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Domestic Relations; Parent and Child Relationship

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DOMESTIC RELATIONS; PARENT AND CHILD RELATIONSHIP

Adds to NRS Chapters 41, 126, 127, 128

Amends NRS 41.220, 41.240, 56.020, 126.040, 126.050, 126.060,
126.070, 126.080, 126.190, 126.200, 126.210, 126.240, 126.250,
126.325, 126.330, 127.040, 127.070, 127.080, 127.140, 127.186,
128.095, 130. 245, 201.020, 201.025

Repeals NRS 41.530, 56.010, 126.010, 126.020, 126.090 to 126.110,
inclusive, 126.130 to 126.180, inclusive, 126.220, 126.230,
126.270 to 126.320, inclusive, 126.340, 126.350, 126.370, 126.380,
134.170, 134.180

SB 294 (Committee on Judiciary); STATS 1979, Ch 599

Chapter 599 (hereinafter "the parentage act") is similar to the Uniform Parentage Act,¹ but with additional provisions regarding parentage, support obligations, and adoptions.

THE PARENT AND CHILD RELATIONSHIP

NRS Chapter 126 is amended by the addition of provisions relating to parentage. The act provides that the parent and child relationship extends equally to every parent and child, regardless of the parent's marital status² and regardless when born.³ A "parent and child relationship" is defined as that which exists between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations (including both the mother and child relationship and the father and child relationship).⁴

Extending the parent and child relationship equally to all parents and children is an apparent effort to stop discrimination against children born out of wedlock.⁵ In areas such as wrongful death and inheritance, courts have already held discrimination against illegitimate children unconstitutional under the Equal Protection clause of the Fourteenth Amendment,⁶ and the Nevada Supreme Court has recognized that all children deserve proper care and protection.⁷

The parent and child relationship may be established under NRS 201.025,⁸ by

proof of adoption or birth, or by the provisions of the parentage act.⁹

Presumptions of Paternity

In order to establish who the natural father is, the parentage act provides for presumptions of paternity. A man will be presumed to be the natural father of the child if he meets one of the following criteria: (1) he was married to the natural mother when the child was born, or the child was born within 285 days after the termination of the marriage by death, annulment, declaration of invalidity or divorce, or after a decree of separation has been entered by the court (hereafter the "married at birth" presumption);¹⁰ (2) he lived with the natural mother at least six months before the period of conception and continued to cohabit with her during that period (hereafter the "cohabitating" presumption);¹¹ (3) he attempted to marry the natural mother before the child's birth, but the marriage was either invalid and the child was born within 285 days after cohabitation ceased, or it could have been declared invalid and the child was born during the attempted marriage or within 285 days after its termination by death, annulment, declaration of invalidity or divorce (hereafter the "attempted marriage pre-birth" presumption);¹² (4) he married or attempted to marry the natural mother after the child's birth, but the marriage was invalid or could be declared invalid, and he acknowledged his paternity in writing, consented to be named father on the birth certificate, or is obligated to support the child under a written promise or court order (hereafter the "attempted marriage post-birth" presumption);¹³ (5) he receives the minor child into his home and openly holds him out as his own (hereafter the "holds out as own" presumption);¹⁴ (6) he, at any time, acknowledges his paternity in a writing filed with the state registrar of vital statistics (hereafter the "acknowledged paternity" presumption).¹⁵

Each acknowledgement must contain the birth date, or expected birth date of the child, the name, and the address or last-known address of the natural mother and the person filing the acknowledgement.¹⁶ If the mother disputes the acknowledgement within sixty days after receiving notice, the presumption will be nullified.¹⁷ The acknowledgement will be kept confidential until the mother and any other presumed father consents to it.¹⁸ Before the acknowledgment will be given effect, any other presumed father must either give his written consent to the acknowledgement or have his paternity rebutted by a court decree.¹⁹ An

acknowledgment by both parents has the effect of making the child legitimate from birth,²⁰ and such birth must be documented in accordance with NRS Chapter 440.²¹ The presumptions of paternity are rebuttable either by clear and convincing evidence, or the establishment of parentage in another man.²²

Artificial Insemination

The parentage act provides that a husband who consents to the artificial insemination of his wife with semen donated by another man will be treated as if he were the natural father of any child thereby conceived.²³ Likewise, a donor of semen to a woman not his wife will be treated as if he were not the natural father.²⁴ A licensed physician must have supervised the artificial insemination.²⁵ The records will be kept confidential, subject to inspection only upon a court order with good cause.²⁶

Proceedings to establish paternity

An action to determine parentage may be brought by the child, the mother, or a man presumed to be the child's father under the presumption of: (1) marriage at birth, (2) attempted marriage pre-birth, or (3) attempted marriage post-birth.²⁷ The action may be brought at any time to declare the existence of the father and child relationship,²⁸ and within a reasonable time, not exceeding five years after the child's birth, to declare the nonexistence of the father and child relationship.²⁹ An action may be brought by an interested party at any time to determine the existence or nonexistence of a father and child relationship when a man is presumed to be the child's father under the presumption of: (1) cohabitation; (2) holds out as own; or (3) acknowledges paternity.³⁰

