

ASSEMBLY BILL NO. 263—ASSEMBLYMEN STEWART;
MUNFORD, SILBERKRAUS AND WOODBURY

MARCH 11, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the custody and support of children. (BDR 11-199)

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 domestic relations; repealing certain provisions relating to the custody of children and enacting certain similar provisions relating to the custody of children; prohibiting a parent with primary or joint physical custody of a child from relocating with the child outside this State or to certain locations within this State without the written consent of the noncustodial parent or the permission of the court as the circumstances require; authorizing a non-relocating parent to recover reasonable attorney's fees and costs in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law sets forth provisions concerning the custody of children as it
2 relates to the dissolution of marriage. (NRS 125.450-125.520) **Section 19** of this
3 bill repeals almost all of these provisions. **Sections 3-12** of this bill add such
4 repealed provisions, with certain revisions, to chapter 125C of NRS, which
5 concerns custody and visitation of children generally. The addition of such
6 provisions to chapter 125C of NRS expands their applicability to the custody of all
7 children regardless of whether they were born to parents who were married or
8 unmarried.

9 **Section 4** provides that absent a determination by a court regarding the custody
10 of a child, each parent has joint legal custody and joint physical custody of the child
11 until otherwise ordered by a court. **Sections 5 and 6** provide that if a parent has
12 demonstrated, or has attempted to demonstrate but has had his or her efforts
13 frustrated by the other parent, an intent to establish a meaningful relationship with a
14 child, such a demonstration or attempted demonstration creates a presumption that



* A B 2 6 3 R 1 *

15 joint legal and physical custody, respectively, is in the best interest of the child.
16 **Section 7** authorizes a court to award primary physical custody to a parent if the
17 court determines that joint physical custody is not in the best interest of a child, and
18 sets forth circumstances in which an award of joint physical custody is presumed
19 not to be in the best interest of a child. **Section 7** also sets forth the circumstances
20 in which a court may award primary physical custody to a mother or father of a
21 child born out of wedlock.

22 Existing law requires a parent with primary physical custody of a child who
23 intends to move outside this State with the child to: (1) obtain the written consent of
24 the noncustodial parent; or (2) if the noncustodial parent refuses to give such
25 consent, petition the court for permission to move with the child. (NRS 125C.200)
26 **Section 16** of this bill additionally requires a parent with primary physical custody
27 of a child to take such actions if the parent intends to relocate to a place within this
28 State that is more than 100 miles from the place of his or her residence at the time
29 the existing custody arrangement was established. **Section 13** of this bill requires a
30 parent who has joint physical custody of a child and wants to relocate outside this
31 State or to a place within this State that is at such a distance that would
32 substantially impair the ability of the other parent to maintain a meaningful
33 relationship with the child to petition the court for primary physical custody of the
34 child for the purpose of relocating.

35 **Section 14** of this bill requires a parent who files a petition for permission to
36 relocate with a child to demonstrate to the court certain reasons and benefits
37 relating to the relocation. **Section 14** also requires the court to consider certain
38 factors in determining whether to allow a parent to relocate with a child. Under
39 **section 18** of this bill, a parent who relocates with a child without the written
40 consent of the noncustodial parent or the permission of the court or before the court
41 enters an order granting the parent primary physical custody of the child and
42 permission to relocate with the child, as applicable, is guilty of a category D felony
43 unless the parent: (1) demonstrates a compelling excuse for the relocation; or (2)
44 relocated to protect the child or the parent from danger. Additionally, **section 15** of
45 this bill provides that if a parent relocates with a child in violation of **section 18**:
46 (1) the court cannot consider any post-relocation facts or circumstances regarding
47 the welfare of the child or the relocating parent in making any determination; and
48 (2) the non-relocating parent can recover reasonable attorney's fees and costs
49 incurred as a result of the relocating parent's violation.

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

1 **Section 1.** NRS 125.040 is hereby amended to read as follows:
2 125.040 1. In any suit for divorce the court may, in its
3 discretion, upon application by either party and notice to the other
4 party, require either party to pay moneys necessary to assist the
5 other party in accomplishing one or more of the following:
6 (a) To provide temporary maintenance for the other party;
7 (b) To provide temporary support for children of the parties; or
8 (c) To enable the other party to carry on or defend such suit.
9 2. The court may make any order affecting property of the
10 parties, or either of them, which it may deem necessary or desirable
11 to accomplish the purposes of this section. Such orders shall be



1 made by the court only after taking into consideration the financial
2 situation of each of the parties.

