

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Seventh Session  
May 29, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 9:57 a.m. on Wednesday, May 29, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Jason Frierson, Chairman  
Assemblyman James Ohrenschall, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Lesley E. Cohen  
Assemblywoman Olivia Diaz  
Assemblywoman Marilyn Dondero Loop  
Assemblyman Wesley Duncan  
Assemblywoman Michele Fiore  
Assemblyman Ira Hansen  
Assemblyman Andrew Martin  
Assemblywoman Ellen B. Spiegel  
Assemblyman Tyrone Thompson  
Assemblyman Jim Wheeler

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Scott T. Hammond, Clark County Senatorial District No. 18  
Senator Justin C. Jones, Clark County Senatorial District No. 9

Minutes ID: 1297



**STAFF MEMBERS PRESENT:**

Dave Ziegler, Committee Policy Analyst  
Brad Wilkinson, Committee Counsel  
Nancy Davis, Committee Secretary  
Macy Young, Committee Assistant

**OTHERS PRESENT:**

Todd L. Moody, Private Citizen, Las Vegas, Nevada  
Ísrael "Ishi" Kunin, Private Citizen, Las Vegas, Nevada  
Mary Beck, Private Citizen, St. Louis, Missouri  
Terry Care, Private Citizen, Las Vegas, Nevada  
John T. Jones, Jr., representing the Nevada District Attorneys' Association; and the Clark County Intergovernmental Relations Team  
Amber Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services  
Helen Foley, Private Citizen, Las Vegas, Nevada  
Eric A. Stovall, Private Citizen, Reno, Nevada

**Chairman Frierson:**

[Roll was called and standing rules were explained.] I will open the hearing on Senate Bill 113 (2nd Reprint).

**Senate Bill 113 (2nd Reprint): Makes various changes to provisions governing the termination of parental rights. (BDR 11-434)**

**Senator Scott T. Hammond, Clark County Senatorial District No. 18:**

Thank you for considering this bill. I think you will find it has merit. I would like to tell you the importance that I place on Senate Bill 113 (2nd Reprint), called the responsible fathers' registry. One thing this bill will do is expedite the adoption process. I am a father of four, three of whom are adopted. I have a picture here of the last of our four children who was born two years ago yesterday ([Exhibit C](#)). Isa was born in Alaska and was brought into our family. I believe this process will help many other families, much like mine, to bring children into their lives and raise them, making them happy and healthy as we have done. Senator Jones will now comment on the bill.

**Senator Justin C. Jones, Clark County Senatorial District No. 9:**

I am an adoptive parent. I have two kids who I have been very fortunate to adopt. Four years ago, I worked on similar legislation with Senator Care. At the time, I was doing it on behalf of a group of adoptive parents who had

asked me to get involved in the process. My eight-year-old daughter Gabby's adoption was a breeze. We had all the paperwork done before she came into our lives.

Now, though, this bill is personal. Three years ago, we got a call from the adoption agency letting us know that a birth mother had selected us for the adoption of a little boy. We were very excited. Everything went awry on the day after his birth. We were fortunate to be in the hospital with my son as he was born, but the birth father showed up the day after his birth. Things went south from there. The entire process caused an enormous amount of stress on our family.

Out of deference to my son's birth father, I am not going to go into all the details, but, needless to say, the next eight months were filled with uncertainty, doubt, and frustration for our family. I tried to put on a brave face—that is my role—but my wife went through hell. She will tell you that she was never able to fully bond with our son, knowing that the process was in limbo. The stress on our marriage was tremendous.

I will never forget the place where I was standing when we got the call letting us know that finally, after eight months, the ordeal was over. It was one of the happiest moments of my life. We were lucky; we got to keep little Liam. Others have gone through the same ordeal and were not so fortunate, having a child removed from a placement after accepting him or her into their families.

This bill does not take away any rights, rather it creates a framework for ensuring that birth fathers can assert their rights, even before a birth, and that prospective adoptive parents know before accepting a placement that a birth father has asserted his rights. I pray that we will join together with other states and pass what I think is a very important piece of legislation for all of us.

**Todd L. Moody, Private Citizen, Las Vegas, Nevada:**

I would like to note that Christy B. Escobar was here earlier and asked me to state his support. I have been practicing law for almost 19 years in southern Nevada. I belong to the American Academy of Adoption Attorneys. I have terminated the rights of approximately 500 individuals, and I think I am nearing 5,000 children that I have assisted through the adoption process. I would like to offer an overview of the responsible father registry. The proposed registry makes various changes to the provisions of Chapter 128 of the *Nevada Revised Statutes* (NRS), which governs the termination of parental rights. In certain circumstances, it provides for a summary termination of parental rights. It also revises provisions relating to the adoption of minor children.

A man who registers with the registry gains the protection of Nevada law and he is entitled to receive notice of a proceeding commenced in this state for the adoption or termination of parental rights of a child. It affords him much more protection than he now has under existing Nevada law. It protects a father who wants the opportunity to parent by allowing him to register and perhaps develop a relationship with his child.

The bill also protects children by giving them a chance at a permanent placement when the father does not take that opportunity. It requires the Health Division of the Department of Health and Human Services to establish and maintain a statewide campaign to ensure the public is aware of the existence and purpose of the registry.

A putative father is defined in Chapter 128 of the NRS as "a person who is or who is alleged or reputed to be the father of an illegitimate child." This bill revises that definition to also include 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. A putative father is a man who has had a sexual relationship with a woman to whom he is not married and, therefore, is on notice that she may be pregnant as a result of those relations.

Right now, a birth father whose name is withheld by a mother would have to watch for a publication in a newspaper to get notice of an action to terminate his parental rights. I can tell you that in 19 years of practicing in this area, I have never seen a birth father be notified by publication. If this bill is enacted, a putative father who timely registers would be entitled to a notice of hearings. It protects his rights to consent to an adoption, to intervene in an adoption, and to file a paternity action. It says to the courts of Nevada that he is interested in parenting. The bill authorizes certain agencies and persons to request a search of the registry to determine whether a putative father has registered and provides notification to the requesting agency or person and if so, then provides notification to the registering putative father. The Health Division would develop the form to be used with the registry, and the State Board of Health would establish fees for searching the registry. I want to make it clear that there is no fee for a man to register or to withdraw his name from the registry. Most of the information in the registry is confidential; however, the agencies and individuals who are authorized to search the registry would be entitled to certain limited information. I would like to tell you briefly how this would change my practice and the prospects for my adoptive clients.

