
ASSEMBLY BILL NO. 49—COMMITTEE ON JUDICIARY

PREFILED JANUARY 22, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to assignment and election of district judges in judicial districts that include family court. (BDR 1-373)

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 the court system; revising the provisions relating to the assignment of district judges in judicial districts that include family court; revising the provisions relating to the authority of chief judges in judicial districts that include family court; revising the provisions relating to the election of district judges in judicial districts that include family court; 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 8, 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 general jurisdiction” means any department*
9 *of the district court other than a department of the family court.*
10 **Sec. 5.** *“Department of the family court” means any department of*
11 *the district court that is designated as a department of the family court*
12 *pursuant to NRS 3.012 or 3.018.*
13 **Sec. 6.** *“Family court” and “family division” mean the division of*
14 *the district court that is established as a family court pursuant to NRS*
15 *3.0105.*

1 **Sec. 7. 1.** *In each judicial district that includes a county whose*
2 *population is 100,000 or more, the chief judge may, in accordance with*
3 *the provisions of this section, assign a district judge of a department of*
4 *the family court to sit in a department of general jurisdiction if:*

5 *(a) The district judge of the department of the family court agrees to sit*
6 *in the department of general jurisdiction;*

7 *(b) The district judge of the department of general jurisdiction agrees*
8 *to sit in the department of the family court, and the district judge is not*
9 *otherwise deemed to be unavailable to sit in the department of the family*
10 *court for any of the reasons set forth in subsection 8;*

11 *(c) The chief judge sets a definite and coextensive period of*
12 *assignment for the two district judges in accordance with subsection 6;*
13 *and*

14 *(d) The chief judge enters an order concerning the assignment that:*

15 *(1) Sets forth the period of assignment and any conditions*
16 *concerning the assignment that are established pursuant to subsection 2;*
17 *and*

18 *(2) Is signed by the chief judge and the two district judges who have*
19 *agreed to the assignment.*

20 **2.** *The chief judge may establish conditions concerning the*
21 *assignment or the period of assignment if the two district judges agree to*
22 *the conditions and the conditions are not inconsistent with the provisions*
23 *of this section. During the period of assignment, the chief judge may add,*
24 *modify or delete conditions concerning the assignment or the period of*
25 *assignment or may modify the period of assignment if:*

26 *(a) The two district judges agree to any such additions, modifications*
27 *or deletions;*

28 *(b) The additions, modifications or deletions are not inconsistent with*
29 *the provisions of this section; and*

30 *(c) The chief judge enters an order that sets forth the additions,*
31 *modifications or deletions, and the order is signed by the chief judge and*
32 *the two district judges who have agreed to the additions, modifications or*
33 *deletions.*

34 **3.** *If an assignment is made pursuant to this section:*

35 *(a) The district judge of the department of the family court who is*
36 *assigned to the department of general jurisdiction shall be deemed to be a*
37 *temporary judge of the family court pursuant to section 8 of this act until*
38 *the district judge decides all matters which were submitted to him before*
39 *his assignment and which are within the jurisdiction of the family court,*
40 *as set forth in NRS 3.223.*

41 *(b) The district judge of the department of general jurisdiction who is*
42 *assigned to the department of the family court shall:*

1 (1) Except as otherwise provided in subparagraph (2) and NRS
2 3.040, hear and decide only those matters that are within the jurisdiction
3 of the family court, as set forth in NRS 3.223, while he is assigned to the
4 department of the family court.

5 (2) Within 60 days after his assignment, decide all matters which
6 were submitted to him before his assignment and which are not within the
7 jurisdiction of the family court, as set forth in NRS 3.223. If such a matter
8 is not decided by the district judge within 60 days after his assignment, the
9 matter must be submitted to and decided by another district judge who is
10 not assigned to a department of the family court.

11 (3) Within 12 months after his assignment, attend at the National
12 College of Juvenile and Family Law in Reno, Nevada, instruction in a
13 course designed for the training of new judges of juvenile courts and
14 family courts, unless the district judge has previously attended such a
15 course.

