

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, 3 and 4 of this act.
3 **Sec. 2.** *“Department of the family court” means any department of*
4 *the district court that is designated as a department of the family court.*
5 **Sec. 3.** *“Jurisdiction of the family court” means the jurisdiction of*
6 *the family court that is established in NRS 3.223.*
7 **Sec. 4.** *In each judicial district that includes a county whose*
8 *population is 100,000 or more:*
9 1. *The clerk of the district court shall develop an information form*
10 *for family court. The information form for family court must be:*
11 (a) *Approved* *by* *the* *chief* *judge;* *and*

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

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

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

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

15 *(c) Whether a child involved in the case is also involved in any other*
16 *pending case or was involved in any other previously decided case*
17 *assigned to a department of the family court in the judicial district, other*
18 *than a case within the jurisdiction of the juvenile court pursuant to*
19 *chapter 62 of NRS; and*

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

24 *3. The chief judge and the clerk of the district court shall use the*
25 *information provided on the information form for family court to assign*
26 *cases to a department of the family court in accordance with subsection 3*
27 *of NRS 3.025.*

28 **Sec. 5.** NRS 3.025 is hereby amended to read as follows:

29 3.025 1. In each judicial district that includes a county whose
30 population is 100,000 or more, the district judges of that judicial district
31 shall choose from among those district judges a chief judge who is to be the
32 presiding judge of the judicial district.

33 2. The chief judge shall:

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

35 (b) Prescribe the hours of court;

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

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

40 *3. If a case involves a matter within the jurisdiction of the family*
41 *court*

and:

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

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

9 *the chief judge shall assign the case to the department of the family court*
10 *to which the other case is presently assigned or, if the other case has been*
11 *decided, to the department of the family court that decided the other case,*
12 *unless a different assignment is required by another provision of NRS, a*
13 *court rule or the Nevada Code of Judicial Conduct or the chief judge*
14 *determines that a different assignment is necessary because of*
15 *considerations related to the management of the caseload of the district*
16 *judges within the judicial district. If a case described in this subsection is*
17 *heard initially by a master, the recommendation, report or order of the*
18 *master must be submitted to the district judge of the department of the*
19 *family court to which the case has been assigned pursuant to this*
20 *subsection for consideration and decision by that district judge.*

21 **Sec. 6.** 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. 7.** 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 serve upon the opposing party a written offer to allow a**
11 **decree to be entered concerning the property rights of the parties in**
12 **accordance with the terms and conditions of the offer.**

13 **2. If an offer made by a party pursuant to this section is accepted by**
14 **the opposing party and approved by the court, the court shall, upon entry**
15 **of the decree of divorce, enter judgment in accordance with the terms**
16 **and conditions of the offer.**

17 **3. If an offer made by a party pursuant to this section is not accepted**
18 **by the opposing party before trial or within 10 days after it is made,**
19 **whichever occurs first, the offer shall be deemed rejected and cannot be**
20 **given in evidence upon the trial. The rejection of an offer does not**
21 **preclude either party from making another offer pursuant to this section.**

22 **4. If an offer is deemed rejected pursuant to subsection 3 and the**
23 **party who rejected the offer fails to obtain a more favorable judgment**
24 **concerning the property rights that would have been resolved by the offer**
25 **if it had been accepted, the court may do any or all of the following:**

26 **(a) Order the party who rejected the offer to pay the taxable costs of**
27 **the opposing party that relate to the adjudication of those property rights.**

28 **(b) Order the party who rejected the offer to pay the reasonable**
29 **attorney's fees incurred by the opposing party after the date of the offer**
30 **that relate to the adjudication of those property rights.**

31 **(c) Prohibit the party who rejected the offer from recovering any costs**
32 **or attorney's fees that relate to the adjudication of those property rights,**
33 **except that the court may not, pursuant to the provisions of this**
34 **paragraph, prohibit the party from recovering any preliminary attorney's**
35 **fees that were awarded to the party during the pendency of the divorce**
36 **action.**

37 **5. In determining whether to take any action described in subsection**
38 **4, the court shall consider:**

39 **(a) Whether each party was represented by counsel when the offer was**
40 **made;**

41 **(b) Whether the issues related to the property rights of the parties were**
42 **conducive to an offer made pursuant to this section;**

1 (c) *Whether the offer was made in good faith and was reasonable with*
2 *respect to its timing and its amount;*

3 (d) *Whether rejection of the offer was done in bad faith or was grossly*
4 *unreasonable;*

5 (e) *Whether, during the pendency of the divorce action, the conduct of*
6 *the party who rejected the offer or his counsel furthered or frustrated the*
7 *policy of the law to promote settlement of litigation and to reduce the*
8 *costs of litigation by encouraging cooperation between the parties and*
9 *their counsel;*

