

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—Makes various changes concerning family law. (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 ~~for 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; revising the provisions governing contempt in certain cases involving family law; allowing parties in divorce actions to make offers of judgment concerning property rights under certain circumstances; 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.*

1 **Sec. 5. “Family court” and “family division” mean the division of**
2 **the district court that is established as a family court pursuant to NRS**
3 **3.0105.**

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

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

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

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

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

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

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

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

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

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

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

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

39 3.0105 1. There is hereby established, in each judicial district that
40 includes a county whose population is 100,000 or more, a family court as a
41 division of the district court.

42 2. If the caseload of the family court so requires, the ~~presiding judge~~
43 ~~of the district, or the district judges by mutual consent in a district in which~~

1 ~~there is no presiding judge,]~~ **chief judge** may assign one or more **district**
2 judges of the **judicial** district to act temporarily as judges of the family
3 court.

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

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

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

13 3.025 1. ~~[For the second and eighth judicial districts,]~~ **In each**
14 **judicial district that includes a county whose population is 100,000 or**
15 **more,** the district judges **of that judicial district** shall ~~[, on the first judicial~~
16 ~~day of each year,]~~ choose from among ~~[the judges of each district a]~~ **those**
17 **district judges a chief judge who is to be the** presiding judge of the
18 **judicial** district.

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

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

21 (b) Prescribe the hours of court; ~~[and]~~

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

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

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

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

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

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

38 **the chief judge shall assign the case to the department of the family court**
39 **to which the other case is presently assigned or, if the other case has been**
40 **decided, to the department of the family court that decided the other case,**
41 **unless a different assignment is required by another provision of NRS, a**
42 **court rule or the Nevada Code of Judicial Conduct or the chief judge**
43 **determines that a different assignment is necessary because of**

1 *considerations related to the management of the caseload of the district*
2 *judges within the judicial district. If a case described in this subsection is*
3 *heard initially by a master, the recommendation, report or order of the*
4 *master must be submitted to the district judge of the department of the*
5 *family court to which the case has been assigned pursuant to this*
6 *subsection for consideration and decision by that district judge.*

7 **4.** *Not later than 15 days after the last day of each month, the chief*
8 *judge shall submit ~~{a written report}~~ to the clerk of the supreme court ~~{each~~*
9 *month, showing:} a written report that shows:*

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

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

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

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

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

21 **Sec. 10.** NRS 22.030 is hereby amended to read as follows:

22 22.030 1. ~~{When}~~ *If* a contempt is committed in the immediate view
23 and presence of the court or judge at chambers, ~~{it}~~ *the contempt* may be
24 punished summarily . ~~{, for which}~~ *If the court or judge summarily*
25 *punishes a person for a contempt pursuant to this subsection, the court*
26 *or judge shall enter* an order ~~{shall be made, reciting}~~ *that:*

27 (a) *Recites* the facts ~~{as occurring in such}~~ *constituting the contempt in*
28 *the* immediate view and presence ~~{, adjudging that}~~ *of the court or judge;*

29 (b) *Finds* the person ~~{proceeded against is thereby}~~ guilty of ~~{a~~
30 ~~contempt and that he be punished as therein prescribed.~~

31 ~~—2.—When the}~~ *the contempt; and*

32 (c) *Prescribes the punishment for the contempt.*

33 **2.** *If* a contempt is not committed in the immediate view and presence
34 of the court or judge at chambers, an affidavit ~~{shall}~~ *must* be presented to
35 the court or judge of the facts constituting the contempt, or a statement of
36 the facts by the masters or arbitrators.

37 3. ~~{In all cases of contempt arising without}~~ *Except as otherwise*
38 *provided in this subsection, if a contempt is not committed in* the
39 immediate view and presence of the court, the judge of ~~{such}~~ *the* court in
40 whose contempt the ~~{defendant}~~ *person* is alleged to be shall not preside at
41 ~~{such}~~ *the* trial *of the contempt* over the objection of the ~~{defendant. This~~
42 ~~subsection shall not be construed or deemed to}~~ *person. The provisions of*
43 *this subsection do not apply in {any} :*

1 **(a) Any** case where a final judgment or decree of the court is drawn in
2 question and such judgment or decree was entered in such court by a
3 predecessor judge thereof 10 years or more preceding the bringing of
4 contempt proceedings for the violation of the judgment or decree.

5 **(b) Any proceeding described in subsection 1 of NRS 3.223, whether**
6 **or not a family court has been established in the judicial district.**

7 **Sec. 11.** Chapter 125 of NRS is hereby amended by adding thereto a
8 new section to read as follows:

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

14 **2. The court may allow a party to make an offer of judgment**
15 **pursuant to this section if the court finds that the offer of judgment is**
16 **likely to encourage cooperation and promote settlement or swift**
17 **resolution of the case. In determining whether to allow a party to make**
18 **an offer of judgment pursuant to this section, the court shall consider,**
19 **without limitation:**

20 **(a) Whether each party is represented by counsel;**

21 **(b) Whether the issues concerning the property rights of the parties**
22 **are conducive to an offer of judgment; and**

23 **(c) Whether the parties have conducted any discovery and, if not,**
24 **whether discovery is necessary before an offer of judgment is made.**

25 **3. If an offer of judgment made pursuant to this section is accepted**
26 **by the opposing party and approved by the court and a divorce is**
27 **granted:**

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

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

32 **4. If an offer of judgment made pursuant to this section is not**
33 **accepted by the opposing party before trial or within 10 days after it is**
34 **made, whichever occurs first, the offer shall be deemed rejected and**
35 **cannot be given in evidence upon the trial. The rejection of an offer of**
36 **judgment does not preclude either party from petitioning the court to**
37 **allow another offer of judgment to be made pursuant to this section.**

38 **5. If a party rejects an offer of judgment made pursuant to this**
39 **section and the court determines that the party rejected the offer in bad**
40 **faith, the court may award to the party who made the offer of judgment**
41 **any or all of the following costs and fees that are incurred by the party on**
42 **and after the date on which the offer is rejected:**

1 ***(a) Taxable costs that are attributable to preparing for and conducting***
2 ***the litigation concerning the property rights of the parties.***

3 ***(b) Reasonable costs for each expert witness whose services are***
4 ***reasonably necessary in preparing for and conducting the litigation***
5 ***concerning the property rights of the parties.***

6 ***(c) Reasonable attorney's fees in preparing for and conducting the***
7 ***litigation concerning the property rights of the parties.***

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

11 **Sec. 12.** The amendatory provisions of section 11 of this act apply to
12 all actions for divorce that are filed on or after October 1, 1999, and to all
13 actions for divorce that are pending on or after October 1, 1999, regardless
14 of when the action was filed.

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