An action may be brought to determine the existence of a father and child relationship, when there is no presumed father, by the child or his personal representative; the mother or her personal representative or parent, if she is dead or a minor; a man alleging himself to be the father or his personal representative or parent, if he is dead or a minor; or the welfare division of the department of human resources.³¹ A mother and child relationship may be established by the same provisions, insofar as is possible, as those in a father and child relationship.³² An

agreement between an alleged or presumed father and the mother or child does not bar an action, unless that agreement is approved by the court and accepted by the parties.³³ With the exception of service of process and the taking of depositions to preserve testimony, all proceedings brought before the child is born will be stayed until the child's birth.³⁴

Statute of limitations

Except as provided in NRS 41.210 to 41.260, inclusive,³⁵ and in the parentage act, an action to determine the existence of a father and child relationship, where there is no presumed father under this chapter, may not be brought later than three years after the child's birth or July 1, 1982, whichever is later.³⁶ However, an action to determine a father and child relationship brought by, or on behalf of a child whose paternity has not been determined is not barred until three years after the child attains majority.³⁷ If a child is receiving public assistance, the welfare division of the department of human resources may bring an action on behalf of the child to establish his paternity.³⁸ The action must be brought within one year after the child becomes a recipient of assistance or within three years after the child's birth, whichever is later.³⁹

Jurisdiction

An action brought under the parentage act may be brought in the district court, separate from, or joined with an action for divorce, annulment, separate maintenance, or support.⁴⁰ In addition to other methods provided by law, personal jurisdiction may be acquired by personal service of summons outside the state or by registered mail with proof of service.⁴¹ It is also provided that a person who has sexual intercourse within the state submits to its jurisdiction regarding any child who may thereby have been conceived.⁴² The action may be brought in the county where the child, mother or alleged father resides or is found.⁴³ If the father is deceased, the action may be brought in the county where the proceedings for the probate of his estate have been, or could be commenced.⁴⁴

Parties

The child, the natural mother, and each presumed or alleged father must be

made a party to the action.⁴⁵ If the child is a minor, he must be represented by a general guardian or a guardian ad litem, never by his parents.⁴⁶ The court may appoint the welfare division of the department of human resources as the child's guardian ad litem.⁴⁷ If an alleged parent is not subject to the court's jurisdiction, he nevertheless must be given notice of the impending action and an opportunity to be heard.⁴⁸

The hearing

The court must try to resolve the issues presented by an informal hearing⁴⁹ as soon as practicable after the action to determine the father and child relationship has been brought.⁵⁰ The public will be barred from this hearing.⁵¹ If the court orders, or a party requests, a record of the proceedings will be kept.⁵² Strict rules of evidence need not be observed at the hearing, but the provisions of NRS 233B.123⁵³ are applicable.⁵⁴ If any witness refuses to testify under oath or to produce evidence, the court may order that witness to do so.⁵⁵ If the refusal is based on the privilege against self-incrimination, the court may grant him immunity from prosecution for all criminal offenses, excluding perjury, shown in whole or in part by his testimony or the evidence he produces.⁵⁶ A subsequent refusal to obey a court order after he has been granted immunity is civil contempt of court.⁵⁷ The parentage act also provides that the testimony of a physician concerning the medical circumstances of the pregnancy, and the condition of the child at birth is not privileged.⁵⁸

Evidence of paternity

Evidence of paternity may include: (1) evidence of sexual intercourse between the mother and alleged father during the period of conception;⁵⁹ (2) expert opinion as to the statistical probability of the alleged father's paternity based on the duration of the pregnancy;⁶⁰ (3) expert opinion as to blood tests in relation to the statistical probability of paternity;⁶¹ (4) medical or anthropological evidence based on expert tests;⁶² and (5) all other evidence relevant to the issue.⁶³ The court may order the blood tests of any person involved in the action and receive the tests into evidence.⁶⁴ At the same time, the court may direct that the testimony of those

persons tested and of the experts be taken by deposition.⁶⁵ The court must order independent tests to be taken if a party makes a reasonable request.⁶⁶ However, it is up to the court to decide on the number and qualifications of the experts.⁶⁷ Unlike the Uniform Parentage Act, this parentage act provides that if a party refuses to submit to a blood test, the court may presume the results to be adverse to that party's interests, or if justice requires, it may enforce its order.⁶⁸

Recommendations

On the basis of the evidence received at the pretrial hearing, the court (judge, master, or referee) makes an evaluation as to the probability of determining the existence or nonexistence of a father and child relationship at trial.⁶⁹ The court will take into consideration whether a judicial declaration of the child's parentage would be in the child's best interest.⁷⁰ The court will then make its recommendation for settlement to the parties.⁷¹ The recommendation of the court may be to dismiss the action, with or without prejudice.⁷² The court may also recommend that a compromise be made by an agreement between the alleged father, the mother, and the child. Even though the father and child relationship will not be determined by such an agreement,⁷³ the alleged father will assume a support obligation in favor of the child or mother.⁷⁴ The agreement must be in the best interests of the child in light of the: (1) needs of the child; (2) standard of living of the parents; (3) earning ability of the parents; (4) need and capacity of the child for education; (5) age of the child; (6) value of the custodial parent's services ("custodial parent" is defined as the parent of a child born out of wedlock who has been awarded custody of the child, or if not awarded, the parent with whom the child resides);⁷⁵ (7) financial resources and earning ability of the child; (8) other dependents of the parents; and (9) assistance paid by public agencies for child support and reasonably related expenses of the mother's pregnancy and confinement.⁷⁶ The court will discount these considerations by the improbability of establishing the alleged father's paternity at trial.⁷⁷

