ASSEMBLY BILL NO. 571–COMMITTEE ON JUDICIARY

MARCH 26, 2007

Referred to Committee on Judiciary

SUMMARY—Establishes certain alternative methods of dispute resolution in domestic relations cases. (BDR 3-227)

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; establishing certain alternative methods of dispute resolution for matters involving divorce or domestic relations; providing for the arbitration of any controversy, other than divorce, arising out of a marital relationship; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the arbitration of disputes in certain cases. (Chapter 38 of NRS) **Sections 59-69** of this bill revise provisions of chapter 38 of NRS, the Uniform Arbitration Act of 2000, to provide for arbitration of any controversy, other than divorce, arising out of a marital relationship. (NRS 38.206, 38.207, 38.216, 38.217, 38.222, 38.237-38.241, 38.243, 38.247)

Sections 2-58 of this bill establish a variety of alternative methods of dispute resolution for disputes involving divorce and problems of domestic relations. **Sections 15 and 16** provide for the appointment by the district court of a dispute resolution commissioner to assist the court and parties in resolving disputes without a trial in certain circumstances. **Sections 17-20 and 34-56** provide for voluntary and mandatory, court-ordered mediation of certain cases. **Sections 29-31** provide for the appointment of a parenting coordinator to assist parties with issues relating to parenting in certain cases and **section 31** authorizes the court to appoint a domestic relations decision maker to assist the parties in certain circumstances.

Sections 42-56 provide additional alternative methods of dispute resolution in disputes arising from divorce or problems of domestic relations. **Section 42** authorizes the court to allow the parties to pursue alternative settlement procedures, including, without limitation, an evaluation by a neutral party or a parenting tribunal, a judicial settlement conference, an evaluation conducted by a mental health professional pursuant to a court order, arbitration pursuant to chapter 38 of NRS and any other settlement procedure authorized by law or local rules of practice.

Section 70 of this bill expands existing law to require arbitrators to report known or suspected child abuse or neglect. (NRS 432B.220) An arbitrator who fails to comply with this reporting requirement is guilty of a misdemeanor.

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

Section 1. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 58, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 56, inclusive, of this act, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Alternative methods of dispute resolution" means alternative methods of resolving disputes, including, without limitation, mediation, arbitration, parenting coordinators, domestic relations decision makers, neutral party evaluations and judicial settlement conferences.***

Sec. 4. ***"Arbitrator" means a person appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.***

Sec. 5. ***"Collaborative law process" means a process in which a husband and wife and their attorneys attempt to resolve their disputes involving divorce or problems of domestic relations without a trial by using the procedures set forth in sections 2 to 56, inclusive, of this act, or NRS 38.206 to 38.248, inclusive, and sections 57 and 58 of this act, as applicable, and in which the attorneys are disqualified from representing the parties if the case proceeds to trial.***

Sec. 6. ***"Collaborative law settlement agreement" means an agreement that is entered into by a husband and wife as a result of participating in the collaborative law process and that resolves disputes involving divorce or problems of domestic relations.***

Sec. 7. ***"Cooperative law process" means a process in which a husband and wife and their attorneys attempt to resolve their disputes involving divorce or problems of domestic relations without a trial by using alternative methods of dispute resolution.***

Sec. 8. ***"Cooperative law settlement agreement" means an agreement which is entered into by a husband and wife as a result of participating in the cooperative law process and which resolves disputes involving divorce or problems of domestic relations.***

Sec. 9. ***"Domestic relations decision maker" means a person appointed by the court pursuant to section 31 of this act.***

Sec. 10. *"High-conflict case" means any action for divorce, legal separation or paternity or guardianship of a minor child in which the parties demonstrate a pattern of ongoing:*

1. Litigation;

2. Anger and distrust;

3. Verbal abuse;

4. Physical aggression or threats of physical aggression;

5. Difficulty in communicating about and cooperating in the care of a minor child; or

6. Conditions that in the discretion of the court warrant the appointment of a parenting coordinator.

Sec. 11. *"Parenting coordinator" means a person appointed pursuant to section 29 of this act.*

Sec. 12. *"Third-party expert" means a person, other than the parties to a collaborative law agreement, hired pursuant to a collaborative law agreement to assist the parties in the resolution of their disputes.*

Sec. 13. *1. The provisions of sections 2 to 56, inclusive, of this act do not apply to:*

(a) Proceedings conducted in a juvenile court;

(b) Proceedings concerning the abuse or neglect of a child;

(c) Actions for the enforcement of an order for the support of a child;

(d) Petitions for adoption pursuant to chapter 127 of NRS;

(e) Proceedings to terminate parental rights pursuant to chapter 128 of NRS;

(f) Proceedings to change the name of a natural person;

(g) Actions for the issuance of a temporary or extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive; or

(h) Actions to approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.

2. The parties and attorneys involved in a case described in subsection 1 may agree to use any of the alternative methods of resolving disputes provided in sections 2 to 56, inclusive, of this act.

Sec. 14. *1. An attorney who represents a party in a case involving divorce or problems of domestic relations has an affirmative duty to advise the party of all the alternative methods of dispute resolution available to the party.*

2. An attorney who files an action on behalf of a party in an action involving divorce or problems of domestic relations must file with that action a statement signed by the attorney and the party which contains:

(a) A certification by the attorney that he has provided notice pursuant to subsection 1; and

(b) An acknowledgment by the party that the attorney has advised the party of all the available alternative methods of dispute resolution.

Sec. 15. *1. Each district court that has a family court shall appoint a dispute resolution commissioner.*

2. Each dispute resolution commissioner shall:

(a) Be responsible for creating, promoting, administering and monitoring programs for alternative methods of dispute resolution for the family court; and

(b) Carry out any other duty prescribed by the district court.

3. The dispute resolution commissioner shall serve at the pleasure of the district court.

4. If authorized by the district court, the dispute resolution commissioner may:

(a) With or without the consent of the parties, sign orders directing parties to submit to mediation; and

(b) With the consent of the parties, sign orders directing the parties to submit to arbitration or a parenting coordinator program.

Sec. 16. *1. The court or the dispute resolution commissioner shall review each case involving divorce or problems of domestic relations not later than 60 days after the case is filed. The review must include, without limitation:*

(a) An evaluation of the case for the purpose of expediting the resolution of the case;

(b) An evaluation of the case to determine the appropriate alternative methods of dispute resolution, evaluation services or treatment services available to the parties; and

(c) The preparation of a case management plan.

2. Not later than the time of the review of a case required by subsection 1, or at such earlier time as may be specified by the local rules of practice adopted in the judicial district, the court shall issue an order requiring the parties and their attorneys to attend a scheduling conference, unless the parties have previously entered into an agreement pursuant to section 23 of this act to participate in an alternative method of dispute resolution pursuant to sections 2 to 56, inclusive, of this act, or NRS 38.206 to 38.248, inclusive, and sections 57 and 58 of this act.