16 4. When the period of assignment ends:

17 (a) The district judge of the department of the family court who was
18 assigned to the department of general jurisdiction shall:

19 (1) Except as otherwise provided in subparagraph (2) and NRS
20 3.040, hear and decide only those matters that are within the jurisdiction
21 of the family court, as set forth in NRS 3.223, while he is assigned to the
22 department of the family court; and

23 (2) Within 60 days after the period of assignment ends, decide all
24 matters which were submitted to him before the period of assignment
25 ended and which are not within the jurisdiction of the family court, as set
26 forth in NRS 3.223. If such a matter is not decided by the district judge
27 within 60 days after the period of assignment ends, the matter must be
28 submitted to and decided by another district judge who is not assigned to
29 a department of the family court.

30 (b) The district judge of the department of general jurisdiction who
31 was assigned to the department of the family court shall be deemed to be
32 a temporary judge of the family court pursuant to section 8 of this act
33 until the district judge decides all matters which were submitted to him
34 before the period of assignment ended and which are within the
35 jurisdiction of the family court, as set forth in NRS 3.223, unless the
36 district judge is deemed to be unavailable to sit in a department of the
37 family court for any of the reasons set forth in subsection 8.

38 5. If, during the period of assignment, the district judge of the
39 department of the family court who is assigned to the department of
40 general jurisdiction vacates his judicial office for any reason, including,
41 without limitation, removal, resignation, retirement or death, the district
42 judge of the department of general jurisdiction who is assigned to the
43 department of the family court shall be deemed to be a temporary judge of

1 the family court pursuant to section 8 of this act until the vacant judicial
2 office in the department of the family court is filled by election or
3 appointment. The district judge who is elected or appointed to the vacant
4 judicial office in the department of the family court must be assigned to
5 that department of the family court unless, after taking office, the district
6 judge agrees to be assigned to a department of general jurisdiction
7 pursuant to this section.

8 6. Except as otherwise provided in subsection 7, the period of
9 assignment that is set by the chief judge pursuant to subsection 1 must not
10 extend beyond:

11 (a) The end of the current term of office of the district judge of the
12 department of the family court; or

13 (b) The end of the current term of office of the district judge of the
14 department of general jurisdiction, if that term ends before the current
15 term of office of the district judge of the department of the family court.

16 7. Regardless of the period of assignment that is set by the chief judge
17 pursuant to subsection 1, the period of assignment shall be deemed to end
18 if, during the period of assignment, the district judge of the department of
19 general jurisdiction who is assigned to the department of the family court
20 is deemed to be unavailable to sit in the department of the family court for
21 any of the reasons set forth in subsection 8.

22 8. For the purposes of this section, a district judge of a department of
23 general jurisdiction shall be deemed to be unavailable to sit in a
24 department of the family court if the district judge is:

25 (a) Incapacitated because of illness or infirmity; or

26 (b) Unable to act or exercise the duties of judicial office for any other
27 reason, including, without limitation, suspension, removal, resignation,
28 retirement or death.

29 9. On or before the first Monday in February of 2001, the chief judge
30 of each judicial district that includes a county whose population is
31 100,000 or more shall submit to the director of the legislative counsel
32 bureau for distribution to members of the legislature a recommendation
33 that has been approved by a majority of the active district judges of the
34 judicial district as to whether the provisions of this section should be
35 continued by the legislature beyond June 30, 2001. The recommendation
36 may also include any suggestions for legislation concerning the
37 provisions of this section or the assignment of district judges to
38 departments of the family court and to departments of general
39 jurisdiction.

40 10. As used in this section:

41 (a) "District judge of a department of general jurisdiction" means a
42 district judge who was elected or appointed to a department of general
43 jurisdiction.

1 (b) "District judge of a department of the family court" means a
2 district judge who was elected or appointed to a department of the family
3 court.

4 **Sec. 8. 1.** Except as otherwise provided in section 7 of this act, in
5 each judicial district that includes a county whose population is 100,000
6 or more, the chief judge may, at any time, assign himself, one or more
7 other district judges, or any combination thereof, to be a temporary judge
8 or temporary judges of the family court if the judge or judges so assigned
9 are not currently assigned to a department of the family court.

