

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.

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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 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 an order issued by a district court in Nevada 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. This bill also provides that unless the order was
10 issued by a district court in Nevada for an action which was originally commenced
11 in this State, a court order concerning a gestational agreement is not valid for any
12 purpose in Nevada as it relates to a child born in this State.

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



1 existence or nonexistence of the relationship of parent and child is
2 determinative for all purposes.

3 2. If such a judgment or order of this State is at variance with
4 the child's birth certificate, the judgment or order must direct that a
5 new birth certificate be issued as provided in NRS 440.270 to
6 440.340, inclusive **H**, and *section 4 of this act*.

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

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

14 (b) All parties otherwise agree in writing.

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

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

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

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

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

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

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

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

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



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

2 126.720 1. If a gestational carrier arrangement satisfies the
3 requirements of NRS 126.740 and 126.750:

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

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

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

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

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

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

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

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

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

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

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

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

42 (b) A copy of the gestational agreement is attached to the
43 petition; and

44 (c) The requirements of NRS 126.740 and 126.750 are satisfied,



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

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

6 ***1. Whenever the State Registrar receives an order issued by a***
7 ***district court in this State pursuant to subsection 4 of NRS 126.720***
8 ***validating a gestational agreement and declaring the intended***
9 ***parent or parents to be the parent or parents of the resulting child,***
10 ***the State Registrar shall prepare and file a certificate of birth in***
11 ***the name of the child which shows the intended parent or parents***
12 ***as the parent or parents of the child and seal and file the order***
13 ***and the original certificate of birth, if any. Unless the court order***
14 ***is issued by a district court in this State for an action which was***
15 ***originally commenced in this State, a court order concerning a***
16 ***gestational agreement is not valid for any purpose in this State as***
17 ***it relates to a child born in this State, including, without limitation,***
18 ***the preparation and filing of a certificate of birth by the State***
19 ***Registrar.***

20 ***2. As used in this section:***

21 ***(a) "Gestational agreement" has the meaning ascribed to it in***
22 ***NRS 126.570.***

23 ***(b) "Intended parent" has the meaning ascribed to it in***
24 ***NRS 126.590.***