3 3. The court may make orders pursuant to this section
4 concurrently with orders pursuant to ~~NRS-125.470.~~ *section 12 of*
5 *this act.*

6 **Sec. 2.** Chapter 125C of NRS is hereby amended by adding
7 thereto the provisions set forth as sections 3 to 15, inclusive, of this
8 act.

9 **Sec. 3.** *The Legislature declares that it is the policy of this*
10 *State:*

11 1. *To ensure that minor children have frequent associations*
12 *and a continuing relationship with both parents after the parents*
13 *have ended their relationship, become separated or dissolved their*
14 *marriage;*

15 2. *To encourage such parents to share the rights and*
16 *responsibilities of child rearing; and*

17 3. *To establish that such parents have an equivalent duty to*
18 *provide their minor children with necessary maintenance, health*
19 *care, education and financial support. As used in this subsection,*
20 *“equivalent” must not be construed to mean that both parents are*
21 *responsible for providing the same amount of financial support to*
22 *their children.*

23 **Sec. 4.** 1. *The parent and child relationship extends equally*
24 *to every child and to every parent, regardless of the marital status*
25 *of the parents.*

26 2. *If a court has not made a determination regarding the*
27 *custody of a child, each parent has joint legal custody and joint*
28 *physical custody of the child until otherwise ordered by a court of*
29 *competent jurisdiction.*

30 **Sec. 5.** 1. *When a court is making a determination*
31 *regarding the legal custody of a child, there is a presumption,*
32 *affecting the burden of proof, that joint legal custody would be in*
33 *the best interest of a minor child if:*

34 (a) *The parents have agreed to an award of joint legal custody*
35 *or so agree in open court at a hearing for the purpose of*
36 *determining the legal custody of the minor child; or*

37 (b) *A parent has demonstrated, or has attempted to*
38 *demonstrate but has had his or her efforts frustrated by the other*
39 *parent, an intent to establish a meaningful relationship with the*
40 *minor child.*

41 2. *The court may award joint legal custody without awarding*
42 *joint physical custody.*

43 **Sec. 6.** 1. *When a court is making a determination*
44 *regarding the physical custody of a child, there is a preference that*



1 *joint physical custody would be in the best interest of a minor child*
2 *if:*

3 (a) *The parents have agreed to an award of joint physical*
4 *custody or so agree in open court at a hearing for the purpose of*
5 *determining the physical custody of the minor child; or*

6 (b) *A parent has demonstrated, or has attempted to*
7 *demonstrate but has had his or her efforts frustrated by the other*
8 *parent, an intent to establish a meaningful relationship with the*
9 *minor child.*

10 2. *For assistance in determining whether an award of joint*
11 *physical custody is appropriate, the court may direct that an*
12 *investigation be conducted.*

13 **Sec. 7. 1.** *A court may award primary physical custody to a*
14 *parent if the court determines that joint physical custody is not in*
15 *the best interest of a child. An award of joint physical custody is*
16 *presumed not to be in the best interest of the child if:*

17 (a) *The court determines by substantial evidence that a parent*
18 *is unable to adequately care for a minor child for at least 146 days*
19 *of the year;*

20 (b) *A child is born out of wedlock and the provisions of*
21 *subsection 2 are applicable; or*

22 (c) *Except as otherwise provided in subsection 6 of section 8 of*
23 *this act or NRS 125C.210, there has been a determination by the*
24 *court after an evidentiary hearing and finding by clear and*
25 *convincing evidence that a parent has engaged in one or more acts*
26 *of domestic violence against the child, a parent of the child or any*
27 *other person residing with the child. The presumption created by*
28 *this paragraph is a rebuttable presumption.*

29 2. *A court may award primary physical custody of a child*
30 *born out of wedlock to:*

31 (a) *The mother of the child if:*

32 (1) *The mother has not married the father of the child;*

33 (2) *A judgment or order of a court, or a judgment or order*
34 *entered pursuant to an expedited process, determining the*
35 *paternity of the child has not been entered; and*

36 (3) *The father of the child:*

37 (I) *Is not subject to any presumption of paternity under*
38 *NRS 126.051;*

39 (II) *Has never acknowledged paternity pursuant to NRS*
40 *126.053; or*

41 (III) *Has had actual knowledge of his paternity but has*
42 *abandoned the child.*

