

ASSEMBLY BILL NO. 154—ASSEMBLYMEN BUCKLEY, CARPENTER, OHRENSCHALL,
LESLIE, GUSTAVSON, KOIVISTO, ANGLE, MCCLAIN, CLABORN, COLLINS,
NOLAN, MANENDO AND ANDERSON

FEBRUARY 8, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to assignment of certain cases in family court and allows parties in divorce actions to make offers of judgment concerning property rights. (BDR 1-874)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 family law; revising the provisions relating to the assignment of certain cases in family court; requiring the chief judge to assign certain cases in family court that involve the same parties or children to the same department; requiring a party who files the initial pleading in family court to provide certain information concerning other cases in family court; allowing parties in divorce actions to make offers of judgment concerning property rights; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 3 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 to 7, inclusive, of this act.
3 **Sec. 2.** *As used in this chapter, unless the context otherwise requires,*
4 *the words and terms defined in sections 3 to 6, inclusive, of this act have*
5 *the meanings ascribed to them in those sections.*
6 **Sec. 3.** *“Chief judge” means a district judge who is chosen as the*
7 *chief judge of a judicial district pursuant to NRS 3.025.*
8 **Sec. 4.** *“Department of the family court” means any department of*
9 *the district court that is designated as a department of the family court*
10 *pursuant to NRS 3.012 or 3.018.*
11 **Sec. 5.** *“Family court” and “family division” mean the division of*
12 *the district court that is established as a family court pursuant to NRS*
13 *3.0105.*

1 **Sec. 6.** *“Jurisdiction of the family court” means the jurisdiction of*
2 *the family court that is established in NRS 3.223.*

3 **Sec. 7.** *In each judicial district that includes a county whose*
4 *population is 100,000 or more:*

5 1. *The clerk of the district court shall develop an information form*
6 *for family court. The information form for family court must be:*

7 (a) *Approved by the chief judge; and*

8 (b) *Used to obtain the information described in subsection 2 from a*
9 *party who files the initial pleading in a case that involves a matter within*
10 *the jurisdiction of the family court.*

11 2. *A party may not file in the district court the initial pleading in a*
12 *case that involves a matter within the jurisdiction of the family court*
13 *unless, at the same time that the party files the initial pleading, the party*
14 *files an information form for family court which is signed by the party,*
15 *his attorney or other legal representative and which specifies:*

16 (a) *Whether the party is also a party in any other pending case or was*
17 *a party in any other previously decided case assigned to a department of*
18 *the family court in the judicial district;*

19 (b) *Whether any other party in the initial pleading is also a party in*
20 *any other pending case or was a party in any other previously decided*
21 *case assigned to a department of the family court in the judicial district;*

22 (c) *Whether a child involved in the case is also involved in any other*
23 *pending case or was involved in any other previously decided case*
24 *assigned to a department of the family court in the judicial district, other*
25 *than a case within the jurisdiction of the juvenile court pursuant to*
26 *chapter 62 of NRS; and*

27 (d) *Any other information that the chief judge determines must be*
28 *provided on the information form for family court, including, without*
29 *limitation, any other information concerning a case described in*
30 *paragraph (a), (b) or (c).*

31 3. *The chief judge and the clerk of the district court shall use the*
32 *information provided on the information form for family court to assign*
33 *cases to a department of the family court in accordance with subsection 3*
34 *of NRS 3.025.*

35 **Sec. 8.** NRS 3.0105 is hereby amended to read as follows:

36 3.0105 1. There is hereby established, in each judicial district that
37 includes a county whose population is 100,000 or more, a family court as a
38 division of the district court.

39 2. If the caseload of the family court so requires, the ~~presiding judge~~
40 ~~of the district, or the district judges by mutual consent in a district in which~~
41 ~~there is no presiding judge,~~ **chief judge** may assign one or more **district**
42 judges of the **judicial** district to act temporarily as judges of the family
43 court.

3. If for any reason a judge of the family court is unable to act, any other district judge of the judicial district may be assigned as provided in subsection 2 to act temporarily as judge of the family court.

4. A **district** judge assigned to the family court pursuant to subsection 2 or 3 for a period of 90 or more days must attend the instruction required pursuant to subsection 1 of NRS 3.028. ~~Judges~~ **District judges** must not be assigned to the family court pursuant to subsections 2 and 3 on a rotating basis.

