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CHAPTER 128 - TERMINATION OF PARENTAL RIGHTS

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NRS 128.005 Legislative declaration and findings.

1. The Legislature declares that the preservation and strengthening of family life is a part of the public policy of this State.

2. The Legislature finds that:

(a) Severance of the parent and child relationship is a matter of such importance in order to safeguard the rights of parent and child as to require judicial determination.

(b) Judicial selection of the person or agency to be entrusted with the custody and control of a child after such severance promotes the welfare of the parties and of this State.

(c) The continuing needs of a child for proper physical, mental and emotional growth and development are the decisive considerations in proceedings for termination of parental rights.

(Added to NRS by [1975, 963](#); A [1981, 1752](#))

NRS 128.007 Applicability of chapter. The provisions of this chapter, to the extent they do not conflict with the provisions of [NRS 432B.5901](#) to [432B.5908](#), inclusive, apply to all proceedings concerning the termination of parental rights that are commenced pursuant to [NRS 432B.5901](#) by an agency which provides child welfare services.

(Added to NRS by [2017, 4070](#))

NRS 128.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in [NRS 128.011](#) to [128.018](#), inclusive, have the meanings ascribed to them in those sections.

[1:161:1953]—(NRS A [1965, 335](#); [1975, 965](#); [1977, 185](#); [1987, 173](#); [1995, 783](#); [2001 Special Session, 14](#))

NRS 128.011 “Abandoned mother” defined. A mother is “abandoned” if the father or putative father has not provided for her support during her pregnancy or has not communicated with her for a period beginning no later than 3 months after conception and extending to the birth of the child.

(Added to NRS by [1975, 964](#))

NRS 128.012 “Abandonment of a child” defined.

1. “Abandonment of a child” means any conduct of one or both parents of a child which evinces a settled purpose on the part of one or both parents to forego all parental custody and relinquish all claims to the child.

2. If a parent or parents of a child leave the child in the care and custody of another without provision for the child’s support and without communication for a period of 6 months, or if the child is left under such circumstances that the identity of the parents is unknown and cannot be ascertained despite diligent searching, and the parents do not come forward to claim the child within 3 months after the child is found, the parent or parents are presumed to have intended to abandon the child.

(Added to NRS by [1975, 963](#); A [1981, 1753](#))

NRS 128.0122 “Agency which provides child welfare services” defined. “Agency which provides child welfare services” has the meaning ascribed to it in [NRS 432B.030](#).

(Added to NRS by [2001 Special Session, 14](#))

NRS 128.0124 “Child” defined. “Child” means a person under the age of 18 years.

(Added to NRS by [1981, 1750](#))

NRS 128.0126 “Failure of parental adjustment” defined. “Failure of parental adjustment” occurs when a parent or parents are unable or unwilling within a reasonable time to correct substantially the circumstances, conduct or conditions which led to the placement of their child outside of their home, notwithstanding reasonable and appropriate efforts made by the State or a private person or agency to return the child to his or her home.

(Added to NRS by [1987, 172](#))

NRS 128.0128 “Indian child” defined. “Indian child” has the meaning ascribed to it in 25 U.S.C. § 1903.

(Added to NRS by [1995, 782](#))

NRS 128.0129 “Indian Child Welfare Act” defined. “Indian Child Welfare Act” means the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901 et seq.).

(Added to NRS by [1995, 782](#))

NRS 128.013 “Injury” defined.

1. “Injury” to a child’s health or welfare occurs when the parent, guardian or custodian:

(a) Inflicts or allows to be inflicted upon the child, physical, mental or emotional injury, including injuries sustained as a result of excessive corporal punishment;

- (b) Commits or allows to be committed against the child, sexual abuse as defined in [NRS 432B.100](#);
 - (c) Neglects or refuses to provide for the child proper or necessary subsistence, education or medical or surgical care, although he or she is financially able to do so or has been offered financial or other reasonable means to do so; or
 - (d) Fails, by specific acts or omissions, to provide the child with adequate care, supervision or guardianship under circumstances requiring the intervention of:
 - (1) An agency which provides child welfare services; or
 - (2) The juvenile or family court itself.
2. A child's health or welfare is not considered injured solely because the child's parent or guardian, in the practice of his or her religious beliefs, selects and depends upon nonmedical remedial treatment for the child, if such treatment is recognized and permitted under the laws of this State.
- (Added to NRS by [1981, 1750](#); A [1985, 1397](#); [1991, 2180](#); [1993, 2690](#); [2001 Special Session, 14](#))

NRS 128.0137 "Mental injury" defined. "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by an observable and substantial impairment in the child's ability to function within his or her normal range of performance and behavior.