If it is in the child's best interest for the court to keep the identity of the alleged father confidential, the court may designate a receiver to disburse the amounts paid on the child's behalf.⁷⁸ The court may also recommend that the

father voluntarily acknowledge his paternity of the child.⁷⁹ The parties or the guardian ad litem may accept or refuse the recommendation of the court.⁸⁰ If the parties accept the court's recommendation, the judgment will be entered accordingly.⁸¹ If a party refuses the recommendation, the action will be set for trial.⁸² However, if no blood test has been made of the party refusing the recommendation, the court may first require him to submit to a blood test before the court makes a final recommendation.⁸³ If that party still refuses the recommendation, the action will be set for trial.⁸⁴ If it is unlikely that all of the parties will be able to accept the court's recommendation, the court may terminate the pretrial hearing and set the action for trial.⁸⁵

The trial

The parentage act provides that an action to determine the paternity of a child is a civil action governed by the Nevada Rules of Civil Procedure.⁸⁶ The parentage act also provides that the mother and the alleged father are considered competent and may be compelled to testify in the action.⁸⁷ If the alleged father's blood tests do not exclude the possibility of his paternity, he may offer evidence with respect to a man who is out of the court's jurisdiction, concerning that man's sexual intercourse with the mother during the period of conception.⁸⁸ The trial must be without a jury unless a party demands one within twenty days of the filing of the pretrial recommendation.⁸⁹ All hearings and trials must be held in closed court.⁹⁰ All records, other than the final judgment may normally be inspected only if all of the parties and the court consent to it.⁹¹ In exceptional cases, the records may be inspected upon a court order made upon showing of good cause.⁹² The parties may be represented by counsel at any hearing, and the court will appoint counsel if a party cannot afford one.⁹³ Also, if a party cannot afford the cost of a transcript of the proceedings, and wishes to have one, the court will furnish the transcript.⁹⁴

Judgments and orders

A judgment or order of the court determining the existence or nonexistence of a parent and child relationship is determinative for all purposes.⁹⁵ If the judgment

differs with the child's birth certificate, a new certificate will be ordered in accordance with NRS 440.270 to 440.340, inclusive.⁹⁶ The judgment or order of the court may include provisions concerning the duty of support, custody and guardianship of the child, visitation privileges, the furnishing of security, or any other matter in the child's best interest.⁹⁷ Chapter 599 also provides that the court may order the father to pay the reasonable expenses of the mother's pregnancy and confinement.⁹⁸

In determining the amount and duration of the child support obligation, the court enforcing the obligation will consider the best interest of the child in light of his family situation.⁹⁹ If it is in the child's best interest, the court may order a lump sum payment of support or the purchase of an annuity rather than the usual periodic payments.¹⁰⁰ The court may also order that the reasonable fees of counsel, experts, guardians ad litem, and other costs of the action and pretrial proceedings be paid by the parties, in proportion as the court decides.¹⁰¹ The court may order that an indigent party's proportion of the costs should be paid by the county.¹⁰²

Once the parent and child relationship has been established, a parent's obligation may be enforced in the same or independent action.¹⁰³ It may be enforced by the other parent, the child, the public agency that has or will pay for the pregnancy and confinement, support or funeral, or by any other person or private agency to the extent it has paid or is paying these expenses.¹⁰⁴ The court may order the support payments to be paid to the custodial parent, a public agency, the court, or some other trustee designated by the court that will administer the payments under court supervision.¹⁰⁵ A willful failure to obey the judgment or order of the court is civil contempt, and all remedies for the enforcement of judgments apply.¹⁰⁶

The court will have continuing jurisdiction to modify or revoke a judgment for future education and support, custody and guardianship, visitation privileges, posting of security, expenses of pregnancy and confinement and any other matter in the child's best interest.¹⁰⁷ The court will also have continuing jurisdiction over where¹⁰⁸ and how¹⁰⁹ the support payments should be made.¹¹⁰ However, a judgment for the payment of a lump sum or for the purchase of an annuity¹¹¹ may specify that it be nonmodifiable or irrevocable.¹¹²

A written promise to provide child support does not need consideration if it is based on a supposed or alleged parent and child relationship.¹¹³ A person may enforce this promise and also bring an action to determine a father and child relationship unless the promise has been made and agreed to in compliance with the recommendation¹¹⁴ of the court.¹¹⁵ The parentage act provides that the court may, and upon request of the promisor must, order the promise to be kept confidential, if in the child's or the custodial parent's best interest.¹¹⁶ The court may also designate a receiver to disburse the payments according to the promise.¹¹⁷

The parentage act provides that a Nevada court may order, or another state's court may request, the state registrar of vital statistics to prepare a new birth certificate consistent with the court's findings as provided in NRS 440.270 to 440.340, inclusive.¹¹⁸