Sec. 9. NRS 3.025 is hereby amended to read as follows:

3.025 1. ~~[For the second and eighth judicial districts,]~~ **In each judicial district that includes a county whose population is 100,000 or more,** the district judges **of that judicial district** shall ~~[, on the first judicial day of each year,]~~ choose from among ~~[the judges of each district a]~~ **those district judges a chief judge who is to be the** presiding judge of the **judicial** district.

2. The ~~[presiding judge of the district]~~ **chief judge** shall:

(a) Assign cases to each judge in the **judicial** district;

(b) Prescribe the hours of court; ~~and~~

(c) Adopt such other rules or regulations as are necessary for the orderly conduct of court business ~~;~~

~~3. On or before the 15th day of the month following, the presiding judge of the district] ; and~~

(d) Perform all other duties of the chief judge or of a presiding judge that are set forth in this chapter and any other provision of NRS.

3. **If a case involves a matter within the jurisdiction of the family court and:**

(a) The parties to the case are also the parties in any other pending case or were the parties in any other previously decided case assigned to a department of the family court in the judicial district; or

(b) A child involved in the case is also involved in any other pending case or was involved in any other previously decided case assigned to a department of the family court in the judicial district, other than a case within the jurisdiction of the juvenile court pursuant to chapter 62 of NRS,

the chief judge shall assign the case to the department of the family court to which the other case is presently assigned or, if the other case has been decided, to the department of the family court that decided the other case, unless a different assignment is required by another provision of NRS, a court rule or the Nevada Code of Judicial Conduct or the chief judge determines that a different assignment is necessary because of considerations related to the management of the caseload of the district judges within the judicial district.

1 **4. Not later than 15 days after the last day of each month, the chief**
2 **judge** shall submit ~~[a written report]~~ to the clerk of the supreme court ~~[each~~
3 ~~month, showing:] a written report that shows:~~

4 (a) Those cases which are pending and undecided and to which judge
5 the cases have been assigned;

6 (b) The type and number of cases each judge considered during the
7 preceding month;

8 (c) The number of cases submitted to each judge during the preceding
9 month;

10 (d) The number of cases decided by each judge during the preceding
11 month; and

12 (e) The number of full judicial days in which each judge appeared in
13 court or in chambers in performance of his duties during the preceding
14 month.

15 **Sec. 10.** Chapter 125 of NRS is hereby amended by adding thereto a
16 new section to read as follows:

17 **1. In any action for divorce, at any time more than 10 days before**
18 **trial, a party may serve upon the opposing party a written offer to allow**
19 **judgment concerning the property rights of the parties to be taken in**
20 **accordance with the terms and conditions of the offer.**

21 **2. If an offer of judgment is accepted by the opposing party and**
22 **approved by the court and a divorce is granted:**

23 **(a) The court shall enter judgment concerning the property rights of**
24 **the parties in accordance with the terms and conditions of the offer; and**

25 **(b) The judgment of the court shall be deemed an agreement by the**
26 **parties settling their property rights.**

27 **3. If an offer of judgment is not accepted by the opposing party**
28 **before trial or within 10 days after it is made, whichever occurs first, the**
29 **offer shall be deemed withdrawn and cannot be given in evidence upon**
30 **the trial. The failure of a party to accept an offer of judgment does not**
31 **preclude either party from making another offer pursuant to this section.**

32 **4. If a party who does not accept an offer of judgment fails to obtain**
33 **a more favorable judgment at trial concerning the property rights of the**
34 **parties, the court:**

35 **(a) May not award to the party any costs or attorney's fees that are**
36 **attributable to the litigation concerning the property rights of the parties;**

37 **(b) Shall order the party to pay to the opposing party the taxable costs**
38 **incurred by the opposing party that are attributable to the litigation**
39 **concerning the property rights of the parties; and**

40 **(c) May order the party to pay to the opposing party any of the**
41 **following:**

42 **(1) A reasonable sum to cover any costs incurred by the opposing**
43 **party for each expert witness whose services were reasonably necessary**

1 *in preparing for and conducting the litigation concerning the property*
2 *rights of the parties.*

