

ASSEMBLY BILL NO. 167—ASSEMBLYMAN PICKARD

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations. (BDR 11-588)

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

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

AN ACT relating to domestic relations; creating summary procedures for the resolution of certain matters relating to permanent support and maintenance, divorce and child custody; adding certain factors for determining child custody; revising provisions governing the relocation of a parent with his or her child; making certain terms consistent in provisions relating to child custody; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes parties to a divorce to use a summary procedure to dissolve the marriage when certain factors are present, including when the husband and wife have reached an agreement regarding or: (1) have waived spousal support; (2) have no community or joint property or liabilities; or (3) have no children from the marriage. (NRS 125.181) The summary procedure requires the parties to file a joint petition for divorce and waive certain procedural rights, including, without limitation, the right to appeal after a final judgment is entered except in certain limited circumstances. (NRS 125.182, 125.184) Existing law allows a person to seek permanent support and maintenance of himself or herself and their children in certain circumstances without applying for a divorce. (NRS 125.190) **Sections 2-4 and 9-11** of this bill create a summary procedure for permanent support and maintenance similar to the summary procedure for divorce when certain factors are present and both the husband and wife agree to the summary procedure. **Sections 5-7** of this bill provide for an ex parte divorce proceeding when a judgment for permanent support and maintenance has been entered. The ex parte proceeding allows either spouse to obtain a divorce without providing prior notice to the other spouse or a hearing. When an ex parte divorce is granted, **section 7** makes any order for child custody that was part of the judgment for permanent support and maintenance continue in accordance with its terms and any judgment for permanent support and maintenance for a spouse is deemed to be a judgment for alimony.



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Sections 15-18 of this bill create a summary procedure to resolve certain child custody issues when the parents or legal guardians of a child have reached a detailed agreement on the custody, care, education, maintenance and support of the child and the court determines that the summary procedure is in the best interest of the child.

Existing law makes the best interest of the child the sole consideration of the court in determining the physical custody of a minor child and sets out specific considerations for the court in determining the best interest of a child. **Section 19** of this bill adds to these considerations whether the parents have established an agreement concerning the division of rights and duties relating to the child and whether either parent is seeking joint custody primarily to avoid the payment of child support.

Existing law requires a custodial parent who wishes to relocate with his or her child to obtain the written consent of the noncustodial parent or petition the court for permission to relocate with the child. (NRS 125C.006) Existing law similarly requires a parent with joint custody who wishes to relocate with his or her child to obtain written consent of the other parent or petition the court for permission to relocate with the child. **Sections 20 and 21** of this bill allow a parent who has relocated with the required consent from the other parent or permission from the court to subsequently relocate without obtaining additional consent or permission upon providing notice to the other parent at least 30 days before relocating. However, consent or permission will be required if the noncustodial or non-relocating parent establishes that the subsequent relocation will prevent him or her from continuing to maintain contact with the child or to participate in certain major decisions concerning the child.

Existing law uses the term "sole or joint custody," "primary physical custody" and other similar terms in provisions relating to child custody. (NRS 125C.003, 125C.0035, 125C.006, 125C.0065, 125C.0075, 125C.210-125C.240, 159.049, 200.359, 432B.153, 432B.159, 432B.4665) **Sections 19 and 22-30** of this bill replace the term "sole" with "primary" for consistency.

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

Section 1. Chapter 125 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *A summary proceeding for permanent support and maintenance pursuant to subsection 2 of NRS 125.190 may be commenced by filing in the district court a joint petition, signed under oath by both the husband and the wife, stating that as of the date of filing, every condition set forth in subsection 2 of NRS 125.190 has been met.*

2. *The petition must also state:*

(a) *The date and the place of the marriage.*

(b) *The mailing address of both the husband and the wife.*

(c) *Whether there are minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, or the wife, to her knowledge, is pregnant.*



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3. *If the parties have entered into an agreement pursuant to subsection 2 of NRS 125.190 of which the parties wish the court to approve or make a part of the judgment, the agreement must be identified and attached to the petition as an exhibit.*

Sec. 3. 1. *At any time before the entry of a final judgment, either party to the marriage may revoke the joint petition filed pursuant to section 2 of this act and thereby terminate the summary proceeding for permanent support and maintenance.*

2. *The revocation may be effected by filing a notice of revocation with the clerk of the court in which the proceeding was commenced.*

3. *The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at his or her last known address.*

Sec. 4. 1. *Entry of the final judgment upon a petition for a summary proceeding for permanent support and maintenance pursuant to section 2 of this act constitutes a final adjudication of the rights and obligations of the parties with respect to the custody and support of the minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, if any, the division of community property and the assumption of liabilities of the community, if any, the amount and manner of spousal support, if any, and waives the respective rights of the parties to written notice of entry of the judgment, to appeal, to request findings of fact and conclusions of law and to move for a new trial.*

2. *Upon entry of the final judgment, either party to the marriage may commence an ex parte action for divorce pursuant to sections 5, 6 and 7 of this act.*

