

SENATE BILL NO. 248—SENATOR PICKARD

MARCH 4, 2019

JOINT SPONSOR: ASSEMBLYWOMAN COHEN

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations.  
(BDR 11-38)

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 both parties desire the court to enter a decree of divorce and, among other conditions: (1) have waived spousal support; (2) have no community or joint property or liabilities; or (3) have no minor 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 spouses agree to the summary procedure. **Sections 5-7** of this bill provide for an ex parte divorce by summary procedure when a judgment for permanent support and maintenance has been entered, among other conditions. **Section 7** of this bill authorizes either spouse to obtain a divorce by such a procedure without providing prior notice to the other spouse or a hearing. When an



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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 provides that any judgment for permanent support and maintenance for a spouse is deemed to be a judgment for alimony. **Sections 15-18** of this bill create a summary procedure to determine child custody 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 using 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. (NRS 125C.0035) **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. (NRS 125C.0065) **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. Under **sections 20 and 21**, however, such consent or permission is 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 terms "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, 159A.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.

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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 spouses, 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 spouses.**



1 (c) Whether there are minor children of the relationship of the  
2 parties born before or during the marriage or adopted by the  
3 parties during the marriage, and whether any spouse, to her  
4 knowledge, is pregnant.

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

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

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

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

19 **Sec. 4. 1.** Entry of the final judgment upon a petition for a  
20 summary proceeding for permanent support and maintenance  
21 pursuant to section 2 of this act constitutes:

22 (a) A final adjudication of the rights and obligations of the  
23 parties with respect to:

24 (1) The custody and support of the minor children of the  
25 relationship of the parties born before or during the marriage or  
26 adopted by the parties during the marriage, if any;

27 (2) The division of community property and the assumption  
28 of liabilities of the community, if any; and

29 (3) The amount and manner of spousal support, if any.

30 (b) A waiver of the respective rights of the parties to written  
31 notice of entry of the judgment, to appeal, to request findings of  
32 fact and conclusions of law and to move for a new trial.

33 2. Upon entry of the final judgment, either party to the  
34 marriage may commence an ex parte action for divorce by the  
35 summary procedure set forth in sections 5, 6 and 7 of this act.

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

40 **Sec. 5.** An ex parte action for divorce may be determined by  
41 the summary procedure set forth in this section and sections 6 and  
42 7 of this act upon petition of either party filed pursuant to section  
43 6 of this act, when all of the following conditions exist at the time  
44 the proceeding is commenced:



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

3     2.   *The spouses have lived separate and apart for 1 year*  
4 *without cohabitation or they are incompatible.*

5     3.   *A final judgment for permanent support and maintenance*  
6 *has been entered and has adjudicated the rights of the parties*  
7 *pursuant to NRS 125.190 to 125.280, inclusive, and sections 2 to 7,*  
8 *inclusive, of this act.*

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

13     5.   *The moving party desires that the court enter a judgment*  
14 *or decree of divorce.*

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

20     2.   *The petition must also state:*

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

22     (b) *The mailing address of both spouses.*

23     (c) *Whether there are minor children of the relationship of the*  
24 *parties born before or during the marriage or adopted by the*  
25 *parties during the marriage, and whether any spouse, to her*  
26 *knowledge, is pregnant.*

27     (d) *Whether a spouse elects to have his or her former name*  
28 *restored and, if so, the name to be restored, if the moving party is*  
29 *the spouse who elects to have his or her former name restored.*

30     3.   *The final judgment for permanent support and*  
31 *maintenance issued pursuant to NRS 125.190 to 125.280,*  
32 *inclusive, and sections 2 to 7, inclusive, of this act must be*  
33 *identified and attached to the petition as an exhibit.*

34     **Sec. 7.**   1.   *Upon receipt of an ex parte petition for divorce*  
35 *pursuant to section 6 of this act, the court may enter a judgment or*  
36 *decree of divorce without providing prior notice to the nonmoving*  
37 *party or conducting a hearing.*

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

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



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

5. The nonmoving party to an ex parte petition for divorce must be provided with written notice of entry of the final judgment or decree of divorce and retains the right to appeal from such judgment or decree.

6. A final judgment or decree of divorce 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 or decree for fraud, duress, accident, mistake or other grounds recognized at law or in equity.