(Added to NRS by [1981, 1751](#))

NRS 128.014 "Neglected child" defined. "Neglected child" includes a child:

1. Who lacks the proper parental care by reason of the fault or habits of his or her parent, guardian or custodian;
2. Whose parent, guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care, or other care necessary for the child's health, morals or well-being;
3. Whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by the child's physical or mental condition;
4. Who is found in a disreputable place, or who is permitted to associate with vagrants or vicious or immoral persons; or
5. Who engages or is in a situation dangerous to life or limb, or injurious to health or morals of the child or others,

↳ and the parent's neglect need not be willful.

(Added to NRS by [1975, 964](#); A [1981, 1753](#))

NRS 128.015 "Parent and child relationship" and "parent" defined.

1. "Parent and child relationship" includes all rights, privileges and obligations existing between parent and child.
2. As used in this section, "parent" includes an adoptive parent.

(Added to NRS by [1975, 964](#); A [2011, 142](#))

NRS 128.0155 "Plan" defined. "Plan" means:

1. A written agreement between the parents of a child who is subject to the jurisdiction of the juvenile court or family court pursuant to title 5 of NRS or [chapter 432B](#) of NRS and the agency having custody of the child; or
2. Written conditions and obligations imposed upon the parents directly by the juvenile or family court,

↳ which have a primary objective of reuniting the family or, if the parents neglect or refuse to comply with the terms and conditions of the case plan, freeing the child for adoption.

(Added to NRS by [1981, 1750](#); A [1985, 1397](#); [1991, 2180](#); [2003, 1116](#))

NRS 128.016 "Putative father" defined. "Putative father" means a person who is or is alleged or reputed to be the father of an illegitimate child.

(Added to NRS by [1975, 964](#))

NRS 128.018 "Unfit parent" defined. "Unfit parent" is any parent of a child who, by reason of the parent's fault or habit or conduct toward the child or other persons, fails to provide such child with proper care, guidance and support.

(Added to NRS by [1975, 964](#); A [1981, 1753](#))

NRS 128.020 Jurisdiction of district courts. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act, the district courts have jurisdiction in all cases and proceedings under this chapter. The jurisdiction of the district courts extends to any child who should be declared free from the custody and control of either or both of his or her parents.

[2:161:1953]—(NRS A [1975, 965](#); [1981, 1753](#); [1995, 783](#))

NRS 128.023 Proceedings to terminate parental rights of parent of Indian child: Powers and duties of court; appointment of attorney.

1. If proceedings pursuant to this chapter involve the termination of parental rights of the parent of an Indian child, the court shall:

(a) Cause the Indian child's tribe to be notified in writing in the manner provided in the Indian Child Welfare Act. If the Indian child is eligible for membership in more than one tribe, each tribe must be notified.

(b) Transfer the proceedings to the Indian child's tribe in accordance with the Indian Child Welfare Act.

(c) If a tribe declines or is unable to exercise jurisdiction, exercise its jurisdiction as provided in the Indian Child Welfare Act.

2. If the court determines that the parent of an Indian child for whom termination of parental rights is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; and

(b) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

↳ as provided in the Indian Child Welfare Act.

(Added to NRS by [1995, 782](#); A [2003, 1116](#); [2017, 1289](#))

NRS 128.027 Extent to which court must give full faith and credit to judicial proceedings of Indian tribe. Each court in this state which exercises jurisdiction pursuant to this chapter in a case involving an Indian child shall give full faith and credit to the judicial proceedings of an Indian tribe to the same extent that the Indian tribe gives full faith and credit to the judicial proceedings of the courts of this state.

(Added to NRS by [1995, 782](#))

NRS 128.030 Place for filing petition. A petition alleging that a child should be declared free from the custody and control of his or her parent or parents may be filed at the election of the petitioner in:

1. The county in which the child is found;
2. The county in which the acts complained of occurred;
3. The county in which the child resides;
4. The county in which the child is the subject of another court proceeding;
5. The county in which an agency which provides child welfare services is located;
6. The county in which the guardian or custodian of the child resides;
7. The county in which the defendant resides; or
8. The county in which the convenience of the witnesses and the ends of justice would be promoted.

[3:161:1953]—(NRS A [1975, 966](#); [1981, 1754](#); [2017, 4071](#))

NRS 128.040 Who may file petition; investigation. The agency which provides child welfare services, the probation officer, or any other person, including the mother of an unborn child, may file with the clerk of the court a petition under the terms of this chapter. The probation officer of that county or any agency or person designated by the court shall make such investigations at any stage of the proceedings as the court may order or direct.