Termination of Parental Rights: consent to, or release for adoption

If a mother relinquishes or proposes to relinquish for adoption a child who has: (1) a presumed father;¹¹⁹ (2) a father whose relationship to the child has been court determined; or (3) a father as to whom the child is legitimate under NRS Chapter 126, under prior law of this state, or under the law of another state, and the father has not consented to the adoption, there must be a proceeding to determine whether any parent and child relationship exists and whether it should be terminated.¹²⁰ Apparently, this section reflects a new attitude protecting the parental rights of the unwed father.¹²¹ If a mother relinquishes or proposes to relinquish for adoption a child who does not have an identifiable father, or if the child otherwise becomes subject to adoption, the father's parental rights may be terminated by the district court upon petition.¹²² The action may be filed by the agency or person to whom the child has been relinquished, or by the mother or the custodian of the child.¹²³ In an effort to identify and protect the interests of the actual father, it is provided that the court will inquire whether: (1) the mother was married at the period of conception; (2) the mother was living with a man during the period of conception or birth; (3) the mother has received support or promises of support for the child or for

her pregnancy; (4) any man has formally or informally acknowledged or declared his possible paternity.¹²⁴

After inquiry, if the court is still unable to identify any possible natural father, and if no one has claimed to be the natural father claiming his custody rights, the court shall terminate the natural father's parental rights.¹²⁵ The parentage act provides that this order cannot be questioned by any person on any ground (including fraud, misrepresentation, lack of notice, or lack of jurisdiction of the parties or subject matter) after six months of the date the order is issued.¹²⁶ This provision is contrary to the proposition that collateral attack is not prevented if the original court had no jurisdiction.¹²⁷ However, in the interest of the child a court may recognize a need to prohibit collateral attack so as to safeguard the subsequent adoption.¹²⁸ If the natural father is identified to the court's satisfaction, or if one or more possible fathers exist, each must be given notice of the proceeding to terminate their parental rights.¹²⁹ Notice must be given to every identified possible father as provided by law and the Nevada Rules of Civil Procedure for the service of process of a civil action, or as the court directs.¹³⁰ If any of the possible fathers fail to claim their custody rights, they will be considered to have abandoned the child.¹³¹ If any of the possible fathers claim custody rights to the child, the court will proceed to determine their rights.¹³²

Actions Regarding Parentage

Chapter 599 provides that any person who wants to establish his date or place of birth, or his parentage, may file a verified petition in the local district court (where he was a resident for at least six months prior to filing).¹³³ The petition must contain a fingerprint chart and recent photograph of the petitioner.¹³⁴ Notice must be served upon the child, and every known or alleged parent, if living, as provided by law.¹³⁵ When action is brought to determine parentage and not for the purpose of establishing an obligation of support, if the time in which to bring an action under the parentage act has elapsed, then NRS 41.210 to 41.260, inclusive,¹³⁶ apply.¹³⁷ The state registrar of vital statistics must provide the court with any relevant data that it may request.¹³⁸ If the court decides that the evidence presented at the hearing is sufficient to grant the prayer of the petitioner, it will then order the facts of the matter to be established as they were presented to the court.¹³⁹

Whenever it is relevant, in a civil or criminal action, to determine a person's parentage, the court may order any party to the action to submit to a blood test, the results of which may be received into evidence.¹⁴⁰ The order for the tests may also direct that the testimony of the party and of the experts may be taken by deposition.¹⁴¹ It is also provided that the opinion of the experts will be weighed in accordance with any evidence of the statistical probability of the alleged blood relationship.¹⁴² The court will determine how the costs of such tests will be paid.¹⁴³

Actions Regarding Support Obligations

Chapter 599 provides that either parent may recover from the other a reasonable share of the necessary child support.¹⁴⁴ However, not more than three years of the support furnished before the action is brought may be recovered from the nonsupporting parent.¹⁴⁵ A "non-supporting parent" is defined as the parent of a child born out of wedlock who has not paid his equitable share of the child's support.¹⁴⁶ Any support obligation imposed on the parents of a child born out of wedlock also creates a cause of action on behalf of the legal representatives of either parent.¹⁴⁷ A cause of action is also created on behalf of third persons or public agencies who may have paid for the support of the child.¹⁴⁸ The support obligation of a parent is discharged when he complies with a judicial decree or an approved settlement.¹⁴⁹ The legal adoption of the child also discharges the future obligations of the natural parents.¹⁵⁰ The support obligation of a parent who has acknowledged his paternity in writing, performed part of his obligation, or has had his parentage judicially established, is enforceable against his estate.¹⁵¹ In deciding the proper amount of support, the court will consider the ability of the custodial parent to support the child, the estate left by the deceased parent and the rights of any surviving spouse of the deceased parent.¹⁵²

Proceedings to compel support by a nonsupporting parent may be brought in accordance with NRS Chapter 126.¹⁵³ Fees, charges, or court costs may not be charged for maintaining or bringing the proceeding, but the court may assess the usual filing fees, charges, or costs against the nonsupporting parent.¹⁵⁴ The

proceedings are not exclusive of other proceedings.¹⁵⁵ If a defendant does not appear at the proceeding, his security will be forfeited and must be applied towards the judgment.¹⁵⁶ The court may proceed as if the defendant were present, hearing the complaint and requiring the plaintiff to establish the facts.¹⁵⁷ The court will consider the rights and claims of the plaintiff, defendant and child.¹⁵⁸ The court will then rule, based on its own findings or the jury's verdict.¹⁵⁹ If after the complaint has been filed, the plaintiff dies, becomes insane, or cannot be found within the jurisdiction, the child may be substituted as complainant by his guardian ad litem.¹⁶⁰ If the defendant dies, the action to compel support may be prosecuted against his personal representatives.¹⁶¹ In regard to the measure of support, the representative will be subject to the provisions of NRS Chapter 126, but he will not be required to post a bond.¹⁶²