3. A party may be excused from attending the scheduling conference only for good cause shown.

Sec. 17. *Unless the court grants a motion pursuant to section 20 of this act, at the scheduling conference conducted pursuant to section 16 of this act, the court shall:*

1. If the parties have entered into an agreement pursuant to section 23 of this act, issue an order approving the use of any alternative method of dispute resolution described in the agreement if the parties have submitted the agreement to the court and the agreement satisfies the requirements of section 23 of this act;

2. If one party to an action involving family financial issues not previously ordered to attend mediation or another alternative method of resolving disputes has filed a motion pursuant to section 19 of this act, issue an order directing the parties to participate in a judicial settlement conference or mediation pursuant to sections 33 to 56, inclusive, of this act; or

3. If the provisions of subsection 1 or 2 do not apply, issue an order directing the parties and their attorneys to attend mediation pursuant to sections 33 to 56, inclusive, of this act.

Sec. 18. *An order issued pursuant to section 17 of this act must:*

1. State the alternative method of dispute resolution to be used by the parties;

2. Establish a deadline for the completion of the alternative method of dispute resolution which must be not more than 150 days after the date of the scheduling conference unless extended pursuant to a motion made by a party or a mediator;

3. State the plan for management of the case; and

4. If the parties will be participating in mediation, state that the parties shall be required to pay the fees of the mediator unless otherwise ordered by the court.

Sec. 19. *1. Any party to an action involving family financial issues not previously ordered to participate in an alternative method of dispute resolution may by motion seek an order from the court directing the parties to participate in an alternative method of dispute resolution. The motion must be in writing, state the reasons relief is sought and be served on the other party.*

2. Any objection to the motion described in subsection 1 or any request for hearing must be filed in writing with the court. The court shall rule upon the motion and any objections and notify the parties or their attorneys of the ruling. If the court orders the parties to participate in an alternative method of dispute resolution, the parties may agree to an alternative method of dispute resolution as provided in sections 2 to 56, inclusive, of this act.

Sec. 20. *1. A party may move the court to dispense with mediation or any other alternative method of dispute resolution.*

The motion must be in writing and must state the reason relief is sought.

2. The court may grant the motion for good cause shown, including, without limitation:

(a) That the parties have entered into an agreement pursuant to section 23 of this act to participate in an alternative method of dispute resolution pursuant to sections 2 to 56, inclusive, of this act, or NRS 38.206 to 38.248, inclusive, and sections 57 and 58 of this act,;

(b) That one of the parties has alleged domestic violence;

(c) That one or more of the parties suffers from a mental health problem, personality disorder, substance abuse, alcohol abuse or other significant behavioral problem that would prevent productive participation in these proceedings;

(d) That the case involves allegations of child abuse or neglect; or

(e) That the case involves any other proceeding described in section 13 of this act.

3. The mere desire of one or more of the parties to proceed to a trial shall not be considered good cause to dispense with an alternative method of dispute resolution authorized or required pursuant to the provisions of sections 2 to 56, inclusive, of this act.

Sec. 21. *Any person who provides services relating to programs for alternative methods of dispute resolution pursuant to sections 2 to 56, inclusive, of this act, is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity for any act relating to the provision of services as a mediator, arbitrator, parenting coordinator or domestic relations decision maker taken pursuant to a court order directing such services.*

Sec. 22. *The court may suspend all or part of the Nevada Rules of Civil Procedure during the time that the parties are engaged in any of the alternative methods of dispute resolution described in sections 2 to 56, inclusive, of this act, other than the rules for a formal trial, evidentiary hearing or proceeding by motion.*

Sec. 23. *1. A husband and wife may enter into an agreement in which the parties agree to use their best efforts and make a good faith attempt to resolve any dispute involving divorce or problems of domestic relations without trial by using alternative methods of dispute resolution.*

2. An agreement entered into pursuant to subsection 1 must be signed by all the parties to the agreement and their attorneys, and must include, without limitation:

(a) An agreement by the parties to attempt to resolve their disputes without resorting to judicial resolution of the case, except to have the court approve the settlement agreement and sign any orders required by law to effectuate the agreement of the parties as the court deems appropriate;

(b) A statement of the alternative method of dispute resolution chosen by the parties;

(c) The name, address and telephone number of the person selected by the parties to administer the alternative method of dispute resolution;

(d) A statement of the compensation of the person selected by the parties to administer the alternative method of dispute resolution;

(e) A statement indicating that all parties consent to the agreement; and

(f) If the agreement is a collaborative law agreement:

(1) An agreement by the parties that their attorneys will not serve as litigation counsel, except to ask the court to approve the settlement agreement; and

(2) Provisions for the withdrawal of all attorneys involved in the collaborative law process if the collaborative law process does not result in settlement of the dispute unless the claim is an action for divorce.

3. The provisions of paragraph (f) of subsection 2 do not disqualify an attorney who participated in the collaborative process from representing his client in an action for divorce if the collaborative law process fails to produce a collaborative settlement agreement which resolves all or part of the dispute between the parties.

4. Any statute of limitations or period of time applicable to the claim is tolled from the time the agreement is entered into until the conclusion of collaborative law process or cooperative law process.

Sec. 24. *1. The parties to an agreement described in section 23 of this act or their attorneys are not required to provide notice to the court of the agreement before a civil action is filed.*

2. If a civil action is filed, notice of the agreement, signed by the parties and their attorneys, must be filed with the court. The court shall not take any action in the case, unless the court is notified in writing that the parties have:

(a) Failed to reach a collaborative law settlement agreement or cooperative law settlement agreement;

(b) Voluntarily dismissed the action; or

(c) Asked the court to enter a judgment or order to effectuate the terms of the collaborative law settlement agreement or

cooperative law settlement agreement if the agreement is signed by each party to the agreement.

Sec. 25. *A party is entitled to an entry of judgment or order to effectuate the terms of a collaborative law settlement agreement if the agreement is signed by each party to the agreement.*

Sec. 26. *1. If the parties fail to reach a collaborative law settlement agreement or cooperative law settlement agreement and no civil action has been filed, either party may file a civil action, unless the agreement entered into pursuant to section 23 of this act provides for arbitration of the claim or the use of any other alternative method of dispute resolution.*

2. If a civil action is pending and the collaborative law process and the cooperative law processes does not result in a collaborative law settlement agreement or cooperative law settlement agreement, upon notice to the court, the court may enter orders as appropriate.

3. If a civil action is filed or set for trial, the attorneys representing the parties in any proceeding in the collaborative law process must not represent either party in any further civil proceedings and shall withdraw as attorney for either party.

4. No third-party expert retained by a party to an agreement entered into pursuant to section 23 of this act may testify or participate in any civil action relating to the agreement.

Sec. 27. *1. Except as otherwise provided in subsection 2, any statement, communication or work product made or arising from a collaborative law process or cooperative law process is confidential and is not admissible in any court proceeding.*

2. Any communication or work product of any attorney or third-party expert retained for the purposes of a collaborative law process or cooperative law process is privileged and is inadmissible in any court proceeding, except by agreement of the parties.

3. As used in this section, "work product" includes, without limitation, any written or verbal communications or analysis.

Sec. 28. *Unless specifically prohibited by law, the personal representative of the estate of a deceased party to an agreement entered into pursuant to section 23 of this act may participate in the collaborative law process or cooperative law process with respect to any distribution of assets that was initiated pursuant to the agreement before the death of the deceased party if the parties to the agreement had reached a collaborative law settlement agreement or cooperative law settlement agreement regarding the distribution of the marital assets and debts of the party but had not submitted that collaborative law settlement agreement or*

cooperative law settlement agreement to the court before the death of the deceased party.