[4:161:1953]—(NRS A [1963, 892](#); [1967, 1151](#); [1973, 1406](#); [1975, 966](#); [1993, 2690](#); [2001 Special Session, 14](#))

NRS 128.050 Entitlement of proceedings; contents of verified petition.

1. The proceedings must be entitled, "In the matter of the parental rights as to, a minor."

2. A petition must be verified and may be upon information and belief. It must set forth plainly:

(a) The facts which bring the child within the purview of this chapter.

(b) The name, age and residence of the child.

(c) The names and residences of the parents of the child.

(d) The name and residence of the person or persons having physical custody or control of the child.

(e) The name and residence of the child's legal guardian, if there is one.

(f) The name and residence of the child's nearest known relative, if no parent or guardian can be found.

(g) Whether the child is known to be an Indian child.

3. If any of the facts required by subsection 2 are not known by the petitioner, the petition must so state.

4. If the petitioner is a mother filing with respect to her unborn child, the petition must so state and must contain the name and residence of the father or putative father, if known.

5. If the petitioner or the child is receiving public assistance, the petition must so state.

[5:161:1953]—(NRS A [1975, 966](#); [1981, 1754](#); [1995, 783](#), [2420](#); [2017, 749](#))

NRS 128.055 Proceedings to be completed within 6 months after filing of petition. Except as otherwise required by specific statute, the court shall use its best efforts to ensure that proceedings conducted pursuant to this chapter are completed within 6 months after the petition is filed.

(Added to NRS by [1999, 2027](#))

NRS 128.060 Notice of hearing: Contents; personal service to certain persons; petitioner to mail notice to Department of Health and Human Services if petitioner or child is receiving public assistance.

1. After a petition has been filed, unless the party or parties to be served voluntarily appear and consent to the hearing, the court shall direct the clerk to issue a notice, reciting briefly the substance of the petition and

stating the date set for the hearing thereof, and requiring the person served therewith to appear before the court at the time and place if that person desires to oppose the petition.

2. Except as otherwise provided in subsection 4 and [NRS 128.070](#), the following persons must be personally served with the notice:

(a) Either parent of the minor person, if his or her place of residence is known to the petitioner, or if the place of residence of either parent is not known to the petitioner, then the nearest known relative of that person, if there is any residing within the State, and if his or her residence and relationship are known to the petitioner; and

(b) The minor's legal custodian or guardian, if his or her place of residence is known to the petitioner.

3. If the petitioner or the child is receiving public assistance, the petitioner shall mail a copy of the notice of hearing and a copy of the petition to the Chief of the Child Support Enforcement Program of the Division of Welfare and Supportive Services of the Department of Health and Human Services by registered or certified mail return receipt requested at least 45 days before the hearing.

4. A parent who delivered a child to a provider of emergency services pursuant to [NRS 432B.630](#) shall be deemed to have waived any right to notice pursuant to this section.

[6:161:1953]—(NRS A [1987, 119](#); [1995, 2420](#); [2017, 682, 749, 771](#))

NRS 128.070 Service of notice of hearing by publication: Requirements; exception.

1. Except as otherwise provided in subsection 6, when either parent of a minor child or the child's legal custodian or guardian cannot, after due diligence, be found or conceals himself or herself to avoid the service of the notice of hearing, and the fact appears, by affidavit, to the satisfaction of the court thereof, and it appears, either by affidavit or by a verified petition on file, that the named parent or custodian or guardian is a necessary or proper party to the proceedings, the court may grant an order that the service be made by the publication of the notice of hearing. When the affidavit is based on the fact that the present address of the parent or custodian or guardian is unknown, it is a sufficient showing of that fact if the affiant states generally in the affidavit that:

(a) At a previous time the person resided in a certain place (naming the place and stating the latest date known to the affiant when the person so resided there);

(b) That place is the last place in which the person resided to the knowledge of the affiant;

(c) The person no longer resides at that place; and

(d) The affiant does not know the present place of residence of the person or where the person can be found.

↪ In such case, the affidavit shall be deemed to be a sufficient showing of due diligence to find either parent or the custodian or guardian.

2. The order must direct the publication to be made in a newspaper, to be designated by the court, for a period of 4 weeks, and at least once a week during that time. When publication is ordered, personal service of a copy of the notice of hearing and petition is equivalent to completed service by publication, and the person so served has 20 days after the service to appear and answer or otherwise plead. The service of the notice of hearing shall be deemed complete in cases of publication at the expiration of 4 weeks from the first publication.

