

CHAPTER.....

AN ACT relating to parentage; revising requirements for consent by a person who intends to be a parent of a child born by assisted reproduction; revising the requirements for obtaining a court order designating the contents of the birth certificate of a child who is the result of a gestational carrier arrangement; prohibiting the adoption of certain children from this State except upon a district court order; eliminating certain residence requirements relating to petitioners for the adoption of a child; establishing certain requirements for the development and distribution of a declaration for the voluntary acknowledgment of parentage; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to develop and distribute to certain agencies a declaration for the voluntary acknowledgment of paternity. (NRS 440.283) **Section 11** of this bill similarly requires: (1) the Board to develop a declaration for the voluntary acknowledgment of parentage and distribute the declarations to each hospital and obstetric center in Nevada; and (2) those hospitals and obstetric centers to give notice to persons who wish to acknowledge parentage of the rights, responsibilities and legal consequences of signing such a declaration. **Sections 1, 2, 9, 10, 12 and 13** of this bill make conforming changes, adding references to the acknowledgment of parentage to existing provisions which contain references to acknowledgments of paternity.

Existing law requires consent by a person who intends to be a parent of a child born by assisted reproduction to be in a signed record. (NRS 126.680) **Section 3** of this bill requires such consent to be in a signed declaration for the voluntary acknowledgment of parentage.

Section 4 of this bill revises the requirements for the intended parent or parents of a child who is the result of a gestational carrier arrangement to obtain an order designating the contents of the birth certificate of the child.

Section 5 of this bill prohibits the adoption of certain children of whom Nevada is or was the home state except upon an order of a district court of this State.

Existing law prohibits, except in the case of certain agency adoptions, the grant of a petition for adoption of a child unless the petitioners have resided in Nevada for a period of 6 months before the granting of the petition. (NRS 127.060) **Sections 7 and 8** of this bill eliminate this prohibition.

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



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

Section 1. NRS 126.053 is hereby amended to read as follows:

126.053 1. After the expiration of the period described in subsection 2, a declaration for the voluntary acknowledgment of paternity developed by the State Board of Health pursuant to NRS 440.283 *or a declaration for the voluntary acknowledgment of parentage developed by the State Board of Health pursuant to section 11 of this act* shall be deemed to have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child if the declaration is signed in this or any other state by the ~~mother and father~~ *parents* of the child. A declaration for the voluntary acknowledgment of paternity *or a declaration for the voluntary acknowledgment of parentage* that is signed pursuant to this subsection is not required to be ratified by a court of this State before the declaration is deemed to have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child.

2. A person who signs an acknowledgment of paternity *or an acknowledgment of parentage* in this State may rescind the acknowledgment:

(a) Within 60 days after the acknowledgment is signed by both persons; or

(b) Before the date on which an administrative or judicial proceeding relating to the child begins if that person is a party to the proceeding,

↳ whichever occurs earlier.

3. After the expiration of the period during which an acknowledgment may be rescinded pursuant to subsection 2, the acknowledgment may not be challenged except upon the grounds of fraud, duress or material mistake of fact. The burden of proof is on the person challenging the acknowledgment to establish that the acknowledgment was signed because of fraud, duress or material mistake of fact.

4. Except upon a showing of good cause, a person's obligation for the support of a child must not be suspended during a hearing to challenge a voluntary acknowledgment of paternity ~~H~~ *or a voluntary acknowledgment of parentage*.

Sec. 2. NRS 126.161 is hereby amended to read as follows:

126.161 1. A judgment or order of a court, or a judgment or order entered pursuant to an expedited process, determining the existence or nonexistence of the relationship of parent and child is determinative for all purposes.



2. If such a judgment or order of this State is at variance with the child's birth certificate, the judgment or order must direct that a new birth certificate be issued as provided in NRS 440.270 to 440.340, inclusive ~~†~~, **and section 11 of this act.**

3. If the child is a minor, such a judgment or order of this State must provide for the child's support as required by chapter 125B of NRS and must include an order directing the withholding or assignment of income for the payment of the support unless:

(a) One of the parties demonstrates and good cause is found by the court, or pursuant to the expedited process, for the postponement of the withholding or assignment; or

(b) All parties otherwise agree in writing.

4. Such a judgment or order of this State may:

(a) Contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Direct the father to pay the reasonable expenses of the mother's pregnancy and confinement. The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred which the court deems just.

5. A court that enters such a judgment or order shall ensure that the social security numbers of the mother and father are:

(a) Provided to the Division of Welfare and Supportive Services of the Department of Health and Human Services.

(b) Placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.

6. As used in this section, "expedited process" means a voluntary acknowledgment of paternity ~~†~~ **developed by the State Board of Health pursuant to NRS 440.283, a voluntary acknowledgment of parentage developed by the State Board of Health pursuant to section 11 of this act**, judicial procedure or an administrative procedure established by this or another state, as that term is defined in NRS 130.10179, to facilitate the collection of an obligation for the support of a child.