Sec. 29. *1. In any action for divorce, legal separation or paternity or guardianship of a minor child, the court may:*

(a) Upon its own motion and upon notice to the parties; or

(b) Upon motion or agreement of the parties,

➥ appoint a parenting coordinator to assist the parties in resolving and deciding issues concerning parental responsibilities, including, without limitation, implementing a court-ordered parenting plan or any other plan relating to parenting or other family issues.

2. Upon the agreement of the parties, the court may appoint a person who has served or is serving in a case as a child and family investigator to serve in the same case as a parenting coordinator.

3. The court shall not appoint a person to serve as a parenting coordinator in a case if the person has served or is serving in the case as an evaluator or representative of the child.

4. The court shall not appoint a parenting coordinator if any party objects, unless the court:

(a) Makes specific findings that the case is a high-conflict case;

(b) Makes specific findings that the appointment of a parenting coordinator is in the best interest of any minor child in the case;

(c) Makes specific findings that the parties have failed to adequately implement a court-ordered parenting plan; or

(d) Determines that mediation is inappropriate or that mediation has been attempted and was unsuccessful.

5. In appointing a parenting coordinator, the court shall consider the effect of any documented evidence of domestic violence, mental health disability or psychological impairment on the ability of the parties to engage in parent coordination.

6. A court order appointing a parenting coordinator must be for a specific term of not more than 2 years. If an order fails to specify the length of the court-ordered appointment, it must be construed to be 2 years from the date of appointment. Upon agreement of the parties, the court may extend, modify or terminate the appointment, including, without limitation, extending the term of the parenting coordinator beyond 2 years after the date of the original appointment.

7. The parties may limit the authority of the parenting coordinator to specific issues or areas if the parenting coordinator is appointed pursuant to agreement of the parties.

8. Meetings between the parenting coordinator and the parties need not follow any specific procedures, and the meetings

may be informal. All communication between the parties and the parenting coordinator are not confidential.

9. Unless specifically authorized in the order appointing a parenting coordinator, the provisions of this section and sections 30 and 31 of this act do not authorize a parenting coordinator to modify or restrict the right of visitation of any party pursuant to a court order.

10. The court may remove the parenting coordinator:

(a) In its own discretion for good cause;

(b) Upon the request and agreement of both parties; or

(c) Upon the motion of either party and good cause shown.

11. A parenting coordinator may withdraw at any time after providing notice to the parties, their attorneys and the court.

12. The parties are responsible for all costs associated with the parenting coordinator. The court shall include in the order appointing the parenting coordinator an apportionment of the responsibility for payment of the costs associated with the parenting coordinator.

13. If a person has been appointed as a parenting coordinator in a case, the person may not be appointed as a child and family investigator, evaluator or representative of a child in the same case.

Sec. 30. *1. The authority of the parenting coordinator must be specified in the order appointing the parenting coordinator. Pursuant to the order, the parenting coordinator shall assist the parties in:*

(a) Developing parenting strategies to minimize conflict;

(b) Reducing misunderstandings;

(c) Clarifying priorities;

(d) Developing guidelines for communication between the parties and suggesting appropriate resources to assist the parties in learning appropriate communication skills;

(e) Learning about appropriate resources to improve parenting skills;

(f) Assisting parties in realistically identifying the sources and causes of conflict between the parties, including, without limitation, identifying each party's contribution to the conflict;

(g) Exploring possibilities for compromise;

(h) Creating and implementing a parenting plan;

(i) Developing methods of collaboration in parenting; and

(j) Complying with any court order regarding custody, visitation or guardianship of a minor child.

2. The appointment of a parenting coordinator does not divest the court of the authority to determine issues of custody, visitation

and support or the authority to exercise management and control of the case.

3. The parenting coordinator shall not make any modification to any order, judgment or decree issued by the court.

4. The parenting coordinator may allow the parties to make a temporary departure from a parenting plan if the order appointing the parenting coordinator authorizes such a departure. If the order does not authorize such a departure, the court must approve any proposed departure from the parenting plan.

5. The parenting coordinator shall not be competent to testify and may not be required to produce records as to any statement, conduct or decision that occurred during the parenting coordinator's appointment to the same extent as a judge of a court of this State acting in judicial capacity for any judicial proceeding, administrative proceeding or other similar proceeding between the parties. The provisions of this section do not prohibit a parenting coordinator from testifying or producing records to the extent testimony or production of records by the parenting coordinator is necessary in an action by the parenting coordinator to collect fees from a party to the action.

Sec. 31. *1. In addition to the appointment of a parenting coordinator pursuant to section 29 of this act or an arbitrator pursuant to section 33 of this act, at any time after the entry of an order concerning parental responsibilities and upon written consent of both parties, the court may appoint a qualified domestic relations decision maker and authorize the domestic relations decision maker to issue binding decisions consistent with the substantive intent of the court order to resolve any dispute between the parties relating to the implementation or clarification of any court order concerning any minor child or dependent child.*

2. The procedure used by the domestic relations decision maker for resolving a dispute must be in writing and must be approved by the parties before the domestic relations decision maker is authorized to resolve the dispute. If any party is unable or unwilling to agree to the procedure proposed by the domestic relations decision maker, the domestic relations decision maker may withdraw from the matter.

3. Any decision made by the domestic relations decision maker pursuant to this section must:

(a) Be in writing, dated and signed by the domestic relations decision maker; and

(b) Be filed with the court and mailed to the parties or to their attorneys, if any, not later than 20 days after the date the domestic relations decision maker issues his decision.

4. Any decision issued by a domestic relations decision maker pursuant to this section is effective immediately upon issuance and continues in effect until the decision is vacated, corrected or modified:

(a) By the domestic relations decision maker; or

(b) Pursuant to a court order issued pursuant to subsection 5.

5. A party may file a motion requesting the court to vacate, correct or modify a decision of a domestic relations decision maker. A motion made pursuant to this subsection must be made not later than 30 days after the date on which the domestic relations decision maker issued the decision. If the court grants the motion, the court must hold a hearing on the motion. If, after the hearing, the court substantially upholds the decision of the domestic relations decision maker, the court must order the moving party to pay the fees and costs of the other party and of the domestic relations decision maker incurred in connection with the hearing, unless the court finds that it would be manifestly unjust.

6. A court order appointing a domestic relations decision maker must be for a term of not more than 2 years. If an order fails to specify the length of the appointment, the term shall be construed to be 2 years after the date of the appointment. Upon agreement of the parties, the court may extend, modify or terminate the appointment, including, without limitation, extending the appointment beyond 2 years after the date of the original appointment. The court may terminate the appointment of the decision maker at any time for good cause.

7. The domestic relations decision maker may withdraw from a case at any time.

8. A court order appointing a domestic relations decision maker must include an order apportioning among the parties the responsibility for the payment of all the fees incurred by the domestic relations decision maker in connection with the case. The State shall not be responsible for the payment of any fees incurred by a domestic relations decision maker appointed pursuant to this section.