3. *A final judgment entered pursuant to this section does not prejudice or bar the rights of either of the parties to institute an action to set aside the final judgment for fraud, duress, accident, mistake or other grounds recognized at law or in equity.*

Sec. 5. *An ex parte action for divorce may be determined by the summary procedure set forth in sections 5, 6 and 7 of this act upon petition of either party filed pursuant to section 6 of this act when all of the following conditions exist at the time the proceeding is commenced:*

1. *The jurisdictional requirements of NRS 125.020 have been met.*

2. *The husband and wife have lived separate and apart for 1 year without cohabitation or they are incompatible.*

3. *A final judgment for permanent support and maintenance has been entered and has adjudicated the rights of the parties*



1 pursuant to NRS 125.190 to 125.280, inclusive, and sections 2 to 7,
2 inclusive, of this act.

3 4. The moving party waives his or her respective rights to
4 written notice of entry of the judgment or decree of divorce,
5 to appeal, to request findings of fact and conclusions of law and to
6 move for a new trial.

7 5. The moving party desires that the court enter a judgment
8 or decree of divorce.

9 **Sec. 6.** 1. An ex parte proceeding for divorce may be
10 commenced by filing in any district court a petition, signed under
11 oath by the moving party, stating that as of the date of filing, every
12 condition set forth in section 5 of this act has been met.

13 2. The petition must also state:

14 (a) The date and the place of the marriage.

15 (b) The mailing address of both the husband and the wife.

16 (c) Whether there are minor children of the relationship of the
17 parties born before or during the marriage or adopted by the
18 parties during the marriage, or the wife, to her knowledge, is
19 pregnant.

20 (d) Whether the wife elects to have her maiden or former name
21 restored and, if so, the name to be restored, if the moving party is
22 the wife.

23 3. The final judgment for permanent support and
24 maintenance issued pursuant to NRS 125.190 to 125.280,
25 inclusive, and sections 2 to 7, inclusive, of this act must be
26 identified and attached to the petition as an exhibit.

27 **Sec. 7.** 1. Upon receipt of an ex parte petition for divorce
28 pursuant to section 6 of this act, the court shall enter a judgment
29 or decree of divorce without providing prior notice to the
30 nonmoving party or conducting a hearing.

31 2. Upon entry of a final judgment or decree for an ex parte
32 petition for divorce, the marriage contract as to both parties is
33 fully and completely dissolved with the effects and rights
34 prescribed by NRS 125.130.

35 3. Any order concerning the custody, control and support of a
36 minor child entered pursuant to NRS 125.210 or 125.230 or
37 section 4 of this act continues in accordance with its terms.

38 4. A judgment for permanent support and maintenance
39 entered pursuant to NRS 125.190 to 125.280, inclusive, and
40 sections 2 to 7, inclusive, of this act shall be deemed a judgment
41 for alimony with the effect prescribed by NRS 125.150 to 125.180,
42 inclusive.

43 5. The nonmoving party to an ex parte petition for divorce
44 must be provided with written notice of entry of the final judgment



1 *or decree of divorce and retains the right to appeal from such*
2 *judgment or decree.*

3 *6. A final judgment or decree of divorce entered pursuant to*
4 *this section does not prejudice or bar the rights of either of the*
5 *parties to institute an action to set aside the final judgment or*
6 *decree for fraud, duress, accident, mistake or other grounds*
7 *recognized at law or in equity.*

8 **Sec. 8.** NRS 125.090 is hereby amended to read as follows:

9 125.090 Except ~~in a summary proceeding for divorce,~~ *as*
10 *otherwise provided in sections 2 to 7, inclusive, of this act and*
11 *NRS 125.181 to 125.184, inclusive,* the proceedings, pleadings and
12 practice must conform to the Nevada Rules of Civil Procedure as
13 nearly as conveniently possible, but all preliminary and final orders
14 may be in such form as best effects the object of this chapter, and
15 produces substantial justice.

16 **Sec. 9.** NRS 125.190 is hereby amended to read as follows:

17 125.190 *1.* When a person has any cause of action for divorce
18 or when a person has been deserted and the desertion has continued
19 for 90 days, the person may, without applying for a divorce,
20 maintain in the district court an action against his or her spouse for
21 permanent support and maintenance of himself or herself and their
22 children.

