

ASSEMBLY BILL NO. 33—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Authorizes the establishment of paternity in proceedings concerning the protection of children. (BDR 38-436)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 the protection of children; authorizing the paternity of a child to be legally established during a proceeding concerning the protection of the child; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth provisions concerning actions in which the paternity of a child may be legally established. (NRS 126.071-126.223) Existing law also authorizes the paternity of a child to be legally established during a proceeding concerning the support of a dependent child. (NRS 425.382-425.3852) Additionally, existing law establishes provisions relating to civil proceedings concerning the protection of children from abuse and neglect. (NRS 432B.410-432B.590) This bill authorizes the paternity of a child to be legally established during a civil proceeding concerning the protection of a child.

Section 2 of this bill provides that if the paternity of a child has not been legally established and a petition alleging that a child is in need of protection will be filed with a court and served on the alleged father of the child, the petition must contain certain information, including: (1) facts supporting that the alleged father is the legal parent of the child; (2) whether any man has acknowledged or declared his possible paternity of the child; and (3) notice to the alleged father that an order may be entered that establishes him as the legal parent of the child if he does not take certain actions. **Section 3** of this bill provides that if the paternity of a child has not been legally established, the child, the natural mother or alleged father of the child or an interested third party is authorized to make a motion to the court for an order to establish paternity during a civil proceeding concerning the protection of a child. Such a motion must contain certain information and be served on the alleged father.

Section 4 of this bill authorizes the establishment of the alleged father of a child as the legal parent of the child during a civil proceeding concerning the



protection of a child if the natural mother and alleged father of the child each sign an affidavit or other sworn statement that the paternity of the child has not been legally established and the alleged father is the legally presumed father of the child. **Section 5** of this bill authorizes the establishment of the alleged father of a child as the legal parent of the child during a civil proceeding concerning the protection of the child if the alleged father is the only alleged father of the child and he: (1) does not appear at the hearing concerning the protection of the child; and (2) after receiving proper notice, does not submit within 60 days after the hearing a written response to a petition or motion to establish paternity, as applicable, or sworn testimony denying paternity and requesting a hearing.

Section 6 of this bill establishes the circumstances in which a judicial officer is required to order tests for the typing of blood or tests for the taking of specimens for genetic identification of a child, the natural mother of the child and the alleged father of the child when paternity is disputed. **Section 6** sets forth the circumstances in which such tests establish a conclusive presumption that a man is the natural father of a child and provides that if there is a conclusive presumption that the alleged father is the natural father of the child and there is no objection, the alleged father may be established as the legal parent of the child. **Sections 14 and 15** of this bill make conforming changes to indicate that the obtaining of genetic information from such tests ordered pursuant to **section 6** is exempt from certain provisions set forth in existing law that otherwise require the informed consent of certain persons before obtaining or disclosing such genetic information.

Section 7 of this bill generally requires the agency which provides child welfare services in the county in which paternity is alleged to pay the costs for conducting any tests for the typing of blood or tests for the taking of specimens for genetic identification. However, if such tests establish a conclusive presumption that the alleged father of a child is the natural father of the child, **section 7** requires the alleged father to reimburse the agency for the cost of the tests. Additionally, if the natural mother or alleged father of a child contests the results of any such tests, **section 7** requires the person contesting the results to pay the costs for conducting any additional tests. **Section 13** of this bill makes conforming changes to provide clarity that the provision of existing law that prohibits the State from being assessed any costs when it is a party to an action to determine parentage, including costs for blood tests or tests for genetic identification, only applies to an action to determine parentage pursuant to chapter 126 of NRS.

Section 8 of this bill provides that any recommendation concerning the paternity of a child that is entered by a master and approved by the district court establishes the legal paternity of the child for all purposes. **Section 8** also provides that any order establishing the paternity of a child is not confidential. **Section 10** of this bill makes conforming changes to indicate that such an order not being confidential is an exception to the general requirement that information maintained by an agency which provides child welfare services is confidential.

Section 9 of this bill requires that whenever service of process is required in an action to establish paternity that is part of a civil proceeding concerning the protection of a child, personal service must be used. **Section 11** of this bill makes conforming changes to indicate that such a requirement that personal service be used is an exception to the general requirement that a summons requiring a person who has custody or control of a child to appear personally and bring the child before the court may be served by personal service or registered or certified mail to the last known address of the person.