Sec. 32. ***1. In a judicial proceeding, administrative proceeding or other similar proceeding, a domestic relations decision maker shall not be competent to testify and shall not be required to produce records as to any statement, conduct or decision that occurred during the term of the appointment of the domestic relations decision maker to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection does not apply:***

(a) To the extent testimony or production of records by the domestic relations decision maker is necessary to determine the claim of a domestic relations decision maker against a party;

(b) To the extent testimony or production of records by the domestic relations decision maker is necessary to determine a claim of a party against a domestic relations decision maker;

(c) If both parties have agreed in writing to authorize the domestic relations decision maker to testify; or

(d) If a person commences a civil action against a domestic relations decision maker arising from the services of the domestic relations decision maker.

2. If a person seeks to compel a domestic relations decision maker to testify or produce records and the court determines that the domestic relations decision maker is immune from civil liability or that the domestic relations decision maker is not competent to testify or produce records pursuant to subsection 1, the court shall award to the domestic relations decision maker reasonable attorney's fees and reasonable expenses of litigation.

3. A domestic relations decision maker shall comply with any applicable provisions of local rules of practice adopted in the judicial district and any other professional or ethical standards established by statute, rule or licensing board that regulates the acts of the domestic relations decision maker.

Sec. 33. ***1. Upon consent of all parties, the court may appoint an arbitrator to resolve any dispute between the parties concerning a minor child or dependent child, including, without limitation, a dispute relating to parenting time, nonrecurring adjustments to child support or disputed parental decisions. An award entered by an arbitrator appointed pursuant to this section:***

(a) Must be in writing;

(b) Is effective immediately upon entry; and

(c) Continues in effect until the award is vacated, modified or corrected by the arbitrator or by the court pursuant to a motion made pursuant to subsection 2.

2. A party may submit a motion to the court to vacate, modify or correct an award entered by an arbitrator pursuant to this section. A motion made pursuant to this subsection must be made not later than 30 days after the date of entry of the award. If the court grants the motion, the court must hold a hearing on the motion. If, after the hearing, the court substantially upholds the award entered by the arbitrator, the court must order the moving party to pay the fees and costs of the nonmoving party and of the arbitrator incurred in connection with the hearing, unless the court finds that it would be manifestly unjust.

Sec. 34. *1. If the parties are ordered by the court pursuant to section 17 of this act to participate in mediation, the parties may at the mediation or at any time thereafter, discuss, negotiate or decide any issue relating to financial issues that exist between the parties, including, without limitation, the division of property or debt and the payment of alimony.*

2. In any district court which has established a program for mediation of disputes concerning child custody and visitation mediation, child custody and visitation issues may be the subject of dispute resolution if the parties and the mediator have agreed to include such issues in the dispute resolution.

Sec. 35. *1. If the parties in a case are required to participate in mediation pursuant to an order issued pursuant to section 17 of this act, the parties may select a mediator certified by the court by filing with the court a designation of mediator by agreement at the scheduling conference. If the parties wish to select a mediator who is not certified by the court, the parties may nominate a mediator by filing a nomination of noncertified mediator with the court at the scheduling conference.*

2. The designation of a mediator by agreement must:

(a) State the name, address and telephone number of the mediator selected;

(b) Provide the rate of compensation of the mediator; and

(c) State that the mediator and all parties to the mediation have agreed upon the selection of the mediator and the rate of compensation.

3. The nomination of a noncertified mediator must:

(a) State the name, address and telephone number of the noncertified mediator;

(b) State the training, experience or other qualifications of the mediator;

(c) Provide the rate of compensation of the mediator; and

(d) State that the mediator and all parties to the mediation have agreed upon the selection of the mediator and the rate of compensation.

4. The court shall approve the nomination of a noncertified mediator if the court determines that the nominee is qualified to serve as mediator.

5. Upon the failure of the parties to submit a designation of mediator by agreement or nomination of noncertified mediator, or if the parties notify the court before the scheduling conference that the parties and the attorneys for the parties have had a full and frank discussion concerning the selection of a mediator and have been unable to agree on a mediator, the court shall appoint a certified mediator. In appointing a mediator, the court must select

a mediator from the list of available certified mediators without regard to race, gender, religious affiliation or whether the mediator is a licensed attorney. A certified mediator who does not reside in the judicial district or a county contiguous to the judicial district must be included in the list of mediators available for appointment only if, on an annual basis, the certified mediator informs the court in writing that he agrees to mediate any case to which he is appointed.

6. The dispute resolution commissioner shall furnish to the judges of the district court a list of the certified mediators requesting appointments in the district. For each certified mediator, the list must contain the name, address and telephone number of the mediator. The list must be available in written form and electronically through a website maintained by the dispute resolution commissioner. The dispute resolution commissioner shall promptly notify the court of any disciplinary action taken with respect to a mediator on the list of certified mediators for the judicial district.

7. To assist the parties in the designation of a mediator by agreement, the dispute resolution commissioner and the court shall prepare and keep current a central directory of all certified mediators.

8. A party may move the court for an order disqualifying a mediator. The court may grant the motion upon good cause shown. If a mediator is disqualified pursuant to this subsection, a replacement mediator may be selected or appointed. Nothing in this subsection prohibits a mediator from disqualifying himself.

Sec. 36. *1. A mediation conference may be held in any location agreeable to the parties and the mediator. If the parties cannot agree on a date, time and location for the mediation conference, the mediator shall:*

(a) Select the date, time and location for the conference;

(b) Make necessary arrangements for the conference; and

(c) Provide timely notice of the date, time and location of the conference to all parties and their attorneys.

2. The mediator shall set a date and time for the mediation conference as soon as practicable. In scheduling the mediation conference, the mediator shall allow the parties reasonable time to conduct limited discovery. The mediator is authorized to assist the parties in establishing a discovery schedule and completing discovery.

3. A conference session may be postponed by the mediator:

(a) Upon motion of a party, notice to all parties of the reasons the postponement is sought and a finding of good cause by the mediator; or

(b) Upon the consent of all parties.

4. A party or the mediator may move the court to extend the deadline for completion of the conference. The motion must be in writing, state the reason the extension is sought and be served by the moving party or the mediator upon all parties and the mediator. The court may grant the motion by entering a written order setting a new deadline for completion of the mediation conference, which date may be set at any time before the date of any trial set in the case. The order setting a new deadline must be served on all parties and the mediator by the person who sought the extension of the deadline.

5. The mediator may recess the mediation conference at any time and may set times for reconvening. If the time for reconvening is set during the mediation conference, no further notification is required for persons present at the mediation conference.

6. Except by order of the court, the mediation conference does not operate to stay or excuse the delay of other proceedings in the case, including, without limitation, the completion of discovery, the filing or hearing of motions or the trial of the case.

Sec. 37. ***1. The parties and at least one attorney of record for each party whose attorney has appeared in the action shall attend the mediation conference.***

2. Except as otherwise provided in subsection 3, any person required to attend a mediation conference shall physically attend the conference until such time as all agreement has been reached or the mediator, after conferring with the parties and their attorneys declares an impasse.

3. Any person may seek to be excused from the attendance required pursuant to subsection 2 or to have the attendance requirement modified, including, without limitation, by seeking to participate in the mediation conference by telephone, upon agreement of all parties and the mediator or by order of the court.

4. Any person who is required to attend the mediation conference shall:

(a) Promptly notify the mediator of any significant problem relating to the scheduling or location of the mediation conference;

(b) Notify the mediator of any potential scheduling problems that arise before the mediation conference is scheduled; and

(c) If a scheduling conflict arises after a mediation conference has been scheduled by the mediator, promptly attempt to resolve the scheduling conflict.

