

CHAPTER 128 - TERMINATION OF PARENTAL RIGHTS

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SECTION 128.005 Ely Shoshone declaration and findings.

1. The Tribal Council declares that the preservation and strengthening of family life is a part of the public policy of this Reservation.

PURSUANT TO **25 USCS** § 1911. Indian tribe jurisdiction over Indian child custody proceedings

(a) Exclusive jurisdiction. An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in

the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Transfer of proceedings; declination by tribal court. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, that such transfer shall be subject to declination by the tribal court of such tribe.

(c) State court proceedings; intervention. In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes. The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

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

SECTION 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.

SECTION 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 his 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 he is found, the parent or parents are presumed to have intended to abandon the child.

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

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

SECTION 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 Tribe or a private person or department to return the child to his home.

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

SECTION 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.).

SECTION 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 [SECTION 432B.100](#);
 - (c) Neglects or refuses to provide for the child proper or necessary subsistence, education or medical or surgical care, although he 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 department which provides child welfare services; or
2. A child’s health or welfare is not considered injured solely because his parent or guardian, in the practice of his religious beliefs, selects and depends upon nonmedical remedial treatment for the child, if such treatment is recognized and permitted under the laws of this tribe.

SECTION 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 his ability to function within his normal range of performance and behavior.

SECTION 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 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 his health, morals or well-being;
3. Whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by his 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 himself or others,
↳ and the parent’s neglect need not be willful.

SECTION 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, including rights of inheritance.
2. As used in this section, “parent” includes an adoptive parent.

SECTION 128.0155 “Plan” defined. “Plan” means:

1. A written agreement between the parents of a child who is subject to the jurisdiction of Tribal Court and the Department having custody of the child; or
2. Written conditions and obligations imposed upon the parents directly by the tribal 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.

SECTION 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.

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

SECTION 128.030 Place for filing petition. A petition alleging that there is or resides within the county a child who should be declared free from the custody and control of his parent or parents may be filed at the election of the petitioner in:

SECTION 128.040 Who may file petition; investigation. The department 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 tribe or department or person designated by the court shall make such investigations at any stage of the proceedings as the court may order or direct.

SECTION 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 his parents.
 - (d) The name and residence of the person or persons having physical custody or control of the child.
 - (e) The name and residence of his legal guardian, if there is one.
 - (f) The name and residence of the child’s nearest known relative residing within the Reservation or other reservation, 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.

SECTION 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.

SECTION 128.060 Notice of hearing; Contents; personal service to certain persons; petitioner to mail notice to Department of Health and Human Services if he 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. The following persons must be personally served with the notice:
 - (a) The father or mother of the minor person, if residing within this service area, and if his or her place of residence is known to the petitioner, or, if there is no parent so residing, or if the place of residence of the father or mother is not known to the petitioner, then the nearest known relative of that person, if there is any residing within the Reservation or other reservation, and if his residence and relationship are known to the petitioner; and
 - (b) The minor’s legal custodian or guardian, if residing within this Reservation or other reservation and if his 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 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.

SECTION 128.070 Service of notice of hearing by publication.

1. When the father or mother of a minor child or the child's legal custodian or guardian resides off the Reservation or service area, has departed from the Reservation, or cannot, after due diligence, be found within the Reservation, 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 father or mother 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 father or mother or custodian or guardian resides off the Reservation, and his or her present address 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 off this Reservation 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;

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

(e) The affiant does not know and has never been informed and has no reason to believe that the person now resides ON this Reservation.

➤ In such case, it shall be presumed that the person still resides and remains off the Reservation, and the affidavit shall be deemed to be a sufficient showing of due diligence to find the father or mother or 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. In case of publication, where the residence of a nonresident or absent father or mother or custodian or guardian is known, the court shall also direct a copy of the notice of hearing and petition to be deposited in the post office, directed to the person to be served at his place of residence. When publication is ordered, personal service of a copy of the notice of hearing and petition, OFF the Reservation, is equivalent to completed service by publication and deposit in the post office, 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, and in cases when a deposit of a copy of the notice of hearing and petition in the post office is also required, at the expiration of 4 weeks from the deposit.

3. Personal service outside the Reservation upon a father or mother over the age of 18 years or upon the minor's legal custodian or guardian may be made in any action where the person served is a resident of this Reservation. When the facts appear, by affidavit, to the satisfaction of the court, and it appears, either by affidavit or by a verified petition on file, that the person in respect to whom the service is to be made is a necessary or proper party to the proceedings, the court may grant an order that the service be made by personal service outside the Reservation. The service must be made by delivering a copy of the notice of hearing together with a copy of the petition in person to the person served. The methods of service are cumulative, and may be utilized with, after or independently of other methods of service.