Currently, if a birth mother wants to place her child for adoption and the father has not or will not consent to the adoption or voluntarily relinquish his parental rights, either the mother or the agency she is working with must petition the

court to have the parental rights terminated. The court requires that I make inquiries to identify and protect the interest of the putative father. If identified, I have to provide notice to him of the proceeding, either by personally serving him with notice of the action or by publication. Even if his rights are successfully terminated, he has six months to appeal the termination for lack of notice. Once six months elapses, he may not challenge the order on any ground.

The responsible father registry provides another way to accomplish this termination. If a birth mother relinquishes or proposes to relinquish her parental rights to a child for adoption, as long as there has been no legal relationship established between the child and the father, or he cannot be identified, or become the subject of an adoption proceeding, I can file a summary petition to terminate his parental rights as long as he has not registered with the registry. It would be up to the court to determine whether, in that limited circumstance, it could be done without a hearing. I could not use this procedure if there is a presumed father, or if the father has established his parental rights. This means that instead of incurring thousands of dollars in legal expenses taking anywhere from four to six months to terminate rights, I would no longer be required to serve him with notice either personally or by publication, and the six months to appeal the decision would not apply.

Instead, the agency or individual that I represented would search the registry and then send notice of filing of a summary petition to the putative father. He would then have 30 days to appear or to notify the court that he has attempted to establish paternity, or his rights may be terminated. It would not remove the requirement that I must conduct a diligent search for any other putative fathers based on information provided in an affidavit from the birth mother, or by other reasonably accessible means. If a putative father were found through a diligent search, he must still be notified of his right to register with the registry and that failure to do so would result in the termination of his parental rights. A petition could not be decided sooner than 35 days after the birth of a child. A summary petition that terminates parental rights would be conclusive and binding.

I believe that Nevada has a legitimate interest in protecting fathers, mothers, and children. It also has an interest in protecting families who are seeking to adopt children. If enacted, this bill provides a free, easy, and foolproof notice to fathers allowing them to avoid publication or even mailed notice, allowing him to not maintain a relationship with the mother if he so chooses; allowing him to forgo seeking alternative sources of information about the mother and to not have to rely on the mother to protect his rights. I support this bill as is, and am happy to answer any questions.

**Assemblyman Thompson:**

What are your outreach techniques for this registry? In various communities, it is difficult to have people participate in something that is extremely positive. What are your tactics to get a putative father to sign the registry? I started my career working at the Department of Health and Human Services, Division of Welfare and Supportive Services. The putative father question was always on the application for the mother. Many times she would give a list, or no one, or potentially the father was living with her, but she would not disclose that. I am also a Court Appointed Special Advocate for over 15 years. Rarely do we see the father being named. There is also the scenario of the father who shows up at the last minute. Unfortunately, when you are trying to adopt, sometimes that is the reality. An adoption is not final until the termination of parental rights happens. That is the risk that an adoptive family faces.

**Israel "Ishi" Kunin, Private Citizen, Las Vegas, Nevada:**

I am a fellow of the American Academy of Adoption Attorneys. The registry is going to be campaigned through the Health Division. The goal is, over a period of time, to have advertisements, marketing, and public service announcements that are going to put people on notice that there is an option for men to protect their rights. While it might superficially appear like an invasion of privacy, in the end, it will be clear that this allows a man to submit his name to the registry and put on notice to everyone that if this particular woman, whom he had sex with, has a child and places the child for adoption, he must be notified.

In terms of how this is going to be marketed and how the campaign will reach the public, I am sure we will take from other jurisdictions that have successfully done this. Mary Beck is on the phone to testify. She is a fellow with the Academy as well and is probably the most versed in this registry and has watched all of the states that have enacted this registry and has assisted many of them in the process. How we get the word out, how we ensure the public knows, people will pay attention when they want to, and if it is important enough, they will listen and see what they can do to protect their rights. If they do not, then the adoptive family is able to move forward knowing they have the stability without the fear of someone later coming into their home and disrupting the family.

**Assemblyman Thompson:**

I am not sure how well the whole connotation of a registry will be received; having to sign up for the draft, so to speak. That is one thing, but a registry is just not setting well with me. I think it is truly going to be a challenge, but I do want to see that the birth father truly does have rights. We do not want to deny a birth father from being the best father he can be for his biological child. I applaud everyone who adopts children; I hold them in the highest regard, but

in a perfect world you would like to see the birth father be a father and not feel like he is being pressured to not be a father. I really feel that "registry" just does not feel positive.

**Ishi Kunin:**

There are 34 states that currently have registries. Those states have had successful results. In a perfect world, there would be children who would be raised by the parents who birth them. That is, unfortunately, very far from reality. This registry protects the birth fathers. I have been doing this for 30 years and have had a large adoption practice for the majority of those years, starting at the Division of Welfare and Supportive Services working with abused and neglected children as a deputy attorney general. This is my passion. I have had birth mothers come to me that had no idea who the birth father is. I had one mother say she was at a U2 concert, met some guy, and they had sex under the bleachers. We have no way of knowing what is true. This registry allows that guy, whoever he is, to come forward and sign a confidential document. So if this woman tries to place her child for adoption, the father is protected. Otherwise I am terminating a John Doe's parental rights because I have no idea who the father is. There is no other way for the father to find out, unless he travels in the same circle as the mother. This registry is actually offering a protection for birth fathers that they do not currently have, if it is a one-night stand, or if it is a relationship where the birth mother leaves to go to another location.