43 (b) *The father of the child if:*

44 (1) *The mother has abandoned the child; and*



1 (2) *The father has provided sole care and custody of the*
2 *child in her absence.*

3 3. *As used in this section:*

4 (a) *“Abandoned” means that a mother or father has:*

5 (1) *Failed, for a continuous period of not less than 6*
6 *months, to provide substantial personal and economic support to*
7 *the child; or*

8 (2) *Knowingly declined, for a continuous period of not less*
9 *than 6 months, to have any meaningful relationship with the child.*

10 (b) *“Expedited process” has the meaning ascribed to it in*
11 *NRS 126.161.*

12 **Sec. 8. 1.** *In any action for determining physical custody of*
13 *a minor child, the sole consideration of the court is the best*
14 *interest of the child. If it appears to the court that joint physical*
15 *custody would be in the best interest of the child, the court may*
16 *grant physical custody to the parties jointly.*

17 2. *Preference must not be given to either parent for the sole*
18 *reason that the parent is the mother or the father of the child.*

19 3. *The court shall award physical custody in the following*
20 *order of preference unless in a particular case the best interest of*
21 *the child requires otherwise:*

22 (a) *To both parents jointly pursuant to section 6 of this act or*
23 *to either parent pursuant to section 7 of this act. If the court does*
24 *not enter an order awarding joint physical custody of a child after*
25 *either parent has applied for joint physical custody, the court shall*
26 *state in its decision the reason for its denial of the parent’s*
27 *application.*

28 (b) *To a person or persons in whose home the child has been*
29 *living and where the child has had a wholesome and stable*
30 *environment.*

31 (c) *To any person related within the fifth degree of*
32 *consanguinity to the child whom the court finds suitable and able*
33 *to provide proper care and guidance for the child, regardless of*
34 *whether the relative resides within this State.*

35 (d) *To any other person or persons whom the court finds*
36 *suitable and able to provide proper care and guidance for the*
37 *child.*

38 4. *In determining the best interest of the child, the court shall*
39 *consider and set forth its specific findings concerning, among*
40 *other things:*

41 (a) *The wishes of the child if the child is of sufficient age and*
42 *capacity to form an intelligent preference as to his or her physical*
43 *custody.*

44 (b) *Any nomination of a guardian for the child by a parent.*



1 (c) Which parent is more likely to allow the child to have
2 frequent associations and a continuing relationship with the
3 noncustodial parent.

4 (d) The level of conflict between the parents.

5 (e) The ability of the parents to cooperate to meet the needs of
6 the child.

7 (f) The mental and physical health of the parents.

8 (g) The physical, developmental and emotional needs of the
9 child.

10 (h) The nature of the relationship of the child with each
11 parent.

12 (i) The ability of the child to maintain a relationship with any
13 sibling.

14 (j) Any history of parental abuse or neglect of the child or a
15 sibling of the child.

16 (k) Whether either parent or any other person seeking physical
17 custody has engaged in an act of domestic violence against the
18 child, a parent of the child or any other person residing with the
19 child.

20 (l) Whether either parent or any other person seeking physical
21 custody has committed any act of abduction against the child or
22 any other child.

23 5. Except as otherwise provided in subsection 6 or NRS
24 125C.210, a determination by the court after an evidentiary
25 hearing and finding by clear and convincing evidence that either
26 parent or any other person seeking physical custody has engaged
27 in one or more acts of domestic violence against the child, a
28 parent of the child or any other person residing with the child
29 creates a rebuttable presumption that sole or joint physical custody
30 of the child by the perpetrator of the domestic violence is not in the
31 best interest of the child. Upon making such a determination, the
32 court shall set forth:

33 (a) Findings of fact that support the determination that one or
34 more acts of domestic violence occurred; and

35 (b) Findings that the custody or visitation arrangement
36 ordered by the court adequately protects the child and the parent
37 or other victim of domestic violence who resided with the child.