5. If any person required to attend the mediation conference fails to attend without good cause, the court may impose upon that person any appropriate monetary sanction, including, without

limitation, the payment of attorney's fees, mediator fees, expenses and loss of earnings incurred by persons attending the mediation conference. A motion by a party to the action seeking sanctions pursuant to this section, or the court on its own motion, must:

(a) Be in writing;

(b) State the grounds for the motion and the relief sought; and

(c) Be served upon all parties and upon any person against whom sanctions are sought.

6. After notice and a hearing on a motion made pursuant to subsection 5, if the motion is supported by substantial evidence, the court may in a written order impose sanctions pursuant to this section.

Sec. 38. *1. If agreement is reached on any or all issues at the mediation conference, at the conclusion of the mediation conference, the essential terms of the agreement must be reduced to writing as a summary memorandum. The parties and their attorneys shall use the summary memorandum as a guide to drafting any agreements and orders as may be required to give legal effect to the terms of the agreement. If the parties cannot agree on the wording or terms of the final agreement or any order, the mediator may schedule another mediation conference if the mediator determines that it would assist the parties.*

2. If agreement is reached on all issues at the mediation conference:

(a) The mediator shall designate one or more parties or attorneys to be responsible for filing any appropriate motions or orders with the court and to sign the summary memorandum.

(b) Each attorney of record in the case must notify the court within 4 business days after the mediation conference that agreement has been reached on all issues and shall notify the court of the name of the person designated pursuant to paragraph (a) and the date on which the agreement will be filed.

3. The parties shall provide a copy of the summary memorandum and any other agreement or order to the mediator.

4. An order for consent judgment or voluntary dismissal filed pursuant to an agreement reached pursuant to a mediation conference must be filed with the court not later than 30 days after the agreement is reached or on or before the expiration of the mediation deadline, whichever is later.

Sec. 39. *1. Subject to the provisions of sections 2 to 56, inclusive, of this act and the standards specified by the local rules of practice adopted in the judicial district, the mediator shall have sole discretion to determine the procedure to be used during the mediation conference and shall avoid procedures which unnecessarily prolong the mediation conference.*

2. The mediator has a duty to be impartial and to advise all participants of any circumstance bearing on possible bias, prejudice or partiality.

3. The mediator:

(a) May communicate privately with any participant during the mediation conference.

(b) Shall not, without the consent of all parties, communicate privately with any party or attorney before or after the mediation conference regarding any matter other than the scheduling of the mediation conference.

4. At the beginning of the mediation conference, the mediator shall explain to the parties and their attorneys:

(a) The process of mediation;

(b) The differences between mediation and other alternative methods of dispute resolution;

(c) The costs of the mediation conference;

(d) That the mediation conference is not a trial, that the mediator is not a judge and that the parties may retain the right to a trial if they do not reach an agreement;

(e) The circumstances under which the mediator may meet and communicate privately with any of the parties or with any other person;

(f) Whether and under what conditions communications with the mediator will be held in confidence during the conference;

(g) The duties and responsibilities of the mediator and the participants; and

(h) That any agreement reached during the mediation conference must be reached by mutual consent.

5. The mediator shall determine in a timely manner whether an impasse exists and that the mediation conference should end. In making such a determination, the mediator shall consider whether the parties wish to cease or continue the conference.

6. The mediator shall make a report to the court within 10 days after the conclusion of the mediation conference as to whether an agreement was reached by the parties. The report must:

(a) Inform the court of the unauthorized absence of any party or attorney from the mediation conference;

(b) If agreement upon all issues was reached, state:

(1) Whether the action will be concluded by consent judgment or voluntary dismissal;

(2) The date on which the consent judgment or voluntary dismissal will be filed with the court; and

(3) The name, address and telephone number of any person designated to file any such consent judgment or voluntary dismissal with the court; and

(c) If the parties reached partial agreement at the mediation conference, state what issues remain for trial.

7. The dispute resolution commissioner may require the mediator to provide statistical data for evaluation of the program for mediation conferences.

8. The mediator is required to provide a copy of the summary memorandum to the court.

9. The court may find in contempt any mediator who fails to make the report required pursuant to subsection 6 and may impose appropriate sanctions.

Sec. 40. *1. If a mediator is selected by agreement of the parties, the mediator must be compensated in the manner agreed upon by the parties and the mediator.*

2. If the mediator is appointed by the court, the parties shall compensate the mediator for mediation services at the rate set by the mediator or such lesser amount as the mediator may agree to accept.

3. Unless otherwise agreed to by the parties or ordered by the court, the mediator's fee must be paid equally by the parties. Except as otherwise provided in subsection 1 or 2, the mediator's fee is due in accordance with the mediator's fee schedule.

4. A party may by motion seek an order from the court finding that the party is unable to pay its portion of the mediator's fee. In considering such a motion, the court may consider the income and assets of the moving party and the results of the mediation conference. If the court determines that the moving party is unable to pay its portion of the mediator's fee required pursuant to subsection 3, the court may require that all or part of the mediator's fee must be paid out of the marital estate. The mediator shall accept as payment in full of the moving party's share of the mediator's fee that portion of the fee paid by or on behalf of the party pursuant to an order issued pursuant to this section.

5. The court may find in contempt, and upon notice and a hearing impose any appropriate sanction upon, any party who willfully fails to make timely payment of his share of the mediator's fee or who contends that the party is indigent or unable to pay his share of the mediator's fee and fails to promptly seek a determination of indigency or inability to pay.

Sec. 41. *1. The district court shall establish requirements for certification as a certified mediator as specified by the local rules of practice adopted in the judicial district.*

2. The dispute resolution commissioner may receive and approve applications for certification of persons to be appointed as certified mediators.

3. The dispute resolution commissioner shall certify a training program for mediators pursuant to the requirements established by the district court pursuant to this section.

Sec. 42. ***1. Upon motion of the parties seeking authorization to use an alternative method of dispute resolution, the court may order the use of an alternative method of dispute resolution described in subsection 2 unless the court finds that:***

(a) The parties have not agreed upon:

(1) The alternative method of dispute resolution;

(2) The neutral party who will conduct the alternative method of dispute resolution; or

(3) The compensation for the neutral party; or

(b) The alternative method of dispute resolution selected is not appropriate for the case or the parties.

2. In addition to or in lieu of mediation, the court may authorize the parties in any dispute involving divorce or problems of domestic relations to use an alternative method of dispute resolution, including, without limitation:

(a) A neutral evaluation, in which a neutral party or a parenting tribunal consisting of a judge, a mental health professional and an attorney offers an advisory evaluation of the issues in the case following summary presentations by each party;

(b) A judicial settlement conference, in which a judge of a district court assists the parties in reaching a settlement without trial;

(c) An evaluation conducted by a mental health professional pursuant to a court order in which the mental health professional conducts a short, focused evaluation followed by direct mediation with the parties;

(d) For disputes other than divorce, arbitration pursuant to NRS 38.206 to 38.248, inclusive, and sections 57 and 58 of this act, which shall constitute good cause for the court to dispense with settlement procedures otherwise authorized by the provisions of sections 2 to 56, inclusive, of this act; and

(e) Any other alternative method of dispute resolution authorized by law or specified by the local rules of practice adopted in the judicial district.

