

ASSEMBLY BILL NO. 125—ASSEMBLYMEN MANENDO, ANDERSON, CLABORN, MCCLAIN, PARKS, ALLEN, ARBERRY, ATKINSON, BEERS, BOBZIEN, BUCKLEY, CARPENTER, CHRISTENSEN, COBB, CONKLIN, DENIS, GANSERT, GERHARDT, GOEDHART, GOICOECHEA, GRADY, HARDY, HOGAN, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, LESLIE, MABEY, MARVEL, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SETTELMAYER, SMITH, STEWART, WEBER AND WOMACK

FEBRUARY 15, 2007

JOINT SPONSORS: SENATORS TITUS, HARDY, AMODEI, BEERS, CARE, CARLTON, CEGAVSKE, HECK, HORSFORD, LEE, MCGINNESS, NOLAN, RAGGIO, SCHNEIDER, TOWNSEND, WIENER AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Makes certain changes concerning awards of temporary maintenance and alimony. (BDR 11-797)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ***omitted material*** is material to be omitted.

AN ACT relating to domestic relations; requiring the court, in certain actions for divorce, to consider any history of domestic violence between the spouses when determining whether to award temporary maintenance or alimony; creating a rebuttable presumption in certain actions for divorce that an award of temporary maintenance or alimony should not be made to a spouse who engaged in certain acts of domestic violence against the other spouse; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law provides that a court in any action for divorce may: (1) require one spouse to pay money for the temporary maintenance of the other spouse; and (2) award alimony to either spouse in a manner that appears just and equitable. (NRS 125.040, 125.150) This bill requires a court that is considering whether to award temporary maintenance or alimony in certain actions for divorce to consider evidence of any history of domestic violence between the spouses. This bill also creates a rebuttable presumption in certain actions for divorce that temporary maintenance or alimony should not be awarded to a spouse who has engaged in acts of domestic violence not more than 5 years before the filing of the action for divorce or at any time after the action is filed.

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

Section 1. Chapter 125 of NRS is hereby amended by adding thereto a new section to read as follows:

Unless the action is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS:

1. In determining whether to award temporary maintenance pursuant to NRS 125.040 or alimony pursuant to NRS 125.150 to a spouse in an action for divorce, the court shall consider any documented evidence of any history of any acts of domestic violence between the spouses, including, without limitation, consideration of any emotional distress resulting from any such acts of domestic violence.

2. A determination by the court, after an evidentiary hearing and finding by a preponderance of the evidence, that either spouse in an action for divorce has engaged in any act of domestic violence against the other spouse not more than 5 years before filing the action for divorce, or at any time after filing the action for divorce, creates a rebuttable presumption that any award of temporary maintenance pursuant to NRS 125.040 or alimony pursuant to NRS 125.150 to the spouse who has engaged in an act of domestic violence should not be made.

3. Upon making a determination described in subsection 2, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that an award of temporary maintenance pursuant to NRS 125.040 or alimony pursuant to NRS 125.150 to the spouse who engaged in an act of domestic violence should not be made.

4. If, after an evidentiary hearing is held pursuant to subsection 2, the court determines that each spouse has engaged



1 *in acts of domestic violence, the court shall, if possible, then*
2 *determine which person was the primary physical aggressor. In*
3 *determining which spouse was the primary physical aggressor for*
4 *the purposes of this section, the court shall consider:*

5 *(a) All prior acts of domestic violence involving either spouse;*

6 *(b) The relative severity of the injuries, if any, inflicted upon*
7 *the persons involved in those prior acts of domestic violence;*

8 *(c) The likelihood of future injury;*

9 *(d) Whether, during the prior acts, one of the parties acted in*
10 *self-defense; and*

11 *(e) Any other factors which the court deems relevant to the*
12 *determination.*

13 *↪ In such a case, if it is not possible for the court to determine*
14 *which spouse is the primary physical aggressor, the presumption*
15 *created pursuant to subsection 2 applies to both spouses. If it is*
16 *possible for the court to determine which spouse is the primary*
17 *physical aggressor, the presumption created pursuant to*
18 *subsection 2 applies only to the spouse determined by the court to*
19 *be the primary physical aggressor.*

20 *5. As used in this section, "domestic violence" means the*
21 *commission of any act described in NRS 33.018.*