3. Before a notice of hearing is published pursuant to subsection 2, the clerk of the court shall ensure that the name of the minor child is replaced with the initials of the minor child in every instance where the name of the minor child appears in the notice of hearing.

4. Whenever personal service cannot be made, the court may require, before ordering service by publication, such further and additional search to determine the whereabouts of the person to be served as may be warranted by the facts stated in the affidavit of the petitioner to the end that actual notice be given whenever possible.

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

6. A parent who delivered a child to a provider of emergency services pursuant to [NRS 432B.630](#) shall be deemed to have waived any right to notice pursuant to this section.

[7:161:1953]—(NRS A [1967, 355](#); [1969, 16](#); [1987, 120](#); [2017, 683, 749, 771](#))

NRS 128.080 Form of notice. Except as otherwise provided in subsection 3 of [NRS 128.070](#), the notice must be in substantially the following form:

In the Judicial District Court of the State of Nevada,
in and for the County of

In the matter of parental rights
as to, a minor.

Notice

To, parent No. 1 or, parent No. 2 of the above-named person; or, to the parents of the above-named person, and to all persons claiming to be either parent of this person; or, to, related to the above-named minor as; and, to, the legal custodian or guardian of the above-named minor:

You are hereby notified that there has been filed in the above-entitled court a petition praying for the termination of parental rights over the above-named minor person, and that the petition has been set for hearing before this court, at the courtroom thereof, at, in the County of, on the day of the month of of the year at..... o'clockm., at which time and place you are required to be present if you desire to oppose the petition.

Dated (month) (day) (year)

.....
Clerk of Court

(SEAL)

By.....
Deputy

[8:161:1953]—(NRS A [1981, 126](#); [1987, 121](#); [2001, 34](#); [2017, 751, 772](#))

NRS 128.085 Petition by mother of unborn child: Notice to father or putative father; time of hearing. When the mother of an unborn child files a petition for termination of the father’s parental rights, the father or putative father, if known, shall be served with notice of the hearing in the manner provided for in [NRS 128.060, 128.070](#) and [128.080](#). The hearing may be held at any time after the birth of the child and service on the father or putative father, if known, is complete.

(Added to NRS by [1975, 965](#); A [2017, 751](#))

NRS 128.087 Hearing to determine whether to transfer venue for parent who objects to venue.

1. If a petition for termination of parental rights has been filed and a parent whose consent is required objects in writing to venue, the court must conduct a hearing to determine whether to transfer venue to another county. For the purpose of determining whether to transfer venue to another county, the court shall consider the ease of access to the court for the defendant and the factors set forth in [NRS 13.050](#) and [128.030](#).

2. For the purpose of conducting a hearing pursuant to subsection 1, a party or witness located in another jurisdiction may testify by telephone or audiovisual or other electronic means.

(Added to NRS by [2017, 4070](#))

NRS 128.090 Hearing: Time; procedure; evidence; postponement; closed court; confidentiality of hearings, files and records pertaining to terminating parental rights.

1. At the time stated in the notice, or at the earliest time thereafter to which the hearing may be postponed, the court shall proceed to hear the petition.

2. The proceedings are civil in nature and are governed by the Nevada Rules of Civil Procedure. The court shall in all cases require the petitioner to establish the facts by clear and convincing evidence and shall give full and careful consideration to all of the evidence presented, with regard to the rights and claims of the parent of the child and to any and all ties of blood or affection, but with a dominant purpose of serving the best interests of the child.

3. Information contained in a report filed pursuant to [NRS 432.097](#) to [432.130](#), inclusive, or [chapter 432B](#) of NRS may not be excluded from the proceeding by the invoking of any privilege.

4. In the event of postponement, all persons served, who are not present or represented in court at the time of the postponement, must be notified thereof in the manner provided by the Nevada Rules of Civil Procedure.

5. Any hearing held pursuant to this section must be held in closed court without admittance of any person other than those necessary to the action or proceeding, unless the court determines that holding such a hearing in open court will not be detrimental to the child.

6. Except as otherwise provided in subsection 7, any hearing held pursuant to [NRS 128.005](#) to [128.150](#), inclusive, is confidential and must be held in closed court without the admittance of any person other than the petitioner, attorneys, any witnesses, the director of an agency which provides child welfare services or an authorized representative of such person and any other person entitled to notice, except by order of the court.

7. The files and records of the court in a proceeding to terminate parental rights pursuant to [NRS 128.005](#) to [128.150](#), inclusive, are not open to inspection by any person except:

(a) The person petitioning for the termination of parental rights and a person who intends to file a response to such a petition; or

(b) Upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor.

