

ASSEMBLY BILL NO. 271—ASSEMBLYMEN WHEELER, HICKEY;  
ELLIOT ANDERSON, PAUL ANDERSON, CARRILLO, DALY,  
DIAZ, FRIERSON, HARDY, KIRNER, MARTIN AND OSCARSON

MARCH 15, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing alimony, spousal support and property division in cases involving veterans with a service-connected disability. (BDR 11-936)

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 provisions governing the award of alimony or spousal support and the division of property in cases involving veterans with a service-connected disability; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that, under certain circumstances, a court may award alimony or spousal support to either spouse. (NRS 125.150, 125.210) **Sections 1 and 2** of this bill provide that in determining whether to award alimony or spousal support or the amount of any award of alimony or spousal support, the court must not consider any federal disability benefits awarded to the other spouse for a disability connected to his or her service in the military.

Existing law provides that in granting a divorce, a court must make an equal disposition of the community property of the parties and of any property held in joint tenancy by the parties. (NRS 125.150) **Section 1** of this bill provides that in making a disposition of such property, the court must not: (1) consider any federal disability benefits awarded to a veteran for a disability connected to his or her service in the military; or (2) indemnify the veteran's spouse or former spouse, or award the veteran's spouse or former spouse any income or property of the veteran, for a waiver or reduction in military retirement or retainer pay related to the receipt of the veteran's disability benefits.



\* A B 2 7 1 \*

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 *this section and* NRS  
3       125.155 and unless the action is contrary to a premarital agreement  
4       between the parties which is enforceable pursuant to chapter 123A  
5       of NRS:

6       1. In granting a divorce, the court:

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

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

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

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

34       (b) The length of the marriage; and

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

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



1 the purchase or improvement of property, or a payment made for  
2 maintenance, insurance or taxes on property.

3 3. *In making a disposition of the community property of the*  
4 *parties and any property held in joint tenancy by the parties, the*  
5 *court shall not:*

6 (a) *Consider any federal disability benefits awarded to a*  
7 *veteran for service-connected disabilities pursuant to chapter 11 of*  
8 *Title 38 of the United States Code.*

9 (b) *Indemnify a veteran's spouse or former spouse for any*  
10 *prejudgment or postjudgment waiver or reduction in military*  
11 *retirement or retainer pay related to the receipt of federal disability*  
12 *benefits awarded to the veteran for service-connected disabilities*  
13 *pursuant to chapter 11 of Title 38 of the United States Code.*

14 (c) *Award any other income or property of a veteran to the*  
15 *veteran's spouse or former spouse for any prejudgment or*  
16 *postjudgment waiver or reduction in military retirement or*  
17 *retainer pay related to the receipt of federal disability benefits*  
18 *awarded to the veteran for service-connected disabilities pursuant*  
19 *to chapter 11 of Title 38 of the United States Code.*

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

25 ~~14-1~~ 5. In granting a divorce, the court may also set apart such  
26 portion of the husband's separate property for the wife's support, the  
27 wife's separate property for the husband's support or the separate  
28 property of either spouse for the support of their children as is  
29 deemed just and equitable.

30 ~~15-1~~ 6. In the event of the death of either party or the  
31 subsequent remarriage of the spouse to whom specified periodic  
32 payments were to be made, all the payments required by the decree  
33 must cease, unless it was otherwise ordered by the court.

34 ~~16-1~~ 7. If the court adjudicates the property rights of the  
35 parties, or an agreement by the parties settling their property rights  
36 has been approved by the court, whether or not the court has  
37 retained jurisdiction to modify them, the adjudication of property  
38 rights, and the agreements settling property rights, may nevertheless  
39 at any time thereafter be modified by the court upon written  
40 stipulation signed and acknowledged by the parties to the action,  
41 and in accordance with the terms thereof.

