

Blind Persons Right to Parent Act

To prohibit discrimination against the blind in guardianship, adoption, custody or visitation proceedings

A BILL

For purposes of prohibiting a court, when making a disposition on guardianship, custody or visitation proceedings, from solely considering the blindness of a child's parent, guardian, or custodian; For prohibiting a local department of social services, a guardian, or a child placement agency from withholding consent to an adoption solely because a prospective adoptive parent is blind; For prohibiting a court from denying an adoption petition solely because the petitioner is blind; and for requiring the Social Services Administration to adopt regulations prohibiting a local department from taking actions solely because a child's parent or guardian is blind.

Be it enacted by the legislature of the state of Nevada assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Blind Persons Right to Parent Act."

SECTION 2. FINDINGS.

The legislature finds the following:

- (1) All blind Americans have the right to found a family, to freely and responsibly decide on the number and spacing of their children, and to retain the custody of their offspring on an equal basis with others. This right to parent is rooted in the due process clause of the Fourteenth Amendment; however, blind people are often stripped of these constitutional rights when state statutes, judicial decisions, and child welfare practices are based on the presumption that blindness automatically means parental incompetence.
- (2) The presumption that blindness automatically means parental incompetence is a misconception. Given the proper tools and education, blindness can be reduced to a physical nuisance. Because many sighted people do not understand the techniques that blind people use to accomplish everyday tasks, sighted judges, social workers, and state officials assume that those tasks cannot be completed by a blind person. Using alternative techniques, blind people are capable of living independent, productive lives, which include providing safe and loving homes for their children. For example, blind people put small tactile dots over markers on stoves, washing machines, and other flat surfaces so that they can independently

operate those devices. Specific to raising children, blind parents may have their young children wear a small bell on their shoes so the child's location can be known to the parents. Blind parents will also pull a stroller behind them rather than push the stroller in front of them so their long white cane or guide dog will find obstacles or enter an intersection before the child and stroller.

- (3) When sighted parents are involved in a guardianship, custody or visitation proceeding, their parental capabilities and how those capabilities affect the best interest of the child are thoroughly evaluated through a careful review of evidence. Too often, however, judges summarily dismiss a blind parent's capabilities under the misconception that blind people are incapable of most anything, despite evidence on record proving otherwise. Blind parents involved in these proceedings must first overcome any bias or low expectations of the judge, and then also provide evidence negating those misconceptions above and beyond the normal burden placed on sighted parents.
- (4) Widespread misconceptions about blindness often trigger a state agency to act, unsolicited, against the wishes of a blind parent. One of many countless, devastating reports of discrimination occurred in 2010, when the state of Missouri wrongfully deemed a blind couple unable to care for their 2-day old daughter, who remained in protective custody until the family was reunited after a 57-day battle. These parents had done nothing to demonstrate parental incompetence other than happening to have had a child and been blind, and yet the agency solely considered their blindness and decided to take action. In fact, in the Missouri case and many others, the parents had voluntarily contacted social service officials themselves in order to seek advice and assistance and to ensure that all of their child's needs were being met, but instead found themselves stripped of custody. Thus, hasty actions on the part of state social welfare officials can discourage blind parents from seeking services and assistance for which they and their children are eligible.
- (5) During custody proceedings in cases of divorce, where one parent is blind and the other parent is sighted, the sighted parent will often try to use the other parent's blindness as a tool to deny the blind parent custodial rights. Because custody proceedings related to a divorce are often hostile, the court should demand that each party demonstrate evidence of the other party's incompetence. However, courts often assume that the sighted party is accurate in portraying the blind parent as incompetent, and make custody and visitation decisions based solely on the fact that one parent is blind. These decisions can range from limiting or denying visitation unless a sighted person is present at all times to simply denying the blind parent all custodial rights. This is not only discriminatory; it denies the blind parent a fair chance at custody and opens courts to manipulation.

SECTION 3. CONSIDERATION OF BLINDNESS DURING GUARDIANSHIP, CUSTODY OR VISITATION PROCEEDINGS

- 1) In making a disposition on guardianship, custody or visitation proceedings where a party is blind, the court may not deny that party solely because that party is blind. The blindness of the party is relevant only to the extent that the court finds, based on evidence in the record, that the blindness affects the best interest of the child.

SECTION 4. CONSIDERATION OF BLINDNESS IN CASES OF ADOPTION

- 1) Consent to adoption – When a local department of social services, a guardian, or a child placement agency considers an adoption petition, the department, guardian, or child placement agency may not deny the petition solely because the petitioner is blind.
- 2) Adoption proceedings – In making a disposition on an adoption petition where the petitioner is blind, the court may not deny the petition solely because the petitioner is blind. The blindness of the petitioner is relevant only to the extent that the court finds, based on evidence in the record, that the blindness affects the best interest of the child.

SECTION 5. CONSIDERATION OF BLINDNESS BY THE SOCIAL SERVICES ADMINISTRATION

- 1) Regulations – Within...time of the passage of this Act, the Administration shall adopt regulations that prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian is blind.

SECTION 6. DEFINITION OF BLINDNESS

- 1) For purposes of this act, the term 'blind' or 'blindness' means —
 - (A) Vision that is 20/200 or less in the best corrected eye, or
 - (B) Vision that subtends an angle of not greater than 20 degrees in the best corrected eye.