[9:161:1953]—(NRS A [1969, 95](#); [1981, 1754](#); [1985, 128, 1398](#); [1991, 199](#); [2017, 752](#))

NRS 128.091 Evidence of previous sexual conduct inadmissible to challenge child's credibility; exceptions. In any proceeding held pursuant to this chapter involving a child who has been the subject of a proceeding pursuant to [chapter 432B](#) of NRS, a party may not present evidence of any previous sexual conduct of a child to challenge the child's credibility as a witness unless the attorney for the child has first presented evidence or the child has testified concerning such conduct, or the absence of such conduct, on direct examination by the district attorney or the attorney for the child, in which case the scope of the cross-examination of the child or rebuttal must be limited to the evidence presented by the child's attorney or the child.

(Added to NRS by [2013, 409](#))

NRS 128.093 Testimony of qualified expert witness required in proceedings to terminate parental rights of parent of Indian child.

1. Any proceedings to terminate the parental rights of the parent of an Indian child pursuant to this chapter must include the testimony of at least one qualified expert witness as provided in the Indian Child Welfare Act.

2. As used in this section, "qualified expert witness" includes, without limitation:

(a) An Indian person who has personal knowledge about the Indian child's tribe and its customs related to raising a child and the organization of the family; and

(b) A person who has:

(1) Substantial experience and training regarding the customs of Indian tribes related to raising a child;

and

(2) Extensive knowledge of the social values and cultural influences of Indian tribes.

(Added to NRS by [1995, 782](#))

NRS 128.095 When putative father presumed to have intended to abandon child. If the putative father of a child fails to acknowledge the child or petition to have his parental rights established in a court of competent jurisdiction before a hearing on a petition to terminate his parental rights, he is presumed to have intended to abandon the child.

(Added to NRS by [1975, 964](#); A [1979, 1284](#))

NRS 128.097 Presumption of abandonment of child by parent. If a parent of a child:

1. Engages in conduct that violates any provision of [NRS 200.463](#), [200.4631](#), [200.464](#) or [200.465](#); or

2. Voluntarily delivers a child to a provider of emergency services pursuant to [NRS 432B.630](#),

the parent is presumed to have abandoned the child.

(Added to NRS by [1989, 1186](#); A [2001, 1264](#); [2005, 89](#); [2013, 1856](#))

NRS 128.100 Appointment of attorney to represent child in proceeding concerning termination or restoration of parental rights; appointment of attorney to represent parent; compensation of attorney.

1. Except as otherwise provided in subsection 2, in any proceeding for terminating parental rights, or any rehearing or appeal thereon, or any proceeding for restoring parental rights, the court may appoint an attorney to represent the child as his or her counsel. The child may be represented by an attorney at all stages of any proceedings for terminating parental rights. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

2. In any proceeding for the termination of parental rights to a child who has been placed outside of his or her home pursuant to [chapter 432B](#) of NRS, or any rehearing or appeal thereon, or any proceeding for restoring parental rights to such a child, the court shall appoint an attorney to represent the child as his or her counsel. The child shall be deemed to be a party to any proceeding described in this section and must be represented by an attorney at all stages of such proceedings. The attorney representing the child has the same authority and rights as an attorney representing any other party to the proceedings.

3. If the parent or parents of the child desire to be represented by counsel, but are indigent, the court may appoint an attorney for them.

4. Each attorney appointed under the provisions of this section is entitled to the same compensation and expenses from the county as provided in [NRS 7.125](#) and [7.135](#) for attorneys appointed to represent persons charged with crimes.

[10:161:1953]—(NRS A [1981, 1755](#); [1987, 1301](#); [1999, 2027](#); [2001, 1708](#); [2007, 91](#); [2017, 1289](#))

NRS 128.105 Grounds for terminating parental rights: Considerations; required findings.

