

Amendment No. 589

Senate Amendment to Assembly Bill No. 115 First Reprint	(BDR 11-118)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/BAW



Date: 5/14/2021

A.B. No. 115—Revises provisions relating to domestic relations. (BDR 11-118)



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 domestic relations. (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 domestic relations; authorizing one or more adults to petition a court for the adoption of a child; authorizing a court to waive the hearing on a petition for the adoption of a child in certain circumstances; requiring that additional information must be included in a petition for the adoption of a child who currently resides in the home of the petitioners; authorizing a court to determine that more than two people have a parent and child relationship with a child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions governing the adoption of children. (NRS 127.010-127.186) Existing law authorizes any adult or married couple to petition a court for the adoption of a child. (NRS 127.030) **Section 5.2** of this bill instead provides that one or more adults may petition a court for the adoption of a child and requires that each prospective adopting adult and **consenting** legal parent seeking to retain his or her parental rights **must** be ~~joined as~~ a **joint** petitioner. **Section 5.2** also authorizes a court to: (1) waive the hearing on a petition for the adoption of a child if the petitioner is related to the child within the third degree of consanguinity; and (2) determine that a child has a legal relationship with more than two petitioners. **Sections 5.1, 5.3-5.6 and 5.7-5.9** of this bill make conforming changes to reflect that a child may have a legal relationship with more than two parents.

Existing law requires that a petition for the adoption of a child who currently resides in the home of the petitioners must contain certain information. (NRS 127.110) **Section 5.65** of this bill requires the petition also to include a statement that there are no known signs that the child is currently experiencing victimization from human trafficking, exploitation or abuse.

Section 8 of this bill generally provides that, for the purposes of the Nevada Revised Statutes, if more than two persons have a parent and child relationship with a child pursuant to a prior court order, any reference to the parents of a child or a parent of a child must be interpreted to include any person whom a court has determined to be a parent of the child.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

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 persons.*

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. NRS 127.020 is hereby amended to read as follows:

127.020 1. Except as otherwise provided in subsection 2:

(a) A minor child may be adopted by ~~an adult person in the cases and~~ *one or more adults* subject to the rules prescribed in this chapter.

(b) A person adopting a child must be at least 10 years older than the person adopted, and the consent of the child, if over the age of 14 years, is necessary to its adoption.

2. A court may approve the adoption of a child without regard to the age of the child and the ages of the prospective adoptive parents if:

(a) The child is being adopted by a stepparent, sister, brother, aunt, uncle or first cousin and, if the prospective adoptive parent is married, also by the spouse of the prospective adoptive parent; and

(b) The court is satisfied that it is in the best interest of the child and in the interest of the public.

Sec. 5.2. NRS 127.030 is hereby amended to read as follows:

127.030 1. ~~Any adult person or any two persons married to each other~~ *One or more adults* may petition the district court of any county in this state for leave to adopt a child. *Each prospective adopting adult and each consenting legal parent seeking to retain his or her parental rights must be joined as a petitioner, a joint petitioner.*

2. Except as otherwise provided in subsection 5, a married person not lawfully separated from his or her spouse may not adopt a child without the consent of his or her spouse, if such spouse is capable of giving such consent.

3. If a spouse consents to an adoption as described in subsection 2, such consent does not establish any parental rights or responsibilities on the part of the spouse unless he or she:

(a) Has, in a writing filed with the court, specifically consented to:

(1) Adopting the child; and

(2) Establishing parental rights and responsibilities; and

(b) Is named as an adoptive parent in the order or decree of adoption.

4. The court shall not name a spouse who consents to an adoption as described in subsection 2 as an adoptive parent in an order or decree of adoption unless:

(a) The spouse has filed a writing with the court as described in paragraph (a) of subsection 3; and

(b) The home of the spouse is suitable for the child as determined by an investigation conducted pursuant to NRS 127.120 or 127.2805.

5. The court may dispense with the requirement for the consent of a spouse who cannot be located after a diligent search or who is determined by the court to lack the capacity to consent. A spouse for whom the requirement was dispensed pursuant to this subsection must not be named as an adoptive parent in an order or decree of adoption.

6. If a person who petitions for the adoption of a child pursuant to this section is related to the child within the third degree of consanguinity, the court may, in its discretion, waive the hearing on the petition.

7. The court may determine that a child has a legal relationship with more than two persons who petition for the adoption of the child pursuant to this section.