The support payments must be made to a trustee if the custodial parent doesn't reside in the jurisdiction, or has assigned his right to receive support to a public agency in another state.¹⁶³ If the welfare division of the department of human resources has paid for some of the child's support, the court will direct that the division be reimbursed as provided in NRS 425.360.¹⁶⁴ The nonsupporting parent may be required to give security for the judgment.¹⁶⁵ If he defaults in his support payments he may be jailed for civil contempt.¹⁶⁶ Although he may be released after one year, his liability on the judgment still remains.¹⁶⁷ In lieu of committing the nonsupporting parent to jail or as a condition to his release from jail, the court may place him in the custody of the county sheriff.¹⁶⁸ If the nonsupporting parent violates these terms, he may be committed or recommitted to jail.¹⁶⁹

The district attorney or his deputies may take action against the nonsupporting or deserting parent if requested to do so by the custodial parent or a public agency supporting the parent or child.¹⁷⁰ In performing these duties, the district attorney and his deputies are not the legal representatives of the parent or child.¹⁷¹ However, except as to disclosures of criminal activity or information related to duties of officials of the welfare division of the department of human resources, an attorney-client privilege does arise.¹⁷² A criminal action brought under NRS 201.020 to 201.080, inclusive,¹⁷³ is not a bar to, or barred by a civil proceeding to compel support.¹⁷⁴ However, money paid towards child support in accordance with these provisions must be credited towards any civil liability.¹⁷⁵

Deserting or nonsupporting parents

Chapter 599 provides that a putative father will be presumed to have abandoned his child if he fails to acknowledge the child, or if he fails to petition to have his parental rights established when the rights are sought to be terminated.¹⁷⁶ Any husband or wife will be punished who deserts, willfully neglects or refuses to support his or her spouse, minor child, or adult child who is unable to provide for himself.¹⁷⁷ The defendant may be fined (up to \$5,000) or imprisoned (from one to six years), or both, depending on his conduct.¹⁷⁸ The court may also impose a sentence in addition to any order relating to the defendant's support obligation if that would be in the best interests of his child and spouse.¹⁷⁹ If an obligor on a support obligation asserts that he is not the father of the child, the court may adjudicate the paternity issue as provided in NRS Chapter 126.¹⁸⁰ The district attorney of the county of residence of a spouse or minor child shall take action to establish the parentage of such child who has been neglected or deserted and take legal action against the deserting or nonsupporting parent.¹⁸¹

PROVISIONS REGARDING ADOPTIONS

State register for adoptions

Chapter 599 provides for establishing a state register for adoptions.¹⁸² The register will provide information to adults who were adopted and their natural parents,¹⁸³ and will be maintained in the office of the welfare division of the department of human resources.¹⁸⁴ The register consists of the names and necessary information, voluntarily given, of persons who have released a child for adoption or who have consented to the adoption of a child, or whose parental rights have been terminated by a court.¹⁸⁵ The register also contains the names of and information concerning adults who were adopted and who volunteered to be registered.¹⁸⁶ Information may be released concerning a natural parent to an adopted child, or concerning an adoptive child to a natural parent, if they all are registered.¹⁸⁷ Lastly, it is provided that any person who is registered may withdraw his registration simply by a written request.¹⁸⁸

Consent and Release Provisions

Chapter 599 provides that except as provided in NRS 127.090,¹⁸⁹ written consent to a specific adoption or for the relinquishment of the child to an agency authorized to accept relinquishments is required from each living parent or the court appointed guardian of the child.¹⁹⁰ However, consent of a parent who has been incurably insane for two years is not required.¹⁹¹ Even though all releases for, and consents to, an adoption executed by the mother before the child's birth are invalid, a father may execute a release or consent before the child's birth if he is not married to the mother.¹⁹² Prior law provided that neither the father nor mother could validly consent to the child's adoption before the child's birth.¹⁹³ In any case, a release executed by the father will be invalid if: (1) the father marries the mother before the birth; (2) the mother doesn't execute a release or consent to the adoption within six months after the birth; or (3) a petition for adoption has not been filed within two years of birth.¹⁹⁴ A written consent to a specific adoption or relinquishment for adoption is irrevocable, except as provided in NRS 127.070.¹⁹⁵ Also, a minor parent may not revoke a relinquishment for adoption upon attaining a majority.¹⁹⁶

All hearings held under NRS Chapter 127 are confidential and must be held in a closed court, except upon a court order.¹⁹⁷ Likewise, the files and records are not open to inspection by any person, except upon court order or when the natural parent and the child are eligible to receive information from the state register of adoptions.¹⁹⁸

Financial assistance to adoptive parents

Chapter 599 provides that a child-placing agency licensed by the welfare division of the department of human resources is authorized to consent to the adoption of a child with special needs due to race, age, or physical or mental problems, who is in its custody, to adoptive parents of limited means.¹⁹⁹ Consent only will be granted if the agency considers such an adoption to be in the best interests of the child, and parents of adequate means would be difficult to find.²⁰⁰ The adoptive parents may receive grants of financial assistance from the welfare division out of money provided for that purpose.²⁰¹ The grants are conditioned upon

approval of the state welfare administrator and there being no other more suitable home available.²⁰² The amount and duration of each grant must be limited by a written agreement between the welfare division and the adoptive parents.²⁰³ The agreement becomes effective upon the entry of the order for adoption.²⁰⁴ The welfare division must evaluate each grant at least annually and seek its approval with the state welfare administrator.²⁰⁵ The assistance will cease upon the written notification to the adoptive parents by the welfare division that continued assistance is denied.²⁰⁶ In any case, all assistance ceases when the child attains majority, becomes self-supporting, is emancipated, or dies.²⁰⁷ The legal status or obligation of a party to the adoption is not affected by the grant of assistance or its discontinuance.²⁰⁸