10 2. If a district judge is assigned to be a temporary judge of the family
11 court pursuant to this section for a period of 90 days or more, the district
12 judge shall attend at the National College of Juvenile and Family Law in
13 Reno, Nevada, instruction in a course designed for the training of new
14 judges of juvenile courts and family courts, unless the district judge has
15 previously attended such a course.

16 3. Except as otherwise provided in subsection 4, a district judge who
17 is assigned to be a temporary judge of the family court pursuant to this
18 section may hear and decide, while he is assigned to be a temporary judge
19 of the family court:

20 (a) Matters that are within the jurisdiction of the family court, as set
21 forth in NRS 3.223; and

22 (b) Any other matters that are within the jurisdiction of the district
23 court.

24 4. A district judge who is assigned to be a temporary judge of the
25 family court pursuant to this section shall not act or participate in any
26 matter which has been assigned by law or court rule to a district judge of
27 a department of the family court and which is unrelated to the
28 consideration or disposition of a case or other proceeding within the
29 jurisdiction of the family court, as set forth in NRS 3.223. Such matters
30 include, without limitation:

31 (a) The appointment or removal of members of the committee for
32 juvenile services pursuant to NRS 62.103, and all other matters related
33 thereto;

34 (b) The approval of salaries pursuant to NRS 62.112 or 62.115, and all
35 other matters related thereto;

36 (c) The appointment, removal or discharge of a director of juvenile
37 services, the approval of his staff and the fixing of his salary pursuant to
38 NRS 62.1225 or 62.123, and all other matters related thereto;

39 (d) The establishment of a youth services commission and the
40 appointment of its members pursuant to NRS 62.124, and all other
41 matters related thereto;

42 (e) The establishment of a temporary detention home for children
43 pursuant to NRS 62.180, and all other matters related thereto;

1 *(f) The administration of programs that provide for restitution to*
2 *victims of crimes pursuant to NRS 62.890, and all other matters related*
3 *thereto;*

4 *(g) Participation on an advisory council for juvenile forestry camps*
5 *pursuant to NRS 244.298, and all other matters related thereto; or*

6 *(h) The appointment of members to an advisory board to review school*
7 *attendance pursuant to NRS 392.126, and all other matters related*
8 *thereto.*

9 **Sec. 9.** NRS 3.0105 is hereby amended to read as follows:

10 3.0105 ~~[1.]~~ There is hereby established, in each judicial district that
11 includes a county whose population is 100,000 or more, a family court as a
12 division of the district court.

13 ~~[2.—If the caseload of the family court so requires, the presiding judge~~
14 ~~of the district, or the district judges by mutual consent in a district in which~~
15 ~~there is no presiding judge, may assign one or more judges of the district to~~
16 ~~act temporarily as judges of the family court.~~

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

20 ~~—4.—A judge assigned to the family court pursuant to subsection 2 or 3~~
21 ~~for a period of 90 or more days must attend the instruction required~~
22 ~~pursuant to subsection 1 of NRS 3.028. Judges must not be assigned to the~~
23 ~~family court pursuant to subsections 2 and 3 on a rotating basis.]~~

24 **Sec. 10.** NRS 3.012 is hereby amended to read as follows:

25 3.012 **1.** For the second judicial district there must be 11 district
26 judges, *9 of whom must be district judges of departments of general*
27 *jurisdiction and 2 of whom must be district judges of departments of the*
28 *family court.*

29 *2. The departments of the second judicial district must be designated*
30 *as follows:*

31 *(a) Departments 1 to 4, inclusive, and 6 to 10, inclusive, must be*
32 *departments of general jurisdiction; and*

33 *(b) Departments 5 and 11 must be departments of the family court.*

34 **3.** *The provisions of this section must not be construed so as to*
35 *prohibit the chief judge or the district judges of the second judicial district*
36 *from further classifying a department of general jurisdiction according to*
37 *any other permissible criteria, including, without limitation, classifying a*
38 *department of general jurisdiction as a criminal department or civil*
39 *department of the district court.*

40 **Sec. 11.** NRS 3.018 is hereby amended to read as follows:

41 3.018 **1.** For the eighth judicial district there must be 27 district
42 judges, *19 of whom must be district judges of departments of general*

1 *jurisdiction and* 8 of whom must be *district* judges of *departments of* the
2 family court.