1. The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and [NRS 128.106](#) to [128.109](#), inclusive, and based on evidence and include a finding that:

(a) The best interests of the child would be served by the termination of parental rights; and

(b) The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of [NRS 432B.393](#) or demonstrated at least one of the following:

(1) Abandonment of the child;

(2) Neglect of the child;

- (3) Unfitness of the parent;
 - (4) Failure of parental adjustment;
 - (5) Risk of serious physical, mental or emotional injury to the child if the child were returned to, or remains in, the home of his or her parent or parents;
 - (6) Only token efforts by the parent or parents:
 - (I) To support or communicate with the child;
 - (II) To prevent neglect of the child;
 - (III) To avoid being an unfit parent; or
 - (IV) To eliminate the risk of serious physical, mental or emotional injury to the child;
 - (7) With respect to termination of the parental rights of one parent, the abandonment by that parent; or
 - (8) The child was conceived as a result of a sexual assault for which the natural parent was convicted.
2. Before making a finding pursuant to subparagraph (5) of paragraph (b) of subsection 1, if the child has been out of the care of his or her parent or guardian for at least 12 consecutive months, the court shall consider, without limitation:
- (a) The placement options for the child;
 - (b) The age of the child; and
 - (c) The developmental, cognitive and psychological needs of the child.
- (Added to NRS by [1975, 964](#); A [1981, 1755](#); [1985, 244](#); [1987, 173, 210](#); [1995, 215](#); [1999, 2027](#); [2015, 1184](#); [2017, 752](#))

NRS 128.106 Specific considerations in determining neglect by or unfitness of parent.

1. In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:
- (a) Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in [NRS 128.109](#) apply to the case if the child has been placed outside his or her home pursuant to [chapter 432B](#) of NRS.
 - (b) Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.
 - (c) Conduct that violates any provision of [NRS 200.463](#), [200.4631](#), [200.464](#) or [200.465](#).
 - (d) Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.
 - (e) Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for the child's physical, mental and emotional health and development, but a person who, legitimately practicing his or her religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.
 - (f) Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.
 - (g) Whether the child, a sibling of the child or another child in the care of the parent suffered a physical injury resulting in substantial bodily harm, a near fatality or fatality for which the parent has no reasonable explanation and for which there is evidence that such physical injury or death would not have occurred absent abuse or neglect of the child by the parent.
 - (h) Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.
2. As used in this section, "near fatality" has the meaning ascribed to it in [NRS 432B.175](#).
(Added to NRS by [1981, 1751](#); A [1989, 1187](#); [1995, 361](#); [2005, 89](#); [2013, 1856](#); [2015, 1185](#))

NRS 128.107 Specific considerations where child is not in physical custody of parent. If a child is not in the physical custody of the parent or parents, the court, in determining whether parental rights should be terminated, shall consider, without limitation:

1. The services provided or offered to the parent or parents to facilitate a reunion with the child.
 2. The physical, mental or emotional condition and needs of the child and the child's desires regarding the termination, if the court determines the child is of sufficient capacity to express his or her desires.
 3. The effort the parent or parents have made to adjust their circumstances, conduct or conditions to make it in the child's best interest to return the child to his or her home after a reasonable length of time, including but not limited to:
 - (a) The payment of a reasonable portion of substitute physical care and maintenance, if financially able;
 - (b) The maintenance of regular visitation or other contact with the child which was designed and carried out in a plan to reunite the child with the parent or parents; and
 - (c) The maintenance of regular contact and communication with the custodian of the child.
 4. Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent or parents within a predictable period.
- For purposes of this section, the court shall disregard incidental conduct, contributions, contacts and communications.

(Added to NRS by [1981, 1751](#); A [1987, 173](#))

NRS 128.108 Specific considerations where child has been placed in foster home. If a child is in the custody of a public or private agency and has been placed and resides in a foster home and the custodial agency institutes proceedings pursuant to this chapter regarding the child, with an ultimate goal of having the child's foster parent or parents adopt the child, the court shall consider whether the child has become integrated into the foster family to the extent that the child's familial identity is with that family, and whether the foster family is able and willing permanently to treat the child as a member of the family. The court shall consider, without limitation:

1. The love, affection and other emotional ties existing between the child and the parents, and the child's ties with the foster family.
2. The capacity and disposition of the child's parents from whom the child was removed as compared with that of the foster family to give the child love, affection and guidance and to continue the education of the child.
3. The capacity and disposition of the parents from whom the child was removed as compared with that of the foster family to provide the child with food, clothing and medical care and to meet other physical, mental and emotional needs of the child.
4. The length of time the child has lived in a stable, satisfactory foster home and the desirability of the child continuing to live in that environment.
5. The permanence as a family unit of the foster family.
6. The moral fitness, physical and mental health of the parents from whom the child was removed as compared with that of the foster family.
7. The experiences of the child in the home, school and community, both when with the parents from whom the child was removed and when with the foster family.
8. Any other factor considered by the court to be relevant to a particular placement of the child.

(Added to NRS by [1981, 1752](#))

NRS 128.109 Determination of conduct of parent; presumptions.