**Chairman Frierson:**

In my reading of the bill, I do not see this as a protective measure for fathers. I see this as an expediency measure for adoptive parents, which is a worthy cause, but it feels like we are proposing to put a very impractical structure in a practical world. We are expecting generally young folks who had a one-night stand to have the wherewithal to register their one-night stand just in case, so that their parental rights can be preserved to some extent by notice. In a practical world, it seems to me, that if this passes, we are in a hurry to terminate parental rights. If this bill fails, we have to wait six more months and then the parental rights are terminated. I do not read the bill as dealing primarily with the protection of the putative father as much as expediency and closure for the potential adoptive parents. That seems to be the overwhelming energy of this bill.

**Ishi Kunin:**

I think the overwhelming energy is absolutely in protecting the adopted children, in terms of stability, in terms of having a home where they are going to be raised in and not be removed. Our Nevada statutes in adoption, parental rights, and divorce all say that the best interest of the children is the primary concern.

Clearly, that is the ultimate protection we are looking for. When the concern is raised that it is an invasion of privacy or it is not practical for birth fathers, I think it is important to point out that it does add a protection that they do not otherwise have. Using the example I gave, where a birth mother comes to my office claiming she has no idea who the birth father is; there is nothing you can do to get the information from her. This gives the birth father, who may want to parent and take responsibility even for the baby born to a one-night stand, an opportunity to step up to the plate. He has no way of finding out information. This protects him at least in the event of an adoption.

**Chairman Frierson:**

So we are expecting a 19-year-old to have the wherewithal to register a hookup.

**Ishi Kunin:**

We are asking a 19-year-old to raise a child. If you are doing adult acts, you have to take adult responsibility. I understand that it is not practical. Again, the ultimate concern is ensuring these families are protected while still giving the putative father the ability to protect his rights. That is the goal I am certainly looking for.

**Chairman Frierson:**

I am thinking about another bill we processed this session, focusing on parents' rights as a fundamental right. On one hand we are making a statement about a natural parent's fundamental right, and in this bill we are in a hurry to terminate that fundamental right to provide closure and expediency for an adoptive alternative. If I am weighing out terminating faster versus an adoptive option having to wait an additional six months, what is the harm in waiting the extra time for a blood relative to come forward?

**Ishi Kunin:**

The harm is the bonding for the child. If an adoptive family takes a child in and two or three months later, it does not matter if the child is two months or twenty years, you do not love the child any less. The harm would be the risk of the child being removed from the family.

**Chairman Frierson:**

If a young couple has sex and she misleads him somehow, maybe she says she is on birth control, but he is under the impression that she is not pregnant. Maybe she even admits she is pregnant, but by James Doe instead of John Doe. So he has no reason to believe he is the father. He would want to be involved, if he knew that the child was his, but he does not. Currently, if he came forward even after a year was up, he could assert his rights. This bill is



stating that anytime you have sex with someone you are not married to, if you want to protect your parental rights, you need to register; otherwise your parental rights will be terminated.

**Ishi Kunin:**

Normally in that scenario, the birth mom is signing a consensual relinquishment at 72 hours after birth. One of the questions I see on the Internet more often than any other is, "My girlfriend says she is pregnant but says I am not the father. How do I find out for sure?" The answer is the same, if you care and want to know, you file a petition for paternity with the court. When the baby is born, the paternity test will be ordered. If you do not want to know, then you do not have to register, but you should not stop the stability of the future of this child from occurring. If the birth mom is going to lie to him, she is going to lie to us, as attorneys, as well, and claim she does not know who the birth father is. So we are going to end up terminating John Doe's parental rights anyway. The adoptive couple is going to spend another \$3,000 for an action that otherwise they would not have had to perform. Again, it comes back to taking responsibility.

**Chairman Frierson:**

I just cannot help but think there is a whole lot more sex happening outside of marriage than this bill acknowledges, and it is not as simple as two kids in the same community that have sex. There are college visits or out-of-state visits. If there is any type of misleading on the part of the mother, and this would expedite terminating a father's parental rights, then it seems that just a little bit more time will not harm that many more folks. I have seen in my line of work fathers come forward on the eleventh month. It is kind of a huge thing for us to preclude that by being in a hurry to terminate when it is just a question of time.

**Senator Hammond:**

I would love to go into depth about the question you posed. We do have another presenter who I hope will address this. In reality, I read an article by Mary Beck where she cited some statistics from 2004. There were 90,000 out-of-wedlock births in Florida. I think the bill does acknowledge the fact that there are a lot of unwed mothers and a lot of sex outside of marriage. I believe this bill is going to change the way we look at this. Yes, it is going to take some time before birth fathers realize there is a registry out there, but in the end, when the registry is put into place, it is going to protect those who did not know for sure if the woman they had sex with is the mother of their child or another gentleman's. The registry is set up to take anyone who wants to register. There might be six, seven, or even eight guys on the registry for one baby. This will allow for a test to be done as well, so we know exactly who the

birth father is before we terminate the rights and before that baby is placed in an adoptive family.

**Senator Jones:**

I would like to clarify. Obviously, we all know that sex outside of marriage happens; it happens every day. The purpose of this bill is to address those who want to assert their parental rights. Lots of guys have sex with women and do not have any interest in asserting parental rights, they just want to have sex, which is fine. That is their right. The point of the bill is to address those who actually want to be fathers. With regard to the additional protections and procedures that are placed in the bill, it does not obviate the obligation of a birth mother, when asked by her attorney, to disclose a known father. Obviously, if someone wants to lie, someone is going to lie, whether it is under the existing procedure or the procedures that are set out in this bill. In the original draft of the bill, that was one of the concerns that several of us had, which is why we changed this to be more than just the putative father registry that led to a notification to a potential father. We wanted to leave in place the existing protection so that if a known father was reported by a birth mother, that person had to receive actual notice.

**Mary Beck, Private Citizen, St. Louis, Missouri:**

I am a member of the American Academy of Adoption Attorneys. I have written law for several states as well as Congress on putative father registries. It is a bipartisan issue nationally, and there is a national bill to link all of the state registries that have been introduced. I have prepared a PowerPoint presentation [[Exhibit D](#)]; but before I start that, I would like to respond to some of the comments made about individual birth fathers. This bill is formed by policy. The protection of fathers' rights is in balance with the protection of children's and mothers' rights. So enacting this bill will provide the very best protection for the responsible birth father; it also provides tremendous protection and privacy for birth mothers.

