
ASSEMBLY BILL NO. 92—ASSEMBLYWOMAN BENITEZ-THOMPSON

PREFILED JANUARY 7, 2015

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to parentage.
(BDR 11-301)

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

~

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

AN ACT relating to parentage; requiring the State Registrar of Vital Statistics to prepare and file a birth certificate with the name or names of the intended parent or parents pursuant to a district court order which validates a gestational agreement; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines a “gestational agreement” as a contract between an
2 intended parent or parents and a gestational carrier intended to result in a live birth.
3 (NRS 126.570) Existing law also authorizes a district court in Nevada to issue an
4 order validating such an agreement and declaring the intended parent or parents to
5 be the parent or parents of the resulting child. (NRS 126.720) This bill requires the
6 State Registrar of Vital Statistics, upon receipt of such a court order, to prepare and
7 file a certificate of birth for the resulting child which shows the intended parent or
8 parents as the parent or parents of the child and to seal and file the court order and
9 original certificate of birth, if any.

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

1 **Section 1.** NRS 126.161 is hereby amended to read as follows:
2 126.161 1. A judgment or order of a court, or a judgment or
3 order entered pursuant to an expedited process, determining the
4 existence or nonexistence of the relationship of parent and child is
5 determinative for all purposes.
6 2. If such a judgment or order of this State is at variance with
7 the child’s birth certificate, the judgment or order must direct that a



1 new birth certificate be issued as provided in NRS 440.270 to
2 440.340, inclusive **H**, *and section 4 of this act.*

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

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

10 (b) All parties otherwise agree in writing.

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

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

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

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

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

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

28 6. As used in this section, "expedited process" means a
29 voluntary acknowledgment of paternity, judicial procedure or an
30 administrative procedure established by this or another state, as that
31 term is defined in NRS 130.10179, to facilitate the collection of an
32 obligation for the support of a child.

33 **Sec. 2.** NRS 126.221 is hereby amended to read as follows:

34 126.221 Upon order of a court of this state or upon request of a
35 court of another state, the State Registrar of Vital Statistics shall
36 prepare a new certificate of birth consistent with the findings of the
37 court and substitute the new certificate for the original certificate of
38 birth as provided in NRS 440.270 to 440.340, inclusive **H**, *and*
39 *section 4 of this act.*

40 **Sec. 3.** NRS 126.720 is hereby amended to read as follows:

41 126.720 1. If a gestational carrier arrangement satisfies the
42 requirements of NRS 126.740 and 126.750:

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



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

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

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

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

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

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

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

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

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

29 4. Before or after the birth of the resulting child, the intended
30 parent or parents or the prospective gestational carrier or gestational
31 carrier may commence a proceeding in any district court in this
32 State to obtain an order designating the content of the birth
33 certificate issued as provided in NRS 440.270 to 440.340, inclusive
34 **†**, and *section 4 of this act*. If:

35 (a) The resulting child is to be born in this State;

36 (b) A copy of the gestational agreement is attached to the
37 petition; and

38 (c) The requirements of NRS 126.740 and 126.750 are satisfied,
39 **↳** the court may issue an order validating the gestational agreement
40 and declaring the intended parent or parents to be the parent or
41 parents of the resulting child.

42 **Sec. 4.** Chapter 440 of NRS is hereby amended by adding
43 thereto a new section to read as follows:

44 ***1. Whenever the State Registrar receives an order issued by a***
45 ***district court in this State pursuant to subsection 4 of NRS 126.720***



1 *validating a gestational agreement and declaring the intended*
2 *parent or parents to be the parent or parents of the resulting child,*
3 *the State Registrar shall prepare and file a certificate of birth in*
4 *the name of the child which shows the intended parent or parents*
5 *as the parent or parents of the child and seal and file the order*
6 *and the original certificate of birth, if any.*
7 *2. As used in this section:*
8 *(a) "Gestational agreement" has the meaning ascribed to it in*
9 *NRS 126.570.*
10 *(b) "Intended parent" has the meaning ascribed to it in*
11 *NRS 126.590.*