4. Whenever personal service cannot be made, the court may require, before ordering service by publication or by publication and mailing, 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 his parents 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 the father or the mother of the person, and to all persons claiming to be the father or mother of the person. The notice, after the caption, must be addressed substantially as follows: "To the father and mother of the above-named person, and to all persons claiming to be the father or mother of that person."

SECTION 128.080 Form of notice. The notice must be in substantially the following form:

In the Ely Shoshone Tribal Court in the State of Nevada,

in and for the County of White Pine

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

Notice

To, the father or, the mother of the above-named person; or, to the father and mother of the above-named person, and to all persons claiming to be the father or mother 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

SECTION 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 [SECTION 128.060](#), [128.070](#) and [128.080](#). The hearing shall not be held until the birth of the child or 6 months after the filing of the petition, whichever is later.

SECTION 128.090 Hearing: Time; procedure; evidence; postponement; closed court.

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 [SECTION 432.0999](#) to [432.130](#), of the Nevada Revised Statutes inclusive, or chapter [432B](#) 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.

USE THE LANGUAGE REQUIRED BY THE INDIAN CHILD WELFARE ACT FOR THE TERMINATION OF PARENTAL RIGHTS

PURSUANT TO THE INDIAN CHILD WELFARE ACT §1913.

Parental rights; voluntary termination

(a) Consent; record; certification matters; invalid consents. Where any parent or Indian custodian voluntarily consents to An ADOPTION, to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Foster care placement; withdrawal of consent. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) Collateral attack; vacation of decree and return of custody; limitations. After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SECTION 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.

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

1. Engages in conduct that violates any provision of [SECTION 200.463](#), [200.464](#) or [200.465](#) of the Nevada Revised Statutes; or
2. Voluntarily delivers a child to a provider of emergency services pursuant to [SECTION 432B.630](#),
↳ the parent is presumed to have abandoned the child.

SECTION 128.105 Grounds for terminating parental rights: Considerations; required findings. 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 [SECTION 128.106](#) to [128.109](#), inclusive, and based on evidence and include a finding that:

1. The best interests of the child would be served by the termination of parental rights; and
2. The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of [SECTION 432B.393](#) or demonstrated at least one of the following:
 - (a) Abandonment of the child;
 - (b) Neglect of the child;

- (c) Unfitness of the parent;
- (d) Failure of parental adjustment;
- (e) Risk of serious physical, mental or emotional injury to the child if he were returned to, or remains in, the home of his parent or parents;
- (f) Only token efforts by the parent or parents:
 - (1) To support or communicate with the child;
 - (2) To prevent neglect of the child;
 - (3) To avoid being an unfit parent; or
 - (4) To eliminate the risk of serious physical, mental or emotional injury to the child; or
- (g) With respect to termination of the parental rights of one parent, the abandonment by that parent.

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

1. 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 [SECTION 128.109](#) apply to the case if the child has been placed outside his home pursuant to chapter [432B](#).
2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.
3. Conduct that violates any provision of [SECTION 200.463](#), [200.464](#) or [200.465](#) of the Nevada Revised Statutes.
4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.
5. 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 his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.
6. Conviction of the parent for commission of a **Category A offense**, 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.
7. Unexplained injury or death of a sibling of the child.
8. Inability of appropriate department to reunite the family despite reasonable efforts on the part of the department.

SECTION 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 his desires regarding the termination, if the court determines he is of sufficient capacity to express his 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 him to his 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.

SECTION 128.108 Specific considerations where child has been placed in foster home. If a child is in the ward of the court and has been placed and resides in a foster home and the custodial department institutes

proceedings pursuant to this chapter regarding the child, with an ultimate goal of having the child's foster parent or parents adopt him, the court shall consider whether the child has become integrated into the foster family to the extent that his 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 his 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 he 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.

SECTION 128.109 Determination of conduct of parent; presumptions.

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

(a) If the child has resided outside of his 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 paragraph (f) of subsection 2 of [SECTION 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 paragraph (d) of subsection 2 of [SECTION 128.105](#).

2. If a child has been placed outside of his home pursuant to chapter [432B](#) and has resided outside of his 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 tribe to provide services to the family.

SECTION 128.110 Order terminating parental rights; preference for placement of child with certain relatives and his siblings; 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 [SECTION 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 tribe to provide services and care to children, or to receive any children for placement.

2. If the child is placed in the custody and control of a person or department qualified by the laws of this department 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 third degree of consanguinity to the child whom the person or department finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this service area.

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

SECTION 128.120 Effect of order. Any order made and entered by the court under the provisions of [SECTION 128.110](#) is conclusive and binding upon the person declared to be free from the custody and control of his 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, the court has no power to set aside, change or modify it, but nothing in this chapter impairs the right of appeal.

SECTION 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 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.

SECTION 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 under subsection 1 of [SECTION 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](#), under prior law of this tribe 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 under subsection 1 of [SECTION 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](#), under prior law of this tribe 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 department 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 of this section 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.

SECTION 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.