
ASSEMBLY BILL NO. 421—ASSEMBLYMEN HUMKE, COLLINS, MANENDO, MCCLAIN,
BUCKLEY, KOIVISTO AND OHRENSCHALL

MARCH 8, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing alimony. (BDR 11-1333)

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 domestic relations; providing a formula for determining the amount and duration of alimony under certain circumstances; making various other changes to provisions governing alimony; 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 125 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 8, inclusive, of this act.
- 3 **Sec. 2.** *Unless the action is contrary to a premarital agreement*
4 *between the parties that is enforceable pursuant to chapter 123A of NRS:*
- 5 1. *In granting a divorce, the court may:*
- 6 (a) *Award such alimony to either spouse, as appears just and*
7 *equitable, in the manner provided pursuant to sections 3 to 8, inclusive,*
8 *of this act; and*
- 9 (b) *Set apart a portion of the separate property of the husband for the*
10 *support of the wife, the separate property of the wife for the support of*
11 *the husband or the separate property of either spouse for the support of*
12 *their children as the court deems just and equitable.*
- 13 2. *In the event of the death of either party to a divorce or the*
14 *subsequent remarriage of the party to whom specified periodic payments*
15 *were to be made, all the payments required by the decree must cease,*
16 *unless otherwise ordered by the court.*
- 17 3. *If a decree of divorce, or an agreement between the parties that*
18 *was ratified, adopted or approved in a decree of divorce, provides for*

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

13 **Sec. 3.** *Except as otherwise provided in section 7 of this act, in*
14 *determining the amount of alimony, if any, to award pursuant to*
15 *paragraph (a) of subsection 1 of section 2 of this act, if the length of the*
16 *marriage is at least 7 years, the court shall determine the amount and*
17 *duration of alimony according to the formulas set forth in sections 4, 5*
18 *and 6 of this act.*

19 **Sec. 4. 1.** *In determining alimony, the court shall:*

20 *(a) Compute the gross monthly income of each spouse by:*

21 *(1) Determining the total amount of expected and reasonably*
22 *foreseeable potential annual income which will be obtained from any*
23 *source after the divorce;*

24 *(2) Deducting from that amount all ordinary and necessary*
25 *business expenses, except for personal income tax, contributions made*
26 *for retirement benefits and contributions to a pension; and*

27 *(3) Dividing that amount by 12.*

28 *(b) Compute the monthly tax burden of each spouse that is based on*
29 *income by:*

30 *(1) Determining the total annual amount of any expected and*
31 *reasonably foreseeable federal and state taxes which will be owed by*
32 *each spouse after the divorce that are calculated based on the income of*
33 *the spouse; and*

34 *(2) Dividing that amount by 12.*

35 *(c) Compute the net monthly income after taxes for each spouse by*
36 *subtracting from the gross monthly income of each spouse determined*
37 *pursuant to paragraph (a):*

38 *(1) The monthly tax burden of the spouse determined pursuant to*
39 *paragraph (b); and*

40 *(2) The monthly obligation for child support, if any, which the*
41 *spouse has been ordered to pay.*

1 2. After performing the calculations set forth in subsection 1, the
2 spouse with the lesser monthly income after taxes shall be deemed the
3 obligee. The other spouse shall be deemed the obligor.

4 3. The court shall determine the difference in the incomes of the
5 spouses by subtracting the net monthly income after taxes of the obligee
6 as determined pursuant to paragraph (c) of subsection 1 from the net
7 monthly income after taxes of the obligor as determined pursuant to
8 paragraph (c) of subsection 1.

9 **Sec. 5. 1.** After determining the difference in the incomes of the
10 spouses pursuant to section 4 of this act, the court shall:

11 (a) Multiply the number of years of the marriage beyond 5 years by
12 1.25 percent.

13 (b) Multiply the number of years of age of the obligee beyond 30 years
14 by 0.5 percent.

15 (c) Assign the appropriate percentage for the education of the obligee
16 as follows:

17 (1) Seven and one-half percent if the obligee has not attended a
18 postsecondary educational institution;

19 (2) Five percent if the obligee has attended a postsecondary
20 educational institution but does not have a baccalaureate degree from an
21 accredited college or university;

22 (3) Two and one-half percent if the obligee has a baccalaureate
23 degree from an accredited college or university; or

24 (4) Zero if the obligee has a professional or post-baccalaureate
25 degree.

26 (d) Assign the appropriate percentage for any disability of the obligee
27 as follows:

28 (1) Eight percent if the court finds that the obligee suffers from a
29 permanent total disability;

30 (2) Six percent if the court finds that the obligee suffers from a
31 permanent partial disability;

32 (3) Four percent if the court finds that the obligee suffers from a
33 temporary total disability;

34 (4) Two percent if the court finds that the obligee suffers from a
35 temporary partial disability; or

36 (5) Zero if the court finds that the obligee does not suffer from a
37 disability.

