

PACIFIC JUSTICE INSTITUTE –
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SUBMITTED AS WRITTEN TESTIMONY VIA NEVADA LEGISLATURE EMAIL PORTAL

April 23, 2021

SENATE COMMITTEE ON THE JUDICIARY
Legislative Building, Room 2135
401 S. Carson St.
Carson City, NV 89701

Re: Assembly Bill No. 115 – Oppose

Dear Chair and Honorable Members of this Senate Committee on the Judiciary:

Please consider this the formal opposition statement to Assembly Bill No. 115 (A.B. 115) first heard on February 26, 2021 by the Assembly Committee on the Judiciary (BDR 11-118), including Amendment 466 dated April 19, 2021, on behalf of Pacific Justice Institute – Center for Public Policy. A.B. 115 would dramatically revise existing law governing the adoption of children (NRS 127.030) with a proposal to radically recast the definition of a parent-child relation by (1) allowing for three or more adults to legally adopt a child and (2) literally eliminating the terms “mother” and “father” throughout existing law. Both of these changes are deeply problematic as a matter of public policy because A.B. 115 is *not* in the best interest of a child and is *not* legally practical as it will impose an undue burden on the judiciary system as a whole and family courts in particular.

BACKGROUND

With respect to the requirements for adoption, according to the Legislative Counsel’s Digest:

- “Existing law authorizes any adult or married couple to petition a court for the adoption of a child. (NRS 127.030) Section 5.2 of **this bill instead provides that one or more adults may petition a court for the adoption of a child** and requires that each prospective adopting adult and legal parent seeking to retain his or her parental rights be joined as a petitioner.” (emphasis added)
- “Sections 5.1, 5.3-5.69 and 5.7-5.85 of this bill make conforming changes to reflect that **a child may have a legal relationship with more than two parents.**” (emphasis added)
- “Section 8 of this bill generally provides that, for the purposes of the Nevada Revised Statutes, if more than two persons have a parent and child relationship with a child pursuant to a prior court order, **any reference to the parents of a child or a parent of a child must be interpreted to include any person whom a court has determined to be a parent of the child.**” (emphasis added)

ARGUMENTS IN OPPOSITION

Redefining the Parent-Child Relationship

A.B. 115 re-writes the definition of the parent-child relationship. Existing law already recognizes the legal status of adoptive parents, as well as the legal rights that exist between a child and his or her natural parents, that is, the child's biological mother and father: "The liberty interest of a parent in the care, custody and management of the parent's child is a fundamental right."¹ What this Bill does, however, is radically re-define the parent-child relationship to ask the courts to allow a group of adults (three or more) to have a legally recognized parent-child relationship:

"Parent and child relationship" means the legal relationship existing between a child and his or her natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations. It includes the mother and child relationship and the father and child relationship. *This subsection does not preclude a determination by a court that a child has such a legal relationship with more than two persons.*² (emphasis added)

This expanded definition is not in the best interest of the child. The Bill offers no functional framework in which a court is to apply this expanded definition. There is literally no basis on which a court is to make this determination. Moreover, the Bill provides no mechanism through which the legal system is to apply the "rights, privileges, duties and obligations" to three, five or any number of adults deemed to be in a parent-child relationship. The importance of family – and extended family – relationships is not at issue. The question is whether a *legal relationship* needs to be established and formalized through the courts in order to protect the best interest of the child. Without any working definition for a legal operable tri-plus parent-child relationship, the result can only be confusion for a child with respect to living situation, daily routine, support, and stability.

Indeed, section 8 of A.B. 115 requires that its new, but ill-defined, parent-child relationship apply to the whole of the NRS:

"Notwithstanding any other provision of law and unless any of the following interpretations is not possible given the context in which a reference is used or a particular statute expressly provides otherwise, if... A parent of a child, including, without limitation, a reference to either parent of a child, a natural parent of a child or a father or mother of a child, must be interpreted to include any person whom a court has determined to be a parent of the child."³ (emphasis added)

There is no further detail provided on how to implement such a sweeping change to the entirety of the NRS. Nonetheless, A.B. 115 seeks to impose its amorphous concept of the parent-child relationship for a group of adults across all parent-child law in Nevada. This is legislatively clumsy at best and legally impracticable—threatening disastrous results for children already caught in a congested, contracted and often contested process of family law.

¹ NRS §126.036; *see also*, NRS §§ 126.021, 126.041.

² A.B. 115, §3(3).

³ A.B. 115, §8(1).

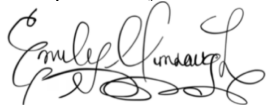
Further, the Bill inexplicably seeks to eliminate references to “mother”⁴ and “father,”⁵ without explanation or reason. This only creates confusion without reason as to why a mother is not a mother but rather the “person who gave birth.”⁶

Additionally, the Bill makes a cursory reference regarding the potential that a child to be adopted may be “currently experiencing victimization from human trafficking, exploitation or abuse.”⁷ We strongly support additional safeguards for children, but this Bill’s proposed remedy falls for short. The only additional measure provided for children by A.B. 115 is a simple “**statement that there are no known signs**” of such child abuse by the group of adults petitioning to adopt a child. A *mere statement as to known signs* cannot possibly be considered an adequate protection to prevent against child abuse before granting legal recognition and status to the relationship between a group of adults and a child. We strongly object to such perfunctory protections and advocate for meaningful and substantially more robust provisions: background checks, welfare home visits, and character affidavits with respect to a group of adults are but a start to the protection children deserve in order to shield them from sexual exploitation and abuse.

CONCLUSION

We urge you to reject this ill-advised measure that is not in the best interest of children and will launch Nevada into unknown territory without adequate legal consideration or safeguards for children.

Respectfully submitted,



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⁴ A.B. 115, §§5.4, 5.5, 5.6(1), (2), (2)(b).

⁵ A.B. 115, §§5.6(2), (2)(a)

⁶ A.B. 115, §§5.4, 5.5, 5.6(1), (2), (2)(b). Compare the Bill’s proposed revisions with the existing law’s recognition and consistent use of the terms “natural mother” and “natural father” through the NRS, §126.021, *et seq.*

⁷ A.B. 115, §5.65(2)(j).