38 6. If after an evidentiary hearing held pursuant to subsection
39 5 the court determines that each party has engaged in acts of
40 domestic violence, it shall, if possible, then determine which
41 person was the primary physical aggressor. In determining which
42 party was the primary physical aggressor for the purposes of this
43 section, the court shall consider:

44 (a) All prior acts of domestic violence involving either party;



1 (b) *The relative severity of the injuries, if any, inflicted upon*
2 *the persons involved in those prior acts of domestic violence;*

3 (c) *The likelihood of future injury;*

4 (d) *Whether, during the prior acts, one of the parties acted in*
5 *self-defense; and*

6 (e) *Any other factors which the court deems relevant to the*
7 *determination.*

8 *↳ In such a case, if it is not possible for the court to determine*
9 *which party is the primary physical aggressor, the presumption*
10 *created pursuant to subsection 5 applies to both parties. If it is*
11 *possible for the court to determine which party is the primary*
12 *physical aggressor, the presumption created pursuant to*
13 *subsection 5 applies only to the party determined by the court to be*
14 *the primary physical aggressor.*

15 7. *A determination by the court after an evidentiary hearing*
16 *and finding by clear and convincing evidence that either parent or*
17 *any other person seeking physical custody has committed any act*
18 *of abduction against the child or any other child creates a*
19 *rebuttable presumption that sole or joint physical custody or*
20 *unsupervised visitation of the child by the perpetrator of the*
21 *abduction is not in the best interest of the child. If the parent or*
22 *other person seeking physical custody does not rebut the*
23 *presumption, the court shall not enter an order for sole or joint*
24 *physical custody or unsupervised visitation of the child by the*
25 *perpetrator and the court shall set forth:*

26 (a) *Findings of fact that support the determination that one or*
27 *more acts of abduction occurred; and*

28 (b) *Findings that the custody or visitation arrangement*
29 *ordered by the court adequately protects the child and the parent*
30 *or other person from whom the child was abducted.*

31 8. *For the purposes of subsection 7, any of the following acts*
32 *constitute conclusive evidence that an act of abduction occurred:*

33 (a) *A conviction of the defendant of any violation of NRS*
34 *200.310 to 200.340, inclusive, or 200.359 or a law of any other*
35 *jurisdiction that prohibits the same or similar conduct;*

36 (b) *A plea of guilty or nolo contendere by the defendant to any*
37 *violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a*
38 *law of any other jurisdiction that prohibits the same or similar*
39 *conduct; or*

40 (c) *An admission by the defendant to the court of the facts*
41 *contained in the charging document alleging a violation of NRS*
42 *200.310 to 200.340, inclusive, or 200.359 or a law of any other*
43 *jurisdiction that prohibits the same or similar conduct.*

44 9. *If, after a court enters a final order concerning physical*
45 *custody of the child, a magistrate determines there is probable*



1 *cause to believe that an act of abduction has been committed*
2 *against the child or any other child and that a person who has*
3 *been awarded sole or joint physical custody or unsupervised*
4 *visitation of the child has committed the act, the court shall, upon*
5 *a motion to modify the order concerning physical custody,*
6 *reconsider the previous order concerning physical custody*
7 *pursuant to subsections 7 and 8.*

8 *10. As used in this section:*

9 *(a) "Abduction" means the commission of an act described in*
10 *NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any*
11 *other jurisdiction that prohibits the same or similar conduct.*

12 *(b) "Domestic violence" means the commission of any act*
13 *described in NRS 33.018.*

14 **Sec. 9. 1.** *Before the court makes an order awarding*
15 *custody to any person other than a parent, without the consent of*
16 *the parents, it shall make a finding that an award of custody to a*
17 *parent would be detrimental to the child and the award to a*
18 *nonparent is required to serve the best interest of the child.*

19 *2. No allegation that parental custody would be detrimental to*
20 *the child, other than a statement of that ultimate fact, may appear*
21 *in the pleadings.*

22 *3. The court may exclude the public from any hearing on this*
23 *issue.*

24 **Sec. 10. 1.** *In any action for determining the custody of a*
25 *minor child, the court may, except as otherwise provided in this*
26 *section and NRS 125C.0601 to 125C.0693, inclusive, and chapter*
27 *130 of NRS:*

28 *(a) During the pendency of the action, at the final hearing or*
29 *at any time thereafter during the minority of the child, make such*
30 *an order for the custody, care, education, maintenance and*
31 *support of the minor child as appears in his or her best interest;*
32 *and*

33 *(b) At any time modify or vacate its order, even if custody was*
34 *determined pursuant to an action for divorce and the divorce was*
35 *obtained by default without an appearance in the action by one of*
36 *the parties.*

37 *↳ The party seeking such an order shall submit to the jurisdiction*
38 *of the court for the purposes of this subsection. The court may*
39 *make such an order upon the application of one of the parties or*
40 *the legal guardian of the minor.*