Sec. 3. NRS 126.680 is hereby amended to read as follows:

126.680 1. Consent by a person who intends to be a parent of a child born by assisted reproduction must be in a ~~signed record.~~ **declaration for the voluntary acknowledgment of parentage, signed pursuant to NRS 126.053.**



2. Failure of a person to sign a ~~consent~~ *declaration for the voluntary acknowledgment of parentage* required by subsection 1, before or after the birth of the child, does not preclude a finding of parentage if the woman and the person, during the first 2 years of the child's life, resided together in the same household with the child and openly held out the child as their own.

Sec. 4. NRS 126.720 is hereby amended to read as follows:

126.720 1. If a gestational carrier arrangement satisfies the requirements of NRS 126.740 and 126.750:

(a) The intended parent or parents shall be considered the parent or parents of the resulting child immediately upon the birth of the child;

(b) The resulting child shall be considered the child of the intended parent or parents immediately upon the birth of the child;

(c) Parental rights vest in the intended parent or parents immediately upon the birth of the resulting child;

(d) Sole legal and physical custody of the resulting child vest with the intended parent or parents immediately upon the birth of the child; and

(e) Neither the gestational carrier nor her legal spouse or domestic partner, if any, shall be considered the parent of the resulting child.

2. If a gestational carrier arrangement satisfies the requirements of NRS 126.740 and 126.750 and if, because of a laboratory error, the resulting child is not genetically related to the intended parent or either of the intended parents or any donor who donated to the intended parent or parents, the intended parent or parents shall be considered the parent or parents of the child, unless a determination to the contrary is made by a court of competent jurisdiction in an action which may only be brought by one or more genetic parents of the resulting child within 60 days after the birth of the child.

3. The parties to a gestational carrier arrangement shall assume the rights and obligations of subsections 1 and 2 if:

(a) The gestational carrier satisfies the eligibility requirements set forth in subsection 1 of NRS 126.740;

(b) The intended parent or parents satisfy the requirement set forth in subsection 2 of NRS 126.740; and

(c) The gestational carrier arrangement occurs pursuant to a gestational agreement which meets the requirements set forth in NRS 126.750.

4. Before or after the birth of the resulting child, the intended parent or parents or the prospective gestational carrier or gestational carrier may commence a proceeding in any district court in this



State to obtain an order designating the content of the birth certificate issued as provided in NRS 440.270 to 440.340, inclusive. If:

- (a) ~~The resulting child is to be born in this State;~~
~~(b)~~ A copy of the gestational agreement is attached to the petition; ~~and~~
~~(c)~~ (b) The requirements of NRS 126.740 and 126.750 are satisfied ~~and~~; and

(c) *Any of the following applies:*

- (1) *The resulting child is anticipated to be born in this State;*
(2) *The resulting child was born in this State;*
(3) *The intended parent or parents reside in this State;*
(4) *The intended parent or parents resided in this State when the gestational agreement was executed;*
(5) *The gestational carrier resides in this State;*
(6) *The gestational agreement was executed in this State;* or
(7) *The medical procedures for assisted reproduction that were performed pursuant to the gestational agreement and resulted in pregnancy were performed in this State,*

↳ the court may issue an order validating the gestational agreement and declaring the intended parent or parents to be the parent or parents of the resulting child.

Sec. 5. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Unless the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, a child of whom this State:*

(a) *Is the home state on the date of the commencement of the proceeding; or*

(b) *Was the home state within 6 months before the commencement of the proceeding,*

↳ *may not be adopted except upon an order of a district court in this State.*

2. *As used in this section, "home state" means:*

(a) *The state in which a child lived for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a proceeding; or*

(b) *In the case of a child less than 6 months of age, the state in which the child lived from birth, including any temporary absence from the state.*



Sec. 6. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, *and section 5 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, where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 7. NRS 127.060 is hereby amended to read as follows:

127.060 ~~1.—Except as otherwise provided in subsection 3, the petition for adoption shall not be granted unless the petitioners have resided in the State of Nevada for a period of 6 months prior to the granting of the petition.~~

~~2.1~~ The same petitioners may, in one petition, petition for the adoption of two or more children, if the children be brothers or sisters or brother and sister.

~~3.—The provisions of subsection 1 do not apply if the petition for adoption is filed for the adoption of a child who is in the custody of an agency which provides child welfare services or a child-placing agency licensed by the Division pursuant to this chapter.~~

Sec. 8. 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 . ~~and, unless the petition is a petition for adoption described in subsection 3 of NRS 127.060, the period the petitioners have resided in the State of Nevada before the filing of the petition.~~

(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.

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. 9. NRS 130.316 is hereby amended to read as follows:

130.316 1. The physical presence of a nonresident party who is a natural person in a tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage of a child.