Rosalie Lazzarotto

FOOTNOTES

1. Compare 1979 Nev. Stats. ch. 599 (hereinafter "Ch. 599") with Uniform Parentage Act, 9 U.L.A. (Supp. 1974-1978).
2. Ch. 599 §4 (adding to NRS Ch. 126).
3. Id. §2 (adding to NRS Ch. 126).
4. Id. §3 ¶ 3 (adding to NRS Ch. 126).
5. See Commissioner's Note, Uniform Parentage Act §1, 9 U.L.A. (Supp. 1974-1978).
6. Levy v. Louisiana, 391 U.S. 68, 72 (1968) (unconstitutional to deny illegitimate child recovery for wrongful death of mother). Cf. Glona v. American Guarantee and Liability Insurance Co., 391 U.S. 73, 76 (1968) (unconstitutional to deny mother recovery for wrongful deaths of illegitimate child); Trimble v. Gordon, 430 U.S. 762, 765-66 (1977) (unconstitutional to deny an illegitimate child the right to inherit from the father). See 78 A.L.R. 3d 1238 (1977).
7. Weaks v. Mounter, 88 Nev. 118, 123, 493 P.2d 1307, 1310 (1972). (Society is becoming more aware that children deserve proper care, comfort, and protection, even when illegitimate. Held "heirs" in wrongful death suit includes all children).
8. NRS 201.025 (district attorney may take action to establish paternity of a neglected or deserted child).

9. Ch. 599 §5 (adding to NRS Ch. 126).
10. Id. §6 ¶1(a) (adding to NRS Ch. 126).
11. Id. §6 ¶1(b) (adding to NRS Ch. 126).
12. Id. §6 ¶1(c) (adding to NRS Ch. 126).
13. Id. §6 ¶1(d) (adding to NRS Ch. 126).
14. Id. §6 ¶1(e) (adding to NRS Ch. 126).
15. Id. §6 ¶1(f) (adding to NRS Ch. 126).
16. Id. §6 ¶2 (adding to NRS Ch. 126).
17. Id.
18. Id.
19. Id.
20. Id.
21. Id. Under NRS 440.325, documentation of birth shall make no reference to child's legitimation.
22. Ch. 599 §6 ¶3 (adding to NRS Ch. 126).
23. Id. §7 ¶1 (adding to NRS Ch. 126).
24. Id. §7 ¶2 (adding to NRS Ch. 126).
25. Id. §7 ¶1, 2 (adding to NRS Ch. 126).
26. Id. §7 ¶1 (adding to NRS Ch. 126).
27. Id. §8 ¶1 (adding to NRS Ch. 126).
28. Id. §8 ¶1(a) (adding to NRS Ch. 126).
29. Id. §8 ¶1(b) (adding to NRS Ch. 126). Although the language of §8 indicates that an action to establish the existence or nonexistence of the parent and child relationship may be brought after the death of the parent or child, §9 makes it clear that the act does not alter the time otherwise proscribed within which to establish a right of inheritance or succession. See NRS Chapters 134 (Succession) and 135 (Probate Law).
30. Id. §8 ¶2 (adding to NRS Ch. 126).
31. Id. §8 ¶3 (adding to NRS Ch. 126).
32. Id. §23 (adding to NRS Ch. 126).
33. Id. §8 ¶4 (adding to NRS Ch. 126).
34. Id. §8 ¶5 (adding to NRS Ch. 126).
35. NRS 41.210 to 41.260, inclusive (proceedings to determine and establish facts relative to vital statistics).
36. Id. §9 (adding to NRS Ch. 126).
37. Id.

38. Id.
39. Id.
40. Id. §10 ¶1 (adding to NRS Ch. 126).
41. Id. §10 ¶ 2 (adding to NRS Ch. 126).
42. Id.
43. Id. §10 ¶ 3 (adding to NRS Ch. 126).
44. Id.
45. Id. §11 (adding to NRS Ch. 126).
46. Id.
47. Id.
48. Id.
49. Id. §12 ¶1 (adding to NRS Ch. 126).
50. Id. §12 ¶ ¶1, 2 (adding to NRS Ch. 126).
51. Id. §12 ¶ 2 (adding to NRS Ch. 126).
52. Id.
53. NRS 233B.123 (evidence in contested cases under the Administrative Procedures Act).
54. Ch. 599 §12 ¶ 2 (adding to NRS Ch. 126).
55. Id. §12 ¶ 3 (adding to NRS Ch. 126).
56. Id.
57. Id.
58. Id. §12 ¶ 4 (adding to NRS Ch. 126).
59. Id. §14 ¶1 (adding to NRS Ch. 126).
60. Id. §14 ¶ 2 (adding to NRS Ch. 126).
61. Id. §14 ¶ 3 (adding to NRS Ch. 126).
62. Id. §14 ¶ 4 (adding to NRS Ch. 126).
63. Id. §14 ¶ 5 (adding to NRS Ch. 126).
64. Id. §13 ¶1 (adding to NRS Ch. 126).
65. Id.
66. Id. §13 ¶ 3 (adding to NRS Ch. 126).
67. Id. §13 ¶ 4 (adding to NRS Ch. 126).
68. Compare Ch. 599 §13 ¶ 2 (adding to NRS Ch. 126) with Uniform Parentage Act §11, 9 U.L.A. (Supp. 1974-1978).
69. Ch. 599 §15 ¶1 (adding to NRS Ch. 126).
70. Id.
71. Id.