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

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

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

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

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

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

(b) There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, and have, before the proceeding is commenced, executed any deeds,



1 *certificates of title, bills of sale or other evidence of transfer*  
2 *necessary to effectuate the agreement;*

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

6 (d) *The parties waive their respective rights to written notice of*  
7 *entry of the judgment for permanent support and maintenance, to*  
8 *appeal, to request findings of fact and conclusions of law and to*  
9 *move for a new trial; and*

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

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

14 125.210 1. Except as otherwise provided in subsection 2, in  
15 any action brought pursuant to NRS 125.190, the court may ~~{-}~~  
16 *make a preliminary or final judgment on any claim that may be*  
17 *raised during an action for divorce, including, without limitation:*

18 (a) ~~{Assign and decree to either spouse the possession of any~~  
19 ~~real or personal property of the other spouse;}~~ *The custody and*  
20 *support of any minor children of the relationship of the parties*  
21 *born before or during the marriage or adopted by the parties*  
22 *during the marriage;*

23 (b) ~~{Order or decree the payment of a fixed sum of money for~~  
24 ~~the support of the other spouse and their children;}~~ *The division of*  
25 *community property and the assumption of liabilities of the*  
26 *community;*

27 (c) ~~{Provide that}~~ *The amount and manner of spousal support;*

28 (d) *That the payment of ~~{that}~~ money for spousal support be*  
29 *secured upon real estate or other security, or ~~{make}~~ any other*  
30 *suitable provision; ~~{and}~~*

31 ~~—(d) Determine the}~~

32 (e) *The time and manner in which the payments for spousal*  
33 *support must be made ~~{-}~~; and*

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

35 2. The court may not:

36 (a) ~~{Assign and decree to either spouse the possession of any~~  
37 ~~real or personal property of the other spouse; or}~~ *Order the division*  
38 *of community property and the assumption of liabilities of the*  
39 *community; or*

40 (b) Order ~~{or decree}~~ the ~~{payment of a fixed sum of money for~~  
41 ~~the support of the other spouse.}~~ *amount and manner of spousal*  
42 *support,*

43 ➤ if it is contrary to a premarital agreement between the spouses  
44 which is enforceable pursuant to chapter 123A of NRS.



3. Unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS, in determining whether to award money for ~~the support of a spouse~~ *spousal support* or the amount of any award of money for ~~the support of a spouse,~~ *spousal support*, the court shall not attach, levy or seize by or under any legal or equitable process, either before or after receipt by a veteran, any federal disability benefits awarded to a veteran for a service-connected disability pursuant to 38 U.S.C. §§ 1101 to 1151, inclusive.

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

5. No order or decree is effective beyond the joint lives of the spouses.

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

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

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

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

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

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

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

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





1     1. A court has jurisdiction pursuant to NRS 125A.305 to  
2     125A.395, inclusive.

3     2. The parties have executed an agreement as to the custody  
4     of the child, which must specify, without limitation, the custody,  
5     care, education, maintenance and support of the child.

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

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

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

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

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

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

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

32    3. The agreement pursuant to section 15 of this act of which  
33    the parties wish the court to approve or make a part of the order  
34    must be identified and attached to the petition as an exhibit.

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

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

43    3. The revoking party shall send a copy of the notice of  
44    revocation to the other party by first-class mail, postage prepaid, at  
45    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 written notice of entry of the order, to appeal, to request findings of fact and conclusions of law and to move for a new trial.*

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

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

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

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

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

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

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

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

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

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

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

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



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

(d) The level of conflict between the parents.

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

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) *Whether the parents have established an agreement concerning a division of rights and duties relating to the child.*

(j) *Whether either parent is seeking joint physical custody primarily to avoid the payment of child support.*

(k) The ability of the child to maintain a relationship with any sibling.

~~(l)~~ (l) Any history of parental abuse or neglect of the child or a sibling of the child.

~~(m)~~ (m) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

~~(n)~~ (n) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, 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 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 physical 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.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the



1 primary physical aggressor for the purposes of this section, the court  
2 shall consider:

- 3 (a) All prior acts of domestic violence involving either party;
- 4 (b) The relative severity of the injuries, if any, inflicted upon the  
5 persons involved in those prior acts of domestic violence;
- 6 (c) The likelihood of future injury;
- 7 (d) Whether, during the prior acts, one of the parties acted in  
8 self-defense; and
- 9 (e) Any other factors which the court deems relevant to the  
10 determination.