The question was asked about notifying the father of the registry. I know there is a publicity requirement in the bill, but I can also tell you that in Indiana, 50 men sign up per week on the Indiana registry, which is not linked to child support in that state. In the state of Missouri, our putative fathers do not register anywhere near that amount. Our registry is over 20 years old, and I do not think we had 50 registrations over all of those years, but our registry is linked to child support. I do not believe that the willingness of unmarried men to file with the registry is as connected to their awareness of it, as it is their concern about having to pay child support. Nevada has to decide whether they want to protect responsible fathers or if they are going to protect all fathers who are actively avoiding responsibility for their children.

I would now like to begin the slide presentation [[Exhibit D](#)]. My colleagues in the Academy already talked about the purpose of the registry. The main purposes are to expedite the adoption of children, but also to protect the rights of putative fathers because mothers have many legitimate and nonlegitimate reasons not to name fathers. The purpose is actually to protect fathers beyond anything else that currently exists in Nevada. The protection of mothers from abuse is a huge purpose of the putative father registry. Under S.B. 113 (R2), a father's registration protects his rights to notice as well as his rights to consent or withhold consent to adoptions. It is confidential, and only authorized persons may search the registry.

This bill also provides for a summary process to terminate parental rights of fathers. It also provides that sex is notice of possible pregnancy. That is black-letter law in at least 15 states. It is also part of the national bill that has been introduced.

If you are concerned about the constitutionality of a putative father registry, or the advisability of it in terms of state policy, it was confirmed and decided over 30 years ago by the U.S. Supreme Court in the case of *Lehr v. Robertson*, 463 U.S. 248 (1983). Since 1983, all of the states who have enacted registries and had state court decisions on their registries have found the registry constitutional. In a fairly recent Texas case in 2009, the state court reviewed all cases across the United States and found that every state upheld its registry in a challenge. Registries do affect prebirth conduct in that men may register during the pregnancy. Nevada already holds a father's prebirth conduct relevant to his parental rights. The Nevada Supreme Court decided this in 1998 in a case called *In Matter of Parental Rights To Symantha Carron*, 114 Nev 370 (1998). Prebirth conduct is nothing new to parental rights in Nevada.

Let us look at the interstate compatibility of the Nevada registry with other states and the time frame of the Nevada registry with other states. Thirty-four states have registries; however, some of them are not fully functional. There are approximately 25 states with fully functional registries. This bill gives a man the option to register during the entire pregnancy plus 30 days. Nine other states mention 30-day time limits. One of them is Arizona. Thirteen states limit fathers' registration to the day of birth or at least before placement. Five states have 3- to 15-day limits on registration. Senate Bill 113 (R2) has the longest period of time for an unwed father to register; it keeps company with nine other states, so it is certainly not out of step with the other states. There are five states that border Nevada. Four of them have paternity registries; California does not. The time limits in the bordering states: Utah is by the time of the mother's consent; Arizona is 30 days; Oregon and Idaho are

by the time of placement, which can be the day of birth. Nevada statute is in keeping with its neighbors.

Children who are adopted experience more parental involvement and all children benefit from a father's involvement in all ways. The registry assures that the father is either in or out of the child's life. If he is out, that gets known fairly quickly, and another father or an adoptive couple can step up to the plate. That also has implications for the state because it can decrease foster care, both time and costs. My research shows that Nevada had about 4,800 kids in out-of-home placement in 2011. The foster care payments are roughly \$700 a month per child, depending on age and other factors. In 2012, Nevada paid almost \$40 million in foster care payments. The registry would expedite the placement of children into adoption out of foster care. That is good for the kids; it is also good for the state. That is what I am talking about in terms of policy. The children benefit, the state benefits, fathers and mothers are in balance, they both benefit as well.

Someone mentioned how Nevada defines a putative father as a man who is, or is alleged to be, the father of an illegitimate child. This bill makes sex notice of a possible pregnancy, and that the putative father has 30 days after birth to register. That protects his right to consent to the adoption. That is a protection that is currently not available in Nevada because if a woman refuses to identify the father, and the father does not follow up with the woman to see if she is pregnant, or if she lies to him and says someone else is the father, he has no way to protect his rights outside of this registry. Something I have not heard about during this hearing is the registry and mothers. The states have an obligation to protect mothers' privacy and safety.

Mothers cannot be required to identify fathers because the Supreme Court validated and confirmed that mothers have a right to privacy and mothers are not required to notify the father of a pregnancy. We would not want to require them to notify the father because abuse is tremendous. The mothers' right to privacy is constitutionally protected under a Supreme Court decision. The State of Nevada certainly would want to be consistent with that. The registry also prevents mothers from thwarting fathers, even if they would be so inclined.

So how is this fair to fathers? The mothers' rights to privacy are protected, which can impact the fathers' rights to know about a pregnancy or an adoption. First, it is fair because mothers cannot thwart dads who register. The responsibility is with the father to protect his own rights. That is the best place for it because relying on a mother is misplaced reliance. Some of the reasons are abuse and the facts of American life. One out of four women in this country is abused, and pregnancy escalates abuse. Domestic homicide is either

the first or second leading cause of death of pregnant women in this country. Women have a lot of reasons related to abuse to not name fathers and to not keep them in the know. Additionally, one out of four college-age girls are raped, often while impaired. They do not even know who the father of their child might be. If they cannot name a father, or do not want to name a father, the registry is the only way to protect those fathers. Additionally, we have other facts that make a registry sensible. Unmarried women bear 40 percent of the babies in this country. They are the majority of custodial parents. That makes them the decision makers for the majority of nonmarital children.