23 *2. If a person has a cause of action for permanent support*
24 *and maintenance pursuant to subsection 1 and both the husband*
25 *and wife agree, an action by the summary procedure may be*
26 *commenced in the manner set forth in sections 2, 3 and 4 of this*
27 *act when all of the following conditions exist at the time the*
28 *proceeding is commenced:*

29 *(a) There are no minor children of the relationship of the*
30 *parties born before or during the marriage or adopted by the*
31 *parties during the marriage and the wife, to her knowledge, is not*
32 *pregnant, or the parties have executed an agreement as to the*
33 *custody of any children setting forth the amount and manner of*
34 *their support;*

35 *(b) There is no community or joint property or the parties have*
36 *executed an agreement setting forth the division of community*
37 *property and the assumption of liabilities of the community, and*
38 *have, before the proceeding is commenced, executed any deeds,*
39 *certificates of title, bills of sale or other evidence of transfer*
40 *necessary to effectuate the agreement;*

41 *(c) The parties waive any right to spousal support or the*
42 *parties have executed an agreement setting forth the amount and*
43 *manner of spousal support;*

44 *(d) The parties waive their respective rights to written notice of*
45 *entry of the judgment for permanent support and maintenance, to*



1 *appeal, to request findings of fact and conclusions of law and to*
2 *move for a new trial; and*

3 *(e) The parties desire that the court enter a judgment for*
4 *permanent support and maintenance of one of the parties and*
5 *their children, if any.*

6 **Sec. 10.** NRS 125.210 is hereby amended to read as follows:

7 125.210 1. Except as otherwise provided in subsection 2, in
8 any action brought pursuant to NRS 125.190, the court may ~~+~~
9 *make a preliminary or final judgment on any claim that may be*
10 *raised during an action for divorce, including, without limitation:*

11 (a) ~~Assign and decree to either spouse the possession of any~~
12 ~~real or personal property of the other spouse;~~ *The custody and*
13 *support of any minor children of the relationship of the parties*
14 *born before or during the marriage or adopted by the parties*
15 *during the marriage, or for a child with which the wife, to her*
16 *knowledge, is pregnant;*

17 (b) ~~Order or decree the payment of a fixed sum of money for~~
18 ~~the support of the other spouse and their children;~~ *The division of*
19 *community property and the assumption of liabilities of the*
20 *community;*

21 (c) ~~Provide that~~ *The amount and manner of spousal support;*

22 (d) *That* the payment of ~~that~~ money *for spousal support* be
23 secured upon real estate or other security, or ~~make~~ any other
24 suitable provision; ~~and~~

25 ~~—(d) Determine the~~

26 (e) *The time and manner in which the payments for spousal*
27 *support must be made +; and*

28 (f) *Attorney's fees and costs.*

29 2. The court may not:

30 (a) ~~Assign and decree to either spouse the possession of any~~
31 ~~real or personal property of the other spouse; or~~ *Order the division*
32 *of community property and the assumption of liabilities of the*
33 *community; or*

34 (b) Order ~~or decree~~ the ~~payment of a fixed sum of money for~~
35 ~~the support of the other spouse;~~ *amount and manner of spousal*
36 *support,*

37 ~~if it is contrary to a premarital agreement between the spouses~~
38 ~~which is enforceable pursuant to chapter 123A of NRS.~~

39 3. Unless the action is contrary to a premarital agreement
40 between the parties which is enforceable pursuant to chapter 123A
41 of NRS, in determining whether to award money for ~~the support of~~
42 ~~a spouse~~ *spousal support* or the amount of any award of money for
43 ~~the support of a spouse,~~ *spousal support,* the court shall not attach,
44 levy or seize by or under any legal or equitable process, either
45 before or after receipt by a veteran, any federal disability benefits



1 awarded to a veteran for a service-connected disability pursuant to
2 38 U.S.C. §§ 1101 to 1151, inclusive.

3 4. Except as otherwise provided in chapter 130 of NRS, the
4 court may change, modify or revoke its orders and decrees from
5 time to time.

6 5. No order or decree is effective beyond the joint lives of the
7 husband and wife.

8 **Sec. 11.** NRS 125.230 is hereby amended to read as follows:

9 125.230 1. The court in such actions may make such
10 preliminary and final orders as it may deem proper for the custody,
11 control and support of any minor child or children of the parties ~~+~~
12 *pursuant to chapter 125C of NRS.*

13 2. A court that enters an order pursuant to subsection 1 , *NRS*
14 *125.210 or section 4 of this act* for the support of any minor child or
15 children shall ensure that the social security numbers of the parties
16 are provided to the Division of Welfare and Supportive Services of
17 the Department of Health and Human Services.

18 **Sec. 12.** NRS 125.250 is hereby amended to read as follows:

19 125.250 In all cases commenced under NRS 125.190 to
20 125.280, inclusive, *and sections 2 to 7, inclusive, of this act*, the
21 proceedings and practice must be the same, as nearly as may be, as
22 those provided in actions for divorce. Suit may be brought in the
23 county in which either party resides at the time the suit is
24 commenced, or in the county in which the spouse may be found.

25 **Sec. 13.** Chapter 125C of NRS is hereby amended by adding
26 thereto the provisions set forth as sections 14 to 18, inclusive, of this
27 act.