Sec. 43. ***1. The neutral party who will conduct the alternative method of dispute resolution authorized by the court pursuant to section 42 of this act shall:***

(a) Schedule a conference not later than 90 days after the date of the court order authorizing the conference, unless the order

specifies a different deadline or unless the deadline is extended by the court.

(b) Make an effort to schedule the conference at a time that is convenient to all parties. If the parties cannot agree on a date and time, the neutral party shall select a date and time for the conference.

2. A proceeding may be held by the neutral party in any location agreeable to all the parties. If the parties are unable or unwilling to agree to a location, the neutral party shall choose a neutral location for the conference. The neutral party shall provide timely notice of the time and location of the conference to all parties and their attorneys.

3. A party or the neutral party who will conduct the alternative method of dispute resolution may request that the court extend the deadline for completion of the alternative method of dispute resolution. A request for an extension must state the reasons the extension is sought and must be served by the moving party on the other parties and the neutral party. The court may, in its discretion, grant the extension and enter an order setting a new deadline for completion of the alternative method of dispute resolution. The court's order must be served on all parties and the neutral party who sought the extension.

Sec. 44. *Unless authorized by order of the court, any proceeding conducted pursuant to section 42 of this act does not operate to stay any other proceedings in the case, including, without limitation, the conduct or completion of discovery, the filing or hearing of motions, or the trial of the case.*

Sec. 45. *Any statement made and conduct which occurs during a conference or other proceeding conducted pursuant to section 42 of this act is not subject to discovery and shall be deemed inadmissible in any proceeding in the action or other civil actions concerning the same claim, except in a proceeding:*

1. For sanctions pursuant to the provisions of sections 2 to 56, inclusive, of this act;

2. To enforce or rescind a settlement agreement entered into pursuant to sections 2 to 56, inclusive, of this act;

3. For disciplinary action before the State Bar of Nevada or any other entity established to enforce standards of conduct of neutral parties; or

4. In proceedings to enforce laws concerning domestic violence or abuse or neglect of children or older persons.

Sec. 46. *No settlement agreement to resolve any or all issues entered into at a conference authorized pursuant to section 42 of this act is enforceable unless the settlement agreement has been reduced to writing and signed by the parties and their attorneys.*

Sec. 47. *1. Except to attest to the signing of any agreement and except for a proceeding for sanctions, no neutral party or neutral observer present at a conference held pursuant to section 42 of this act may be compelled to testify or produce evidence concerning statements made and conduct which occurred in anticipation of, during or immediately following the settlement conference in any civil proceeding for any purpose, including, without limitation, a proceeding to enforce or rescind a settlement of the action.*

2. As used in this section, "neutral observer" includes, without limitation, any person seeking certification as a mediator, any person studying alternative methods of dispute resolution or any person acting as an interpreter.

Sec. 48. *No stenographic or other record must be made of any proceedings under section 42 of this act.*

Sec. 49. *Unless all parties agree otherwise, there must be no private communication between a neutral party and a party or a party's attorney before the conclusion of the conference held pursuant to section 42 of this act on any matter relating to the proceeding except with regard to administrative and scheduling matters.*

Sec. 50. *1. Except as otherwise provided in subsection 2, all parties and their attorneys shall attend the settlement conference held pursuant to section 42 of this act.*

2. If a person is required to attend the settlement conference but fails to attend without good cause, the court may impose upon that person any appropriate monetary sanction, including, without limitation, the payment of fines, attorney's fees, fees of the neutral party, expenses and loss of earnings incurred by persons attending the settlement conference.

3. A party to the action, or the court, on its own motion, seeking sanctions against a party or attorney pursuant to subsection 2, shall make a motion in writing stating the grounds for the motion and the relief sought. The motion must be served upon all parties and on any person against whom the sanctions are sought. If, after notice and a hearing, the court imposes sanctions pursuant to this subsection, it shall issue a written order making findings of fact supported by a preponderance of the evidence and conclusions of law.

Sec. 51. *1. If agreement is reached on all issues at the neutral evaluation, judicial settlement conference or other proceeding conducted pursuant to section 42 of this act, the essential terms of the agreement must be reduced to writing as a summary memorandum unless the parties have reduced their agreement to writing and signed it. The parties and their attorneys*

shall use the summary memorandum as a guide to drafting such agreements and orders as may be required to give legal effect to the terms of the agreement. Not later than 30 days after the conclusion of the proceeding, all final agreements and other dispositive documents must be executed by the parties and all consent judgments or voluntary dismissals must be filed with the court by the person designated to file such documents.

2. If agreement is reached on all issues before the neutral evaluation, judicial settlement conference or other proceeding or finalized while the proceeding is in recess:

(a) The parties shall:

(1) Reduce the terms of the agreement to writing;

(2) Sign the agreement; and

(3) File any consent judgment or voluntary dismissal disposing of all issues with the court within 30 days after the date of the agreement or on or before the expiration of the deadline for completion of the alternative method of dispute resolution, whichever is later.

(b) Each attorney of record in the case must notify the court not later than 5 business days after the date of the settlement and must notify the court of the name of the person who will file any consent judgment or voluntary dismissal relating to the agreement.

3. The parties shall pay the fees of the neutral party as provided by the agreement or court order except that the parties shall not pay any expenses relating to a judicial settlement conference.

Sec. 52. *1. The parties may select any person whom they believe can assist them with the settlement of their case to serve as a neutral party in any alternative method of dispute resolution conducted pursuant to section 42 of this act other than a judicial settlement conference. Notice of such selection must be provided to the court and to the neutral party through the filing of a motion to authorize the use of other settlement procedures at the scheduling conference or at a court appearance in which alternative methods of dispute resolution are considered by the court. The motion must state:*

(a) The name, address and telephone number of the neutral party;

(b) The rate of compensation of the neutral party; and

(c) That the neutral party and all parties and their attorneys have agreed upon the selection and compensation.

2. If the parties are unable to select a neutral party by agreement, the court shall deny the motion for authorization to

use another alternative method of dispute resolution and shall order the parties to attend a mediation conference.

3. A party may move any court of the district in which an action is pending for an order disqualifying a neutral party. The court may grant the motion for good cause shown, including, without limitation, evidence that the neutral party has violated any standard of conduct of the State Bar of Nevada or any standard of conduct for neutral parties that may be specified by the local rules of practice adopted in the judicial district.

Sec. 53. *1. Subject to the provisions of sections 2 to 56, inclusive, of this act and any requirement imposed pursuant to the local rules of practice adopted in the judicial district, the neutral party has sole discretion regarding the procedures to be followed.*

2. The neutral party shall make a good faith effort to schedule the settlement conference at a time that is convenient to the parties and their attorneys. If the parties are unwilling or unable to agree to a date and time for the settlement conference, the neutral party shall select the date and time for the settlement conference. The settlement conference must be completed before the deadline for completion contained in the order authorizing the settlement conference unless otherwise authorized by written order of the court.

3. At the beginning of the settlement conference, the neutral party shall explain to the parties and their attorneys:

(a) The nature of the settlement conference;

(b) The differences between the settlement procedure and other forms of conflict resolution;

(c) The costs of the proceeding; and

(d) The duties and responsibilities of the neutral party and the parties and their attorneys.

