

ASSEMBLY BILL NO. 262—ASSEMBLYMEN COHEN, EISEN,
OHRENSCHALL, KIRKPATRICK; AIZLEY, ELLIOT
ANDERSON, BUSTAMANTE ADAMS, FRIERSON, HEALEY,
SPIEGEL AND SWANK

MARCH 15, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the award of attorney's
fees in certain domestic relations actions.
(BDR 11-951)

FISCAL NOTE: Effect on Local Government: No.
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 domestic relations; revising the provisions
governing the award of attorney's fees in actions for
divorce; authorizing a court to award costs and the
reasonable fees of attorneys and experts to a party in
certain actions concerning child custody or visitation; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that in an action for divorce, the court may award a reasonable attorney's fee to either party, if those fees are in issue under the pleadings. (NRS 125.150) **Section 1** of this bill provides that in an action for divorce, the court may award a reasonable attorney's fee without the requirement that attorney's fees be in issue under the pleadings.

Existing law provides that in an action to determine the parentage of a child, the court may order that the reasonable fees of counsel, experts and the child's guardian ad litem, and other costs of the action, be paid in such proportions as determined by the court. (NRS 126.171) **Section 2** of this bill provides that in an action to determine custody or visitation with respect to a child, the court may order that the reasonable fees of counsel and experts, and other costs of the action, be paid in proportions and at times determined by the court.



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

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

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

5 1. In granting a divorce, the court:

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

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

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

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

33 (b) The length of the marriage; and

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

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



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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 the spouse 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;



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- (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 property granted by the court in the divorce, other than child support and alimony, 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.

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



- 1 (I) The equivalent of a high school diploma;
2 (II) College courses which are directly applicable to the
3 recipient's goals for his or her career; or
4 (III) Courses of training in skills desirable for
5 employment.

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

12 **Sec. 2.** Chapter 125C of NRS is hereby amended by adding
13 thereto a new section to read as follows:

14 *Except as otherwise provided in NRS 125C.180, in an action to*
15 *determine legal custody, physical custody or visitation with respect*
16 *to a child, the court may order reasonable fees of counsel and*
17 *experts and other costs of the proceeding to be paid in proportions*
18 *and at times determined by the court.*