41 *2. Any order for joint custody may be modified or terminated*
42 *by the court upon the petition of one or both parents or on the*
43 *court's own motion if it is shown that the best interest of the child*
44 *requires the modification or termination. The court shall state in*



1 *its decision the reasons for the order of modification or*
2 *termination if either parent opposes it.*

3 3. *Any order for custody of a minor child entered by a court*
4 *of another state may, subject to the provisions of NRS 125C.0601*
5 *to 125C.0693, inclusive, and to the jurisdictional requirements in*
6 *chapter 125A of NRS, be modified at any time to an order of joint*
7 *custody.*

8 4. *A party may proceed pursuant to this section without*
9 *counsel.*

10 5. *Any order awarding a party a limited right of custody to a*
11 *child must define that right with sufficient particularity to ensure*
12 *that the rights of the parties can be properly enforced and that the*
13 *best interest of the child is achieved. The order must include all*
14 *specific times and other terms of the limited right of custody. As*
15 *used in this subsection, "sufficient particularity" means a*
16 *statement of the rights in absolute terms and not by the use of the*
17 *term "reasonable" or other similar term which is susceptible to*
18 *different interpretations by the parties.*

19 6. *All orders authorized by this section must be made in*
20 *accordance with the provisions of chapter 125A of NRS and NRS*
21 *125C.0601 to 125C.0693, inclusive, and must contain the*
22 *following language:*

23
24 **PENALTY FOR VIOLATION OF ORDER: THE**
25 **ABDUCTION, CONCEALMENT OR DETENTION OF A**
26 **CHILD IN VIOLATION OF THIS ORDER IS**
27 **PUNISHABLE AS A CATEGORY D FELONY AS**
28 **PROVIDED IN NRS 193.130. NRS 200.359 provides that**
29 **every person having a limited right of custody to a child or**
30 **any parent having no right of custody to the child who**
31 **willfully detains, conceals or removes the child from a**
32 **parent, guardian or other person having lawful custody or a**
33 **right of visitation of the child in violation of an order of this**
34 **court, or removes the child from the jurisdiction of the court**
35 **without the consent of either the court or all persons who**
36 **have the right to custody or visitation is subject to being**
37 **punished for a category D felony as provided in**
38 **NRS 193.130.**

39
40 7. *In addition to the language required pursuant to*
41 *subsection 6, all orders authorized by this section must specify that*
42 *the terms of the Hague Convention of October 25, 1980, adopted*
43 *by the 14th Session of the Hague Conference on Private*
44 *International Law, apply if a parent abducts or wrongfully retains*
45 *a child in a foreign country.*



1 8. *If a parent of the child lives in a foreign country or has*
2 *significant commitments in a foreign country:*

3 (a) *The parties may agree, and the court shall include in the*
4 *order for custody of the child, that the United States is the country*
5 *of habitual residence of the child for the purposes of applying the*
6 *terms of the Hague Convention as set forth in subsection 7.*

7 (b) *Upon motion of one of the parties, the court may order the*
8 *parent to post a bond if the court determines that the parent poses*
9 *an imminent risk of wrongfully removing or concealing the child*
10 *outside the country of habitual residence. The bond must be in an*
11 *amount determined by the court and may be used only to pay for the*
12 *cost of locating the child and returning the child to his or her*
13 *habitual residence if the child is wrongfully removed from or*
14 *concealed outside the country of habitual residence. The fact that*
15 *a parent has significant commitments in a foreign country does*
16 *not create a presumption that the parent poses an imminent risk of*
17 *wrongfully removing or concealing the child.*

18 9. *Except where a contract providing otherwise has been*
19 *executed pursuant to NRS 123.080, the obligation for care,*
20 *education, maintenance and support of any minor child created by*
21 *any order entered pursuant to this section ceases:*

22 (a) *Upon the death of the person to whom the order was*
23 *directed; or*

24 (b) *When the child reaches 18 years of age if the child is no*
25 *longer enrolled in high school, otherwise, when the child reaches*
26 *19 years of age.*

27 10. *As used in this section, a parent has "significant*
28 *commitments in a foreign country" if the parent:*

29 (a) *Is a citizen of a foreign country;*

30 (b) *Possesses a passport in his or her name from a foreign*
31 *country;*

32 (c) *Became a citizen of the United States after marrying the*
33 *other parent of the child; or*

34 (d) *Frequently travels to a foreign country.*

35 **Sec. 11.** 1. *The court may, when appropriate, require the*
36 *parents to submit to the court a plan for carrying out the court's*
37 *order concerning custody.*

