July 1, 2014.

40 **Sec. 25.** This act becomes effective:

41 1. Upon passage and approval for the purpose of adopting regulations
42 necessary to carry out this act; and

43 2. On ~~October 1, 2013,~~ July 1, 2014, for all other purposes.