

ASSEMBLY BILL NO. 52—ASSEMBLYMAN CARPENTER

PREFILED FEBRUARY 1, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to domestic relations. (BDR 11-421)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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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; codifying certain common law factors that a court must consider when determining alimony; requiring the Court Administrator to collect and compile certain statistical information from the clerks of courts concerning temporary and extended orders for protection against domestic violence and to submit a biennial report to the Legislature; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Under existing case law in Nevada, a court determining whether alimony  
2 should be awarded and the appropriate amount of alimony is required to consider  
3 several relevant factors including: (1) the financial condition of the parties; (2) the  
4 nature and value of their respective property; (3) the contribution of each party to  
5 any property held by both parties as tenants by the entirety; (4) the duration of the  
6 marriage; and (5) the income, earning capacity, age and health of each party.  
7 (*Buchanan v. Buchanan*, 90 Nev. 209, 215 (1974)) **Section 1** of this bill codifies  
8 those factors as well as factors from subsequent case law so that a court must  
9 consider those factors when determining alimony. (*Buchanan*, 90 Nev. at 215;  
10 *Sprenger v. Sprenger*, 110 Nev. 855, 859 (1994); *Rodriguez v. Rodriguez*, 116 Nev.  
11 993, 999 (2000))

12 **Sections 2 and 3** of this bill require the Court Administrator to submit a written  
13 report from information received by clerks of courts concerning the total number of  
14 temporary and extended orders for protection against domestic violence issued in  
15 this State to the Director of the Legislative Counsel Bureau for transmittal to each  
16 regular session of the Legislature. The report must also address the number of  
17 grants of temporary custody that are included in such temporary and extended



18 orders, the number of such orders that are issued to women and the number of such  
19 orders that are issued to men.

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

1     **Section 1.** NRS 125.150 is hereby amended to read as follows:

2     125.150 Except as otherwise provided in NRS 125.155 and  
3 unless the action is contrary to a premarital agreement between the  
4 parties which is enforceable pursuant to chapter 123A of NRS:

5     1. In granting a divorce, the court:

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

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

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

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

33     (b) The length of the marriage; and

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

36     ↪ As used in this subsection, "contribution" includes , *without*  
37 *limitation*, a down payment, a payment for the acquisition or  
38 improvement of property, and a payment reducing the principal of a  
39 loan used to finance the purchase or improvement of property. The



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1 term does not include a payment of interest on a loan used to finance  
2 the purchase or improvement of property, or a payment made for  
3 maintenance, insurance or taxes on property.

4 3. Except as otherwise provided in NRS 125.141, whether or  
5 not application for suit money has been made under the provisions  
6 of NRS 125.040, the court may award a reasonable attorney's fee to  
7 either party to an action for divorce if those fees are in issue under  
8 the pleadings.

9 4. In granting a divorce, the court may also set apart such  
10 portion of the husband's separate property for the wife's support, the  
11 wife's separate property for the husband's support or the separate  
12 property of either spouse for the support of their children as is  
13 deemed just and equitable.

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

18 6. If the court adjudicates the property rights of the parties, or  
19 an agreement by the parties settling their property rights has been  
20 approved by the court, whether or not the court has retained  
21 jurisdiction to modify them, the adjudication of property rights, and  
22 the agreements settling property rights, may nevertheless at any time  
23 thereafter be modified by the court upon written stipulation signed  
24 and acknowledged by the parties to the action, and in accordance  
25 with the terms thereof.

26 7. If a decree of divorce, or an agreement between the parties  
27 which was ratified, adopted or approved in a decree of divorce,  
28 provides for specified periodic payments of alimony, the decree or  
29 agreement is not subject to modification by the court as to accrued  
30 payments. Payments pursuant to a decree entered on or after July 1,  
31 1975, which have not accrued at the time a motion for modification  
32 is filed may be modified upon a showing of changed circumstances,  
33 whether or not the court has expressly retained jurisdiction for the  
34 modification. In addition to any other factors the court considers  
35 relevant in determining whether to modify the order, the court shall  
36 consider whether the income of the spouse who is ordered to pay  
37 alimony, as indicated on the spouse's federal income tax return for  
38 the preceding calendar year, has been reduced to such a level that  
39 the spouse is financially unable to pay the amount of alimony he has  
40 been ordered to pay.

