

ASSEMBLY BILL NO. 140—ASSEMBLYMEN WHEELER, DICKMAN;  
DOOLING, ELLISON, FIORE, O’NEILL AND SEAMAN

FEBRUARY 11, 2015

JOINT SPONSORS: SENATORS GUSTAVSON; AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing certain domestic relations matters involving veterans with a service-connected disability. (BDR 11-519)

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

**Legislative Counsel’s Digest:**

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 2** of this bill provides that unless a valid premarital agreement provides otherwise, 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 of the veteran’s income or property, for a waiver or reduction in military retirement or retainer pay related to the receipt of the veteran’s disability benefits.

Existing law provides that under certain circumstances, a court may award alimony or spousal support to either spouse. (NRS 125.150, 125.210) **Sections 3 and 5** of this bill provide that unless a valid premarital agreement provides otherwise, 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.



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

1       **Section 1.** Chapter 125 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3       **Sec. 2.** *Unless the action is contrary to a premarital*  
4 *agreement between the parties which is enforceable pursuant to*  
5 *chapter 123A of NRS, in making a disposition of the community*  
6 *property of the parties and any property held in joint tenancy by*  
7 *the parties, the court shall not:*

8       1. *Consider any federal disability benefits awarded to a*  
9 *veteran for a service-connected disability pursuant to chapter 11*  
10 *of Title 38 of the United States Code.*

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

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

22       **Sec. 3.** *Unless the action is contrary to a premarital*  
23 *agreement between the parties which is enforceable pursuant to*  
24 *chapter 123A of NRS, in determining whether to award alimony*  
25 *or the amount of any award of alimony, the court shall not*  
26 *consider any federal disability benefits awarded to the other*  
27 *spouse for a service-connected disability pursuant to chapter 11 of*  
28 *Title 38 of the United States Code.*

29       **Sec. 4.** NRS 125.150 is hereby amended to read as follows:

30       125.150 Except as otherwise provided in NRS 125.155 *and*  
31 *sections 2 and 3 of this act* and unless the action is contrary to a  
32 premarital agreement between the parties which is enforceable  
33 pursuant to chapter 123A of NRS:

34       1. In granting a divorce, the court:

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

38       (b) Shall, to the extent practicable, make an equal disposition of  
39 the community property of the parties, except that the court may  
40 make an unequal disposition of the community property in such  
41 proportions as it deems just if the court finds a compelling reason to



1 do so and sets forth in writing the reasons for making the unequal  
2 disposition.

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

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

21 (b) The length of the marriage; and

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

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

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

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

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

44 6. If the court adjudicates the property rights of the parties, or  
45 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;
- (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



1 education relating to a job, career or profession. In addition to any  
2 other factors the court considers relevant in determining whether  
3 such alimony should be granted, the court shall consider:

4 (a) Whether the spouse who would pay such alimony has  
5 obtained greater job skills or education during the marriage; and

6 (b) Whether the spouse who would receive such alimony  
7 provided financial support while the other spouse obtained job skills  
8 or education.

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

11 (a) The court, in its order, shall provide for the time within  
12 which the spouse who is the recipient of the alimony must  
13 commence the training or education relating to a job, career or  
14 profession.

15 (b) The spouse who is ordered to pay the alimony may, upon  
16 changed circumstances, file a motion to modify the order.

17 (c) The spouse who is the recipient of the alimony may be  
18 granted, in addition to any other alimony granted by the court,  
19 money to provide for:

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

22 (2) Evaluation of the recipient's abilities and goals relating to  
23 a job, career or profession;

24 (3) Guidance for the recipient in establishing a specific plan  
25 for training or education relating to a job, career or profession;

26 (4) Subsidization of an employer's costs incurred in training  
27 the recipient;

28 (5) Assisting the recipient to search for a job; or

29 (6) Payment of the costs of tuition, books and fees for:

30 (I) The equivalent of a high school diploma;

31 (II) College courses which are directly applicable to the  
32 recipient's goals for his or her career; or

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

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

41 **Sec. 5.** NRS 125.210 is hereby amended to read as follows:

42 125.210 1. Except as otherwise provided in subsection 2, in  
43 any action brought pursuant to NRS 125.190, the court may:

44 (a) Assign and decree to either spouse the possession of any real  
45 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

(d) Determine the time and manner in which the payments must be made.

2. The court may not:

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

(b) Order or decree the payment of a fixed sum of money for the support of the other spouse,

↳ if it is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. *Unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS, in determining whether to award money for the support of a spouse or the amount of any award of money for the support of a spouse, the court shall not consider any federal disability benefits awarded to the other spouse for a service-connected disability pursuant to chapter 11 of Title 38 of the United States Code.*

4. Except as otherwise provided in chapter 130 of NRS, the court may change, modify or revoke its orders and decrees from time to time.

~~[4.]~~ 5. No order or decree is effective beyond the joint lives of the husband and wife.