Sec. 5.3. NRS 127.040 is hereby amended to read as follows:

127.040 1. Except as provided in NRS 127.090, written consent to the specific adoption proposed by the petition or for relinquishment to an agency authorized to accept relinquishments acknowledged by the person or persons consenting, is required from:

(a) ~~{Both parents if both are living;}~~ *Each legal parent who is alive; and*

(b) ~~{One parent if the other is dead; or~~

~~—(c) The}~~ *Any legal* guardian of the person of ~~{a}~~ *the* child appointed by a court of competent jurisdiction.

2. Consent is not required of a parent who has been adjudged insane for 2 years if the court is satisfied by proof that such insanity is incurable.

Sec. 5.4. NRS 127.043 is hereby amended to read as follows:

127.043 1. Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the ~~{mother}~~ *parent who gave birth to the child* as provided by NRS 127.070.

2. The provisions of this section do not apply if one *or more of the existing legal parents is a* petitioner or the ~~{spouse of a}~~ petitioner is related to the child within the third degree of consanguinity.

Sec. 5.5. NRS 127.045 is hereby amended to read as follows:

127.045 1. Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the ~~{mother}~~ *parent who gave birth to the child* as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:

(a) Petition any court for the appointment of a guardian; or

(b) Be appointed the temporary guardian,

↪ of the person of the child to be adopted.

2. The provisions of subsection 1 do not apply ~~{to}~~ *if one or more of the existing legal parents is a petitioner or if* any ~~{person who is related}~~ *petitioner* or ~~{whose}~~ *his or her* spouse is related to the child within the third degree of consanguinity.

Sec. 5.6. NRS 127.070 is hereby amended to read as follows:

127.070 1. All releases for and consents to adoption executed in this state by the ~~{mother}~~ *parent who gave birth to a child* before the birth of ~~{a}~~ *the* child or within 72 hours after the birth of ~~{a}~~ *the* child are invalid.

2. A release for or consent to adoption may be executed by ~~{the father} a~~ *parent* before the birth of ~~{the} a~~ child if the ~~{father} parent~~ is not married to the ~~{mother} parent who gave birth to the child.~~ A release executed ~~{by the father} under this subsection~~ becomes invalid if:

(a) The ~~{father of the child marries the mother} parents~~ of the child *marry each other* before the child is born;

(b) The ~~{mother of} parent who gave birth to~~ the child does not execute a release for or consent to adoption of the child within 6 months after the birth of the child; or

(c) No petition for adoption of the child has been filed within 2 years after the birth of the child.

Sec. 5.65. NRS 127.110 is hereby amended to read as follows:

127.110 1. A petition for adoption of a child who currently resides in the home of the petitioners may be filed at any time after the child has lived in the home for 30 days.

2. The petition for adoption must state, in substance, the following:

(a) The full name and age of the petitioners.

(b) The age of the child sought to be adopted and the period that the child has lived in the home of petitioners before the filing of the petition.

(c) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.

(d) Their desire that the name of the child be changed, together with the new name desired.

(e) That the petitioners are fit and proper persons to have the care and custody of the child.

(f) That they are financially able to provide for the child.

(g) That there has been a full compliance with the law in regard to consent to adoption.

(h) That there has been a full compliance with NRS 127.220 to 127.310, inclusive.

(i) Whether the child is known to be an Indian child.

(j) That there are no known signs that the child is currently experiencing victimization from human trafficking, exploitation or abuse.

3. No order of adoption may be entered unless there has been full compliance with the provisions of NRS 127.220 to 127.310, inclusive.

Sec. 5.7. NRS 127.123 is hereby amended to read as follows:

127.123 Notice of the filing of a petition for the adoption of a child must be provided to ~~{the} all~~ legal ~~{custodian} custodians~~ or ~~{guardian} guardians~~ of the child ~~{if that custodian or guardian is a person other than the natural} who are not a legal~~ parent of the child.

Sec. 5.8. NRS 127.160 is hereby amended to read as follows:

127.160 Upon the entry of an order of adoption, the child shall become the legal child of the persons adopting the child, and they shall become the child's legal parents with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption the child shall inherit from his or her adoptive parents or their relatives the same as though the child were the legitimate child of such parents, and in case of the death of the child intestate the adoptive parents and their relatives shall inherit the child's estate as if they had been the child's natural parents and relatives in fact. After a decree of adoption is entered, ~~{the natural parents of an adopted child shall be} any parent who has signed a relinquishment or given consent to terminate his or her parental rights is~~ relieved of all parental responsibilities for ~~{such} the adopted child {-} and {they}~~ shall not exercise or have any rights over ~~{such} the~~ adopted child or the property of ~~{such} the~~ adopted child.