28 **Sec. 14.** *Except as otherwise provided in sections 15 to 18,*
29 *inclusive, of this act, the proceedings, pleadings and practice must*
30 *conform to the Nevada Rules of Civil Procedure as nearly as*
31 *conveniently possible, but all preliminary and final orders may be*
32 *in such form as best effects the object of this chapter, and*
33 *produces substantial justice.*

34 **Sec. 15.** *An action to determine custody of a child may be*
35 *brought by the summary procedure set forth in sections 15 to 18,*
36 *inclusive, of this act, when all of the following conditions exist at*
37 *the time the proceeding is commenced:*

38 1. *A court has jurisdiction pursuant to NRS 125A.305 to*
39 *125A.395, inclusive.*

40 2. *The parties have executed an agreement as to the custody*
41 *of the child, which must specify, without limitation, the custody,*
42 *care, education, maintenance and support of the child.*

43 3. *The use of the summary procedure set forth in sections 15*
44 *to 18, inclusive, of this act is in the best interest of the child.*



4. *The agreement of the parties defines the rights and duties of the parties with sufficient particularity to ensure that these rights and duties can be properly enforced and that the best interest of the child is achieved. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or any other similar term which is susceptible to different interpretations by the parties.*

5. *The agreement is in accordance with the provisions of chapter 125A of NRS and NRS 125C.0045 and any other provision of law governing the custody of a child.*

6. *The parties waive their respective rights to written notice of the order determining custody of the child, to appeal, to request findings of fact and conclusions of law and to move for a new trial.*

7. *The parties desire that the court enter an order that determines the custody of the child.*

Sec. 16. 1. *A summary proceeding to determine the custody of a child may be commenced by filing in any district court a joint petition, signed under oath by both parties, stating that as of the date of filing, every condition set forth in section 15 of this act has been met.*

2. *The petition must also provide the information required pursuant to NRS 125A.385.*

3. *The agreement of the parties relating to the custody of the child that is made pursuant to section 15 of this act of which the parties wish the court to approve or make a part of the order must be identified and attached to the petition as an exhibit.*

Sec. 17. 1. *At any time before the entry of an order to determine the custody of a child, either party to a joint petition filed pursuant to section 16 of this act may revoke the joint petition and thereby terminate the summary proceeding to determine the custody of the child.*

2. *The revocation may be effected by filing a notice of revocation with the clerk of the court in which the proceeding was commenced.*

3. *The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at his or her last known address.*

Sec. 18. 1. *Entry of an order upon a petition for a summary proceeding for a determination of the custody of a child constitutes an adjudication of the rights and obligations of the parties regarding the custody, care, education, maintenance and support of the child and the respective rights of the parties to*



1 *written notice of entry of the order, to appeal, to request findings*
2 *of fact and conclusions of law and to move for a new trial.*

3 *2. An order entered pursuant to this section does not*
4 *prejudice or bar the rights of either party to petition a court to*
5 *modify or vacate the order pursuant to NRS 125C.0045 or any*
6 *other provision of law.*

7 **Sec. 19.** NRS 125C.0035 is hereby amended to read as
8 follows:

9 125C.0035 1. In any action for determining physical custody
10 of a minor child, the sole consideration of the court is the best
11 interest of the child. If it appears to the court that joint physical
12 custody would be in the best interest of the child, the court may
13 grant physical custody to the parties jointly.

14 2. Preference must not be given to either parent for the sole
15 reason that the parent is the mother or the father of the child.

16 3. The court shall award physical custody in the following
17 order of preference unless in a particular case the best interest of the
18 child requires otherwise:

19 (a) To both parents jointly pursuant to NRS 125C.0025 or to
20 either parent pursuant to NRS 125C.003. If the court does not enter
21 an order awarding joint physical custody of a child after either
22 parent has applied for joint physical custody, the court shall state in
23 its decision the reason for its denial of the parent's application.

24 (b) To a person or persons in whose home the child has been
25 living and where the child has had a wholesome and stable
26 environment.

27 (c) To any person related within the fifth degree of
28 consanguinity to the child whom the court finds suitable and able to
29 provide proper care and guidance for the child, regardless of
30 whether the relative resides within this State.

31 (d) To any other person or persons whom the court finds
32 suitable and able to provide proper care and guidance for the child.

33 4. In determining the best interest of the child, the court shall
34 consider and set forth its specific findings concerning, among other
35 things:

36 (a) The wishes of the child if the child is of sufficient age and
37 capacity to form an intelligent preference as to his or her physical
38 custody.

39 (b) Any nomination of a guardian for the child by a parent.

40 (c) Which parent is more likely to allow the child to have
41 frequent associations and a continuing relationship with the
42 noncustodial parent.

43 (d) The level of conflict between the parents.

44 (e) The ability of the parents to cooperate to meet the needs of
45 the child.