The putative father registry protects the responsible father who is willing to assume financial and custodial responsibility. I think the registry protects men and women when children are born outside of wedlock. Focusing on the broader policy is what this registry does and is why 34 other states have registries. I try to sum this up when I describe mothers and fathers. Mothers may be unable to identify fathers. Naming sexual contacts invades their privacy; they fear abuse, rapists, and coerced abortion. They are afraid to notify men of pregnancy; they are afraid to identify fathers to the courts, for fear of retaliation. They are afraid to ask for money for support. They typically assume primary physical custody. Those facts form the policy upon which registries are based. Fathers who rely on mothers to protect their parental rights misplace that reliance because mothers have a host of reasons—good reasons and not-so-good reasons—not to help fathers. Additionally, the registry is so cheap and so easy for fathers to do, one of the assemblymen talked about having to register every time you have a weekend hookup. No, a man does not have to register every time he has a weekend hookup, but he does have to follow through with the woman to see if she became pregnant, and if so, to provide the support that a father is entitled and accountable to provide. That is my summary of S.B. 113 (R2).

**Assemblywoman Cohen:**

I have some notice questions. Section 12, subsection 3, has the certified mail requirements. What is wrong with personal service? People tend to play games with certified mail all the time, or do not pick it up because they think they are being sued over something.

**Senator Jones:**

We are certainly willing to look at that. It may be a cost issue.

**Assemblywoman Cohen:**

I think when you are comparing the cost of certified mail, a process server is not much more expensive. Also, in section 12, subsection 2, what if the putative father is in the military and is deployed? We are giving him 30 days to

respond. That does not seem like enough time. Also, will the Servicemembers Civil Relief Act kick in?

**Senator Jones:**

We just passed the other bill that you referenced, but we can reference this back to that. We certainly do not want to terminate someone who is serving our country.

**Senator Hammond:**

I agree with that.

**Ishi Kunin:**

The alleged father has the ability to sign the registry the day after he has sex, so there is plenty of time before the 30 days come into play. I do not want to get caught up in the 30 days being limiting by the fact that a person may not be available for those 30 days following the birth. You know when you had sex. You then have an obligation, if you want to be a responsible parent to submit the form to the registry.

**Assemblywoman Cohen:**

My concern is dealing with the notice that goes to the putative father saying he has 30 days to make an appearance. Even after you have registered, the notice says he has 30 days to make an appearance. Those are the 30 days I am concerned with.

**Senator Jones:**

You are right. You are talking about the 30 days after a notice, not the 30 days after birth.

**Assemblywoman Cohen:**

I am also very concerned about the expedited hearing. I think sometimes people lie, even to their attorneys, especially moms who are giving their children up for adoption. I am concerned there will be some games with notice and service. If you are in front of the judge and he says, "I am reading your affidavit. Is this still valid? Did you send out the notice?" et cetera. Then we may be able to catch some people who are being less than genuine about whether they actually crossed all the t's and dotted all the i's and everything else required for proper service. I am concerned we are terminating rights without having a hearing. No one is coming to court for this, but we are terminating rights.

**Senator Jones:**

I would say that nothing in this bill precludes a father from bringing an action to establish his own paternity at any time. This is providing a cheaper way to

notify the government that he wants to assert his parental rights. If he were to file an action to establish paternity, he would certainly have the hearing before the court.

**Todd Moody:**

I would like to answer the Committee's question about a birth mother being questioned by a judge about her affidavit; that almost never happens. A birth mother would never have reason to be in court for a termination of parental rights hearing unless she was executing a judicial consent.

**Assemblywoman Spiegel:**

Section 6.5, subsection 3, seems to require that registration would happen after intercourse because people would not know if there was a pregnancy. The concern that I have is that this is going to build up a large database of people who have had intercourse out of wedlock, whether they are single and unattached or married to other people. I have a concern that this registry and database could also be accessed by a court order in divorce proceedings. It seems this bill would allow that in section 8, subsection 2, paragraph (b). I know many women who are concerned that their husbands have been unfaithful to them, and I could see them getting a court order to access the database for that purpose.

**Mary Beck:**

I do think that other states allow courts to access the registry in adoption action, but not in dissolution actions or other miscellaneous court actions. It is restricted to adoption. Perhaps this bill could be a little bit more circumscribed and indicate that. It has not been a problem in any other state. There have been no reported decisions on a misuse of this registry. It is a crime, under this bill, to search the registry for malicious purpose, I believe.

**Assemblywoman Spiegel:**

I do not know if that is malicious, but the wording does not preclude someone from using it for another purpose. Section 8, subsection 5, says, "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." That is true if there is someone in the Health Division who was chatting with someone over coffee and says, "Can you believe I saw Sheldon Doe in the database." That would be a misdemeanor, but if there were a court order, it is just not covered.

**Senator Hammond:**

We have no problem putting additional language in to ensure that loophole does not exist. Currently, if the birth mother says she thought the name of the

potential birth father is Joe Cornwell, we would then have to send out a letter to every person with that name. Then a Joe Cornwell, who has no idea about this pregnancy, gets the letter which says you may be a potential birth father, and his wife reads it. I think this creates far more serious consequences because now the wife is thinking something else when the husband is completely innocent.

**Assemblyman Thompson:**

I understand the intent of this bill, and it is disturbing to me. If we are talking about the best rights for the putative father, I think the best right we can give him is to give him the opportunity to be a father. I would like to see the campaign talk about being a responsible father, that it is okay to be a father; that it is great to be a father. It sounds to me like this is telling those putative fathers, "Let us get you signed up so we can get you out of the way." I think the best campaign for the health districts would be to say, "It is great to be a father and we would love for you to sign up and do a paternity test. We want to foster a great relationship with you and your children." I am having heartburn with this bill because if we are talking about rights for a putative father, I would prefer we try to help him be that father rather than have him not be that father.

**Senator Hammond:**

I agree with you, but again, we are talking about many unwed births occurring. What you are saying is that you want to have buy-in by those who keep having sex. There are those who just do not want anything to do with the birth mother or the birth. I do not think you are going to change that until you change the culture, which is what you are targeting right now.