38 2. The court shall add the percentages determined pursuant to
39 paragraphs (a) to (d), inclusive, of subsection 1. If the sum of the
40 percentages is 50 percent or less, that sum is the factor to be applied for
41 determining the amount of alimony. If the sum of the percentages
42 exceeds 50 percent, the factor to be applied for determining the amount

1 of alimony is 50 percent. If the sum of the percentages is less than 15
2 percent, the court may decline to award alimony.

3 3. To determine the monthly amount of alimony that the obligee may
4 receive, the court shall multiply the difference in the incomes of the
5 spouses determined pursuant to subsection 3 of section 4 of this act by
6 the factor determined pursuant to subsection 2. The product is the
7 monthly amount of alimony that the obligee is entitled to receive.

8 **Sec. 6.** To determine the number of years that monthly payments of
9 alimony must be made, the court shall:

10 1. Multiply the number of years of the marriage beyond 5 years by
11 0.375.

12 2. Multiply the number of years of age of the obligee beyond 30 years
13 by 0.1.

14 3. Assign the appropriate number of years to grant for the education
15 of the obligee as follows:

16 (a) One and one-half years if the obligee has not attended a
17 postsecondary educational institution;

18 (b) One year if the obligee has attended a postsecondary educational
19 institution but does not have a baccalaureate degree from an accredited
20 college or university;

21 (c) One-half of one year if the obligee has a baccalaureate degree
22 from an accredited college or university; or

23 (d) Zero if the obligee has a professional or post-baccalaureate
24 degree.

25 4. Assign the appropriate number of years for any disability of the
26 obligee as follows:

27 (a) Six years if the court finds that the obligee suffers from a
28 permanent total disability;

29 (b) Four and one-half years if the court finds that the obligee suffers
30 from a permanent partial disability;

31 (c) Three years if the court finds that the obligee suffers from a
32 temporary total disability;

33 (d) One and one-half years if the court finds that the obligee suffers
34 from a temporary partial disability; or

35 (e) Zero if the court finds that the obligee does not suffer from a
36 disability.

37 5. Add the number of years determined pursuant to subsections 1 to
38 4, inclusive. The sum is the number of years that the monthly payments
39 of alimony determined pursuant to section 5 of this act must be made.

40 **Sec. 7.** In granting a divorce, if the court makes a finding that there
41 is good cause, or if the length of the marriage is less than 7 years, the
42 court may deviate from the amount or duration of alimony determined
43 pursuant to the formulas set forth in sections 4, 5 and 6 of this act. In

1 *determining whether good cause exists, the court may consider any*
2 *relevant factor, including, without limitation:*

3 1. *The length of the marriage;*

4 2. *The age and the life expectancy of each spouse;*

5 3. *The physical and mental health of each spouse;*

6 4. *The contribution during the marriage by one spouse to the*
7 *education, training or earning capacity of the other spouse and any*
8 *increase in the level of education of a spouse obtained during the*
9 *marriage;*

10 5. *The extent to which the present and future earning capacity of one*
11 *spouse is impaired because that spouse has not worked for an extended*
12 *period;*

13 6. *The extent to which acceptable opportunities for employment are*
14 *unavailable to a spouse because of his age;*

15 7. *The length of time reasonably necessary for a spouse to obtain*
16 *training or to update his skills;*

17 8. *The extent to which a party has achieved a substantially*
18 *advantageous economic position during the marriage through the*
19 *combined effort of the spouses;*

20 9. *The standard of living established during the marriage;*

21 10. *The number of dependents of each spouse and the age, health*
22 *and any other condition of such dependents;*

23 11. *The provisions of an order relating to the custody of any*
24 *dependents, including, without limitation, the length of time that any*
25 *obligations for the support of a child will be effective and the impact of*
26 *the custody provisions of the order on the ability of a spouse to work;*

27 12. *The tax liabilities and benefits to each spouse as a result of the*
28 *divorce, including, without limitation, the tax effect of alimony pursuant*
29 *to sections 71 and 215 of the Internal Revenue Code, 26 U.S.C. §§ 71*
30 *and 215, and future amendments to those sections and corresponding*
31 *provisions of future internal revenue laws;*

32 13. *The amount of monthly income after taxes of each spouse after*
33 *considering the overall financial situation of that spouse, including,*
34 *without limitation, any outstanding mortgages or legal fees and costs;*

35 14. *The anticipated cost of health care for each spouse;*

36 15. *The amount and characterization of property that each spouse*
37 *will receive pursuant to NRS 125.150, including, without limitation,*
38 *separate property;*

39 16. *The amount of any future retirement income that each spouse*
40 *will receive;*

41 17. *The length of time of physical separation of the spouses before*
42 *the divorce;*

1 18. *Whether it would be more just and equitable to grant a spouse a*
2 *lump-sum award of alimony; and*

3 19. *The amount and duration of any alimony awarded pursuant to*
4 *section 8 of this act.*

