

SENATE BILL NO. 345—SENATOR DENIS

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to courts.
(BDR 1-1076)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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

AN ACT relating to courts; providing that the family courts have the same jurisdiction as the jurisdiction set forth in the Nevada Constitution for the district courts; revising provisions concerning the appointment of bailiffs and deputy marshals in district courts in this State; revising provisions authorizing certain persons to carry a concealed weapon under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Constitution grants original and appellate jurisdiction to the district courts in this State. The Nevada Constitution also authorizes the Legislature to provide for the establishment of a family court as a division of any district court and to prescribe its jurisdiction. (Nev. Const. Art. 6, § 6) The Legislature has enacted statutory provisions to prescribe the jurisdiction of the family courts in this State. (NRS 3.223) The Nevada Supreme Court held in *Landreth v. Malik*, 125 Nev. Adv. Op. 61, 221 P.3d 1265 (2009), that those statutory provisions limited the jurisdiction of the family courts in this State. **Section 1** of this bill provides that the family courts have the same jurisdiction as the jurisdiction set forth in the Nevada Constitution for the district courts.

Existing law authorizes: (1) the judge of each district court to appoint a bailiff for the court; (2) the judge of each district court in a county whose population is 400,000 or more (currently Clark County) to appoint a deputy marshal instead of a bailiff; and (3) each judicial district that has more than one judge to have a number of bailiffs or deputy marshals equal to the number of judges. (NRS 3.310) **Section 2** of this bill: (1) expands the applicability of those provisions to full-time court commissioners, masters and referees appointed by a district court; and (2) requires rather than authorizes each judicial district that has more than one judge, court commissioner, master or referee to have a number of bailiffs or deputy marshals equal to the number of judges, court commissioners, masters and referees.



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Under existing law, a judge who possesses a permit to carry a concealed firearm is not prohibited from: (1) carrying a concealed firearm in the courthouse or courtroom in which the judge presides; or (2) authorizing a person who possesses a permit to carry a concealed firearm to carry such a firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge. (NRS 202.3673) **Section 4** of this bill expands the applicability of those provisions to include magistrates, court commissioners, masters and referees.

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

Section 1. NRS 3.223 is hereby amended to read as follows:

3.223 1. *In each judicial district in which it is established, the family court has the same jurisdiction as the jurisdiction set forth in Section 6 of Article 6 of the Nevada Constitution for the district court.*

2. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., ~~in each judicial district in which it is established,~~ *in addition to the jurisdiction provided pursuant to subsection 1,* the family court, *where established,* has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.

(c) For judicial approval of the marriage of a minor.

(d) Otherwise within the jurisdiction of the juvenile court.

(e) To establish the date of birth, place of birth or parentage of a minor.

(f) To change the name of a minor.

(g) For a judicial declaration of the sanity of a minor.

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

(i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.

(j) Brought pursuant to NRS 441A.500 to 441A.720, inclusive, for an involuntary court-ordered isolation or quarantine.

~~[2-]~~ 3. The family court, where established and, except as otherwise provided in paragraph (m) of subsection 1 of NRS 4.370, the justice court have concurrent jurisdiction over actions for the



1 issuance of a temporary or extended order for protection against
2 domestic violence.

3 ~~[3-]~~ 4. The family court, where established, and the district
4 court have concurrent jurisdiction over any action for damages
5 brought pursuant to NRS 41.134 by a person who suffered injury as
6 the proximate result of an act that constitutes domestic violence.

7 **Sec. 2.** NRS 3.310 is hereby amended to read as follows:

8 3.310 1. Except as otherwise provided in this subsection ~~[3]~~
9 *and subsection 2*, the judge of each district court *and each full-time*
10 *court commissioner, master or referee appointed by each district*
11 *court* may appoint a bailiff for the court in counties polling 4,500 or
12 more votes. ~~[1a]~~ *Except as otherwise provided in subsection 2, in*
13 *counties polling less than 4,500 votes, the judge and each full-time*
14 *court commissioner, master or referee appointed by each district*
15 *court* may appoint a bailiff with the concurrence of the sheriff.
16 Subject to the provisions of subsections 2, 4 and 10, in a county
17 whose population is 400,000 or more, the judge of each district
18 court *and each full-time court commissioner, master or referee*
19 *appointed by each district court* may appoint a deputy marshal for
20 the court instead of a bailiff. In each case, the bailiff or deputy
21 marshal serves at the pleasure of the judge, *court commissioner,*
22 *master or referee* he or she serves.

23 2. In all judicial districts where there is more than one judge,
24 there ~~[may]~~ *must* be a number of bailiffs or deputy marshals at least
25 equal to the number of judges ~~[3]~~ and ~~[1a]~~ *full-time court*
26 *commissioners, masters and referees. In* any judicial district where
27 a circuit judge has presided for more than 50 percent of the regular
28 judicial days of the prior calendar year, there may be one additional
29 bailiff or deputy marshal, each bailiff or deputy marshal to be
30 appointed by the joint action of the judges. If the judges, *court*
31 *commissioners, masters and referees* cannot agree upon the
32 appointment of any bailiff or deputy marshal within 30 days after a
33 vacancy occurs in the office of bailiff or deputy marshal, then the
34 appointment must be made by a majority of the board of county
35 commissioners.