3 2. *The departments of the eighth judicial district must be designated*
4 *as follows:*

5 (a) *Departments 1 to 19, inclusive, must be departments of general*
6 *jurisdiction; and*

7 (b) *Departments 20 to 27, inclusive, must be departments of the family*
8 *court.*

9 3. *The provisions of this section must not be construed so as to*
10 *prohibit the chief judge or the district judges of the eighth judicial district*
11 *from further classifying a department of general jurisdiction according to*
12 *any other permissible criteria, including, without limitation, classifying a*
13 *department of general jurisdiction as a criminal department or civil*
14 *department of the district court.*

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

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

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

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

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

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

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

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

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

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

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

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

40 (d) The number of cases decided by each judge during the preceding
41 month;

and

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

Sec. 13. NRS 3.027 is hereby amended to read as follows:

3.027 1. The court administrator shall, at the direction of the chief justice of the supreme court, arrange for the giving of instruction, at the National Judicial College in Reno, Nevada, or elsewhere:

(a) In court procedure, recordkeeping and the elements of substantive law appropriate to a district court, to each district judge ~~[-other than a judge of the family court,]~~ who is first elected or appointed to office after October 1, 1995, *other than a district judge who is first elected or appointed to a department of the family court*, within 12 months after taking office, and to other district judges who so desire and who can be accommodated.

(b) In court procedure, recordkeeping and the elements of substantive law appropriate to a district court, to each *district* judge ~~[of the family court]~~ who is first elected or appointed to ~~[office]~~ *a department of the family court* after October 1, 1995, within 24 months after taking office.

(c) In statutory amendments and other developments in the law appropriate to a district court, to all district judges at convenient intervals.

2. The costs of the instruction must be paid from the account for continuing judicial education. The court administrator shall administer the account and claims against the account must be paid as other claims against the state are paid.

Sec. 14. NRS 3.028 is hereby amended to read as follows:

3.028 1. Unless he has previously attended such a course, each *district* judge ~~[of the family court]~~ who is first elected or appointed *to a department of the family court* on or after October 1, 1995, shall attend instruction at the National College of Juvenile and Family Law in Reno, Nevada, in a course designed for the training of new judges of juvenile courts and family courts, within 12 months after taking office.

2. Unless he has previously attended such a course, each district judge who is first elected or appointed *to office* on or after October 1, 1995, in a judicial district that does not include a county whose population is 100,000 or more, shall attend instruction at the National College of Juvenile and Family Law in Reno, Nevada, in a course designed for the training of new judges of juvenile courts and family courts, within 24 months after taking office.

3. The cost of the instruction must be paid from the account for continuing judicial education.

Sec. 15. NRS 3.220 is hereby amended to read as follows:

3.220 ~~[The district judges shall possess]~~

1. Except as otherwise provided in this chapter, each district judge:

1 (a) *Possesses* equal coextensive and concurrent jurisdiction and power ~~[-~~
2 ~~They each shall have]~~ ;

3 (b) *Has the* power to hold court in any county of this state ~~[- They each~~
4 ~~shall]~~ ; and

5 (c) *Shall* exercise and perform the powers, duties and functions of the
6 court and of judges thereof and of judges at chambers.

7 2. The decision in an action or proceeding may be written or signed at
8 any place in the state by the *district* judge who acted on the trial and may be
9 forwarded to and filed by the clerk, who shall thereupon enter judgment as
10 directed in the decision, or judgment may be rendered in open court, and, if
11 so rendered, ~~[shall]~~ *must* be entered by the clerk accordingly.

12 3. If the public business requires, each *district* judge may try causes
13 and transact judicial business in the same county at the same time. Each
14 *district* judge ~~[shall have]~~ *has the* power to transact business which may be
15 done in chambers at any point within the state, and court shall be held in
16 each county at least once in every 6 months and as often and as long as the
17 business of the county requires.

18 4. All of this section is subject to the provision that each *district* judge
19 may direct and control the business in his own district and shall see that it is
20 properly performed.