- 1 (f) The mental and physical health of the parents.
2 (g) The physical, developmental and emotional needs of the
3 child.
4 (h) The nature of the relationship of the child with each parent.
5 (i) *Whether the parents have established an agreement*
6 *concerning a division of rights and duties relating to the child.*
7 *(j) Whether either parent is seeking joint physical custody*
8 *primarily to avoid the payment of child support.*
9 (k) The ability of the child to maintain a relationship with any
10 sibling.
11 ~~(l)~~ (l) Any history of parental abuse or neglect of the child or a
12 sibling of the child.
13 ~~(m)~~ (m) Whether either parent or any other person seeking
14 physical custody has engaged in an act of domestic violence against
15 the child, a parent of the child or any other person residing with the
16 child.
17 ~~(n)~~ (n) Whether either parent or any other person seeking
18 physical custody has committed any act of abduction against the
19 child or any other child.
20 5. Except as otherwise provided in subsection 6 or NRS
21 125C.210, a determination by the court after an evidentiary hearing
22 and finding by clear and convincing evidence that either parent or
23 any other person seeking physical custody has engaged in one or
24 more acts of domestic violence against the child, a parent of the
25 child or any other person residing with the child creates a rebuttable
26 presumption that ~~sole~~ *primary* or joint physical custody of the
27 child by the perpetrator of the domestic violence is not in the best
28 interest of the child. Upon making such a determination, the court
29 shall set forth:
30 (a) Findings of fact that support the determination that one or
31 more acts of domestic violence occurred; and
32 (b) Findings that the custody or visitation arrangement ordered
33 by the court adequately protects the child and the parent or other
34 victim of domestic violence who resided with the child.
35 6. If after an evidentiary hearing held pursuant to subsection 5
36 the court determines that each party has engaged in acts of domestic
37 violence, it shall, if possible, then determine which person was the
38 primary physical aggressor. In determining which party was the
39 primary physical aggressor for the purposes of this section, the court
40 shall consider:
41 (a) All prior acts of domestic violence involving either party;
42 (b) The relative severity of the injuries, if any, inflicted upon the
43 persons involved in those prior acts of domestic violence;
44 (c) The likelihood of future injury;



(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➡ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that ~~sole~~ **primary** or joint physical custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking physical custody does not rebut the presumption, the court shall not enter an order for ~~sole~~ **primary** or joint physical custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For the purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. If, after a court enters a final order concerning physical custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded ~~sole~~ **primary** or joint physical custody or unsupervised visitation



1 of the child has committed the act, the court shall, upon a motion to
2 modify the order concerning physical custody, reconsider the
3 previous order concerning physical custody pursuant to subsections
4 7 and 8.

5 10. As used in this section:

6 (a) "Abduction" means the commission of an act described in
7 NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other
8 jurisdiction that prohibits the same or similar conduct.

9 (b) "Domestic violence" means the commission of any act
10 described in NRS 33.018.

11 **Sec. 20.** NRS 125C.006 is hereby amended to read as follows:

12 125C.006 1. If primary physical custody has been established
13 pursuant to an order, judgment or decree of a court and the custodial
14 parent intends to relocate his or her residence to a place outside of
15 this State or to a place within this State that is at such a distance that
16 would substantially impair the ability of the other parent to maintain
17 a meaningful relationship with the child, and the custodial parent
18 desires to take the child with him or her, the custodial parent shall,
19 before relocating:

20 (a) Attempt to obtain the written consent of the noncustodial
21 parent to relocate with the child; and

22 (b) If the noncustodial parent refuses to give that consent,
23 petition the court for permission to relocate with the child.

24 2. The court may award reasonable attorney's fees and costs to
25 the custodial parent if the court finds that the noncustodial parent
26 refused to consent to the custodial parent's relocation with the child:

27 (a) Without having reasonable grounds for such refusal; or

28 (b) For the purpose of harassing the custodial parent.

29 3. ~~1A~~ *Except as otherwise provided in subsection 4, a* parent
30 who relocates with a child pursuant to this section without the
31 written consent of the noncustodial parent or the permission of the
32 court is subject to the provisions of NRS 200.359.

33 *4. Except as otherwise provided in this subsection, a custodial*
34 *parent who has relocated with his or her child in compliance with*
35 *the provisions of this section may subsequently relocate with the*
36 *child without obtaining additional written consent from the*
37 *noncustodial parent or permission from the court after providing*
38 *written notice to the noncustodial parent at least 30 days before*
39 *relocating with the child. Additional written consent from the*
40 *noncustodial parent or permission from the court in the manner*
41 *set forth in this section is required to be obtained by the custodial*
42 *parent before any subsequent relocation with the child if the*
43 *noncustodial parent establishes that the subsequent relocation*
44 *would deprive the noncustodial parent from continuing to:*

45 (a) *Maintain regular contact with the child; or*



(b) Participate in major decisions relating to the child, including, without limitation, decisions related to the health, education and religious training of the child.

Sec. 21. NRS 125C.0065 is hereby amended to read as follows:

125C.0065 1. If joint physical custody has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the non-relocating parent refused to consent to the relocating parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. ~~1A~~ *Except as otherwise provided in subsection 4, a* parent who relocates with a child pursuant to this section before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child is subject to the provisions of NRS 200.359.