10 (f) *Whether the judgment differs from the terms and conditions of the*
11 *offer in such a manner, with respect to the property rights that would*
12 *have been resolved by the offer if it had been accepted, that the court*
13 *cannot make a clear determination whether the party failed to obtain a*
14 *more favorable judgment concerning those property rights; and*

15 (g) *Whether the divorce action involved so many changes in the issues*
16 *that the court cannot make a clear determination whether the party failed*
17 *to obtain a more favorable judgment concerning the property rights that*
18 *would have been resolved by the offer if it had been accepted.*

19 6. *The provisions of this section do not apply to any issues related to*
20 *the custody of a child, the support of a child or the support of a spouse. If*
21 *any offer that is made by a party pursuant to this section includes any*
22 *such issue, the offer shall be deemed to be void in its entirety and all*
23 *terms and conditions of the offer, including, without limitation, all terms*
24 *and conditions related to the property rights of the parties, shall be*
25 *deemed to have no force or effect pursuant to this section.*

26 **Sec. 8.** NRS 125.150 is hereby amended to read as follows:

27 125.150 Except as otherwise provided in NRS 125.155 and unless the
28 action is contrary to a premarital agreement between the parties which is
29 enforceable pursuant to chapter 123A of NRS:

30 1. In granting a divorce, the court:

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

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

39 2. Except as otherwise provided in this subsection, in granting a
40 divorce, the court shall dispose of any property held in joint tenancy in the
41 manner set forth in subsection 1 for the disposition of community property.
42 If a party has made a contribution of separate property to the acquisition or
43 improvement of property held in joint tenancy, the court may provide for

1 the reimbursement of that party for his contribution. The amount of
2 reimbursement must not exceed the amount of the contribution of separate
3 property that can be traced to the acquisition or improvement of property
4 held in joint tenancy, without interest or any adjustment because of an
5 increase in the value of the property held in joint tenancy. The amount of
6 reimbursement must not exceed the value, at the time of the disposition, of
7 the property held in joint tenancy for which the contribution of separate
8 property was made. In determining whether to provide for the
9 reimbursement, in whole or in part, of a party who has contributed separate
10 property, the court shall consider:

- 11 (a) The intention of the parties in placing the property in joint tenancy;
- 12 (b) The length of the marriage; and
- 13 (c) Any other factor which the court deems relevant in making a just and
14 equitable disposition of that property.

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

21 3. ~~Whether~~ *Except as otherwise provided in section 7 of this act,*
22 *whether* or not application for suit money has been made under the
23 provisions of NRS 125.040, the court may award a reasonable attorney's
24 fee to either party to an action for divorce if those fees are in issue under
25 the pleadings.

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

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

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

41 7. If a decree of divorce, or an agreement between the parties which
42 was ratified, adopted or approved in a decree of divorce, provides for
43 specified periodic payments of alimony, the decree or agreement is not

1 subject to modification by the court as to accrued payments. Payments
2 pursuant to a decree entered on or after July 1, 1975, which have not
3 accrued at the time a motion for modification is filed may be modified upon
4 a showing of changed circumstances, whether or not the court has expressly
5 retained jurisdiction for the modification. In addition to any other factors
6 the court considers relevant in determining whether to modify the order, the
7 court shall consider whether the income of the spouse who is ordered to pay
8 alimony, as indicated on the spouse's federal income tax return for the
9 preceding calendar year, has been reduced to such a level that the spouse is
10 financially unable to pay the amount of alimony he has been ordered to pay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 9.** Assembly Bill No. 50 of this session is hereby amended by
2 deleting sections 2 through 4 and inserting:

3 **Secs. 2-4.** (Deleted by amendment.)

4 **Sec. 10.** Assembly Bill No. 50 of this session is hereby amended by
5 deleting sections 6 and 7 and inserting:

6 **Secs. 6 and 7.** (Deleted by amendment.)

7 **Sec. 11.** Section 3 of Assembly Bill No. 51 of this session is hereby
8 amended to read as follows:

9 **Sec. 3.** As used in this chapter, unless the context otherwise
10 requires, the words and terms defined in sections 4 and 5 of

11 *Assembly Bill No. 51 of this ~~act~~ session and sections 2 and 3 of*
12 *this act* have the meanings ascribed to them in those sections.

13 **Sec. 12.** The amendatory provisions of section 7 of this act apply to all
14 actions for divorce that are filed on or after October 1, 1999, and to all
15 actions for divorce that are pending on or after October 1, 1999, regardless
16 of when the action was filed.

17 **Sec. 13.** 1. This section and sections 9 and 10 of this act become
18 effective on June 30, 1999.

19 2. Sections 1 to 8, inclusive, 11 and 12 of this act become effective on
20 October 1, 1999.