72. Id. §15 ¶1(a) (adding to NRS Ch. 126).
73. Id. §15 ¶1(b) (adding to NRS Ch. 126). But cf. Ch. 599 §6 ¶1(d)(3) (adding to NRS Ch. 126) (a written agreement or a court order to provide support will raise a presumption of paternity where combined with a marriage or attempted marriage of the parties after the child's birth).
74. Ch. 599 §15 ¶1(b) (adding to NRS Ch. 126).
75. Id. §3 ¶1 (adding to NRS Ch. 126).
76. Id. §15 ¶1(b) (adding to NRS Ch. 126).
77. Id.
78. Id.
79. Id. §15 ¶1(c) (adding to NRS Ch. 126).
80. Id. §15 ¶¶ 2, 3, 4 (adding to NRS Ch. 126).
81. Id. §15 ¶ 2 (adding to NRS Ch. 126).
82. Id. §15 ¶ 3 (adding to NRS Ch. 126).
83. Id.
84. Id.
85. Id. §15 ¶ 5 (adding to NRS Ch. 126).
86. Id. §16 ¶1 (adding to NRS Ch. 126).
87. Id.
88. Id. §16 ¶ 2 (adding to NRS Ch. 126).
89. Id. §16 ¶ 3 (adding to NRS Ch. 126).
90. Id. §22 (adding to NRS. Ch. 126).
91. Id.
92. Id.
93. Id. §21 ¶1 (adding to NRS Ch. 126).
94. Id. §21 ¶ 2 (adding to NRS Ch. 126).
95. Id. §17 ¶1 (adding to NRS Ch. 126).
96. Id. §17 ¶ 2 (adding to NRS Ch. 126).
97. Id. §17 ¶ 3 (adding to NRS Ch. 126).
98. Id.
99. E.g., needs of the child, financial means of parents. Ch. 599 §17 ¶ 5 (adding to NRS Ch. 126).
100. Id. §17 ¶ 4 (adding to NRS Ch. 126).
101. Id. §18 (adding to NRS Ch. 126).
102. Id.
103. Id. §19 ¶1 (adding to NRS Ch. 126).

104. Id.
105. Id. §§19, ¶ 2, 36 ¶1 (adding to NRS Ch. 126).
106. Id. §19 ¶ 3 (adding to NRS Ch. 126).
107. Id. §20 (adding to NRS Ch. 126).
108. Id. §19 ¶ 2 (adding to NRS Ch. 126).
109. Id. §17 ¶ ¶ 3, 4 (adding to NRS Ch. 126).
110. Id. §20 (adding to NRS Ch. 126).
111. Id. §17 ¶ 4 (adding to NRS Ch. 126).
112. Id. §20 (adding to NRS Ch. 126).
113. Id. §24 ¶1 (adding to NRS Ch. 126).
114. Id. §§8 ¶ 4, 15 ¶ 2 (adding to NRS Ch. 126).
115. Id. §24 ¶1 (adding to NRS Ch. 126).
116. Id. §24 ¶ 2 (adding to NRS Ch. 126).
117. Id.
118. Id. §25 (adding to NRS Ch. 126).
119. Id. §6 ¶1 (adding to NRS Ch. 126).
120. Id. §26 (adding to NRS Ch. 128).
121. See Stanley v. Illinois, 405 U.S. 645, 649 (1972) (due process entitled a putative father to a hearing on his fitness as a parent before a custody decision can be made); Wilson, The Uniform Parentage Act; What It Will Mean For the Putative Father in California, 28 Hastings L. J. 191, passim (1976-1977).
122. Ch. 599 §26 ¶ 2 (adding to NRS Ch. 128).
123. Id.
124. Id. §26 ¶ 3 (adding to NRS Ch. 128).
125. Id. §26 ¶ 5 (adding to NRS Ch. 128).
126. Id.
127. See Williams v. State of North Carolina, 325 U.S. 226, 229 (1945) (a judgment in one state is conclusive upon the merits in every other state, but only if the court of the first state had power to pass on the merits—that is, had jurisdiction to render the judgment).
128. See Rothstein v. Lutheran Social Serv. of Wis. and Upper Mich., 178 N.W. 2d 56, 60 (Wisc. Sup. Ct. 1970), vacated, and remanded to conform to Stanley v. Illinois, 405 U.S. 645 (1972), but the Court seemed to imply that a putative father may not be granted parental rights when the completion of the adoption would be in the child's best interests. 405 U.S. 1051, 1051 (1972). See also Commissioner's Note, Uniform Parentage Act §24(c)-(f), 9 U.L.A. (Supp. 1974-1978).