4. *Except as otherwise provided in this subsection, a parent who has relocated with his or her child in compliance with the provisions of this section may subsequently relocate with the child without obtaining additional written consent from the non-relocating parent or permission from the court after providing written notice to the non-relocating parent at least 30 days before relocating with the child. Additional written consent from the non-relocating parent or permission from the court in the manner set forth in this section is required to be obtained by the relocating parent before any subsequent relocation with the child if the non-relocating parent establishes that the subsequent relocation would deprive the non-relocating parent from continuing to:*

(a) Maintain regular contact with the child; or

(b) Participate in major decisions relating to the child, including, without limitation, decisions related to the health, education and religious training of the child.



1 **Sec. 22.** NRS 125C.210 is hereby amended to read as follows:

2 125C.210 1. Except as otherwise provided in subsection 2, if
3 a child is conceived as the result of a sexual assault and the person
4 convicted of the sexual assault is the natural father of the child, the
5 person has no right to custody of or visitation with the child unless
6 the natural mother or legal guardian consents thereto and it is in the
7 best interest of the child.

8 2. The provisions of subsection 1 do not apply if the person
9 convicted of the sexual assault is the spouse of the victim at the time
10 of the sexual assault. If the persons later divorce, the conviction of
11 sexual assault creates a rebuttable presumption that ~~sole~~ **primary**
12 or joint custody of the child by the perpetrator of the sexual assault
13 is not in the best interest of the child. The court shall set forth
14 findings that any custody or visitation arrangement ordered by the
15 court adequately protects the child and the victim of the sexual
16 assault.

17 **Sec. 23.** NRS 125C.220 is hereby amended to read as follows:

18 125C.220 1. The conviction of the parent of a child for
19 murder of the first degree of the other parent of the child creates a
20 rebuttable presumption that ~~sole~~ **primary** or joint custody of the
21 child by the convicted parent is not in the best interest of the child.
22 The rebuttable presumption may be overcome only if:

23 (a) The court determines that:

- 24 (1) There is no other suitable guardian for the child;
25 (2) The convicted parent is a suitable guardian for the child;

26 and

- 27 (3) The health, safety and welfare of the child are not at risk;

28 or

29 (b) The child is of suitable age to signify his or her assent and
30 assents to the order of the court awarding ~~sole~~ **primary** or joint
31 custody of the child to the convicted parent.

32 2. The conviction of the parent of a child for murder of the first
33 degree of the other parent of the child creates a rebuttable
34 presumption that rights to visitation with the child are not in the best
35 interest of the child and must not be granted if custody is not granted
36 pursuant to subsection 1. The rebuttable presumption may be
37 overcome only if:

38 (a) The court determines that:

- 39 (1) The health, safety and welfare of the child are not at risk;

40 and

41 (2) It will be beneficial for the child to have visitations with
42 the convicted parent; or

43 (b) The child is of suitable age to signify his or her assent and
44 assents to the order of the court awarding rights to visitation with
45 the child to the convicted parent.



3. Until the court makes a determination pursuant to this section, no person may bring the child into the presence of the convicted parent without the consent of the legal guardian or custodian of the child.

Sec. 24. NRS 125C.230 is hereby amended to read as follows:

125C.230 1. Except as otherwise provided in NRS 125C.210 and 125C.220, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that ~~sole~~ **primary** or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

2. If after an evidentiary hearing held pursuant to subsection 1 the court determines that more than one party has engaged in acts of domestic violence, it shall, if possible, determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving any of the parties;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors that the court deems relevant to the determination.

➔ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 1 applies to each of the parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 1 applies only to the party determined by the court to be the primary physical aggressor.

3. As used in this section, "domestic violence" means the commission of any act described in NRS 33.018.



Sec. 25. NRS 125C.240 is hereby amended to read as follows:

125C.240 1. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has committed any act of abduction against the child or any other child creates a rebuttable presumption that ~~sole~~ **primary** or joint custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking custody does not rebut the presumption, the court shall not enter an order for ~~sole~~ **primary** or joint custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

2. For purposes of subsection 1, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

3. If, after a court enters a final order concerning custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded ~~sole~~ **primary** or joint custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning custody, reconsider the previous order concerning custody pursuant to subsections 1 and 2.

4. As used in this section, "abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 26. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the petitioner is a parent who has



1 ~~sole~~ **primary** legal and physical custody of the proposed ward as
2 evidenced by a valid court order or birth certificate and who is
3 seeking the appointment of a guardian for the minor child of the
4 parent. If the proposed ward is a minor who is 14 years of age or
5 older:

6 1. The petition must be accompanied by the written consent of
7 the minor to the appointment of the guardian; or

8 2. The minor must consent to the appointment of the guardian
9 in open court.

10 **Sec. 27.** NRS 200.359 is hereby amended to read as follows:

11 200.359 1. A person having a limited right of custody to a
12 child by operation of law or pursuant to an order, judgment or
13 decree of any court, including a judgment or decree which grants
14 another person rights to custody or visitation of the child, or any
15 parent having no right of custody to the child, who:

16 (a) In violation of an order, judgment or decree of any court
17 willfully detains, conceals or removes the child from a parent,
18 guardian or other person having lawful custody or a right of
19 visitation of the child; or

20 (b) In the case of an order, judgment or decree of any court that
21 does not specify when the right to physical custody or visitation is to
22 be exercised, removes the child from the jurisdiction of the court
23 without the consent of either the court or all persons who have the
24 right to custody or visitation,

25 ➤ is guilty of a category D felony and shall be punished as provided
26 in NRS 193.130.

