

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.

~

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) Existing law also provides that, under certain circumstances, a court may award alimony or spousal support to either spouse. (NRS 125.150, 125.210) **Section 2** of this bill provides that unless a valid premarital agreement provides otherwise, in making a disposition of the community and joint tenancy property, and in making an alimony award, the court must not: (1) attach, levy or seize any federal disability benefits awarded to a veteran for a disability connected to his or her military service; or (2) make an assignment of or otherwise divide any such benefits.

Section 5 of this bill provides that unless a valid premarital agreement provides otherwise, in making an award of spousal support, the court must not consider any federal disability benefits awarded to a veteran for a disability connected to his or her service in the military.



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, and in making an award of alimony, the court shall*
8 *not:*

9 1. *Attach, levy or seize by or under any legal or equitable*
10 *process either before or after receipt by a veteran, any federal*
11 *disability benefits awarded to a veteran for a service-connected*
12 *disability pursuant to chapter 11 of Title 38 of the United States*
13 *Code.*

14 2. *Make an assignment or otherwise divide any federal*
15 *disability benefits awarded to a veteran for a service-connected*
16 *disability pursuant to chapter 11 of Title 38 of the United States*
17 *Code.*

18 **Sec. 3.** (Deleted by amendment.)

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

20 125.150 Except as otherwise provided in NRS 125.155 *and*
21 *sections 2 and 3 of this act* and unless the action is contrary to a
22 premarital agreement between the parties which is enforceable
23 pursuant to chapter 123A of NRS:

24 1. In granting a divorce, the court:

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

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

34 2. Except as otherwise provided in this subsection, in granting
35 a divorce, the court shall dispose of any property held in joint
36 tenancy in the manner set forth in subsection 1 for the disposition of
37 community property. If a party has made a contribution of separate
38 property to the acquisition or improvement of property held in joint
39 tenancy, the court may provide for the reimbursement of that party
40 for his or her contribution. The amount of reimbursement must not
41 exceed the amount of the contribution of separate property that can
42 be traced to the acquisition or improvement of property held in joint



tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

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

(b) The length of the marriage; and

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

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

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.

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,



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

11 8. In addition to any other factors the court considers relevant
12 in determining whether to award alimony and the amount of such an
13 award, the court shall consider:

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

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

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

43 10. If the court determines that alimony should be awarded
44 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.

Sec. 5. 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

(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 attach, levy or seize by or under any legal or equitable process, either before or after receipt by a veteran, any federal disability benefits awarded to a veteran 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.