**Assemblyman Thompson:**

I understand that we are going to have some hits and misses, but I think that the beauty of this can be if we get some true fathers out of this, instead of having a registry to put a person on notice so that if they are the father, to get rid of his parental rights so others who are not the biological parents are a part of that child's life.

**Senator Hammond:**

I completely agree with what you are saying. I think the two can actually work together. There has to be a change in the culture. Younger generations are having sex. What we have to do is explain to these young men that fatherhood is a great blessing in their lives. I do not think these are separate from each other; they are compatible. As we raise the understanding in those youths' lives about the potential of being a father and how it changes them and the beauty of it, then they can use the registry to their advantage. Now the mother



cannot hide and claim that she does not know anything about the potential father. As we tell these young men that this is a great thing in their lives, they will go to the registry, sign up and have their rights established. I think you are talking about two things that have to be apart from each other, but can be joined together at a later time.

**Assemblyman Thompson:**

In the scenario that you gave, the 19-year-old man who wants to be a responsible father, who is going to work with him? Will the Health Division work with him to try to establish paternity? Because that is what I am hearing you say that we are trying to do.

**Senator Hammond:**

In whatever community he belongs to, whatever religious organization, or his parents, I think, just like everything else, it takes time to establish something. When I was young, I had to register for the selective service. Many of us did not even know about it. As time went on, more and more young men learned about it. This is going to take time for these men to realize there is a registry out there. I think then there will be a lot more community support to allow them to express their desire to be a father and educate them on how to sign up for the registry. You have a desire for this, and it is not going to be diminished one iota by this registry. You are still going to express to those young men that this is a good positive thing that they should embrace and assert their rights.

**Mary Beck:**

There is a provision in this bill where fees are paid concerning putative father registries. Those fees can be used for an educational campaign to teach young men about the responsibilities of fatherhood, including signing up with the registry if they are not keeping track of the women with whom they have had a sexual relationship.

**Assemblywoman Diaz:**

I believe that moms currently have a little more say as to the future of their child. I do appreciate the facts about the mother having the right because of potentially abusive relationships, and I acknowledge that happens. I also acknowledge there are many more cases where the mom holds the child hostage. Sometimes when things fall out of place, for example, the mom is envisioning there will be a long-term relationship with the father of the child and she, out of spite, wants to do what is best in her universe and not what is in the best interest of the child. My concern is that the mother can make the decision to give the child up for adoption, and the father is not kept in the loop. I do not see how the father can be kept in the loop. The father does not have the same rights as mom to say, "Yes, I agree, let us give this child up for

adoption." We cannot assume that every dad is a deadbeat dad. There have been many situations close to my family where the fathers have gotten cold feet, and six or eight months down the road, they decide they want to be the best father they can be. That wakeup call would come too late under this bill.

**Senator Jones:**

I am not sure I agree with your assessment of what the bill does. We can certainly talk more about it, but someone who decides six or eight months down the road that they want to be involved in their child's life, their rights would have already been terminated under the existing law. The purpose of this bill is to give someone who decides, either within the nine months prior to birth or within the 30 days after birth, to fill out a simple form and let the state know that they would like to be involved in that process.

**Chairman Frierson:**

I think we are having a discussion about two scenarios: A young person who cares and wants to be a father, and another person who does not. It ignores what some of us believe are the many people in between that are not necessarily singing from the mountaintops, "I want to be a dad," but have some pride in knowing they have a child they would want to raise. This bill ignores those folks in the gray area to some extent. It states you either care or you do not. I guess I admire that, but it is not a reality for a lot of folks in the gray area. Some of these fathers think, "If she said she was pregnant, confirmed that it was mine, and decided to carry the pregnancy to full term, then I will talk about possibly being involved." That is not ideal, but I think that is a reality for some folks.

**Senator Jones:**

I understand that this is not black or white, but in the process—whether the existing process or the process under this bill—at some point the father has to make a decision whether he is going to assert his parental rights. The process after he says that necessarily triggers certain events. That is what happened with my son. The father showed up on day two and stated he wanted to assert his parental rights. This was a gray area, one day he said he did, the next day he said he did not. Throughout that process, he had the opportunity to step up to the plate. At the end of the day, he decided he did not want to step up to the plate and signed the relinquishment. I do not think there is anything in this bill that would eliminate that process for those who are ambivalent. I understand it is not easy when you are being faced with the decision of terminating your own opportunity to raise your child. It was very difficult for my son's birth father. That is why we have the process in place. This simply gives another avenue for someone who wants to assert their parental rights to

sign a registry instead of going through a more expensive process of filing an action to establish paternity.

**Assemblywoman Diaz:**

According to my reading of the bill, this expedites the process by which we terminate that father's parental rights to the child. It is basically a window of time that the father has to operate under. Currently, the father has more time.

**Ishi Kunin:**

Mom's pregnancy is black and white. There are no options. Mom is pregnant; dad has to deal with it. At that point, I think everybody has to deal with this issue. If you have second thoughts, children do not have that choice, they do not have the option. They are coming and they are entitled to stability. This registry is not about the mom who keeps the child and does not tell the dad about it, or lies to the dad as to whether the child is his. This is about the birth mom who has made the decision to place the child for adoption. All those birth moms who are not receiving any support from dad, those are the dads who need to be reached and educated, make them know they need to step up to the plate and support and have a relationship with these children.

This registry is just those few birth moms who are saying, "I am not in a place where I can offer this child the best future; I want to place this child for adoption." Those putative fathers who sign the registry are doing so because they want to be dads. They want to be notified. Otherwise, why else would they put themselves out there? It is protecting those people 100 percent so that now when they get the notice that the woman you had sex with is pregnant and wants to place that child for adoption, the father gets to now come forward and say, "No, that is why I signed the registry, I want that child." He has the right to step up and say, "Thank goodness I registered; now I know, and I can parent." I want to ensure it is understood that the expedited process is only there to the birth father who does not want to parent. The second you get notice on the registry; that is your cue to step up to parent.