27 2. Except as otherwise provided in this subsection, a parent
28 who has joint legal and physical custody of a child pursuant to NRS
29 125C.0015 shall not willfully conceal or remove the child from the
30 custody of the other parent with the specific intent to frustrate the
31 efforts of the other parent to establish or maintain a meaningful
32 relationship with the child. A person who violates this subsection
33 shall be punished as provided in subsection 1 unless the person
34 demonstrates to the satisfaction of the court that he or she violated
35 this subsection to protect the child or himself or herself from an act
36 that constitutes domestic violence pursuant to NRS 33.018.

37 3. If the mother of a child has primary physical custody
38 pursuant to subsection 2 of NRS 125C.003, the father of the child
39 shall not willfully conceal or remove the child from the physical
40 custody of the mother. If the father of a child has primary physical
41 custody pursuant to subsection 2 of NRS 125C.003, the mother of
42 the child shall not willfully conceal or remove the child from the
43 physical custody of the father. A person who violates this subsection
44 shall be punished as provided in subsection 1.



1 4. ~~1A~~ *Except as otherwise provided by subsection 4 of NRS*
2 *125C.0065, a* parent who has joint physical custody of a child
3 pursuant to an order, judgment or decree of a court shall not relocate
4 with the child pursuant to NRS 125C.0065 without the written
5 consent of the non-relocating parent or before the court enters an
6 order granting the parent primary physical custody of the child and
7 permission to relocate with the child, as applicable. A person
8 who violates this subsection shall be punished as provided in
9 subsection 1.

10 5. ~~1A~~ *Except as otherwise provided by subsection 4 of NRS*
11 *125C.006, a* parent who has primary physical custody of a child
12 pursuant to an order, judgment or decree of a court shall not relocate
13 with the child pursuant to NRS 125C.006 without the written
14 consent of the non-relocating parent or the permission of the court.
15 A person who violates this subsection shall be punished as provided
16 in subsection 1.

17 6. Before an arrest warrant may be issued for a violation of this
18 section, the court must find that:

19 (a) This is the home state of the child, as defined in NRS
20 125A.085; and

21 (b) There is cause to believe that the entry of a court order in a
22 civil proceeding brought pursuant to chapter 125, 125A or 125C of
23 NRS will not be effective to enforce the rights of the parties and
24 would not be in the best interests of the child.

25 7. Upon conviction for a violation of this section, the court
26 shall order the defendant to pay restitution for any expenses incurred
27 in locating or recovering the child.

28 8. The prosecuting attorney may recommend to the judge that
29 the defendant be sentenced as for a misdemeanor and the judge may
30 impose such a sentence if the judge finds that:

31 (a) The defendant has no prior conviction for this offense and
32 the child has suffered no substantial harm as a result of the offense;
33 or

34 (b) The interests of justice require that the defendant be
35 punished as for a misdemeanor.

36 9. A person who aids or abets any other person to violate this
37 section shall be punished as provided in subsection 1.

38 10. In addition to the exemption set forth in subsection 11,
39 subsections 4 and 5 do not apply to a person who demonstrates a
40 compelling excuse, to the satisfaction of the court, for relocating
41 with a child in violation of NRS 125C.006 or 125C.0065.

42 11. This section does not apply to a person who detains,
43 conceals, removes or relocates with a child to protect the child from
44 the imminent danger of abuse or neglect or to protect himself or
45 herself from imminent physical harm, and reported the detention,



1 concealment, removal or relocation to a law enforcement agency or
2 an agency which provides child welfare services within 24 hours
3 after detaining, concealing, removing or relocating with the child, or
4 as soon as the circumstances allowed. As used in this subsection:

5 (a) "Abuse or neglect" has the meaning ascribed to it in
6 paragraph (a) of subsection 4 of NRS 200.508.

7 (b) "Agency which provides child welfare services" has the
8 meaning ascribed to it in NRS 432B.030.

9 **Sec. 28.** NRS 432B.153 is hereby amended to read as follows:

10 432B.153 1. The conviction of the parent of a child for
11 murder of the first degree of the other parent of the child creates a
12 rebuttable presumption that ~~sole~~ **primary** or joint custody of the
13 child by the convicted parent is not in the best interest of the child.
14 The rebuttable presumption may be overcome only if:

15 (a) The court determines that:

16 (1) There is no other suitable guardian for the child;

17 (2) The convicted parent is a suitable guardian for the child;

18 and

19 (3) The health, safety and welfare of the child are not at risk;

20 or

21 (b) The child is of suitable age to signify his or her assent and
22 assents to the order of the court awarding ~~sole~~ **primary** or joint
23 custody of the child to the convicted parent.