2. An affidavit, a document substantially complying with federally mandated forms or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule in NRS 51.065 if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

3. A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.

4. Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before trial are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

5. Documentary evidence transmitted from outside this State to a tribunal of this State by telephone, telecopier or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

6. In a proceeding under this chapter, a tribunal of this State shall permit a party or witness residing outside this State to be deposed or to testify under penalty of perjury by telephone, audiovisual means or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

7. In a civil proceeding under this chapter, if a party called to testify refuses to answer a question on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

8. A privilege against the disclosure of communications between husband and wife does not apply in a proceeding under this chapter.



9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

10. A voluntary acknowledgment of paternity **H developed by the State Board of Health pursuant to NRS 440.283 or a voluntary acknowledgment of parentage developed by the State Board of Health pursuant to section 11 of this act**, certified as a true copy, is admissible to establish parentage of the child.

Sec. 10. NRS 130.401 is hereby amended to read as follows:

130.401 1. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this State with personal jurisdiction over the parties may issue a support order if:

(a) The natural person seeking the order resides outside this State; or

(b) The support-enforcement agency seeking the order is located outside this State.

2. The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the natural person ordered to pay is:

(a) A presumed father of the child under subsection 1 of NRS 126.051;

(b) Petitioning to have his paternity adjudicated;

(c) Identified as the father of the child through genetic testing;

(d) An alleged father who has declined to submit to genetic testing;

(e) Shown by clear and convincing evidence to be the father of the child;

(f) An acknowledged father **or acknowledged parent** as provided by NRS 126.053;

(g) The mother of the child; or

(h) A natural person who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to NRS 130.305.

Sec. 11. Chapter 440 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board shall:

(a) Develop a declaration to be signed under penalty of perjury for the voluntary acknowledgment of parentage in this State; and



(b) Distribute the declarations to each hospital or obstetric center in this State.

2. Before providing a declaration for the acknowledgment of parentage to the mother of a child or a person who wishes to acknowledge the parentage of a child, the agencies described in paragraph (b) of subsection 1 shall ensure that the mother and the person who wishes to acknowledge parentage are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the declaration for the acknowledgment of parentage.

Sec. 12. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.

5. If the mother was:

(a) Married at the time of birth, the name of her husband must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband is the father of the child; or



(2) The mother and a person other than the mother's husband have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 ***H or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to section 11 of this act.***

(b) Widowed at the time of birth but married at the time of conception, the name of her husband at the time of conception must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband at the time of conception is the father of the child; or

(2) The mother and a person other than the mother's husband at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 ***H or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to section 11 of this act.***

6. If the mother was unmarried at the time of birth, the name of the father may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) of subsection 5 are applicable;

(b) A court has issued an order establishing that the person is the father of the child; or

(c) The mother and father of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283 ***H or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to section 11 of this act.*** If both the father and mother execute a declaration consenting to the use of the surname of the father as the surname of the child, the name of the father must be entered on the original certificate of birth and the surname of the father must be entered thereon as the surname of the child.

7. An order entered or a declaration executed pursuant to subsection 6 must be submitted to the local health officer, the local health officer's authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of the father or mother or the Division of Welfare and Supportive Services of the Department of Health and Human



Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.

8. As used in this section, “court” has the meaning ascribed to it in NRS 125B.004.

Sec. 13. NRS 440.287 is hereby amended to read as follows:

440.287 1. If a mother or a person who has signed a declaration for the voluntary acknowledgment of paternity *developed by the Board pursuant to NRS 440.283 or a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to section 11 of this act* with the mother rescinds the acknowledgment pursuant to subsection 2 of NRS 126.053, the State Registrar shall not issue a new certificate of birth to remove the name of the person who originally acknowledged paternity *or parentage, as applicable*, unless a court issues an order establishing that the person who acknowledged paternity *or parentage, as applicable*, is not the father *or parent, as applicable*, of the child.

2. As used in this section, “court” has the meaning ascribed to it in NRS 125B.004.

Sec. 14. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity *or parentage* of a child being established by the:

(a) Mother and father acknowledging paternity of a child by signing a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283; ~~for~~

(b) *Mother and another person acknowledging parentage of the child by signing a declaration for the voluntary acknowledgment of parentage developed by the Board pursuant to section 11 of this act; or*

(c) Order of a district court,

↳ the State Registrar, upon the receipt of the declaration or court order, shall prepare a new certificate of birth in the name of the child as shown in the declaration or order with no reference to the fact of legitimation.

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and



Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the declaration or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 15. The amendatory provisions of:

1. Section 4 of this act apply to proceedings that are commenced on or after July 1, 2017.

2. Sections 5, 7 and 8 of this act apply to a petition for adoption of a child that is filed on or after July 1, 2017.

Sec. 16. This act becomes effective on July 1, 2017.