Section 12 of this bill makes conforming changes to indicate that the parent and child relationship between a child and a man may be established in an action to establish paternity that is part of a civil proceeding concerning the protection of a child.



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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *If the paternity of a child has not been legally established and a petition alleging that a child is in need of protection will be filed pursuant to NRS 432B.490 and served on the alleged father of the child, the petition must include, without limitation:*

1. The information required by NRS 432B.510;

2. The name of the alleged father of the child and facts that support that the alleged father is the legal parent of the child, including, without limitation, whether the natural mother of the child:

(a) Was married to the alleged father at the time of the conception or birth of the child;

(b) Was cohabiting with the alleged father at the time of the conception or birth of the child; and

(c) Receives or has received support payments or promises of support from the alleged father in connection with her pregnancy or with respect to the child;

3. An indication as to whether any man has formally or informally acknowledged or declared his possible paternity of the child; and

4. A statement that if the alleged father does not appear at the adjudicatory hearing held pursuant to NRS 432B.530 and does not, within 60 days after the adjudicatory hearing, submit a written response or sworn testimony denying paternity and requesting a hearing, the judicial officer may, without further notice to the alleged father:

(a) Enter an order that declares and establishes the alleged father as the legal parent of the child; or

(b) If the judicial officer is a master, enter a recommendation for approval by the district court that the alleged father be declared and established as the legal parent of the child.

Sec. 3. *1. During any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, and sections 2 to 9, inclusive, of this act, if the paternity of a child has not been legally established, the child, the natural mother of the child, the alleged father of the child or an interested third party may make a motion to the court for an order to establish paternity.*

2. A motion made pursuant to this section must be in writing, set forth the information required by subsections 2, 3 and 4 of



1 *section 2 of this act and, if the alleged father did not file the*
2 *motion, be served upon the alleged father.*

3 *3. The provisions of the Nevada Rules of Civil Procedure, the*
4 *District Court Rules and the local rules of practice adopted in the*
5 *judicial district where the action is pending apply to any motion*
6 *made pursuant to this section.*

7 **Sec. 4.** *If the natural mother and alleged father of a child*
8 *each sign an affidavit or other sworn statement that the paternity*
9 *of the child has not been legally established and the alleged father*
10 *is the presumed father of the child pursuant to subsection 1 of*
11 *NRS 126.051, a judicial officer may, during any proceeding held*
12 *pursuant to NRS 432B.410 to 432B.590, inclusive, and sections 2*
13 *to 9, inclusive, of this act:*

14 *1. Enter an order that declares and establishes the alleged*
15 *father as the legal parent of the child; or*

16 *2. If the judicial officer is a master, enter a recommendation*
17 *for approval by the district court that the alleged father be*
18 *declared and established as the legal parent of the child.*

19 **Sec. 5.** *If paternity is alleged pursuant to section 2 or 3 of*
20 *this act and there is only one alleged father of a child who does*
21 *not appear at the adjudicatory hearing held pursuant to NRS*
22 *432B.530 and, after being served with a petition or motion*
23 *pursuant to section 2 or 3 of this act, respectively, he does not*
24 *submit a written response or sworn testimony denying paternity*
25 *and requesting a hearing within 60 days after the adjudicatory*
26 *hearing, a judicial officer may, without further notice to the*
27 *alleged father:*

28 *1. Enter an order that declares and establishes the alleged*
29 *father as the legal parent of the child; or*

30 *2. If the judicial officer is a master, enter a recommendation*
31 *for approval by the district court that the alleged father be*
32 *declared and established as the legal parent of the child.*

33 **Sec. 6.** *1. If paternity is alleged pursuant to section 2 or 3*
34 *of this act, a judicial officer shall order tests for the typing of*
35 *blood or tests for the taking of specimens for genetic identification*
36 *of a child, the natural mother of the child and the alleged father of*
37 *the child as set forth in NRS 126.121 if:*

38 *(a) The alleged father submits, within 60 days after the*
39 *adjudicatory hearing held pursuant to NRS 432B.530, a written*
40 *response or sworn testimony denying paternity and requesting a*
41 *hearing;*

42 *(b) Any person alleges that more than one person may be the*
43 *father of the child and none of the persons alleged to be the father*
44 *acknowledges paternity of the child; or*



(c) *The judicial officer determines that there is a valid issue concerning the paternity of the child.*

