
SENATE BILL NO. 18—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILD WELFARE AND JUVENILE JUSTICE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to custody of children.
(BDR 11-190)

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 custody of children; requiring a court to consider the abuse of alcohol, a controlled substance or any other legal or illegal substance by a parent when determining the best interest of a child for the purpose of determining custody of the child; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the court to consider and set forth findings on certain
2 factors in determining the best interest of a child for the purpose of determining
3 custody of the child in a domestic relations case. (NRS 125.480) This bill requires
4 the court to specifically consider a parent’s abuse of alcohol, a controlled substance
5 or any other legal or illegal substance in determining the best interest of the child
6 and authorizes the court to require independent corroboration of an allegation of
7 such abuse.

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

1 **Section 1.** NRS 125.480 is hereby amended to read as follows:
2 125.480 1. In determining custody of a minor child in an
3 action brought under this chapter, the sole consideration of the court
4 is the best interest of the child. If it appears to the court that joint



1 custody would be in the best interest of the child, the court may
2 grant custody to the parties jointly.

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

5 3. The court shall award custody in the following order of
6 preference unless in a particular case the best interest of the child
7 requires otherwise:

8 (a) To both parents jointly pursuant to NRS 125.490 or to either
9 parent. If the court does not enter an order awarding joint custody of
10 a child after either parent has applied for joint custody, the court
11 shall state in its decision the reason for its denial of the parent's
12 application.

13 (b) To a person or persons in whose home the child has been
14 living and where the child has had a wholesome and stable
15 environment.

16 (c) To any person related within the fifth degree of
17 consanguinity to the child whom the court finds suitable and able to
18 provide proper care and guidance for the child, regardless of
19 whether the relative resides within this State.

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

22 4. In determining the best interest of the child, the court shall
23 consider and set forth its specific findings concerning, among other
24 things:

25 (a) The wishes of the child if the child is of sufficient age and
26 capacity to form an intelligent preference as to his or her custody.

27 (b) Any nomination by a parent or a guardian for the child.

28 (c) Which parent is more likely to allow the child to have
29 frequent associations and a continuing relationship with the
30 noncustodial parent.

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

32 (e) The ability of the parents to cooperate to meet the needs of
33 the child.

34 (f) The mental and physical health of the parents **[H]**, *including,*
35 *without limitation, the abuse of alcohol, a controlled substance or*
36 *any other legal or illegal substance. The court may require*
37 *independent corroboration of an allegation that a parent is*
38 *abusing alcohol, a controlled substance or any other legal or*
39 *illegal substance.*

40 (g) The physical, developmental and emotional needs of the
41 child.

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

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



1 (j) Any history of parental abuse or neglect of the child or a
2 sibling of the child.

3 (k) Whether either parent or any other person seeking custody
4 has engaged in an act of domestic violence against the child, a
5 parent of the child or any other person residing with the child.

6 (l) Whether either parent or any other person seeking custody
7 has committed any act of abduction against the child or any other
8 child.

9 5. Except as otherwise provided in subsection 6 or NRS
10 125C.210, a determination by the court after an evidentiary hearing
11 and finding by clear and convincing evidence that either parent or
12 any other person seeking custody has engaged in one or more acts of
13 domestic violence against the child, a parent of the child or any
14 other person residing with the child creates a rebuttable presumption
15 that sole or joint custody of the child by the perpetrator of the
16 domestic violence is not in the best interest of the child. Upon
17 making such a determination, the court shall set forth:

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

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

23 6. If after an evidentiary hearing held pursuant to subsection 5
24 the court determines that each party has engaged in acts of domestic
25 violence, it shall, if possible, then determine which person was the
26 primary physical aggressor. In determining which party was the
27 primary physical aggressor for the purposes of this section, the court
28 shall consider:

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

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

32 (c) The likelihood of future injury;

33 (d) Whether, during the prior acts, one of the parties acted in
34 self-defense; and

35 (e) Any other factors which the court deems relevant to the
36 determination.

37 ➤ In such a case, if it is not possible for the court to determine
38 which party is the primary physical aggressor, the presumption
39 created pursuant to subsection 5 applies to both parties. If it is
40 possible for the court to determine which party is the primary
41 physical aggressor, the presumption created pursuant to subsection 5
42 applies only to the party determined by the court to be the primary
43 physical aggressor.

44 7. A determination by the court after an evidentiary hearing
45 and finding by clear and convincing evidence that either parent or



1 any other person seeking custody has committed any act of
2 abduction against the child or any other child creates a rebuttable
3 presumption that sole or joint custody or unsupervised visitation of
4 the child by the perpetrator of the abduction is not in the best
5 interest of the child. If the parent or other person seeking custody
6 does not rebut the presumption, the court shall not enter an order for
7 sole or joint custody or unsupervised visitation of the child by the
8 perpetrator and the court shall set forth:

9 (a) Findings of fact that support the determination that one or
10 more acts of abduction occurred; and

11 (b) Findings that the custody or visitation arrangement ordered
12 by the court adequately protects the child and the parent or other
13 person from whom the child was abducted.

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

16 (a) A conviction of the defendant of any violation of NRS
17 200.310 to 200.340, inclusive, or 200.359 or a law of any other
18 jurisdiction that prohibits the same or similar conduct;

19 (b) A plea of guilty or nolo contendere by the defendant to any
20 violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law
21 of any other jurisdiction that prohibits the same or similar conduct;
22 or

23 (c) An admission by the defendant to the court of the facts
24 contained in the charging document alleging a violation of NRS
25 200.310 to 200.340, inclusive, or 200.359 or a law of any other
26 jurisdiction that prohibits the same or similar conduct.

27 9. If, after a court enters a final order concerning custody of the
28 child, a magistrate determines there is probable cause to believe that
29 an act of abduction has been committed against the child or any
30 other child and that a person who has been awarded sole or joint
31 custody or unsupervised visitation of the child has committed the
32 act, the court shall, upon a motion to modify the order concerning
33 custody, reconsider the previous order concerning custody pursuant
34 to subsections 7 and 8.

35 10. As used in this section:

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

39 (b) "Domestic violence" means the commission of any act
40 described in NRS 33.018.