The child ~~[shall]~~ *does* not owe ~~[his or her natural parents or their relatives]~~ *a parent whose parental rights have been terminated* any legal duty ~~[nor shall the child]~~ *and may not* inherit from ~~[his or her natural parents]~~ *a parent whose parental rights have been terminated* or *his or her* kindred. Notwithstanding any other provisions to the contrary in this section, the adoption of a child ~~[by his or her stepparent shall]~~ *does* not in any way change the status of the relationship between the child and ~~[his or her natural parent]~~ *any legal parent* who is ~~[the spouse of the petitioning stepparent]~~ *a petitioner and whose parental rights have not been terminated.*

Sec. 5.85. NRS 127.165 is hereby amended to read as follows:

127.165 1. ~~[The natural parent]~~ *A prior parent* of a child may not bring an action to set aside an adoption after a petition for adoption has been granted, unless a court of competent jurisdiction has previously, in a separate action:

- (a) Set aside the consent to the adoption;
- (b) Set aside the relinquishment of the child for adoption; or
- (c) Reversed an order terminating the parental rights of the ~~[natural]~~ parent.

2. After a petition for adoption has been granted, there is a presumption for the purposes of this chapter that remaining in the home of the adopting ~~[parent]~~ *parents* is in the child's best interest.

Sec. 5.9. NRS 127.2827 is hereby amended to read as follows:

127.2827 1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. The court shall incorporate an order for visitation provided to the court pursuant to subsection 1 into the decree of adoption unless, not later than 30 days after notice of the filing of the petition for adoption is provided to ~~[the]~~ *all* legal ~~[custodian]~~ *custodians* or ~~[guardian]~~ *guardians* of the child *who are required to be provided with such notice* pursuant to NRS 127.123, any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency petitions the court to exclude the order of visitation with a sibling from the decree of adoption or amend the order for visitation before including the order in the decree of adoption.

3. The hearing on a petition submitted pursuant to subsection 2 must be held on a different date than the hearing on the petition for adoption. Any interested party is entitled to participate in the hearing. The clerk of the court shall give written notice of the time and place of the hearing to the adoptive parent, the adoptive child, a sibling of the adoptive child, the attorney for the adoptive child or a sibling of the adoptive child, the agency which provides child welfare services and a licensed child-placing agency. Upon the petition of a sibling requesting the inclusion of an order for visitation in the decree of adoption, the court may require the agency which provides child welfare services or the child-placing agency to provide the clerk of the court with the contact information of the adoptive parent, the adoptive child and the attorney for the adoptive child. If so ordered, the agency which provides child welfare services or the child-placing agency must provide such contact information under seal.

4. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child. If a petition is submitted pursuant to subsection 2, the court must not enter a decree of

1 adoption until the court has made a determination concerning visitation with a
2 sibling.

3 5. If an order for visitation with a sibling is included in a decree of adoption,
4 the court shall, upon the request of a party to the order, provide to the party the case
5 number of the adoption proceeding and any documents or records necessary to
6 enforce the order.

7 6. A party to an order for visitation may petition for enforcement of the order
8 at any time while the order is in effect. A person who fails to comply with the order
9 is in contempt of court. If a party to an order for visitation withholds the contact
10 information of any person in violation of the order, the court may order the agency
11 which provides child welfare services or a licensed child-placing agency to provide
12 such contact information to the court under seal.

13 **Sec. 6.** (Deleted by amendment.)

14 **Sec. 7.** (Deleted by amendment.)

15 **Sec. 8.** The preliminary chapter of NRS is hereby amended by adding thereto
16 a new section to read as follows:

17 *Notwithstanding any other provision of law and unless any of the following*
18 *interpretations is not possible given the context in which a reference is used or a*
19 *particular statute expressly provides otherwise, if more than two people have a*
20 *parent and child relationship with a child pursuant to a prior court order, any*
21 *reference to:*

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

25 *2. A parent of a child, including, without limitation, a reference to either*
26 *parent of a child, a natural parent of a child or a father or mother of a child,*
27 *must be interpreted to include any person whom a court has determined to be a*
28 *parent of the child.*

29 **Sec. 9.** (Deleted by amendment.)

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