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SECOND REPRINT

A.B. 126

ASSEMBLY BILL NO. 126—ASSEMBLYMEN BILBRAY-AXELROD,
BACKUS; FUMO, KRASNER AND NEAL

FEBRUARY 12, 2019

Referred to Committee on Judiciary

SUMMARY—Enacts provisions governing the procedures for changing the name of an unemancipated minor who is in the legal custody of a child welfare agency. (BDR 3-402)

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 civil actions; enacting provisions governing the procedure for changing the name of an unemancipated minor who is in the custody of an agency which provides child welfare services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing the procedure for a parent of an unemancipated minor to change the name of the minor. (NRS 41.295, 41.296, 41.297) **Section 3** of this bill authorizes an attorney representing an unemancipated minor in the legal custody of an agency which provides child welfare services to file a petition to change the name of the minor. The petition must include: (1) the minor's present name; (2) the name the minor will bear in the future; (3) the reason for the name change; (4) the consent of the minor if the minor is over 14 years of age; (5) the verified consent of any parent of the child who consents to the name change; (6) the name and address of each parent of the minor, if known; and (7) whether the minor has been convicted of a felony.

Section 4 of this bill requires the petitioning attorney to personally serve notice upon each parent of the unemancipated minor unless each parent consents to the change of name or the court has determined that it is in the best interest of the minor to not require notice of the petition to be provided to a parent of the minor. If the petitioning attorney submits an affidavit to the court stating that notice cannot be personally served on a parent, the court may order the service to be made by publication.

Section 5 of this bill requires the court to order the unemancipated minor's name changed as requested in the petition if: (1) the court determines that the name change is in the best interest of the minor; and (2) the verified consent of each



21 parent is stated in the petition. However, under **section 5**, if the court determines
22 that it is in the best interest of the minor to waive the requirement for one or both
23 parents of the minor to consent to the name change, the court is authorized to waive
24 the requirement to obtain the consent of one or both parents of the minor. **Section 5**
25 also requires the court to hold a hearing to determine whether the name change is in
26 the best interest of the minor if an objection is filed by a parent of the minor within
27 a certain period.

28 **Section 6** of this bill authorizes a petition to change the name of an
29 unemancipated minor who is in the legal custody of an agency which provides child
30 welfare services to be filed in a child welfare proceeding or in an action concerning
31 divorce, child custody, the establishment of parentage, the termination of parental
32 rights or the emancipation of the minor. If such a petition is filed, the notice and
33 service requirements of the applicable proceeding or action apply.

34 **Section 7** of this bill provides that the provisions of existing law governing the
35 procedure to change the name of an unemancipated minor do not apply to an
36 unemancipated minor in the legal custody of an agency which provides child
37 welfare services because **sections 2-6** of this bill would govern a name change for
38 such a minor.

39 **Section 8** of this bill makes a conforming change.

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

1 **Section 1.** Chapter 41 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless*
5 *the context otherwise requires, "agency which provides child*
6 *welfare services" has the meaning ascribed to it in NRS 432B.030.*

7 **Sec. 3. 1.** *An attorney representing an unemancipated*
8 *minor in the legal custody of an agency which provides child*
9 *welfare services who desires to have the name of the minor*
10 *changed may file a verified petition with the clerk of the district*
11 *court of the district in which the minor resides.*

12 *2. The petition must be addressed to the court and must state:*

13 *(a) The unemancipated minor's present name;*

14 *(b) The name which the unemancipated minor will bear in the*
15 *future;*

16 *(c) The reason for desiring the name change;*

17 *(d) The consent of the unemancipated minor, if over the age of*
18 *14 years;*

19 *(e) The verified consent, if any, of one or both parents of the*
20 *unemancipated minor;*

21 *(f) The name and address of each parent of the unemancipated*
22 *minor, if known; and*

