

ASSEMBLY BILL NO. 115—ASSEMBLYMEN NGUYEN,
PETERS, GONZÁLEZ; TORRES AND WATTS

FEBRUARY 11, 2021

JOINT SPONSORS: SENATORS SCHEIBLE,
CANNIZZARO; AND BROOKS

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to parentage.
(BDR 11-118)

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

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

AN ACT relating to parentage; authorizing a court to determine in certain circumstances that more than two people have a parent and child relationship with a child; establishing provisions concerning custody and visitation, adoption and the termination of parental rights in cases in which a child has more than two parents; requiring the Committee to Review Child Support Guidelines to review the guidelines established by regulation for the support of one or more children to determine the amount of required support in cases in which a child has more than two parents and provide any recommendations for revisions to the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services; requiring the Administrator to review and consider any such recommendations and revise or adopt any necessary regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides the manners in which the legal relationship of a mother
- 2 and child can be established, including: (1) except in the case of a gestational
- 3 agreement, proof that a woman gave birth to a child; (2) an adjudication that a



woman is the mother of a child; (3) proof that a woman has adopted a child; (4) an un rebutted presumption of a woman's maternity; (5) the consent of a woman to assisted reproduction that resulted in the birth of a child; or (6) an adjudication confirming a woman as a parent of a child born to a gestational carrier. (NRS 126.041) Existing law also provides the manners in which the legal relationship of a father and child can be established, including: (1) an adjudication that a man is the father of a child; (2) proof that a man has adopted a child; (3) the consent of a man to assisted reproduction that resulted in the birth of a child; (4) an adjudication confirming a man as a parent of a child born to a gestational carrier; (5) a presumption of paternity that arises if a man was married to or cohabiting with the natural mother of a child or resides with and holds out a child as his natural child; (6) genetic testing establishing a man as the father of a child; or (7) a voluntary acknowledgment of paternity by a man. (NRS 126.041, 126.051, 126.053)

Section 2 of this bill authorizes a court to determine that more than two people have a parent and child relationship with a child if the court finds that recognizing only two people as having a parent and child relationship with the child will be detrimental to the child. **Section 2** requires a court to consider all relevant factors when making such a determination, including the harm that may occur to a child by removing him or her from a stable environment with a person who has fulfilled the physical needs of the child and psychological needs of the child for care and affection and has assumed that role for a substantial period.

If a court determines pursuant to **section 2** that a child has more than two parents: (1) **section 1** of this bill requires a court that is making a determination regarding the legal or physical custody of the child to allocate custody and visitation among the parents based on the best interest of the child; (2) **section 4** of this bill prohibits a court from granting a petition for adoption of a child unless each parent of the child provides his or her written consent; and (3) **section 6** of this bill provides that, with respect to the termination of parental rights, if the mother of the child relinquishes or proposes to relinquish the child for adoption and all other parents have not consented to the adoption or relinquished the child for adoption, the court must determine whether any such parent and child relationship should be terminated.

Section 8 of this bill generally provides that, for the purposes of the Nevada Revised Statutes, if a court determines pursuant to **section 2** that a child has more than two parents, any reference to: (1) the parents of a child must be interpreted to include any person whom a court has determined to be a parent of the child; and (2) a parent of a child must be interpreted to include any person whom a court has determined to be a parent of a child and to whom the reference can logically be applied.

Existing law requires: (1) the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services to adopt regulations that establish the guidelines in this State for the support of one or more children; and (2) the Committee to Review Child Support Guidelines to review such guidelines not less than quadrennially. (NRS 425.620) Existing law requires courts to apply such guidelines to determine the amount of required support in any case involving the support of children or to change the amount of required support. (NRS 125B.080) **Section 9** of this bill requires the Committee to: (1) review the guidelines not later than 90 days after the effective date of this bill for the purpose of determining the amount of required support in cases in which a court determines that a child has more than two parents; and (2) provide any recommendations for revisions to the guidelines to the Administrator. **Section 9** also requires the Administrator to review and consider any recommendations of the Committee and revise or adopt any necessary regulations.



WHEREAS, Most children have two parents, but in rare cases, a child has more than two people who are that child's parent in every way; and

WHEREAS, Separating a child from a parent has a devastating psychological and emotional impact on the child, and courts must have the power to protect children from such harm; and

WHEREAS, This act does not change any of the requirements for establishing a claim to parentage, but rather provides that if more than two people have claims to parentage, a court may determine that a child has more than two parents if recognizing only two people as having a parent and child relationship with the child will be detrimental to the child; and

WHEREAS, It is the intent of the Legislature that the amendatory provisions of this act will only apply in the rare cases where a child truly has more than two parents, and a finding that a child has more than two parents is necessary to protect the child from the detriment of being separated from one of his or her parents; now, therefore,

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

Section 1. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, if a court determines pursuant to section 2 of this act that more than two people have a parent and child relationship with a child, a court making a determination regarding the legal or physical custody of the child shall allocate custody and visitation among the parents based on the best interest of the child, including, without limitation, by addressing the need of the child for continuity and stability by preserving established patterns of care and emotional bonds. This section must not be construed to require a court to order that all parents share legal or physical custody of a child.

