

Amendment No. CA12

Conference Committee Amendment to
Assembly Bill No. 262 First Reprint

(BDR 11-951)

Proposed by: Conference Committee

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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 underlining* is newly added transitory language.

BFG/BAW



Date: 6/2/2013

A.B. No. 262—Revises provisions governing child custody and visitation.
(BDR 11-951)



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 ~~child custody and visitation;~~ 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 ~~child custody;~~ 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, 126.231) ~~Existing law further 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) This~~ 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:

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

1 125.150 Except as otherwise provided in NRS 125.155 and unless the action
2 is contrary to a premarital agreement between the parties which is enforceable
3 pursuant to chapter 123A of NRS:

4 1. In granting a divorce, the court:

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

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

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

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

26 (b) The length of the marriage; and

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

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

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

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

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

46 6. If the court adjudicates the property rights of the parties, or an agreement
47 by the parties settling their property rights has been approved by the court, whether
48 or not the court has retained jurisdiction to modify them, the adjudication of
49 property rights, and the agreements settling property rights, may nevertheless at any
50 time thereafter be modified by the court upon written stipulation signed and
51 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;
- (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:

(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. 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.

~~Section 1.~~ **Sec. 2.** Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

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