21 **Sec. 16.** NRS 293.197 is hereby amended to read as follows:

22 293.197 1. In any judicial district that has more than one district
23 judge, each department is a separate office for the purposes of nominating
24 and electing the district judge of that department.

25 2. In any judicial district that includes a county whose population is
26 100,000 or more:

27 (a) The departments of the family division of the district court , *as*
28 *designated in NRS 3.012 and 3.018*, must be denoted as such on all ballots
29 and sample ballots, using the words “district court judge, family division,
30 department” Each such department must be ~~[designated with a letter,~~
31 ~~beginning with “A” and continuing in sequence for each department.]~~
32 *denoted on all ballots and sample ballots by the numeral that has been*
33 *assigned to the department pursuant to NRS 3.012 or 3.018.*

34 (b) The remaining departments of the district court , *as designated in*
35 *NRS 3.012 or 3.018*, must be denoted as such on all ballots and sample
36 ballots, using the words “district court judge, department” Each such
37 department must be ~~[designated with a numeral, beginning with “1” and~~
38 ~~continuing in sequence for each department.]~~ *denoted on all ballots and*
39 *sample ballots by the numeral that has been assigned to the department*
40 *pursuant to NRS 3.012 or 3.018.*

41 **Sec. 17.** Section 2 of chapter 5, Statutes of Nevada 1997, at page 3, is
42 hereby amended to read as follows:

43 Sec. 2. NRS 3.012 is hereby amended to read as follows:

1 3.012 1. For the second judicial district there must be 11
2 district judges, ~~19~~ 8 of whom must be district judges of departments
3 of general jurisdiction and ~~2~~ 3 of whom must be district judges of
4 departments of the family court.

5 2. The departments of the second judicial district must be
6 designated as follows:

7 (a) Departments 1 ~~to 4, inclusive,~~ 3, 4 and 6 to 10, inclusive,
8 must be departments of general jurisdiction; and

9 (b) Departments 2, 5 and 11 must be departments of the family
10 court.

11 3. The provisions of this section must not be construed so as to
12 prohibit the chief judge or the district judges of the second judicial
13 district from further classifying a department of general jurisdiction
14 according to any other permissible criteria, including, without
15 limitation, classifying a department of general jurisdiction as a
16 criminal department or civil department of the district court.

17 **Sec. 18.** Section 4 of chapter 5, Statutes of Nevada 1997, at page 3, is
18 hereby amended to read as follows:

19 Sec. 4. The additional family court judge required pursuant to
20 section 2 of this act must be selected at the general election to be
21 held on November 5, 2002. The term of this judge expires on
22 January 5, 2009. On and after January 6, 2003, department 2 of the
23 second judicial district is hereby designated as a *department of the*
24 family court.

25 **Sec. 19.** 1. Section 7 of this act expires by limitation on June 30,
26 2001.

27 2. On July 1, 2001:

28 (a) Any district judge of a department of the family court who, on or
29 before June 30, 2001, was assigned to the department of general
30 jurisdiction pursuant to section 7 of this act:

31 (1) Except as otherwise provided in subparagraph (2) and NRS 3.040,
32 must be assigned to the department of the family court to which he was
33 elected or appointed and shall hear and decide only those matters that are
34 within the jurisdiction of the family court, as set forth in NRS 3.223; and

35 (2) Shall, within 60 days after June 30, 2001, decide all matters which
36 were submitted to him on or before June 30, 2001, and which are not within
37 the jurisdiction of the family court, as set forth in NRS 3.223. If such a
38 matter is not decided by the district judge within 60 days after June 30,
39 2001, the matter must be submitted to and decided by another district judge
40 who is not assigned to a department of the family court.

41 (b) Any district judge of a department of general jurisdiction who, on or
42 before June 30, 2001, was assigned to a department of the family court
43 pursuant to section 7 of this act must be assigned to the department of

1 general jurisdiction to which he was elected or appointed and shall be
2 deemed to be a temporary judge of the family court pursuant to section 8 of
3 this act until the district judge decides all matters which were submitted to
4 him on or before June 30, 2001, and which are within the jurisdiction of the
5 family court, as set forth in NRS 3.223.

6 **Sec. 20.** This act becomes effective on July 1, 1999.

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