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

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

- 29 (a) Findings of fact that support the determination that one or  
30 more acts of abduction occurred; and
- 31 (b) Findings that the custody or visitation arrangement ordered  
32 by the court adequately protects the child and the parent or other  
33 person from whom the child was abducted.

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

- 36 (a) A conviction of the defendant of any violation of NRS  
37 200.310 to 200.340, inclusive, or 200.359 or a law of any other  
38 jurisdiction that prohibits the same or similar conduct;
- 39 (b) A plea of guilty or nolo contendere by the defendant to any  
40 violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law  
41 of any other jurisdiction that prohibits the same or similar conduct;  
42 or
- 43 (c) An admission by the defendant to the court of the facts  
44 contained in the charging document alleging a violation of



1 NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other  
2 jurisdiction that prohibits the same or similar conduct.

3 9. If, after a court enters a final order concerning physical  
4 custody of the child, a magistrate determines there is probable cause  
5 to believe that an act of abduction has been committed against the  
6 child or any other child and that a person who has been awarded  
7 ~~[sole]~~ **primary** or joint physical custody or unsupervised visitation  
8 of the child has committed the act, the court shall, upon a motion to  
9 modify the order concerning physical custody, reconsider the  
10 previous order concerning physical custody pursuant to subsections  
11 7 and 8.

12 10. As used in this section:

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

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

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

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

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

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

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

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

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

36 3. ~~[A]~~ **Except as otherwise provided in subsection 4, a** parent  
37 who relocates with a child pursuant to this section without the  
38 written consent of the noncustodial parent or the permission of the  
39 court is subject to the provisions of NRS 200.359.

40 **4. Except as otherwise provided in this subsection, a custodial**  
41 **parent who has relocated with a child in compliance with the**  
42 **provisions of this section may subsequently relocate with the child**  
43 **without obtaining additional written consent from the**  
44 **noncustodial parent or permission from the court after providing**  
45 **written notice to the noncustodial parent at least 30 days before**



1 *relocating with the child. Additional written consent from the*  
2 *noncustodial parent or permission from the court in the manner*  
3 *set forth in this section is required to be obtained by the custodial*  
4 *parent before any subsequent relocation with the child if the*  
5 *noncustodial parent establishes that the subsequent relocation*  
6 *would deprive the noncustodial parent from continuing to:*

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

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

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

13 125C.0065 1. If joint physical custody has been established  
14 pursuant to an order, judgment or decree of a court and one parent  
15 intends to relocate his or her residence to a place outside of this  
16 State or to a place within this State that is at such a distance that  
17 would substantially impair the ability of the other parent to maintain  
18 a meaningful relationship with the child, and the relocating parent  
19 desires to take the child with him or her, the relocating parent shall,  
20 before relocating:

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

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

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

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

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

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

37 4. *Except as otherwise provided in this subsection, a parent*  
38 *who has relocated with a child in compliance with the provisions*  
39 *of this section may subsequently relocate with the child without*  
40 *obtaining additional written consent from the non-relocating*  
41 *parent or permission from the court after providing written notice*  
42 *to the non-relocating parent at least 30 days before relocating with*  
43 *the child. Additional written consent from the non-relocating*  
44 *parent or permission from the court in the manner set forth in this*  
45 *section is required to be obtained by the relocating parent before*



1 *any subsequent relocation with the child if the non-relocating*  
2 *parent establishes that the subsequent relocation would deprive*  
3 *the non-relocating parent from continuing to:*

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

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

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

9 125C.210 1. Except as otherwise provided in subsection 2, if  
10 a child is conceived as the result of a sexual assault and the person  
11 convicted of the sexual assault is the natural father of the child, the  
12 person has no right to custody of or visitation with the child unless  
13 the natural mother or legal guardian consents thereto and it is in the  
14 best interest of the child.

15 2. The provisions of subsection 1 do not apply if the person  
16 convicted of the sexual assault is the spouse of the victim at the time  
17 of the sexual assault. If the persons later divorce, the conviction of  
18 sexual assault creates a rebuttable presumption that ~~{sole}~~ *primary*  
19 or joint custody of the child by the perpetrator of the sexual assault  
20 is not in the best interest of the child. The court shall set forth  
21 findings that any custody or visitation arrangement ordered by the  
22 court adequately protects the child and the victim of the sexual  
23 assault.