38 2. *Access to records and other information pertaining to a*
39 *minor child, including, without limitation, medical, dental and*
40 *school records, must not be denied to a parent for the reason that*
41 *the parent is not the child's custodial parent.*

42 **Sec. 12.** 1. *If, during any action for determining the*
43 *custody of a minor child, either before or after the entry of a final*
44 *order concerning the custody of a minor child, it appears to the*
45 *court that any minor child of either party has been, or is likely to*



1 *be, taken or removed out of this State or concealed within this*
2 *State, the court shall forthwith order such child to be produced*
3 *before it and make such disposition of the child's custody as*
4 *appears most advantageous to and in the best interest of the child*
5 *and most likely to secure to him or her the benefit of the final*
6 *order or the modification or termination of the final order to be*
7 *made in his or her behalf.*

8 *2. If, during any action for determining the custody of a*
9 *minor child, either before or after the entry of a final order*
10 *concerning the custody of a minor child, the court finds that it*
11 *would be in the best interest of the minor child, the court may*
12 *enter an order providing that a party may, with the assistance of*
13 *the appropriate law enforcement agency, obtain physical custody*
14 *of the child from the party having physical custody of the child.*
15 *The order must provide that if the party obtains physical custody*
16 *of the child, the child must be produced before the court as soon*
17 *as practicable to allow the court to make such disposition of the*
18 *child's custody as appears most advantageous to and in the best*
19 *interest of the child and most likely to secure to him or her the*
20 *benefit of the final order or the modification or termination of the*
21 *final order to be made in his or her behalf.*

22 *3. If the court enters an order pursuant to subsection 2*
23 *providing that a party may obtain physical custody of a child, the*
24 *court shall order that party to give the party having physical*
25 *custody of the child notice at least 24 hours before the time at*
26 *which he or she intends to obtain physical custody of the child,*
27 *unless the court deems that requiring the notice would likely*
28 *defeat the purpose of the order.*

29 *4. All orders for a party to appear with a child issued*
30 *pursuant to this section may be enforced by issuing a warrant of*
31 *arrest against that party to secure his or her appearance with the*
32 *child.*

33 *5. A proceeding under this section must be given priority on*
34 *the court calendar.*

35 **Sec. 13.** *1. If joint physical custody has been established*
36 *pursuant to an order, judgment or decree of a court or section 4 of*
37 *this act or by operation of law and one parent intends to relocate*
38 *his or her residence to a place outside of this State or to a place*
39 *within this State that is at such a distance that would substantially*
40 *impair the ability of the other parent to maintain a meaningful*
41 *relationship with the child, and the relocating parent desires to*
42 *take the child with him or her, the relocating parent shall petition*
43 *the court for primary physical custody for the purpose of*
44 *relocating.*



1 2. *A parent who relocates with a child pursuant to this section*
2 *before the court enters an order granting the parent primary*
3 *physical custody of the child and permission to relocate with the*
4 *child is subject to the provisions of NRS 200.359.*

5 **Sec. 14. 1.** *In every instance of a petition for permission to*
6 *relocate with a child that is filed pursuant to NRS 125C.200 or*
7 *section 13 of this act, the relocating parent must demonstrate to*
8 *the court that:*

9 (a) *There exists a sensible, good-faith reason for the move, and*
10 *the move is not intended to deprive the non-relocating parent of*
11 *his or her parenting time;*

12 (b) *The best interests of the child are substantially better*
13 *served by allowing the relocating parent to relocate;*

14 (c) *The child and the relocating parent will benefit from an*
15 *actual advantage that currently exists or is certain to exist before*
16 *the time of the relocation; and*

17 (d) *If the parents currently share joint custody of the child, the*
18 *child will do substantially better in the new location than the child*
19 *would if he or she remained in this State with the non-relocating*
20 *parent.*

21 2. *If a relocating parent demonstrates to the court the*
22 *provisions set forth in subsection 1, the court must then weigh*
23 *the following factors and the impact of each on the child, the*
24 *relocating parent and the non-relocating parent, including,*
25 *without limitation, the extent to which the compelling interests of*
26 *the child, the relocating parent and the non-relocating parent are*
27 *accommodated:*

28 (a) *The extent to which the relocation is likely to improve the*
29 *quality of life for the child and the relocating parent;*