1. If a child has been placed outside of his or her home pursuant to [chapter 432B](#) of NRS, the following provisions must be applied to determine the conduct of the parent:

(a) If the child has resided outside of his or her home pursuant to that placement for 14 months of any 20 consecutive months, it must be presumed that the parent or parents have demonstrated only token efforts to care for the child as set forth in subparagraph (6) of paragraph (b) of subsection 1 of [NRS 128.105](#).

(b) If the parent or parents fail to comply substantially with the terms and conditions of a plan to reunite the family within 6 months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment as set forth in subparagraph (4) of paragraph (b) of subsection 1 of [NRS 128.105](#).

2. If a child has been placed outside of his or her home pursuant to [chapter 432B](#) of NRS and has resided outside of his or her home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

3. The presumptions specified in subsections 1 and 2 must not be overcome or otherwise affected by evidence of failure of the State to provide services to the family.

(Added to NRS by [1987, 172](#); A [1993, 2690](#); [1995, 361](#); [1999, 2028](#); [2015, 1185](#))

NRS 128.110 Order terminating parental rights; preference for placement of child with certain relatives and siblings of child; period for completion of search for relative.

1. Whenever the procedure described in this chapter has been followed, and upon finding grounds for the termination of parental rights pursuant to [NRS 128.105](#) at a hearing upon the petition, the court shall make a written order, signed by the judge presiding in the court, judicially depriving the parent or parents of the custody and control of, and terminating the parental rights of the parent or parents with respect to the child, and declaring the child to be free from such custody or control, and placing the custody and control of the child in some person or agency qualified by the laws of this State to provide services and care to children, or to receive any children for placement. The termination of parental rights pursuant to this section does not terminate the right of the child to inherit from his or her parent or parents, except that the right to inherit terminates if the child is adopted as provided in [NRS 127.160](#).

2. If the child is placed in the custody and control of a person or agency qualified by the laws of this State to receive children for placement, the person or agency, in seeking to place the child:

(a) May give preference to the placement of the child with any person related within the fifth degree of consanguinity to the child whom the person or agency finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(b) Shall, if practicable, give preference to the placement of the child together with his or her siblings.

↪ Any search for a relative with whom to place a child pursuant to this subsection must be completed within 1 year after the initial placement of the child outside of his or her home.

[11:161:1953]—(NRS A [1975, 966](#); [1981, 1755](#); [1991, 1177](#); [1999, 2028](#); [2009, 220](#); [2011, 142](#))

NRS 128.120 Effect of order. Any order made and entered by the court under the provisions of [NRS 128.110](#) is conclusive and binding upon the person declared to be free from the custody and control of his or her parent or parents, and upon all other persons who have been served with notice by publication or otherwise, as provided by this chapter. After the making of the order, except as otherwise provided in [NRS 128.190](#), the court has no power to set aside, change or modify it, but nothing in this chapter impairs the right of appeal.

[12:161:1953]—(NRS A [1981](#), [1756](#); [2007](#), [92](#))

NRS 128.130 Notice to produce; warrant of arrest; contempts. At any time after the filing of the petition, notice may issue requiring any person having the custody or control of such minor person, or the person with whom such person is, to appear with such person at a time and place stated in the notice. In case such notice cannot be served, or the party served fails, without reasonable cause, to obey it, a warrant of arrest shall issue on the order of the court against the person so cited, or against the minor himself or herself, or against both; or, if there is no party to be served with such notice, a warrant of arrest may be issued against the minor person. If any party noticed, as provided for in this section, fails without reasonable cause to appear and abide by the order of the court, or to bring such minor person, such failure shall constitute a contempt of court.

[13:161:1953]

NRS 128.140 Expenses to be county charges. All expenses incurred in complying with the provisions of this chapter shall be a county charge if so ordered by the court.

[14:161:1953]—(NRS A [1975](#), [967](#))

NRS 128.150 Termination of parental rights of father when child becomes subject of adoption.

1. If a mother relinquishes or proposes to relinquish for adoption a child who has:

- (a) A presumed father pursuant to [NRS 126.051](#);
- (b) A father whose relationship to the child has been determined by a court; or
- (c) A father as to whom the child is a legitimate child under [chapter 126](#) of NRS, under prior law of this State or under the law of another jurisdiction,

☞ and the father has not consented to the adoption of the child or relinquished the child for adoption, a proceeding must be brought pursuant to this chapter and a determination made of whether a parent and child relationship exists and, if so, if it should be terminated.