5 **Sec. 8.** 1. *In granting a divorce the court shall consider the need to*
6 *grant alimony to a spouse to obtain training or education relating to a*
7 *job, career or profession. In addition to any other factors the court*
8 *considers relevant in determining whether such alimony should be*
9 *granted, the court shall consider:*

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

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

14 2. *If the court determines that alimony should be awarded to obtain*
15 *training or education pursuant to the provisions of subsection 1:*

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

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

21 (c) *In addition to any other alimony granted by the court, the spouse*
22 *who is the recipient of the alimony may be granted money to provide for:*

23 (1) *Testing of the skills of the recipient relating to a job, career or*
24 *profession;*

25 (2) *Evaluation of the abilities and goals of the recipient relating to*
26 *a job, career or profession;*

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

29 (4) *Subsidization of the costs of an employer incurred in training*
30 *the recipient;*

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

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

33 (I) *The equivalent of a high school diploma;*

34 (II) *College courses that are directly applicable to the goals of the*
35 *recipient for his career; or*

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

37 **Sec. 9.** NRS 125.150 is hereby amended to read as follows:

38 125.150 Except as otherwise provided in NRS 125.155 and unless the
39 action is contrary to a premarital agreement between the parties which is
40 enforceable pursuant to chapter 123A of NRS:

1 1. In granting a divorce, the court ~~f:~~

2 ~~—(a) May award such alimony to the wife or to the husband, in a~~
3 ~~specified principal sum or as specified periodic payments, as appears just~~
4 ~~and equitable; and~~

5 ~~—(b) Shall,~~ **shall**, to the extent practicable, make an equal disposition of
6 the community property of the parties, except that the court may make an
7 unequal disposition of the community property in such proportions as it
8 deems just if the court finds a compelling reason to do so and sets forth in
9 writing the reasons for making the unequal disposition.

10 2. Except as otherwise provided in this subsection, in granting a
11 divorce, the court shall dispose of any property held in joint tenancy in the
12 manner set forth in subsection 1 for the disposition of community property.
13 If a party has made a contribution of separate property to the acquisition or
14 improvement of property held in joint tenancy, the court may provide for
15 the reimbursement of that party for his contribution. The amount of
16 reimbursement must not exceed the amount of the contribution of separate
17 property that can be traced to the acquisition or improvement of property
18 held in joint tenancy, without interest or any adjustment because of an
19 increase in the value of the property held in joint tenancy. The amount of
20 reimbursement must not exceed the value, at the time of the disposition, of
21 the property held in joint tenancy for which the contribution of separate
22 property was made. In determining whether to provide for the
23 reimbursement, in whole or in part, of a party who has contributed separate
24 property, the court shall consider:

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

26 (b) The length of the marriage; and

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

29 As used in this subsection, “contribution” includes **, without limitation,** a
30 down payment, a payment for the acquisition or improvement of property,
31 and a payment reducing the principal of a loan used to finance the
32 purchase or improvement of property. The term does not include a
33 payment of interest on a loan used to finance the purchase or improvement
34 of property, or a payment made for maintenance, insurance or taxes on
35 property.

36 3. Whether or not application for suit money has been made under the
37 provisions of NRS 125.040, the court may award a reasonable attorney’s
38 fee to either party to an action for divorce if those fees are in issue under
39 the pleadings.

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

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

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

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

26 ~~—8.— In granting a divorce the court shall consider the need to grant~~
27 ~~alimony to a spouse for the purpose of obtaining training or education~~
28 ~~relating to a job, career or profession. In addition to any other factors the~~
29 ~~court considers relevant in determining whether such alimony should be~~
30 ~~granted, the court shall consider:~~

31 ~~—(a) Whether the spouse who would pay such alimony has obtained~~
32 ~~greater job skills or education during the marriage; and~~

33 ~~—(b) Whether the spouse who would receive such alimony provided~~
34 ~~financial support while the other spouse obtained job skills or education.~~

35 ~~—9.— If the court determines that alimony should be awarded pursuant to~~
36 ~~the provisions of subsection 8:~~

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

40 ~~—(b) The spouse who is ordered to pay the alimony may, upon changed~~
41 ~~circumstances, file a motion to modify the order.~~

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

- 1 ~~—(1) Testing of the recipient's skills relating to a job, career or~~
- 2 ~~profession;~~
- 3 ~~—(2) Evaluation of the recipient's abilities and goals relating to a job,~~
- 4 ~~career or profession;~~
- 5 ~~—(3) Guidance for the recipient in establishing a specific plan for~~
- 6 ~~training or education relating to a job, career or profession;~~
- 7 ~~—(4) Subsidization of an employer's costs incurred in training the~~
- 8 ~~recipient;~~
- 9 ~~—(5) Assisting the recipient to search for a job; or~~
- 10 ~~—(6) Payment of the costs of tuition, books and fees for:~~
- 11 ~~—(I) The equivalent of a high school diploma;~~
- 12 ~~—(II) College courses which are directly applicable to the recipient's~~
- 13 ~~goals for his career; or~~
- 14 ~~—(III) Courses of training in skills desirable for employment.]~~

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