3 *(2) Reasonable attorney's fees incurred by the opposing party in*
4 *preparing for and conducting the litigation concerning the property*
5 *rights of the parties.*

6 *5. Any taxable costs or attorney's fees that are awarded must not be*
7 *considered to be part of the judgment concerning the property rights of*
8 *the parties when determining whether that judgment is more favorable*
9 *than the offer of judgment which was not accepted.*

10 *6. The provisions of this section do not apply to any offer of*
11 *judgment by a party concerning the custody of a child, the support of a*
12 *child or the support of a spouse.*

13 **Sec. 11.** NRS 125.150 is hereby amended to read as follows:

14 125.150 Except as otherwise provided in NRS 125.155 and unless the
15 action is contrary to a premarital agreement between the parties which is
16 enforceable pursuant to chapter 123A of NRS:

17 1. In granting a divorce, the court:

18 (a) May award such alimony to the wife or to the husband, in a
19 specified principal sum or as specified periodic payments, as appears just
20 and equitable; and

21 (b) Shall, to the extent practicable, make an equal disposition of the
22 community property of the parties, except that the court may make an
23 unequal disposition of the community property in such proportions as it
24 deems just if the court finds a compelling reason to do so and sets forth in
25 writing the reasons for making the unequal disposition.

26 2. Except as otherwise provided in this subsection, in granting a
27 divorce, the court shall dispose of any property held in joint tenancy in the
28 manner set forth in subsection 1 for the disposition of community property.
29 If a party has made a contribution of separate property to the acquisition or
30 improvement of property held in joint tenancy, the court may provide for
31 the reimbursement of that party for his contribution. The amount of
32 reimbursement must not exceed the amount of the contribution of separate
33 property that can be traced to the acquisition or improvement of property
34 held in joint tenancy, without interest or any adjustment because of an
35 increase in the value of the property held in joint tenancy. The amount of
36 reimbursement must not exceed the value, at the time of the disposition, of
37 the property held in joint tenancy for which the contribution of separate
38 property was made. In determining whether to provide for the
39 reimbursement, in whole or in part, of a party who has contributed separate
40 property, the court shall consider:

41 (a) The intention of the parties in placing the property in joint tenancy;

42 (b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

As used in this subsection, "contribution" includes a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. ~~Whether~~ *Except as otherwise provided in section 10 of this act, whether* or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue under the pleadings.

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

1 8. In granting a divorce the court shall consider the need to grant
2 alimony to a spouse for the purpose of obtaining training or education
3 relating to a job, career or profession. In addition to any other factors the
4 court considers relevant in determining whether such alimony should be
5 granted, the court shall consider:

6 (a) Whether the spouse who would pay such alimony has obtained
7 greater job skills or education during the marriage; and

8 (b) Whether the spouse who would receive such alimony provided
9 financial support while the other spouse obtained job skills or education.

10 9. If the court determines that alimony should be awarded pursuant to
11 the provisions of subsection 8:

12 (a) The court, in its order, shall provide for the time within which the
13 spouse who is the recipient of the alimony must commence the training or
14 education relating to a job, career or profession.

15 (b) The spouse who is ordered to pay the alimony may, upon changed
16 circumstances, file a motion to modify the order.

17 (c) The spouse who is the recipient of the alimony may be granted, in
18 addition to any other alimony granted by the court, money to provide for:

19 (1) Testing of the recipient's skills relating to a job, career or
20 profession;

21 (2) Evaluation of the recipient's abilities and goals relating to a job,
22 career or profession;

23 (3) Guidance for the recipient in establishing a specific plan for
24 training or education relating to a job, career or profession;

25 (4) Subsidization of an employer's costs incurred in training the
26 recipient;

27 (5) Assisting the recipient to search for a job; or

28 (6) Payment of the costs of tuition, books and fees for:

29 (I) The equivalent of a high school diploma;

30 (II) College courses which are directly applicable to the recipient's
31 goals for his career; or

32 (III) Courses of training in skills desirable for employment.

33 **Sec. 12.** The amendatory provisions of sections 10 and 11 of this act
34 apply to all actions for divorce that are filed on or after October 1, 1999,
35 and to all actions for divorce that are pending on or after October 1, 1999,
36 regardless of when the action was filed.