129. Ch. 599 §26 ¶ 4 (adding to NRS Ch. 128).
130. Id. §26 ¶ 6 (adding to NRS Ch. 128).
131. Id. §26 ¶ 4 (adding to NRS Ch. 128).
132. Id.
133. Id. §28 (amending NRS 41.220(1)).
134. Id.
135. Id. §28 (amending NRS 41.220(2)).
136. NRS 41.210 to 41.260, inclusive (no statute of limitation in which to bring a proceeding to determine and establish facts relative to vital statistics).
137. Ch. 599 §27 (adding to NRS Ch. 41).
138. Id. §23 (adding to NRS 41.220(3)).
139. Id. §29 (amending NRS 41.240).
140. Id. §30 (amending NRS 56.020).
141. Id.
142. Id.
143. Id.
144. Id. §31 (amending NRS 126.040(1)).
145. Id. §31 (amending NRS 126.040(2)).
146. Id. §3 ¶ 2 (adding to NRS Ch. 126).
147. Id. §32 (amending NRS 126.050).
148. Id.
149. Id. §33 (amending NRS 126.060(1)).
150. Id. §33 (amending NRS 126.060(2)).
151. Id. §34 (amending NRS 126.070(1)). At common law a man's duty to support his children ended at his death. See Streight v. Estate of Streight, 360 P.2d 304, 306 (Ore. Sup. Ct. 1961); Scudder v. Scudder, 348 P.2d 225, 227 (Wash. Sup. Ct. 1960); Newman v. Burwell, 216 Cal. 608, 612, 15 P.2d 511, 512 (1932). See generally, 24 Am.Jur. 2d Divorce and Separation §856 (1966); Annot., 18 A.L.R. 2d 1126 (1951); Note, Continuance of Alimony and Payments for Support of Minor Children After a Husband's Death, 35 VA. L. REV. 482 (1949). The court in Bailey v. Bailey, 86 Nev. 483, 488, 471 P.2d 220, 223 (1970) held that the Legislature may extend a father's support obligation (both to arrearages and future payments) to his estate.
152. Ch. 599 §34 (amending NRS 126.070(1)).
153. Id. §35 (amending NRS 126.080).
154. Id.

155. Id.
156. Id. §36 (amending NRS 126.190).
157. Id.
158. Id.
159. Id.
160. Id. §37 (amending NRS 126.200).
161. Id. §38 (amending NRS 126.210).
162. Id.
163. Id. §39 (amending NRS 126.240(3)).
164. Id. §39 (amending NRS 126.240(2)).
165. Id. §40 (amending NRS 126.250(1)).
166. Id.
167. Id.
168. Id. §40 (amending NRS 126.250(2)).
169. Id.
170. Id. §41 (amending NRS 126.325(1), (2)).
171. Id. §41 (adding NRS 126.325(3)).
172. Id.
173. NRS 201.020 to 201.080, inclusive (desertion and nonsupport of wife and children).
174. Ch. 599 §42 (amending NRS 126.330).
175. Id.
176. Id. §49 (amending NRS 128.095).
177. Id. §51 (amending NRS 201.020(1)).
178. Id.
179. Id. §51 (amending NRS 201.020(2)).
180. Id. §50 (amending NRS 130.245).
181. Id. §52 (amending NRS 201.025(1)).
182. Id. §43 ¶1 (adding to NRS Ch. 127).
183. Id.
184. Id.
185. Id. §43 ¶ 2(a) (adding to NRS Ch. 127).
186. Id. §43 ¶ 2(b) (adding to NRS Ch. 127).
187. Id. §43 ¶ 3 (adding to NRS Ch. 127).
188. Id. §43 ¶ 2 (adding to NRS Ch. 127).
189. NRS 127.090 (consent to adoption unnecessary when parental rights have been

terminated by court order).

190. Ch. 599 §44 (amending NRS 127.040(1)).
191. Id. §44 (amending NRS 127.040(2)).
192. Id. §45 (amending NRS 127.070(1) and adding NRS 127.070(2)).
193. 1953 Nev. Stats. ch. 332 §7, at 557 (NRS 127.070) (amended by Ch. 599 §45).
194. Ch. 599 §45 (adding NRS 127.070(2)).
195. Id. §46 (amending NRS 127.080(1)).
196. Id. §46 (amending NRS 127.080(2)).
197. Id. §47 (amending NRS 127.140(1)).
198. Id. §47 (amending NRS 127.140(2)).
199. Id. §48 (amending NRS 127.186(1)).
200. Id.
201. Id. §48 (amending NRS 127.186(2)).
202. Id.
203. Id. §48 (amending NRS 127.186(3)).
204. Id.
205. Id. §48 (amending NRS 127.186(4)).
206. Id.
207. Id. §48 (amending NRS 127.186(5)).
208. Id. §48 (amending NRS 127.186(6)).

DOMESTIC RELATIONS; UNIFORM CHILD CUSTODY
JURISDICTION ACT

Adds to NRS Title II

Amends NRS 125.050, 125.060, 125.140

AB 115 (Committee on Judiciary); STATS 1979, Ch 85

(Effective July 1, 1979)

AB 265 (Hayes); STATS 1979, Ch 269

(Effective May 3, 1979)

Chapter 269 amends present law regarding child custody determination and adds a new chapter to NRS Title II, adopting the Uniform Child Custody Jurisdiction Act (UCCJA). The UCCJA is intended to provide uniform rules of jurisdiction over