2. *There is a conclusive presumption that a man is the natural father of a child if tests for the typing of blood or tests for genetic identification made pursuant to NRS 126.121 show a probability of 99 percent or more that he is the father except that the presumption may be rebutted if he establishes that he has an identical sibling who may be the father. If there is a conclusive presumption that the alleged father of a child is the natural father of the child and no objection is made, the judicial officer may:*

(a) *Enter an order that declares and establishes the alleged father as the legal parent of the child; or*

(b) *If the judicial officer is a master, enter a recommendation for approval by the district court that the alleged father be declared and established as the legal parent of the child.*

Sec. 7. 1. *Except as otherwise provided in subsections 2 and 3, the agency which provides child welfare services in the county in which paternity is alleged pursuant to section 2 or 3 of this act shall pay the costs for conducting any tests for the typing of blood or tests for the taking of specimens for genetic identification that are ordered pursuant to section 6 of this act.*

2. *If tests for the typing of blood or tests for genetic identification establish a conclusive presumption that the alleged father of a child is the natural father of the child in accordance with subsection 2 of section 6 of this act, the alleged father shall reimburse the agency which provides child welfare services in the county for the cost of the tests.*

3. *If the natural mother or alleged father of a child contests the results of any test conducted pursuant to this section, the contesting party shall pay the costs for conducting any additional tests.*

Sec. 8. 1. *Any recommendation by a master that is entered pursuant to section 4, 5 or 6 of this act and approved by the district court establishes the legal paternity of a child for all purposes.*

2. *Any order establishing paternity issued pursuant to section 4, 5 or 6 of this act is not subject to confidentiality pursuant to NRS 432B.280.*

Sec. 9. *Notwithstanding any other provision of law, whenever service of process is required in an action brought pursuant to NRS 432B.410 to 432B.590, inclusive, and sections 2 to 9, inclusive, of this act to determine the existence or nonexistence of the paternal relationship, it must be made by personal service of the summons or written notice and the petition or motion in which paternity is alleged.*



Sec. 10. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. Except as otherwise provided in NRS 239.0115, 432B.165, 432B.175 and 439.538 *and section 8 of this act* and except as otherwise authorized or required pursuant to NRS 432B.290, information maintained by an agency which provides child welfare services, including, without limitation, reports and investigations made pursuant to this chapter, is confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases or disseminates such information, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized pursuant to NRS 432B.165 and 432B.175;

(c) As otherwise authorized or required pursuant to NRS 432B.290;

(d) As otherwise authorized or required pursuant to NRS 439.538; or

(e) As otherwise required pursuant to NRS 432B.513, is guilty of a gross misdemeanor.

Sec. 11. NRS 432B.520 is hereby amended to read as follows:

432B.520 1. After a petition has been filed, the court shall direct the clerk to issue a summons requiring the person who has custody or control of the child to appear personally and bring the child before the court at a time and place stated in the summons. If the person so summoned is other than a parent or guardian of the child, then the parent or guardian, or both, must also be notified by a similar summons of the pendency of the hearing and of the time and place appointed.

2. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

3. Each summons must include notice of the right of parties to counsel at the adjudicatory hearing. A copy of the petition must be attached to each summons.

4. Except as provided in subsection 5 *and section 9 of this act*, the summons must be served by:

(a) Personal service of a written notice; or

(b) Registered or certified mail to the last known address of the person.

5. If the child was delivered to a provider of emergency services pursuant to NRS 432B.630 by one parent and the location of the other parent who did not deliver the child is unknown to the agency which provides child welfare services, the summons must be served on that parent by publication at least once a week for 3



consecutive weeks in a newspaper published in the county and if no such newspaper is published, then a newspaper published in this state that has a general circulation in the county. The failure of the parent to appear in the action after the service of summons on the parent pursuant to this subsection shall be deemed to constitute a waiver by the parent of any further notice of the proceedings that would otherwise be required pursuant to this chapter. The parent who delivered the child to a provider of emergency services pursuant to NRS 432B.630 shall be deemed to have waived any right to notice pursuant to this section.

6. If it appears that the child is in such condition or surroundings that the welfare of the child requires that custody be immediately assumed by the court, the court may order, by endorsement upon the summons, that the person serving it shall at once deliver the child to an agency which provides child welfare services in whose custody the child must remain until the further order of the court.