Sec. 2. Chapter 126 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A court may determine that more than two people have a parent and child relationship with a child if the court finds that recognizing only two people as having a parent and child relationship with the child will be detrimental to the child.

2. In making a determination pursuant to subsection 1, a court shall consider all relevant factors, including, without limitation, the harm that may occur to a child by removing the child from a stable environment with a person who has fulfilled the physical needs of the child and the psychological needs of the



child for care and affection and has assumed that role for a substantial period.

3. A finding of the unfitness of a parent or person with a claim to parentage is not required for a court to make a finding pursuant to subsection 1 that recognizing only two people as having a parent and child relationship with the child will be detrimental to the child.

4. Unless otherwise specified by a court or expressly provided by law, any person who is determined by a court to have a parent and child relationship with a child:

(a) Is entitled to and possesses all privileges, rights, benefits and protections provided to parents under the laws of this State; and

(b) Possesses all responsibilities, obligations and duties imposed on parents under the laws of this State.

Sec. 3. NRS 126.021 is hereby amended to read as follows:

126.021 As used in this chapter, unless the context otherwise requires:

1. "Custodial parent" means the parent of a child born out of wedlock who has been awarded physical custody of the child or, if no award of physical custody has been made by a court, the parent with whom the child resides.

2. "Nonsupporting parent" means the parent of a child born out of wedlock who has failed to provide an equitable share of his or her child's necessary maintenance, education and support.

3. "Parent and child relationship" means the legal relationship existing between a child and his or her natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations. It includes the mother and child relationship and the father and child relationship. *This subsection does not preclude a determination by a court that a child has such a legal relationship with more than two people pursuant to section 2 of this act.*

Sec. 4. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, and except as otherwise provided in NRS 127.090, if a court determines pursuant to section 2 of this act that more than two people have a parent and child relationship with a child, a court shall not grant a petition for adoption of a child unless each parent of the child has provided his or her written consent to the specific adoption proposed by the petition or for relinquishment to an agency authorized to accept relinquishments in accordance with the provisions of this chapter.



Sec. 5. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, *and section 4 of this act* govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, *and section 4 of this act*, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 6. Chapter 128 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, if:

1. A court determines pursuant to section 2 of this act that more than two people have a parent and child relationship with a child;

2. The mother of the child relinquishes or proposes to relinquish the child for adoption; and

*3. All other parents have not consented to the adoption of the child or relinquished the child for adoption,
↪ a proceeding must be brought pursuant to this chapter to determine whether any such parent and child relationship should be terminated.*

Sec. 7. NRS 128.090 is hereby amended to read as follows:

128.090 1. At the time stated in the notice, or at the earliest time thereafter to which the hearing may be postponed, the court shall proceed to hear the petition.

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

3. Information contained in a report filed pursuant to NRS 432.097 to 432.130, inclusive, or chapter 432B of NRS may not be excluded from the proceeding by the invoking of any privilege.

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

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

6. Except as otherwise provided in subsection 7, any hearing held pursuant to NRS 128.005 to 128.150, inclusive, *and section 6*



of this act is confidential and must be held in closed court without the admittance of any person other than the petitioner, attorneys, any witnesses, the director of an agency which provides child welfare services or an authorized representative of such person and any other person entitled to notice, except by order of the court.

7. The files and records of the court in a proceeding to terminate parental rights pursuant to NRS 128.005 to 128.150, inclusive, *and section 6 of this act* are not open to inspection by any person except:

(a) The person petitioning for the termination of parental rights and a person who intends to file a response to such a petition; or

(b) Upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor.

Sec. 8. Chapter 0 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law and unless any of the following interpretations is not possible given the context in which a reference is used or a particular statute expressly provides otherwise, if a court determines pursuant to section 2 of this act that more than two people have a parent and child relationship with a child, any reference to:

1. The parents of a child, including, without limitation, a reference to two parents of a child or both parents of a child, must be interpreted to include any person whom a court has determined to be a parent of the child.

2. A parent of a child, including, without limitation, a reference to either parent of a child or a father or mother of a child, must be interpreted to include any person whom a court has determined to be a parent of the child and to whom the reference can logically be applied.

Sec. 9. 1. Not later than 90 days after the effective date of this act, the Committee shall:

(a) Review the guidelines established by regulation pursuant to subsection 2 of NRS 425.620 for the support of one or more children for the purpose of determining the amount of required support in cases in which a court has determined that more than two people have a parent and child relationship with a child pursuant to section 2 of this act; and

(b) Provide to the Administrator any recommendations for revisions to the guidelines.

2. The Administrator shall review and consider any recommendations of the Committee to revise the guidelines in accordance with the provisions of NRS 425.620 and, after reviewing and considering such recommendations, shall revise or adopt any



1 necessary regulations in accordance with the provisions of chapter
2 233B of NRS.

3 3. As used in this section:

4 (a) “Administrator” means the Administrator of the Division of
5 Welfare and Supportive Services of the Department of Health and
6 Human Services, or a representative of the Administrator.

7 (b) “Committee” means the Committee to Review Child Support
8 Guidelines created by NRS 425.610.

9 **Sec. 10.** This act becomes effective upon passage and
10 approval.