2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

- (a) A presumed father pursuant to [NRS 126.051](#);
- (b) A father whose relationship to the child has been determined by a court;
- (c) A father as to whom the child is a legitimate child under [chapter 126](#) of NRS, under prior law of this State or under the law of another jurisdiction; or
- (d) A father who can be identified in any other way,

☞ or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

3. In an effort to identify and protect the interests of the natural father, the court which is conducting a proceeding pursuant to this chapter shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following:

- (a) Whether the mother was married at the time of conception of the child or at any time thereafter.
- (b) Whether the mother was cohabiting with a man at the time of conception or birth of the child.
- (c) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.
- (d) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.

4. If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 6 or with this chapter, as applicable. If any of them fails to appear or, if appearing, fails to claim custodial rights, such failure constitutes abandonment of the child. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

5. If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child. Subject to the disposition of any appeal, upon the expiration of 6 months after an order terminating parental rights is issued under this subsection, or this chapter, the order cannot be questioned by any person in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice or lack of jurisdiction of the parties or of the subject matter.

6. Notice of the proceeding must be given to every person identified as the natural father or a possible natural father in the manner provided by law and the Nevada Rules of Civil Procedure for the service of process

in a civil action, or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard.

(Added to NRS by [1979, 1277](#); A [2007, 1526](#))

NRS 128.160 Best interest of child in determining consideration in action to set aside termination of parental rights after adoption has been granted; presumption.

1. In any action commenced by the natural parent of a child to set aside a court order terminating the parental rights of the natural parent after a petition for adoption has been granted, the best interests of the child must be the primary and determining consideration of the court.

2. After a petition for adoption has been granted, there is a presumption for the purposes of this chapter that remaining in the home of the adopting parent is in the child's best interest.

(Added to NRS by [1995, 735](#))

NRS 128.170 Restoration of parental rights: Petition; consent of natural parent required.

1. A child who has not been adopted and whose natural parent or parents have had their parental rights terminated or have relinquished their parental rights, or the legal custodian or guardian of such a child, may petition a court for the restoration of the parental rights of the natural parent or parents of the child.

2. The natural parent or parents for whom restoration of parental rights is sought to be restored must consent in writing to the petition.

(Added to NRS by [2007, 90](#))

NRS 128.180 Restoration of parental rights: Notice of hearing; persons required to be personally served with notice; right of such persons to present testimony and evidence.

1. Before a hearing is held on a petition that is filed pursuant to [NRS 128.170](#), the court shall direct the clerk to issue a notice, reciting briefly the substance of the petition and stating the date set for the hearing thereof, and requiring the person served therewith to appear before the court at the time and place if that person desires to provide testimony or evidence concerning the petition.

2. The following persons must be personally served with the notice:

(a) The natural parent or parents for whom parental rights are sought to be restored;

(b) The legal custodian and the legal guardian of the child who is the subject of the petition;

(c) If the parental rights of the natural parent or parents for whom parental rights are sought to be restored were terminated, the person or governmental entity that petitioned for the termination if different from the persons notified pursuant to paragraph (b); and

(d) The attorney of record of the child who is the subject of the petition or, if none, the child.

3. The persons who are served with notice pursuant to subsection 2 must be provided an opportunity to present testimony and evidence during the hearing.

(Added to NRS by [2007, 90](#))

NRS 128.190 Restoration of parental rights: Hearing; required findings to grant petition; effect of order restoring parental rights.

1. If a valid petition is filed pursuant to [NRS 128.170](#), the court shall hold a hearing to determine whether to restore the parental rights of the natural parent or parents.

2. Before granting a petition for the restoration of parental rights, the court must find that:

(a) If any child who is the subject of the petition is 14 years of age or older, the child consents to the restoration of parental rights.

(b) The natural parent or parents for whom restoration of parental rights is sought have been informed of the legal obligations, rights and consequences of the restoration of parental rights and that the natural parent or parents are willing and able to accept such obligations, rights and consequences.

3. If the court finds the necessary facts pursuant to subsection 2, the court shall order the restoration of parental rights if the court further finds by a preponderance of the evidence that:

(a) The child is not likely to be adopted; and

(b) Restoration of parental rights of the natural parent or parents is in the best interests of the child.

4. If the court restores the parental rights of the natural parent or parents of a child who is less than 14 years of age, the court shall specify in its order the factual basis for its findings that it is in the best interests of the child to restore the parental rights of the natural parent or parents.

5. Upon the entry of an order for the restoration of parental rights issued pursuant to this section, any child who is the subject of the petition becomes the legal child of the natural parent or parents whose rights have been restored, and they shall become the child's legal parents on that date with all the rights and duties of parents.

(Added to NRS by [2007, 91](#))