I also want to add to something that Mary Beck touched on that we do not think about much, but it is very important. That is the foster care system. As I stated, I was a deputy attorney general for the Division of Welfare and Supportive Services, and for over 20 years I have had the privilege and honor of sitting as a master in the juvenile court in abuse and neglect. There are a number of times when children have gone into the foster care system and they are looking for relatives. The birth mom will not identify a birth father, and children are stuck in foster care. This registry also protects those birth fathers. The bill has provisions that the registry would be utilized by the Division of Child and Family Services. They would be able to go to the registry and find that the

child who has been brought into the system due to abuse or neglect has a man who has stepped up as the father. Now these children can be placed with a parent. This bill does offer that protection and a way for these children to be returned to fathers who want to parent.

**Senator Hammond:**

I think this is important legislation and the policy has to be right. I appreciate the discussion we are having. I would like to clarify the process now. We talked about this registry and the willingness of the young men to seek out this registry and put their name on it. In our first adoption, after the birth mother told us a little about the birth father, and that he may not live in this state anymore, we were still required, under current law, to put a short ad in a legal newspaper. The ad had to be in the newspaper for six months, along with the birth mother's name. That was part of the process for terminating a parent's rights. I cannot think of too many young men who even know that a legal newspaper exists. I cannot imagine them running around looking for the legal newspaper to see if there is a potential birth mother trying to contact them. I do not think it happens. This bill is a cleaner system. We are asking these men, if they really want to be a father, then put your name on the registry after you have had sex. That is notification that you may be a father.

**Senator Jones:**

Adoption agencies are very reluctant to go forward with termination of parental rights when someone actually wants to be a parent. It is easier to simply walk away from the process. Frankly, that is almost what happened in my situation. The reality of this process is that if the notice is sent out to someone who is on the registry, and there is no response within 30 days, the summary proceedings will go forward. If the person does notice the court that they are intending to assert their parental rights, my belief is that the adoption agency, rather than go through the expensive process—rather than the adoptive couple go through the expensive and tormenting process—will stop it at that point. The reality is the summary proceedings are only going to occur when someone does not respond to the 30-day notice that they receive as a registrant on the putative father registry.

**Todd Moody:**

I absolutely agree with you. In those circumstances where a birth father registers or comes forward within that time period, there is no way his rights are going to be summarily terminated at that 35-day mark. Instead, he will be entitled to all the regular notice of proceedings, he will go through an evidentiary hearing, and in those situations, most adoptive couples, individuals, and agencies will back out because they see a father who wants to step up, who wants to parent, and the likelihood of terminating his parental rights is nil.

**Chairman Frierson:**

I will now invite those wishing to offer testimony in support to come forward.

**Terry Care, Private Citizen, Las Vegas, Nevada:**

You heard Senator Jones say that I had legislation similar to this in 2007. What we had was the introduction of what is known as the Uniform Parentage Act. That bill had seven components. The putative father registry was only one part of it. The bill came out of the Senate, came out of the Assembly Judiciary Committee, and back on the Senate floor. It was re-referred to Senate Finance because of the fiscal impact. Very late in the session, the bill came out of Senate Finance and the putative father registry came over to this Committee, but we ran out of time and the bill died. The Uniform Parentage Act, which includes the putative registry, has been adopted in nine states, including Washington, New Mexico, Wyoming, Utah, Texas, and North Dakota. As you heard from Mary Beck, more than 30 states have some form of the registry. I would point out that one of the drafters of the Uniform Parentage Act was Frank W. Daykin, former Legislative Counsel for Nevada. I would compel the Committee to endorse this bill.

**John T. Jones, Jr., representing the Nevada District Attorneys' Association; and the Clark County Intergovernmental Relations Team:**

Both of the organizations I am representing are in support of S.B. 113 (R2), and we appreciate all the efforts that Senator Hammond and Senator Jones have put forward in promoting this bill. It was touched on briefly this morning, but the goal of the Division of Child and Family Services and the District Attorneys' Association, when involved in child welfare proceedings, is to find permanency for children in the quickest manner possible. This bill will help us find permanency for children while still providing an avenue for fathers who want to assert their parental rights to father. It is a very important bill, and we do support it.

**Amber Howell, Administrator, Division of Child and Family Services, Department of Health and Human Services:**

I wanted to come to the table in support of this legislation. The best thing about this bill is that the Health Division and the Division of Child and Family Services are under the same department. Anytime one agency has been tagged with a responsibility, we are very good at reaching across the hall and finding a way to help our partners which, overall, helps all of our Nevada families. The federal government provides us with a couple different pots of money. The Title IV-B money provides funding for fatherhood initiative. The other pot of money is the Adoption Incentive funds; the more children you adopt in your state, the more money you get. With this money, I think we could assist the Health Division with their campaign efforts for this measure. I am committing

to those efforts today and moving forward throughout the biennium as we implement this. Much of the testimony discussed the expense of foster care; all of those numbers are correct. Children should not languish in foster care; we should provide homes for them. The younger they are, the more important the bond is between the infant and the caregiver. There have been many studies about when infants do not have a permanent caregiver and what that does to their mental health and their ability to bond. We will do whatever we can to support this bill.

**Helen Foley, Private Citizen, Las Vegas, Nevada:**

I am the mother of two adopted children. I am not an attorney and I had not participated at all in this process before adopting my babies. I have to tell you, I thought it was a very bizarre experience during the process of the termination of parental rights. The mother held all of the cards. The mother was the one who decided she wanted to terminate her parental rights and have someone else be the mother of her child. Always a very difficult situation, but I wondered, who is the father? Where is this man? Does he know about this baby? Has she kept this information from him? Has he seen her while she is pregnant? What is the process to try to find him and let him know that the mother was terminating her parental rights and if he did not come forward his rights would be terminated as well? When asked who the father might be, she may give the name, but she did not have to. The attorneys would send out those bizarre letters as mentioned, which were very difficult for people who may have the same name. Then the attorney put together a document that terminated the rights of John Doe. They would put these ads in the legal news. I do not know anyone who has ever read the *Nevada Legal News*.