Sec. 54. *The neutral party appointed pursuant to section 42 of this act shall be impartial and shall advise all participants of any circumstance bearing on possible bias, prejudice or partiality of the neutral party.*

Sec. 55. *1. If the court orders a neutral evaluation pursuant to section 42 of this act, the neutral party shall schedule the neutral evaluation conference as soon as is practicable.*

2. Not later than 20 days before the scheduled date of the neutral evaluation conference, each party shall:

(a) Furnish to the neutral party a written summary of the case, including, without limitation, a summary of the significant facts and issues in the case and any documents supporting the summary; and

(b) Certify to the neutral party that the party has served a copy of such summary on all other parties to the case.

3. Not later than 10 days before the scheduled date of the neutral evaluation conference, a party may send additional written information to the neutral party in response to any submission of the opposing party. The response furnished to the neutral party must be served on all other parties, and the party sending such response shall certify such service to the neutral party.

4. At any time before the neutral evaluation conference, the neutral party may request additional written information from any party. At the neutral evaluation conference, the neutral party may address questions to the parties and provide the parties with an opportunity to complete their summaries with a brief oral statement.

5. Subject to approval of the neutral party, the parties may agree to modify the procedures for the conduct of the neutral evaluation conference.

6. At the beginning of the neutral evaluation conference, the neutral party shall explain to the parties that:

(a) The neutral evaluation conference is not a trial, the neutral party is not a judge, the neutral party's opinions are not binding on any party and the parties retain the right to trial if they do not reach a settlement;

(b) Any settlement reached must be only by mutual consent of the parties; and

(c) In evaluating the case, the neutral party will:

(1) Evaluate the strengths and weaknesses of the case;

(2) Provide a candid assessment of the merits of the case, settlement value and a dollar value or range of potential awards if the case proceeds to trial;

(3) Identify areas of agreement and disagreement between the parties; and

(4) Suggest necessary and appropriate discovery.

7. At the conclusion of the neutral evaluation conference, the neutral party shall issue an oral report to the parties advising them of his opinions of the case, including, without limitation:

(a) A candid assessment of the merits of the case;

(b) An estimated settlement value;

(c) The strengths and weaknesses of each party's claims if the case proceeds to trial; and

(d) A recommended settlement or disposition of the case and the reasons therefor.

➥ The neutral party shall not reduce his report to writing and, except as otherwise provided in subsection 8, shall not include any of the written information submitted by the parties or any information contained in the oral report in his written report to the court.

8. Not later than 10 days after the conclusion of the neutral evaluation conference, the neutral party shall file a written report with the court which must include, without limitation:

(a) The date and location of the neutral evaluation conference;

(b) The name of each person who attended the neutral evaluation conference;

(c) The names of any party or attorney known to the evaluator to have been absent from the neutral evaluation conference without authorization;

(d) A statement informing the court whether an agreement was reached by the parties;

(e) If a partial agreement was reached at the neutral evaluation conference, a statement of the issues which remain for trial; and

(f) If the parties reached a full or partial agreement, the name of each person designated by the neutral party to file any consent judgment or voluntary dismissal arising from the agreement with the court.

9. If all parties request and agree, the neutral party may assist the parties in settlement discussions. lf the parties do not reach a settlement during such discussions, the neutral party shall conclude the neutral evaluation conference and make his written report to the court as if such settlement discussions had not occurred. lf the parties reach an agreement at the conference, they shall reduce the agreement to writing.

Sec. 56. *1. A judicial settlement conference must be conducted by a judge of a district court. The judge who presides over the judicial settlement conference may preside over the action if it proceeds to trial.*

2. The form and manner of the conference is within the discretion of the judge. The judge may not impose a settlement on the parties but may assist the parties in reaching a resolution of all claims.

3. A judicial settlement conference must be conducted in private. No stenographic or other record may be made of the conference. Persons other than the parties and their attorneys may attend only with the consent of all parties. The judge shall not communicate with anyone regarding any communications made during the conference, except that the judge may report that a settlement was reached and, with the consent of the parties, the terms of that settlement.

4. Within 10 days after the completion of the judicial settlement conference, the judge shall file a written report with the district court stating:

(a) Date and location of the conference;

(b) The names of those persons who attended the conference, and the names of any party or attorney known to the judge to have been absent from the settlement conference without authorization;

(c) Whether any agreement was reached by the parties;

(d) If a partial agreement is reached, the issues that remain for trial; and

(e) If a full or partial agreement is reached, the name of any person designated to file a consent judgment or voluntary dismissal with the court.

5. The judge shall not provide a copy of any agreement reached by the parties to the court.

Sec. 57. *1. Parties may in a record enter into a premarital agreement to submit to arbitration any controversy, except for child support, child custody or a divorce itself, arising out of the marital relationship.*

2. During or after a marriage between two parties, the parties may agree in a record to submit to arbitration any controversy, other than a divorce, arising out of the marital relationship.

3. Except as otherwise provided in this section or section 58 of this act, the provisions of NRS 38.206 to 38.248, inclusive, apply to an agreement described in subsection 1 or 2.

Sec. 58. *1. A court or arbitrator may modify an award of post separation support, alimony, child support or child custody made pursuant to the provisions of title 11 of NRS in accordance with the provisions of this section. Except as otherwise provided in this section, the provisions of chapters 125, 125B and 125C of NRS apply to the modification or correction of an award for post separation support, alimony, child support or child custody.*

2. Unless the parties have agreed in a record that an award for post separation support or alimony may not be modified, an award by an arbitrator for post separation support or alimony may be modified in the manner provided for the modification of an order for alimony or post separation support entered pursuant to the provisions of chapter 125 of NRS.

3. An award by an arbitrator for child support or child custody may be modified in the manner provided for the modification of an order for child support or child custody entered pursuant to the provisions of chapter 125B or 125C of NRS.

4. If an award for post separation support or alimony, other than an award that may not be modified, or an award for child support or child custody has not been confirmed pursuant to NRS 38.239, upon the agreement of the parties in a record, the award may be submitted to an arbitrator chosen by the parties.

5. If an award for post separation support or alimony, other than an award that may not be modified, or an award for child support or child custody has been confirmed pursuant to NRS 38.239, upon the agreement of the parties in a record and upon joint motion to the court, the court may remit the award to an arbitrator chosen by the parties.

Sec. 59. NRS 38.206 is hereby amended to read as follows:

38.206 NRS 38.206 to 38.248, inclusive, ***and sections 57 and 58 of this act*** may be cited as the Uniform Arbitration Act of 2000.

Sec. 60. NRS 38.207 is hereby amended to read as follows:

38.207 As used in NRS 38.206 to 38.248, inclusive, ***and sections 57 and 58 of this act,*** the words and terms defined in NRS 38.208 to 38.213, inclusive, have the meanings ascribed to them in those sections.

Sec. 61. NRS 38.216 is hereby amended to read as follows:

38.216 1. ***Except as otherwise provided in subsection 4,*** NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made on or after October 1, 2001.

2. ***Except as otherwise provided in subsection 4,*** NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. ~~[On]~~ ***Except as otherwise provided in subsection 4, on*** or after October 1, 2003, NRS 38.206 to 38.248, inclusive, govern an agreement to arbitrate whenever made.