23 *(g) Whether the unemancipated minor has been convicted of a*
24 *felony.*



1 **Sec. 4. 1. Unless the verified consent of each parent is**
2 **stated in the petition, and except as otherwise provided in this**
3 **section, upon the filing of the petition filed by the attorney**
4 **representing the unemancipated minor in the legal custody of an**
5 **agency which provides child welfare services, the attorney shall**
6 **make out and procure a notice that must:**

7 **(a) State the fact of filing of the petition, its object, the**
8 **unemancipated minor's present name and the name which the**
9 **minor will bear in the future; and**

10 **(b) Be personally served with a copy of the petition upon each**
11 **parent whose verified consent is not stated in the verified petition.**

12 **2. If the attorney representing the unemancipated minor in**
13 **the legal custody of an agency which provides child welfare**
14 **services submits to the court an affidavit stating that notice**
15 **cannot, after due diligence, be personally served on a parent, the**
16 **court may grant an order that the service be made by publication.**
17 **When the affidavit is based on the fact that the present address of**
18 **the parent is unknown, it is a sufficient showing of that fact if the**
19 **affiant states generally in the affidavit that:**

20 **(a) At a previous time the parent resided in a certain place**
21 **(naming the place and stating the latest date known to the affiant**
22 **when the parent so resided there);**

23 **(b) That place is the last place in which the parent resided to**
24 **the knowledge of the affiant;**

25 **(c) The parent no longer resides at that place; and**

26 **(d) The affiant does not know the present place of residence of**
27 **the parent or where the parent can be found.**

28 **↳ In such case, the affidavit shall be deemed to be a sufficient**
29 **showing of due diligence to find the parent.**

30 **3. The order must direct the publication to be made in a**
31 **newspaper, to be designated by the court, for a period of 4 weeks,**
32 **and at least once a week during that time. When publication is**
33 **ordered, personal service of a copy of the notice is equivalent to**
34 **completed service by publication, and the person so served has 10**
35 **days after the service to appear and answer or otherwise plead.**
36 **The service of the notice shall be deemed complete in cases of**
37 **publication at the expiration of 4 weeks from the first publication.**

38 **4. Before a notice is published pursuant to subsection 2, the**
39 **clerk of the court shall ensure that the name of the unemancipated**
40 **minor is replaced with the initials of the minor in every instance**
41 **where the name of the minor appears in the notice of hearing.**

42 **5. Whenever personal service cannot be made, the court may**
43 **require, before ordering service by publication, such further and**
44 **additional search to determine the whereabouts of the parent to be**



1 served as may be warranted by the facts stated in the affidavit to
2 the end that actual notice be given whenever possible.

3 6. If one or both of the parents of the unemancipated minor
4 are unknown, or if the name of either or both parents of the minor
5 is uncertain, those facts must be set forth in the affidavit and the
6 court shall order the notice to be directed and addressed to either
7 parent of the minor, and to all persons claiming to be the parent of
8 the minor. The notice, after the caption, must be addressed
9 substantially as follows: "To the parents of the above-named
10 person, and to all persons claiming to be the parent of that
11 person."

12 7. A parent who delivered a child to a provider of emergency
13 services pursuant to NRS 432B.630 shall be deemed to have
14 waived any right to notice pursuant to this section.

15 8. A court may waive the requirement to provide notice to a
16 parent pursuant to subsection 1 or 2, as applicable, if the
17 petitioner files a motion seeking waiver of such notice and
18 presents evidence satisfactory to the court that waiving the
19 requirement for such notice is in the best interest of the
20 unemancipated minor based upon the factors listed in subsection 4
21 of section 5 of this act.