36 3. Each bailiff or deputy marshal shall:

37 (a) Preserve order in the court.

38 (b) Attend upon the jury.

39 (c) Open and close court.

40 (d) Perform such other duties as may be required of him or her
41 by the judge, *court commissioner, master or referee* of the court.

42 4. The bailiff or deputy marshal must be a qualified elector of
43 the county and shall give a bond, to be approved by the district
44 judge, in the sum of \$2,000, conditioned for the faithful
45 performance of his or her duty.



1 5. The compensation of each bailiff or deputy marshal for his
2 or her services must be fixed by the board of county commissioners
3 of the county and his or her salary paid by the county wherein he or
4 she is appointed, the same as the salaries of other county officers are
5 paid.

6 6. The board of county commissioners of the respective
7 counties shall allow the salary stated in subsection 5 as other salaries
8 are allowed to county officers, and the county auditor shall draw his
9 or her warrant for it, and the county treasurer shall pay it.

10 7. The provisions of this section do not:

11 (a) Authorize the bailiff or deputy marshal to serve any civil or
12 criminal process, except such orders of the court which are specially
13 directed by the court or the presiding judge thereof to him or her for
14 service.

15 (b) Except in a county whose population is 400,000 or more,
16 relieve the sheriff of any duty required of him or her by law to
17 maintain order in the courtroom.

18 8. If a deputy marshal is appointed for a court pursuant to
19 subsection 1, each session of the court must be attended by the
20 deputy marshal.

21 9. For good cause shown, a deputy marshal appointed for a
22 court pursuant to subsection 1 may be assigned temporarily to assist
23 other judicial departments or assist with court administration as
24 needed.

25 10. A person appointed to be a deputy marshal for a court
26 pursuant to subsection 1 must be certified by the Peace Officers'
27 Standards and Training Commission as a category I peace officer
28 not later than 18 months after appointment.

29 **Sec. 3.** NRS 22.030 is hereby amended to read as follows:

30 22.030 1. If a contempt is committed in the immediate view
31 and presence of the court or judge at chambers, the contempt may be
32 punished summarily. If the court or judge summarily punishes a
33 person for a contempt pursuant to this subsection, the court or judge
34 shall enter an order that:

35 (a) Recites the facts constituting the contempt in the immediate
36 view and presence of the court or judge;

37 (b) Finds the person guilty of the contempt; and

38 (c) Prescribes the punishment for the contempt.

39 2. If a contempt is not committed in the immediate view and
40 presence of the court or judge at chambers, an affidavit must be
41 presented to the court or judge of the facts constituting the
42 contempt, or a statement of the facts by the masters or arbitrators.

43 3. Except as otherwise provided in this subsection, if a
44 contempt is not committed in the immediate view and presence of
45 the court, the judge of the court in whose contempt the person is



1 alleged to be shall not preside at the trial of the contempt over the
2 objection of the person. The provisions of this subsection do not
3 apply in:

4 (a) Any case where a final judgment or decree of the court is
5 drawn in question and such judgment or decree was entered in such
6 court by a predecessor judge thereof 10 years or more preceding the
7 bringing of contempt proceedings for the violation of the judgment
8 or decree.

9 (b) Any proceeding described in subsection ~~4~~ 2 of NRS 3.223,
10 whether or not a family court has been established in the judicial
11 district.

12 **Sec. 4.** NRS 202.3673 is hereby amended to read as follows:

13 202.3673 1. Except as otherwise provided in subsections 2
14 and 3, a permittee may carry a concealed firearm while the
15 permittee is on the premises of any public building.

16 2. A permittee shall not carry a concealed firearm while the
17 permittee is on the premises of a public building that is located on
18 the property of a public airport.

19 3. A permittee shall not carry a concealed firearm while the
20 permittee is on the premises of:

21 (a) A public building that is located on the property of a public
22 school or a child care facility or the property of the Nevada System
23 of Higher Education, unless the permittee has obtained written
24 permission to carry a concealed firearm while he or she is on the
25 premises of the public building pursuant to subparagraph (3) of
26 paragraph (a) of subsection 3 of NRS 202.265.

27 (b) A public building that has a metal detector at each public
28 entrance or a sign posted at each public entrance indicating that no
29 firearms are allowed in the building, unless the permittee is not
30 prohibited from carrying a concealed firearm while he or she is on
31 the premises of the public building pursuant to subsection 4.

32 4. The provisions of paragraph (b) of subsection 3 do not
33 prohibit:

34 (a) A permittee who is a judge from carrying a concealed
35 firearm in the courthouse or courtroom in which the judge presides
36 or from authorizing a permittee to carry a concealed firearm while in
37 the courtroom of the judge and while traveling to and from the
38 courtroom of the judge.

39 (b) A permittee who is a prosecuting attorney of an agency or
40 political subdivision of the United States or of this State from
41 carrying a concealed firearm while he or she is on the premises of a
42 public building.

43 (c) A permittee who is employed in the public building from
44 carrying a concealed firearm while he or she is on the premises of
45 the public building.



(d) A permittee from carrying a concealed firearm while he or she is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section:

(a) "Child care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.

(b) *"Judge" has the meaning ascribed to it in NRS 1.428.*

(c) "Public building" means any building or office space occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(2) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➤ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