7. If the summons cannot be served or the person who has custody or control of the child fails to obey it, or:

(a) In the judge's opinion, the service will be ineffectual or the welfare of the child requires that the child be brought forthwith into the custody of the court; or

(b) A person responsible for the child's welfare has absconded with the child or concealed the child from a representative of an agency which provides child welfare services,

the court may issue a writ for the attachment of the child's person, commanding a law enforcement officer or a representative of an agency which provides child welfare services to place the child in protective custody.

Sec. 12. NRS 126.041 is hereby amended to read as follows:

126.041 The parent and child relationship between a child and:

1. A woman may be established by:

(a) Except as otherwise provided in NRS 126.710 to 126.810, inclusive, proof of her having given birth to the child;

(b) An adjudication of the woman's maternity pursuant to this chapter, or NRS 125B.150 or 130.402;

(c) Proof of adoption of the child by the woman;

(d) An un rebutted presumption of the woman's maternity;

(e) The consent of the woman to assisted reproduction pursuant to NRS 126.670 and 126.680 which resulted in the birth of the child; or

(f) An adjudication confirming the woman as a parent of a child born to a gestational carrier if the gestational agreement is enforceable under the provisions of NRS 126.710 to 126.810, inclusive, or any other provision of law.



2. A man may be established:

(a) Under this chapter, NRS 125B.150, 130.402, or 425.382 to 425.3852, inclusive ~~[]~~, *or 432B.410 to 432B.590, inclusive, and sections 2 to 9, inclusive, of this act;*

(b) By proof of adoption of the child by the man;

(c) By the consent of the man to assisted reproduction pursuant to NRS 126.670 and 126.680 which resulted in the birth of the child; or

(d) By an adjudication confirming the man as a parent of a child born to a gestational carrier if the gestational agreement was validated pursuant to the provisions of NRS 126.710 to 126.810, inclusive, or other provision of law.

Sec. 13. NRS 126.171 is hereby amended to read as follows:

126.171 The court may order reasonable fees of counsel, experts and the child's guardian ad litem, and other costs of the action and pretrial proceedings, including blood tests or tests for genetic identification, to be paid by the parties in proportions and at times determined by the court. The court may order the proportion of any indigent party to be paid by the county. In no event may the State be assessed any costs when it is a party to an action to determine parentage ~~[]~~ *pursuant to this chapter.*

Sec. 14. NRS 629.151 is hereby amended to read as follows:

629.151 It is unlawful to obtain any genetic information of a person without first obtaining the informed consent of the person or the person's legal guardian pursuant to NRS 629.181, unless the information is obtained:

1. By a federal, state, county or city law enforcement agency to establish the identity of a person or dead human body;

2. To determine the parentage or identity of a person pursuant to NRS 56.020;

3. To determine the paternity of a person pursuant to NRS 126.121 or 425.384 ~~[]~~ *or section 6 of this act;*

4. For use in a study where the identities of the persons from whom the genetic information is obtained are not disclosed to the person conducting the study;

5. To determine the presence of certain preventable or inheritable disorders in an infant pursuant to NRS 442.008 or a provision of federal law; or

6. Pursuant to an order of a court of competent jurisdiction.

Sec. 15. NRS 629.171 is hereby amended to read as follows:

629.171 It is unlawful to disclose or to compel a person to disclose the identity of a person who was the subject of a genetic test or to disclose genetic information of that person in a manner that allows identification of the person, without first obtaining the



1 informed consent of that person or his or her legal guardian pursuant
2 to NRS 629.181, unless the information is disclosed:

3 1. To conduct a criminal investigation, an investigation
4 concerning the death of a person or a criminal or juvenile
5 proceeding;

6 2. To determine the parentage or identity of a person pursuant
7 to NRS 56.020;

8 3. To determine the paternity of a person pursuant to NRS
9 126.121 or 425.384 ~~§~~ *or section 6 of this act;*

10 4. Pursuant to an order of a court of competent jurisdiction;

11 5. By a physician and is the genetic information of a deceased
12 person that will assist in the medical diagnosis of persons related to
13 the deceased person by blood;

14 6. To a federal, state, county or city law enforcement agency to
15 establish the identity of a person or dead human body;

16 7. To determine the presence of certain preventable or
17 inheritable disorders in an infant pursuant to NRS 442.008 or a
18 provision of federal law;

19 8. To carry out the provisions of NRS 442.300 to 442.330,
20 inclusive; or

21 9. By an agency of criminal justice pursuant to NRS 179A.075.