24 2. The conviction of the parent of a child for murder of the first
25 degree of the other parent of the child creates a rebuttable
26 presumption that rights to visitation with the child are not in the best
27 interest of the child and must not be granted if custody is not granted
28 pursuant to subsection 1. The rebuttable presumption may be
29 overcome only if:

30 (a) The court determines that:

31 (1) The health, safety and welfare of the child are not at risk;

32 and

33 (2) It will be beneficial for the child to have visitations with
34 the convicted parent; or

35 (b) The child is of suitable age to signify his or her assent and
36 assents to the order of the court awarding rights to visitation with
37 the child to the convicted parent.

38 3. Until the court makes a determination pursuant to this
39 section, no person may bring the child into the presence of the
40 convicted parent without the consent of the legal guardian or
41 custodian of the child.

42 **Sec. 29.** NRS 432B.159 is hereby amended to read as follows:

43 432B.159 1. A determination by the court after an
44 evidentiary hearing and finding by clear and convincing evidence
45 that either parent or any other person seeking custody of a child has



1 committed any act of abduction against the child or any other child
2 creates a rebuttable presumption that ~~sole~~ primary or joint custody
3 or unsupervised visitation of the child by the perpetrator of the
4 abduction is not in the best interest of the child. If the parent or other
5 person seeking custody does not rebut the presumption, the court
6 shall not enter an order for ~~sole~~ primary or joint custody or
7 unsupervised visitation of the child by the perpetrator and the court
8 shall set forth:

9 (a) Findings of fact that support the determination that one or
10 more acts of abduction occurred; and

11 (b) Findings that the custody or visitation arrangement ordered
12 by the court adequately protects the child and the parent or other
13 person from whom the child was abducted.

14 2. For purposes of subsection 1, any of the following acts
15 constitute conclusive evidence that an act of abduction occurred:

16 (a) A conviction of the defendant of any violation of NRS
17 200.310 to 200.340, inclusive, or 200.359 or a law of any other
18 jurisdiction that prohibits the same or similar conduct;

19 (b) A plea of guilty or nolo contendere by the defendant to any
20 violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law
21 of any other jurisdiction that prohibits the same or similar conduct;
22 or

23 (c) An admission by the defendant to the court of the facts
24 contained in the charging document alleging a violation of NRS
25 200.310 to 200.340, inclusive, or 200.359 or a law of any other
26 jurisdiction that prohibits the same or similar conduct.

27 3. If, after a court enters a final order concerning custody of the
28 child, a magistrate determines there is probable cause to believe that
29 an act of abduction has been committed against the child or any
30 other child and that a person who has been awarded ~~sole~~ primary
31 or joint custody or unsupervised visitation of the child has
32 committed the act, the court shall, upon a motion to modify the
33 order concerning custody, reconsider the previous order concerning
34 custody pursuant to subsections 1 and 2.

35 4. A court, agency, institution or other person who places a
36 child in protective custody shall not release a child to the custody of
37 a person who a court has determined pursuant to this section has
38 engaged in one or more acts of abduction against the child or any
39 other child, unless a court determines that it is in the best interest of
40 the child for the perpetrator of the abduction to have custody of the
41 child.

42 5. As used in this section, "abduction" means the commission
43 of an act described in NRS 200.310 to 200.340, inclusive, or
44 200.359 or a law of any other jurisdiction that prohibits the same or
45 similar conduct.



1 **Sec. 30.** NRS 432B.4665 is hereby amended to read as
2 follows:

3 432B.4665 1. The court may, upon the filing of a petition
4 pursuant to NRS 432B.466, appoint a person as a guardian for a
5 child if:

6 (a) The court finds:

7 (1) That the proposed guardian is suitable and is not
8 disqualified from guardianship pursuant to NRS 159.061;

9 (2) That the child has been in the custody of the proposed
10 guardian for 6 months or more pursuant to a determination by a
11 court that the child was in need of protection, unless the court
12 waives this requirement for good cause shown;

13 (3) That the proposed guardian has complied with the
14 requirements of chapter 159 of NRS; and

15 (4) That the burden of proof set forth in chapter 159 of NRS
16 for the appointment of a guardian for a child has been satisfied;

17 (b) The child consents to the guardianship, if the child is 14
18 years of age or older; and

19 (c) The court determines that the requirements for filing a
20 petition pursuant to NRS 432B.466 have been satisfied.

21 2. A guardianship established pursuant to this section:

22 (a) Provides the guardian with the powers and duties provided in
23 NRS 159.079, and subjects the guardian to the limitations set forth
24 in NRS 159.0805;

25 (b) Is subject to the provisions of NRS 159.065 to 159.076,
26 inclusive, and 159.185 to 159.199, inclusive;

27 (c) Provides the guardian with ~~sole~~ **primary** legal and physical
28 custody of the child;

29 (d) Does not result in the termination of parental rights of a
30 parent of the child; and

31 (e) Does not affect any rights of the child to inheritance, a
32 succession or any services or benefits provided by the Federal
33 Government, this state or an agency or political subdivision of this
34 state.