4. The provisions of sections 57 and 58 of this act apply:

(a) To an agreement to arbitrate made on or after July 1, 2008; and

(b) To an agreement to arbitrate whenever made if all parties to the agreement or to the arbitral proceeding so agree in a record.

Sec. 62. NRS 38.217 is hereby amended to read as follows:

38.217 1. Except as otherwise provided in subsections 2 and 3, a party to an agreement to arbitrate or to an arbitral proceeding may waive, or the parties may vary the effect of, the requirements of NRS 38.206 to 38.248, inclusive, ***and sections 57 and 58 of this act*** to the extent permitted by law.

2. Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) ~~[Waive]~~ ***Except as otherwise provided in subsection 3 of NRS 38.222, waive*** or agree to vary the effect of the requirements of subsection 1 of NRS 38.218, subsection 1 of NRS 38.219, NRS 38.222, subsection 1 or 2 of NRS 38.233, NRS 38.244 or 38,247;

(b) Agree to unreasonably restrict the right under NRS 38.223 to notice of the initiation of an arbitral proceeding;

(c) Agree to unreasonably restrict the right under NRS 38.227 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under NRS 38.232 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under NRS 38.206 to 38.248, inclusive, ***and sections 57 and 58 of this act,*** but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

3. A party to an agreement to arbitrate or arbitral proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or subsection 1 or 3 of NRS 38.216, NRS 38.221, 38.229, 38.234, subsection 3 or 4 of NRS 38.237, NRS 38.239, 38.241, 38.242, subsection 1 or 2 of NRS 38.243, NRS 38.248 or 38.330.

Sec. 63. NRS 38.222 is hereby amended to read as follows:

38.222 1. ~~[Before]~~ ***Except as otherwise provided in subsection 3, before*** an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

2. After an arbitrator is appointed and is authorized and able to act:

(a) The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitral proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

3. ***In the case of any arbitration of a controversy arising out of a marriage or divorce, the availability of any provisional remedy pursuant to this section may be limited by any prior written agreement entered into by the parties.***

4. A party does not waive a right of arbitration by making a motion under subsection 1 or 2.

Sec. 64. NRS 38.237 is hereby amended to read as follows:

38.237 1. On motion to an arbitrator by a party to an arbitral proceeding, the arbitrator may modify or correct an award:

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

2. A motion under subsection 1 must be made and notice given to all parties within 20 days after the movant receives notice of the award.

3. A party to the arbitral proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

4. If a motion to the court is pending under NRS 38.239, 38.241 or 38.242, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of NRS 38.242 ~~[,]~~ ***or NRS 125.150;***

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

5. An award modified or corrected pursuant to this section is subject to subsection 1 of NRS 38.236 and to NRS 38.239, 38.241 ~~[and 38.242.]~~ ***, 38.242 and 125.150.***

Sec. 65. NRS 38.238 is hereby amended to read as follows:

38.238 1. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitral proceeding.

2. As to all remedies other than those authorized by ~~[subsection 1,]~~ ***subsections 1 and 4,*** an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under NRS 38.239 or for vacating an award under NRS 38.241.

3. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

4. In a controversy arising out of a marriage or divorce, an arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the same legal standards that apply to the claim in a civil action. If an arbitrator awards punitive damages or other exemplary relief pursuant to this subsection, the arbitrator shall specify in the award the basis in law and fact justifying the award and shall state separately the amount of punitive damages or exemplary relief.

Sec. 66. NRS 38.239 is hereby amended to read as follows:

38.239 After a party to an arbitral proceeding receives notice of an award, he may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to NRS 38.237 ***,*** ~~[or]~~ 38.242 ***or 125.150*** or is vacated pursuant to NRS 38.241.

Sec. 67. NRS 38.241 is hereby amended to read as follows:

38.241 1. Upon motion to the court by a party to an arbitral proceeding, the court shall vacate an award made in the arbitral proceeding if:

(a) The award was procured by corruption, fraud or other undue means;

(b) There was:

(1) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(2) Corruption by an arbitrator; or

(3) Misconduct by an arbitrator prejudicing the rights of a party to the arbitral proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to NRS 38.231, so as to prejudice substantially the rights of a party to the arbitral proceeding;

(d) An arbitrator exceeded his powers;

(e) There was no agreement to arbitrate, unless the movant participated in the arbitral proceeding without raising the objection under subsection 3 of NRS 38.231 not later than the beginning of the arbitral hearing; ~~[or]~~

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in NRS 38.223 so as to prejudice substantially the rights of a party to the arbitral proceeding ~~[.]~~ ***;***

(g) The court determines that an award of child support or child custody made by the arbitrator is not in the best interest of the child;

(h) The award included punitive damages or other exemplary relief that the court determines is clearly erroneous; or

(i) The court determines that the arbitrator committed an error of law in the award and the parties have previously agreed in a written agreement to arbitrate to judicial review of errors of law in the award.

2. A motion under this section must be made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after he receives notice of a modified or

corrected award pursuant to NRS 38.237, unless he alleges that the award was procured by corruption, fraud or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

3. If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection 1, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection 1, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d) or (f) of subsection 1, the rehearing may be before the arbitrator who made the award or his successor. The arbitrator must render the decision in the rehearing within the same time as that provided in subsection 2 of NRS 38.236 for an award.

4. If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

Sec. 68. NRS 38.243 is hereby amended to read as follows:

38.243 1. Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

2. A court may allow reasonable costs of the motion and subsequent judicial proceedings.

3. On application of a prevailing party to a contested judicial proceeding under NRS 38.239, 38.241 or 38.242, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

4. Notwithstanding the provisions of NRS 125.080 and 125.110, in a controversy arising out of a marriage or divorce, the court in its discretion may order that all or part of any arbitration award or order or any judgment or court order entered pursuant to the provisions of this chapter be sealed or redacted, to be opened only upon order of the court upon good cause shown. Upon good cause shown, the court may order that any such opened arbitration award or order or any judgment or court order be resealed or redacted.

Sec. 69. NRS 38.247 is hereby amended to read as follows:

38.247 1. An appeal may be taken from:

(a) An order denying a motion to compel arbitration;

(b) An order granting a motion to stay arbitration;

(c) An order confirming or denying confirmation of an award;

(d) An order modifying or correcting an award;

(e) An order vacating an award without directing a rehearing; or

(f) A final judgment entered pursuant to NRS 38.206 to 38.248, inclusive ~~.]~~ ***, and sections 57 and 58 of this act.***

2. An appeal under this section must be taken as from an order or a judgment in a civil action.

3. Unless the parties have previously agreed in a written agreement to arbitrate to judicial review of errors of law in the award, a party may not appeal an order or final judgment on the basis that the arbitrator failed to correctly apply the law.

Sec. 70. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each

person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

(m) An arbitrator appointed pursuant to chapter 38 of NRS.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 71. The amendatory provisions of this act apply to:

1. An agreement to arbitrate pursuant to NRS 38.206 to 38.248, inclusive, and sections 57 and 58 of this act entered into by a husband and wife on or after July 1, 2008; and

2. An action concerning divorce or problems of domestic relations that is filed on or after July 1, 2008.

Sec. 72. This act becomes effective on July 1, 2008.

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