30 (b) *Whether the motives of the relocating parent are honorable*
31 *and not designed to frustrate or defeat any visitation rights*
32 *accorded to the non-relocating parent;*

33 (c) *Whether the relocating parent will comply with any*
34 *substitute visitation orders issued by the court if permission to*
35 *relocate is granted;*

36 (d) *Whether the motives of the non-relocating parent are*
37 *honorable in resisting the petition for permission to relocate or to*
38 *what extent any opposition to the petition for permission to*
39 *relocate is intended to secure a financial advantage in the form of*
40 *ongoing support obligations or otherwise;*

41 (e) *Whether there will be a realistic opportunity for the non-*
42 *relocating parent to maintain a visitation schedule that will*
43 *adequately foster and preserve the parental relationship between*
44 *the child and the non-relocating parent if permission to relocate is*
45 *granted; and*



1 (f) Any other factor necessary to assist the court in
2 determining whether to grant permission to relocate.

3 3. A parent who desires to relocate with a child pursuant to
4 NRS 125C.200 or section 13 of this act has the burden of proving
5 that relocating with the child is in the best interest of the child.

6 **Sec. 15.** If a parent with primary physical custody or joint
7 physical custody relocates with a child in violation of
8 NRS 200.359:

9 1. The court shall not consider any post-relocation facts or
10 circumstances regarding the welfare of the child or the relocating
11 parent in making any determination.

12 2. If the non-relocating parent files an action in response to
13 the violation, the non-relocating parent is entitled to recover
14 reasonable attorney's fees and costs incurred as a result of the
15 violation.

16 **Sec. 16.** NRS 125C.200 is hereby amended to read as follows:

17 125C.200 1. If *primary physical* custody has been
18 established *pursuant to an order, judgment or decree of a court*
19 and the custodial parent intends to ~~{move}~~ relocate his or her
20 residence to a place outside of this State *or to a place within this*
21 *State that is more than 100 miles from the place of his or her*
22 *residence at the time the existing custody arrangement was*
23 *established, and the custodial parent desires* to take the child with
24 him or her, the custodial parent ~~{must, as soon as possible and~~
25 ~~before the planned move, attempt}~~ shall:

26 (a) Attempt to obtain the written consent of the noncustodial
27 parent to ~~{move}~~ relocate with the child ~~{from this State. If}~~ ; and

28 (b) If the noncustodial parent refuses to give that consent, ~~{the~~
29 ~~custodial parent shall, before leaving this State with the child,}~~
30 petition the court for permission to ~~{move}~~ relocate with the child.
31 ~~{The failure of a parent to comply with the provisions of this section~~
32 ~~may be considered as a factor if a change of custody is requested by~~
33 ~~the noncustodial parent.}~~

34 2. A parent who relocates with a child pursuant to this section
35 without the written consent of the noncustodial parent or the
36 permission of the court is subject to the provisions of
37 NRS 200.359.

38 **Sec. 17.** NRS 146.010 is hereby amended to read as follows:

39 146.010 Except as otherwise provided in this chapter or in
40 ~~{NRS 125.510,}~~ section 10 of this act, if a person dies leaving a
41 surviving spouse or a minor child or minor children, the surviving
42 spouse, minor child or minor children are entitled to remain in
43 possession of the homestead and of all the wearing apparel and
44 provisions in the possession of the family, and all the household



1 furniture, and are also entitled to a reasonable provision for their
2 support, to be allowed by the court.

3 **Sec. 18.** NRS 200.359 is hereby amended to read as follows:

4 200.359 1. A person having a limited right of custody to a
5 child by operation of law or pursuant to an order, judgment or
6 decree of any court, including a judgment or decree which grants
7 another person rights to custody or visitation of the child, or any
8 parent having no right of custody to the child, who:

9 (a) In violation of an order, judgment or decree of any court
10 willfully detains, conceals or removes the child from a parent,
11 guardian or other person having lawful custody or a right of
12 visitation of the child; or

13 (b) In the case of an order, judgment or decree of any court that
14 does not specify when the right to physical custody or visitation is to
15 be exercised, removes the child from the jurisdiction of the court
16 without the consent of either the court or all persons who have the
17 right to custody or visitation,

18 ➤ is guilty of a category D felony and shall be punished as provided
19 in NRS 193.130.