42 ~~17-1~~ 8. If a decree of divorce, or an agreement between the  
43 parties which was ratified, adopted or approved in a decree of  
44 divorce, provides for specified periodic payments of alimony, the  
45 decree or agreement is not subject to modification by the court as to



1 accrued payments. Payments pursuant to a decree entered on or after  
2 July 1, 1975, which have not accrued at the time a motion for  
3 modification is filed may be modified upon a showing of changed  
4 circumstances, whether or not the court has expressly retained  
5 jurisdiction for the modification. In addition to any other factors the  
6 court considers relevant in determining whether to modify the order,  
7 the court shall consider whether the income of the spouse who is  
8 ordered to pay alimony, as indicated on the spouse's federal income  
9 tax return for the preceding calendar year, has been reduced to such  
10 a level that the spouse is financially unable to pay the amount of  
11 alimony the spouse has been ordered to pay.

12 ~~18-1~~ 9. In addition to any other factors the court considers  
13 relevant in determining whether to award alimony and the amount  
14 of such an award, the court shall consider:

- 15 (a) The financial condition of each spouse;
- 16 (b) The nature and value of the respective property of each  
17 spouse;
- 18 (c) The contribution of each spouse to any property held by the  
19 spouses pursuant to NRS 123.030;
- 20 (d) The duration of the marriage;
- 21 (e) The income, earning capacity, age and health of each spouse;
- 22 (f) The standard of living during the marriage;
- 23 (g) The career before the marriage of the spouse who would  
24 receive the alimony;
- 25 (h) The existence of specialized education or training or the  
26 level of marketable skills attained by each spouse during the  
27 marriage;
- 28 (i) The contribution of either spouse as homemaker;
- 29 (j) The award of property granted by the court in the divorce,  
30 other than child support and alimony, to the spouse who would  
31 receive the alimony; and
- 32 (k) The physical and mental condition of each party as it relates  
33 to the financial condition, health and ability to work of that spouse.

34 ~~19-1~~ 10. In granting a divorce, the court shall consider the need  
35 to grant alimony to a spouse for the purpose of obtaining training or  
36 education relating to a job, career or profession. In addition to any  
37 other factors the court considers relevant in determining whether  
38 such alimony should be granted, the court shall consider:

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

44 ~~10-1~~ 11. *In determining whether to award alimony or the*  
45 *amount of any award of alimony, the court shall not consider any*



*federal disability benefits awarded to the other spouse for service-connected disabilities pursuant to chapter 11 of Title 38 of the United States Code.*

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

(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 or her career; or

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

~~11+~~ **13.** 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 125.210 is hereby amended to read as follows:

125.210 1. Except as otherwise provided in subsection 2, in any action brought pursuant to NRS 125.190, the court may:

(a) Assign and decree to either spouse the possession of any real or personal property of the other spouse;

(b) Order or decree the payment of a fixed sum of money for the support of the other spouse and their children;

(c) Provide that the payment of that money be secured upon real estate or other security, or make any other suitable provision; and



- 1 (d) Determine the time and manner in which the payments must  
2 be made.
- 3 2. The court may not:
- 4 (a) Assign and decree to either spouse the possession of any real  
5 or personal property of the other spouse; or
- 6 (b) Order or decree the payment of a fixed sum of money for the  
7 support of the other spouse,  
8 ➤ if it is contrary to a premarital agreement between the spouses  
9 which is enforceable pursuant to chapter 123A of NRS.
- 10 3. *In determining whether to award money for the support of*  
11 *a spouse or the amount of any award of money for the support of a*  
12 *spouse, the court shall not consider any federal disability benefits*  
13 *awarded to the other spouse for service-connected disabilities*  
14 *pursuant to chapter 11 of Title 38 of the United States Code.*
- 15 4. Except as otherwise provided in chapter 130 of NRS, the  
16 court may change, modify or revoke its orders and decrees from  
17 time to time.
- 18 ~~14.1~~ 5. No order or decree is effective beyond the joint lives of  
19 the husband and wife.