41 8. *In addition to any other factors the court considers*  
42 *relevant in determining whether to award alimony and the amount*  
43 *of such an award, the court shall consider:*

44 *(a) The financial condition of each spouse;*



1       (b) *The nature and value of the respective property of each*  
2 *spouse;*

3       (c) *The contribution of each spouse to any property held by the*  
4 *spouses pursuant to NRS 123.030;*

5       (d) *The duration of the marriage;*

6       (e) *The income, earning capacity, age and health of each*  
7 *spouse;*

8       (f) *The standard of living during the marriage;*

9       (g) *The career before the marriage of the spouse who would*  
10 *receive the alimony;*

11       (h) *The existence of specialized education or training or the*  
12 *level of marketable skills attained by each spouse during the*  
13 *marriage;*

14       (i) *The contribution of either spouse as homemaker;*

15       (j) *The award, other than child support and alimony, of the*  
16 *spouse who would receive the alimony; and*

17       (k) *The physical and mental condition of each party as it*  
18 *relates to the financial condition, health and ability to work of that*  
19 *spouse.*

20       **9.** In granting a divorce , the court shall consider the need to  
21 grant alimony to a spouse for the purpose of obtaining training or  
22 education relating to a job, career or profession. In addition to any  
23 other factors the court considers relevant in determining whether  
24 such alimony should be granted, the court shall consider:

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

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

30       ~~§ 10.~~ **10.** If the court determines that alimony should be awarded  
31 pursuant to the provisions of subsection ~~§ 9.~~ **9:**

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

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

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

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

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



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

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

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

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

(I) The equivalent of a high school diploma;

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

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

~~H0.1~~ **11.** For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

**Sec. 2.** NRS 1.360 is hereby amended to read as follows:

1.360 Under the direction of the Supreme Court, the Court Administrator shall:

1. Examine the administrative procedures employed in the offices of the judges, clerks, court reporters and employees of all courts of this State and make recommendations, through the Chief Justice, for the improvement of those procedures;

2. Examine the condition of the dockets of the courts and determine the need for assistance by any court;

3. Make recommendations to and carry out the directions of the Chief Justice relating to the assignment of district judges where district courts are in need of assistance;

4. Develop a uniform system for collecting and compiling statistics and other data regarding the operation of the State Court System and transmit that information to the Supreme Court so that proper action may be taken in respect thereto;

5. Prepare and submit a budget of state appropriations necessary for the maintenance and operation of the State Court System and make recommendations in respect thereto;

6. Develop procedures for accounting, internal auditing, procurement and disbursement for the State Court System;

7. Collect statistical and other data and make reports relating to the expenditure of all public money for the maintenance and operation of the State Court System and the offices connected therewith;

8. Compile statistics from the information required to be maintained by the clerks of the district courts pursuant to NRS 3.275 and make reports as to the cases filed in the district courts;



9. Formulate and submit to the Supreme Court recommendations of policies or proposed legislation for the improvement of the State Court System;

10. On or before January 1 of each year, submit to the Director of the Legislative Counsel Bureau a written report compiling the information submitted to the Court Administrator pursuant to NRS 3.243, 4.175 and 5.045 during the immediately preceding fiscal year;

11. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau a written report concerning:

(a) The distribution of money deposited in the special account created pursuant to NRS 176.0613 to assist with funding and establishing specialty court programs;

(b) The current status of any specialty court programs to which money from the account was allocated since the last report; and

(c) Such other related information as the Court Administrator deems appropriate;

12. On or before February 15 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to NRS 630.307 and 633.533 which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person;

13. On or before February 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report concerning the effectiveness of participation in counseling sessions in a program for the treatment of persons who commit domestic violence ordered by a court pursuant to NRS 200.485 and the effect of such counseling sessions on recidivism of the offenders who commit battery which constitutes domestic violence pursuant to NRS 33.018; ~~and~~

*14. On or before February 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling the information submitted by clerks of courts to the Court Administrator pursuant to section 3 of this act which includes only aggregate information for statistical purposes and excludes any identifying information related to a particular person; and*

15. Attend to such other matters as may be assigned by the Supreme Court or prescribed by law.



1     **Sec. 3.** Chapter 33 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     *On or before January 15 of each year, the clerk of the court*  
4 *shall transmit a report to the Court Administrator concerning*  
5 *each temporary order and extended order granted by the court*  
6 *pursuant to NRS 33.020 during the previous calendar year. The*  
7 *report must include, without limitation, information concerning:*

8     1. *The total number of temporary orders and extended orders*  
9 *granted by the court pursuant to NRS 33.020 during the calendar*  
10 *year to which the report pertains;*

11     2. *The number of those temporary orders and extended*  
12 *orders that were granted to women;*

13     3. *The number of those temporary orders and extended*  
14 *orders that were granted to men; and*

15     4. *The number of those temporary orders that included a*  
16 *grant of temporary custody of a minor child.*

17     **Sec. 4.** NRS 33.017 is hereby amended to read as follows:

18     33.017 As used in NRS 33.017 to 33.100, inclusive, *and*  
19 *section 3 of this act*, unless the context otherwise requires:

20     1. "Extended order" means an extended order for protection  
21 against domestic violence.

22     2. "Temporary order" means a temporary order for protection  
23 against domestic violence.