So how does this man who really wants to be a father to this child assert his rights? With this bill, he can. Under this legislation, he does not have to leave it up to her; he can file with the registry and can assert his rights. Currently, I do not really feel he has those rights. I know you are very concerned about these men and having them become responsible, caring fathers. I certainly wish that. If I had the financial wherewithal, I would have adopted several more children. But, I do not want to take a child who has a parent who really wants him. If that parent really wants to be a parent, this legislation gives him an avenue to step up and not have his parental rights terminated.

**Chairman Frierson:**

I think there are two points here, and we have blended them. I think the opportunity to register is one thing; the expedited termination is another. I do not think they necessarily go hand-in-hand. It is the notice of termination that gives some people discomfort. In my day job, I see a number of young men who do not decide they want to be a father until they are in court and look in

that baby's eyes. I feel that would be precluded with this bill. It is not that I do not value the permanency and the effort to have closure, but the value that we have placed, as a country, on parental rights and then to support terminating these rights faster, it seems like the only downside to this bill not passing is a few more months.

**Helen Foley:**

I do not disagree with what you are saying. Maybe there is an opportunity to amend the bill. I will tell you as a prospective adoptive parent, if I had known there was a registry and that there was a man who had come forward and placed his name on it as a putative father, I would have been much less likely to take that baby into my home. That is information that would be good for me, as an adoptive mother, to know. It would be very helpful to know that there was a parent out there who disagreed with terminating those rights and wants that child. I would not want to bring a child into my home knowing, loving, and bonding with him, and also knowing that he could possibly be ripped away from me.

**Chairman Frierson:**

Is there anyone else wishing to offer testimony in support? Seeing no one, is there anyone wishing to offer testimony in opposition.

**Eric A. Stovall, Private Citizen, Reno, Nevada:**

I am also a member of the American Academy of Adoption Attorneys like my colleagues down south. In fact, I am a trustee of the organization. I represent four different adoption agencies in both northern and southern Nevada. I do approximately 100 adoption cases a year. I did five termination of parental rights cases yesterday. This is an area of the law that I am very passionate about. I spend three-quarters of my practice time in adoptions. I am very committed to this. I first want to commend the efforts of Senators Hammond and Jones in sponsoring this bill. Unfortunately, I am not able to support this legislation. Adoption laws in Nevada need to make it easier to adopt children. We need to reduce barriers to adoptions and related costs. Unfortunately S.B. 113 (R2) does not make it easier to adopt. It adds a new cost element to an already expensive process. This new law is unnecessary and simply does not solve any problems.

This is something that I do every day. Currently, what we do in Nevada is an adoption plan is made, usually by the birth mother, sometimes by the birth mother and birth father. The birth mother supplies to an agency an affidavit of paternity which identifies all known and potential birth fathers. A petition for termination after the child is born is filed on behalf of either an adoption agency or a private family. All putative fathers identified by the birth mother are then

personally served with a notice of petition for termination of parental rights. If we cannot find that person, we publish it in a legal newspaper for four weeks, which is required in statutes. The name of the birth mother is not included in the notice of publication; the only things included are the names of the birth father and the child. It also states when and where the termination hearing is to be held. We go to the hearing, which is normally three to five minutes, just long enough for the court to ensure the termination documents are in order. If the putative father makes an appearance, everything stops and we do not go forward with the termination. That is how it is done currently. It will be the same if this bill is passed.

Once the birth father shows up, everything stops as far as terminating his rights. If the birth father does not show up, then his rights are terminated because he has already been given notice, usually personal notice, and if we cannot find him, then through publication.

This bill establishes more bureaucracy. First off you have to administer, manage, publicize, and oversee the registry. That is something new. We have to have someone check the registry. We already know the birth father is not going to pay to register, but someone has to check it. Who is going to pay for that? The taxpayers initially, assuming it will be passed on to the adoptive parents. Those are the people we should be helping, but they are going to have to pay more to foot the bill. The identified putative father still must be served and given notice to respond. Certified mail service is less likely to get actual notice to these putative fathers under this bill than personal service is under the current system. I agree with the comment made earlier that actual notice is better than certified mail. Again, if the putative father responds, there must be a contested trial. This bill adds an additional cost burden with the education and notice statewide, which must be handled by the Health Division, as required in part of this legislation.

**Chairman Frierson:**

Since this is not a money committee, we do not want to get too deep into the fiscal impact.

**Eric Stovall:**

My point is that there is a cost element, and who is going to pay for it? This is something that is going to have to be funded each year. This bill does not avoid any significant step or time in the current process. It is unnecessary. If we want to shorten the time, we can. If we want to terminate the rights of birth fathers who do not take responsibility, we can do that, but we do not need S.B. 113 (R2).



**Chairman Frierson:**

Are there any questions? I see none. I will ask Senator Hammond to come up for closing remarks.

**Senator Hammond:**

I will point out that there is a need for this. We are trying to get this placed in several other states. Regarding the cost, I have spent thousands of dollars on my adoptions. Adoptive families have no problem getting rid of having to put ads in the newspaper. We, as adoptive families, are the ones who will be paying for people to access the registry. The adoption services that take place through foster care, they will see a savings. We did address the overall cost in the very end of the bill. There are provisions that allow for gifts and grants to be given to the Department of Health and Human Services in order to foot the cost for advertising as well as to purchase the software that many other states use for their registries. After that is done, the registry will be self-funded by those who are adopting, those who will ask to access the registry to ensure that there are no birth fathers listed. My wife and I would have paid much more in order to have the adoption done. I am certain many other families feel the same way.

**Chairman Frierson:**

Thank you, Senator. With that I will close the hearing on S.B. 113 (R2) and open the meeting up for public comment. Seeing no one, this meeting is adjourned [at 11:44 a.m.].

RESPECTFULLY SUBMITTED:

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Nancy Davis  
Committee Secretary

APPROVED BY:

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Assemblyman Jason Frierson, Chairman

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Judiciary

**Date:** May 29, 2013

**Time of Meeting:** 9:57 a.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 113 (R2)	C	Senator Hammond	Photograph
S.B. 113 (R2)	D	Mary Beck	PowerPoint Presentation