20 2. A parent who has joint legal custody of a child pursuant to
21 ~~NRS 125.465~~ *section 4 of this act* shall not willfully conceal or
22 remove the child from the custody of the other parent with the
23 specific intent to deprive the other parent of the parent and child
24 relationship. A person who violates this subsection shall be
25 punished as provided in subsection 1.

26 3. If the mother of a child has primary physical custody
27 pursuant to subsection 2 of ~~NRS 126.031~~ *section 7 of this act*, the
28 father of the child shall not willfully conceal or remove the child
29 from the physical custody of the mother. If the father of a child has
30 primary physical custody pursuant to subsection 2 of ~~NRS~~
31 ~~126.031~~ *section 7 of this act*, the mother of the child shall not
32 willfully conceal or remove the child from the physical custody of
33 the father. A person who violates this subsection shall be punished
34 as provided in subsection 1.

35 4. *A parent who has joint physical custody of a child*
36 *pursuant to an order, judgment or decree of a court or section 4 of*
37 *this act shall not relocate with the child pursuant to section 13 of*
38 *this act before the court enters an order granting the parent*
39 *primary physical custody of the child and permission to relocate*
40 *with the child. A person who violates this subsection shall be*
41 *punished as provided in subsection 1.*

42 5. *A parent who has primary physical custody of a child*
43 *pursuant to an order, judgment or decree of a court shall not*
44 *relocate with the child pursuant to NRS 125C.200 without the*
45 *written consent of the non-relocating parent or the permission of*



1 *the court. A person who violates this subsection shall be punished*
2 *as provided in subsection 1.*

3 **6.** Before an arrest warrant may be issued for a violation of this
4 section, the court must find that:

5 (a) This is the home state of the child, as defined in NRS
6 125A.085; and

7 (b) There is cause to believe that the entry of a court order in a
8 civil proceeding brought pursuant to chapter 125, 125A or 125C of
9 NRS will not be effective to enforce the rights of the parties and
10 would not be in the best interests of the child.

11 ~~5-7~~ **7.** Upon conviction for a violation of this section, the court
12 shall order the defendant to pay restitution for any expenses incurred
13 in locating or recovering the child.

14 ~~6-8~~ **8.** The prosecuting attorney may recommend to the judge
15 that the defendant be sentenced as for a misdemeanor and the judge
16 may impose such a sentence if the judge finds that:

17 (a) The defendant has no prior conviction for this offense and
18 the child has suffered no substantial harm as a result of the offense;
19 or

20 (b) The interests of justice require that the defendant be
21 punished as for a misdemeanor.

22 ~~7-9~~ **9.** A person who aids or abets any other person to violate
23 this section shall be punished as provided in subsection 1.

24 ~~8-10~~ **10.** *In addition to the exemption set forth in subsection*
25 *11, subsections 4 and 5 do not apply to a person who demonstrates*
26 *a compelling excuse, to the satisfaction of the court, for relocating*
27 *with a child in violation of NRS 125C.200 or section 13 of this act.*

28 **11.** This section does not apply to a person who detains,
29 conceals, ~~10-11~~ removes *or relocates with* a child to protect the child
30 from the imminent danger of abuse or neglect or to protect himself
31 or herself from imminent physical harm, and reported the detention,
32 concealment, ~~10-11~~ removal *or relocation* to a law enforcement
33 agency or an agency which provides child welfare services within
34 24 hours after detaining, concealing, ~~10-11~~ removing *or relocating*
35 *with* the child, or as soon as the circumstances allowed. As used in
36 this subsection:

37 (a) "Abuse or neglect" has the meaning ascribed to it in
38 paragraph (a) of subsection 4 of NRS 200.508.

39 (b) "Agency which provides child welfare services" has the
40 meaning ascribed to it in NRS 432B.030.

41 **Sec. 19.** NRS 125.460, 125.465, 125.470, 125.480, 125.490,
42 125.500, 125.510, 125.520 and 126.031 are hereby repealed.



LEADLINES OF REPEALED SECTIONS

125.460 State policy.

125.465 Married parents have joint custody until otherwise ordered by court.

125.470 Order for production of child before court; determinations concerning physical custody of child.

125.480 Best interests of child; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child.

125.490 Joint custody.

125.500 Award of custody to person other than parent.

125.510 Court orders; modification or termination of orders; form for orders; court may order parent to post bond if parent resides in or has significant commitments in foreign country.

125.520 Plan for carrying out court's order; access to child's records.

126.031 Relationship of parent and child not dependent on marriage; primary physical custody of child born out of wedlock.