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

25 125C.220 1. The conviction of the parent of a child for  
26 murder of the first degree of the other parent of the child creates a  
27 rebuttable presumption that ~~{sole}~~ *primary* or joint custody of the  
28 child by the convicted parent is not in the best interest of the child.  
29 The rebuttable presumption may be overcome only if:

30 (a) The court determines that:

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

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

33 and

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

35 or

36 (b) The child is of suitable age to signify his or her assent and  
37 assents to the order of the court awarding ~~{sole}~~ *primary* or joint  
38 custody of the child to the convicted parent.

39 2. The conviction of the parent of a child for murder of the first  
40 degree of the other parent of the child creates a rebuttable  
41 presumption that rights to visitation with the child are not in the best  
42 interest of the child and must not be granted if custody is not granted  
43 pursuant to subsection 1. The rebuttable presumption may be  
44 overcome only if:

45 (a) The court determines that:



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

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

(b) The child is of suitable age to signify his or her assent and assents to the order of the court awarding rights to visitation with 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 159A.049 is hereby amended to read as follows:

159A.049 The court may, without issuing a citation, appoint a guardian for the proposed protected minor if the petitioner is a parent who has ~~sole~~ legal and *primary* physical custody of the proposed protected minor as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed protected minor is a minor who is 14 years of age or older:

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

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

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

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

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

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

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

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

3. If the mother of a child has primary physical custody pursuant to subsection 2 of NRS 125C.003, the father of the child



1 shall not willfully conceal or remove the child from the physical  
2 custody of the mother. If the father of a child has primary physical  
3 custody pursuant to subsection 2 of NRS 125C.003, the mother of  
4 the child shall not willfully conceal or remove the child from the  
5 physical custody of the father. A person who violates this subsection  
6 shall be punished as provided in subsection 1.

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

16 5. ~~[A]~~ *Except as otherwise provided in subsection 4 of NRS*  
17 *125C.006, a* parent who has primary physical custody of a child  
18 pursuant to an order, judgment or decree of a court shall not relocate  
19 with the child pursuant to NRS 125C.006 without the written  
20 consent of the non-relocating parent or the permission of the court.  
21 A person who violates this subsection shall be punished as provided  
22 in subsection 1.

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

25 (a) This is the home state of the child, as defined in NRS  
26 125A.085; and

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

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

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

37 (a) The defendant has no prior conviction for this offense and  
38 the child has suffered no substantial harm as a result of the offense;  
39 or

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

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

44 10. In addition to the exemption set forth in subsection 11,  
45 subsections 4 and 5 do not apply to a person who demonstrates a



1 compelling excuse, to the satisfaction of the court, for relocating  
2 with a child in violation of NRS 125C.006 or 125C.0065.

3 11. This section does not apply to a person who detains,  
4 conceals, removes or relocates with a child to protect the child from  
5 the imminent danger of abuse or neglect or to protect himself or  
6 herself from imminent physical harm, and reported the detention,  
7 concealment, removal or relocation to a law enforcement agency or  
8 an agency which provides child welfare services within 24 hours  
9 after detaining, concealing, removing or relocating with the child, or  
10 as soon as the circumstances allowed. As used in this subsection:

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

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

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

16 432B.153 1. The conviction of the parent of a child for  
17 murder of the first degree of the other parent of the child creates a  
18 rebuttable presumption that ~~{sole}~~ *primary* or joint custody of the  
19 child by the convicted parent is not in the best interest of the child.  
20 The rebuttable presumption may be overcome only if:

21 (a) The court determines that:

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

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

24 and

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

26 or

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

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

36 (a) The court determines that:

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

38 and

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

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

44 3. Until the court makes a determination pursuant to this  
45 section, no person may bring the child into the presence of the



\* S B 2 4 8 \*

convicted parent without the consent of the legal guardian or custodian of the child.

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

432B.159 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. A court, agency, institution or other person who places a child in protective custody shall not release a child to the custody of a person who a court has determined pursuant to this section has engaged in one or more acts of abduction against the child or any other child, unless a court determines that it is in the best interest of



the child for the perpetrator of the abduction to have custody of the child.

5. 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. 30.** NRS 432B.4665 is hereby amended to read as follows:

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

(a) The court finds:

(1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to NRS 159A.061;

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

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

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

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

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

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in NRS 159A.079, and subjects the guardian to the limitations set forth in NRS 159A.0805;

(b) Is subject to the provisions of NRS 159A.065 to 159A.076, inclusive, and 159A.185 to 159A.199, inclusive;

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

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

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