22 **Sec. 5. 1.** Except as otherwise provided in subsection 2, the
23 court shall make an order changing the name of the minor as
24 prayed for in the petition filed by the attorney representing the
25 unemancipated minor in the legal custody of an agency which
26 provides child welfare services, upon being satisfied by the
27 statements in the petition or other evidence that the name change
28 is in the best interest of the unemancipated minor pursuant to
29 subsection 4 if:

30 (a) The verified consent of:

31 (1) Each parent of the unemancipated minor is stated in the
32 petition; or

33 (2) One parent of the unemancipated minor is stated in the
34 petition, if a court finds that it is in the best interest of the minor
35 not to require the other parent to consent to the name change;

36 (b) Notice is required to be served or published pursuant to
37 section 4 of this act, no written objection is filed with the clerk by a
38 parent of the minor within 10 days after the parent is personally
39 served or the last day of publication as ordered in section 4 of this
40 act, upon proof of the filing of the petition and evidence of service;
41 or

42 (c) The requirement to provide notice to one or both parents of
43 the unemancipated minor was waived pursuant to subsection 8 of
44 section 4 of this act.



1 2. *If an objection is filed within the prescribed time period*
2 *pursuant to this section, the court shall appoint a day for hearing*
3 *the proofs, respectively, of the petitioner and the objection, upon*
4 *reasonable notice. Upon that day, the court shall hear the proofs,*
5 *and grant or refuse the prayer of the petitioner, according to*
6 *whether the proofs show that making the name change is in the*
7 *best interest of the unemancipated minor pursuant to subsection 4.*

8 3. *Upon the making of an order either granting or denying*
9 *the prayer of the petitioner, the order must be recorded as a*
10 *judgment of the court. If the petition is granted, the name of the*
11 *unemancipated minor must thereupon be stated in the order and*
12 *the clerk shall transmit a certified copy of the order to the State*
13 *Registrar of Vital Statistics.*

14 4. *In determining the best interest of the unemancipated*
15 *minor, the court shall consider and set forth its specific findings*
16 *concerning, among other things:*

17 (a) *The wishes of the unemancipated minor if the minor is of*
18 *sufficient age and capacity to form an intelligent preference as to*
19 *his or her name change.*

20 (b) *The level of conflict between the parents.*

21 (c) *The mental and physical health of the parents.*

22 (d) *The physical, developmental and emotional needs of the*
23 *unemancipated minor.*

24 (e) *The nature of the relationship of the unemancipated minor*
25 *with each parent.*

26 (f) *Any history of parental abuse or neglect of the*
27 *unemancipated minor or a sibling of the minor.*

28 (g) *Whether either parent or any other person has engaged in*
29 *an act of domestic violence against the unemancipated minor, a*
30 *parent of the minor or any other person residing with the minor.*

31 (h) *Whether either parent has committed any act of abduction*
32 *against the unemancipated minor or any other minor.*

33 **Sec. 6. 1.** *In addition to a petition to change the name of an*
34 *unemancipated minor in the legal custody of an agency which*
35 *provides child welfare services which is filed pursuant to this*
36 *chapter, such a petition may be filed in any action brought under*
37 *the provisions of chapter 122A, 125, 125C, 126, 128, 129 or 432B*
38 *of NRS. For any petition filed, the notice and service requirements*
39 *of the chapter under which the applicable action was brought*
40 *must be met.*

41 2. *As used in this section, "agency which provides child*
42 *welfare services" has the meaning ascribed to it in NRS 432B.030.*

43 **Sec. 7. 1.** *The provisions of NRS 41.291 to 41.298,*
44 *inclusive, and this section do not apply to an unemancipated*



1 *minor who is in the legal custody of an agency which provides*
2 *child welfare services.*

3 *2. As used in this section, “agency which provides child*
4 *welfare services” has the meaning ascribed to it in NRS 432B.030.*

5 **Sec. 8.** NRS 41.291 is hereby amended to read as follows:

6 41.291 As used in NRS 41.291 to 41.298, inclusive, *and*
7 *section 7 of this act*, unless the context otherwise requires, the
8 words and terms defined in NRS 41.293 and 41.294 have the
9 meanings ascribed to them in those sections.

10 **Sec. 9.** This act becomes effective on July 1, 2019.

