

## Amendment No. 46

Assembly Amendment to Assembly Bill No. 52

(BDR 11-421)

**Proposed by:** Assembly Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

AMI/RBL



Date: 4/5/2007

A.B. No. 52—Makes various changes relating to domestic relations. (BDR 11-421)



## 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}~~ ***Director of the Department of Public Safety*** to submit ~~{a biennial}~~ ***an annual*** report ***concerning temporary and extended orders for protection against domestic violence*** to the Legislature; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing case law in Nevada, a court determining whether alimony should be awarded and the appropriate amount of alimony is required to consider several relevant factors including: (1) the financial condition of the parties; (2) the nature and value of their respective property; (3) the contribution of each party to any property held by both parties as tenants by the entirety; (4) the duration of the marriage; and (5) the income, earning capacity, age and health of each party. (*Buchanan v. Buchanan*, 90 Nev. 209, 215 (1974)) **Section 1** of this bill codifies those factors as well as factors from subsequent case law so that a court must consider those factors when determining alimony. (*Buchanan*, 90 Nev. at 215; *Sprenger v. Sprenger*, 110 Nev. 855, 859 (1994); *Rodriguez v. Rodriguez*, 116 Nev. 993, 999 (2000)) ~~{Sections 2 and 3}~~ **Section 5** of this bill ~~{require the Court Administrator}~~ ***requires the Director of the Department of Public Safety*** to submit a written report ~~{from information received by clerks of courts}~~ concerning the ~~{total number of}~~ temporary and extended orders for protection against domestic violence issued in this State to the Director of the Legislative Counsel Bureau ~~{for transmittal to each regular session of the Legislature. The report must also address}~~ ***which includes the total number of temporary and extended orders granted,*** the number of grants of temporary custody that are included in such temporary and extended orders, the number of such orders that are issued to women and the number of such orders that are issued to men.

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

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

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

1. In granting a divorce, the court:

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

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

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

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

(b) The length of the marriage; and

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

➤ As used in this subsection, "contribution" includes , *without limitation*, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

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

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

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

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of

property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

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

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

- (a) *The financial condition of each spouse;*
- (b) *The nature and value of the respective property of each spouse;*
- (c) *The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;*
- (d) *The duration of the marriage;*
- (e) *The income, earning capacity, age and health of each spouse;*
- (f) *The standard of living during the marriage;*
- (g) *The career before the marriage of the spouse who would receive the alimony;*
- (h) *The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;*
- (i) *The contribution of either spouse as homemaker;*
- (j) *The award ~~of~~ of property granted by the court in the divorce, other than child support and alimony, ~~to~~ to the spouse who would receive the alimony; and*
- (k) *The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.*

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

- (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and
- (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

~~9-10~~ 10. If the court determines that alimony should be awarded pursuant to the provisions of subsection ~~10-1~~ 9:

- (a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.
- (b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.
- (c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

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

(2) Evaluation of the recipient's abilities and goals relating to 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.

~~10.1~~ **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 3.242, 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 620.307 and 623.522 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 23.018; [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.]~~ *(Deleted by amendment.)*

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

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

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

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

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

~~4. The number of those temporary orders that included a grant of temporary custody of a minor child.]~~ *(Deleted by amendment.)*

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

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

~~1. "Extended order" means an extended order for protection against domestic violence;~~

~~2. "Temporary order" means a temporary order for protection against domestic violence.]~~ *(Deleted by amendment.)*

**Sec. 5.** NRS 179A.350 is hereby amended to read as follows:

179A.350 1. The Repository for Information Concerning Orders for Protection Against Domestic Violence is hereby created within the Central Repository.

2. Except as otherwise provided in subsection ~~4~~ 6, the Repository for Information Concerning Orders for Protection Against Domestic Violence must

1 contain a complete and systematic record of all temporary and extended orders for  
2 protection against domestic violence issued or registered in the State of Nevada, in  
3 accordance with regulations adopted by the Director of the Department, including,  
4 without limitation, any information received pursuant to NRS 33.095. Information  
5 received by the Central Repository pursuant to NRS 33.095 must be entered in the  
6 Repository for Information Concerning Orders for Protection Against Domestic  
7 Violence not later than 8 hours after it is received by the Central Repository.

8 3. The information in the Repository for Information Concerning Orders for  
9 Protection Against Domestic Violence must be accessible by computer at all times  
10 to each agency of criminal justice.

11 4. On or before February 15 of each year, the Director of the Department  
12 shall submit to the Director of the Legislative Counsel Bureau a written report  
13 concerning all temporary and extended orders for protection against domestic  
14 violence issued pursuant to NRS 33.020 during the previous calendar year that  
15 were transmitted to the Repository for Information Concerning Orders for  
16 Protection Against Domestic Violence. The report must include, without  
17 limitation, information for each court that issues temporary or extended orders  
18 for protection against domestic violence concerning:

19 (a) The total number of temporary and extended orders that were granted by  
20 the court pursuant to NRS 33.020 during the calendar year to which the report  
21 pertains;

22 (b) The number of temporary and extended orders that were granted to  
23 women;

24 (c) The number of temporary and extended orders that were granted to men;

25 (d) The number of temporary and extended orders that were vacated or  
26 expired;

27 (e) The number of temporary orders that included a grant of temporary  
28 custody of a minor child; and

29 (f) The number of temporary and extended orders that were served on the  
30 adverse party.

31 5. The information provided pursuant to subsection 4 must include only  
32 aggregate information for statistical purposes and must exclude any identifying  
33 information relating to a particular person.

34 6. The Repository for Information Concerning Orders for Protection Against  
35 Domestic Violence must not contain any information concerning an event that  
36 occurred before October 1, 1998.