

SENATE BILL NO. 395—SENATORS KIHUEN, PARKS, MANENDO,
ATKINSON, FORD; SPEARMAN AND WOODHOUSE

MARCH 17, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing domestic relations.
(BDR 11-530)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 relating to fees charged and collected for the issuance of a marriage license; authorizing a board of county commissioners to adopt an ordinance imposing an additional fee for the issuance of a marriage license which must be used to promote marriage tourism in the county; authorizing a county to provide a space at certain county clerk offices for the display of informational brochures of certain persons who perform weddings; revising provisions relating to the division of community property and liabilities in certain domestic relations actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a county whose population is 100,000 or more (currently Clark and Washoe Counties) to provide a space outside each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business which operates principally for the performance of weddings in the county or a church or religious organization incorporated, organized or established in this State may place informational brochures for display.

Under existing law, in granting a divorce, a court must, to the extent practicable, make an equal disposition of the community property of the parties, unless the action is contrary to a valid premarital agreement between the parties or the court makes written findings setting forth a compelling reason for making an unequal disposition of the community property. (NRS 125.150) The Nevada Supreme Court has held that under Rule 60(b) of the Nevada Rules of Civil Procedure, relief from a divorce decree dividing community property between the



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parties may be obtained by: (1) filing within 6 months after the final decree a motion for relief or modification from the decree because of mistake, newly discovered evidence or fraud; or (2) showing exceptional circumstances justifying equitable relief in an independent civil action. (*Kramer v. Kramer*, 96 Nev. 759, 762 (1980); *Amie v. Amie*, 106 Nev. 541, 542 (1990)) In *Doan v. Wilkerson*, 130 Nev. Adv. Op. 48 (2014), the Nevada Supreme Court held that exceptional circumstances justifying equitable relief do not exist when a particular item of community property was disclosed and considered in a divorce action but omitted from the divorce decree. **Section 27** of this bill provides that at any time, a party in an action for divorce, separate maintenance or annulment may file a postjudgment motion to obtain an adjudication of any community property or liability that was omitted from the final decree. **Section 27** further provides that the court has continuing jurisdiction to hear such a motion and must make an equal disposition of the omitted community property or liability unless the court finds that certain exceptions apply.

Under existing law, the county clerk is required to collect certain fees for the issuance of a marriage license. **Sections 4 and 56** of this bill authorize a board of county commissioners in a county whose population is 700,000 or more (currently Clark County) to adopt an ordinance imposing an additional fee of not more than \$14 for the issuance of a marriage license. Under **section 56**, if a board of county commissioners adopts such an ordinance, the fee must be deposited in a special revenue fund designated as the fund for the promotion of marriage tourism, and money in the fund must be used by the county clerk to promote marriage tourism in the county. **Section 4** also specifically states that any administrative fee charged and collected by a county clerk's office, including, without limitation, a fee for providing a copy of a marriage license, is separate from any fee charged and collected for the issuance of a marriage license.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto a new section to read as follows:

In each county whose population is 100,000 or more, the county may provide a space outside each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business which operates principally for the performance of weddings in the county or a church or religious organization incorporated, organized or established in this State may place informational brochures for display.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 122.060 is hereby amended to read as follows:

122.060 1. The county clerk is entitled to receive as his or her fee for issuing a marriage license the sum of \$21.

2. The county clerk shall also at the time of issuing the marriage license:

(a) Collect the sum of \$10 and:



(1) If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, deposit the sum into the county general fund pursuant to NRS 246.180 for filing the originally signed certificate of marriage described in NRS 122.120.

(2) If the board of county commissioners has not adopted an ordinance pursuant to NRS 246.100, pay it over to the county recorder as his or her fee for recording the originally signed certificate of marriage described in NRS 122.120.

(b) Collect the additional fee described in subsection 2 of NRS 246.180, if the board of county commissioners has adopted an ordinance authorizing the collection of such fee, and deposit the fee pursuant to NRS 246.190.

(c) Collect the additional fee imposed pursuant to section 56 of this act, if the board of county commissioners has adopted an ordinance imposing the fee.

3. The county clerk shall also at the time of issuing the marriage license collect the additional sum of \$4 for the State of Nevada. The fees collected for the State must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall remit quarterly all such fees deposited by the county clerk to the State Controller for credit to the State General Fund.

4. The county clerk shall also at the time of issuing the marriage license collect the additional sum of \$25 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the county clerk to the State Controller for credit to that Account.

5. Any fee charged and collected pursuant to this section is separate and distinct from any administrative fee charged and collected by a county clerk's office, including, without limitation, a fee for certifying a copy of a marriage license.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)



Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. NRS 125.150 is hereby amended to read as follows:

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

1. In granting a divorce, the court:

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

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

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



- 1 (b) The length of the marriage; and
- 2 (c) Any other factor which the court deems relevant in making a
- 3 just and equitable disposition of that property.

4 ➔ As used in this subsection, “contribution” includes, without
5 limitation, a down payment, a payment for the acquisition or
6 improvement of property, and a payment reducing the principal of a
7 loan used to finance the purchase or improvement of property. The
8 term does not include a payment of interest on a loan used to finance
9 the purchase or improvement of property, or a payment made for
10 maintenance, insurance or taxes on property.

11 3. *A party may file a postjudgment motion in any action for*
12 *divorce, annulment or separate maintenance to obtain*
13 *adjudication of any community property or liability omitted from*
14 *the decree or judgment. There is no limitation on the time in*
15 *which a motion pursuant to this subsection may be filed. The court*
16 *has continuing jurisdiction to hear such a motion and shall*
17 *equally divide the omitted community property or liability between*
18 *the parties unless the court finds that:*

19 (a) *The community property or liability was included in a prior*
20 *equal disposition of the community property of the parties or in an*
21 *unequal disposition of the community property of the parties*
22 *which was made pursuant to written findings of a compelling*
23 *reason for making that unequal disposition; or*

24 (b) *The court determines a compelling reason in the interests*
25 *of justice to make an unequal disposition of the community*
26 *property or liability and sets forth in writing the reasons for*
27 *making the unequal disposition.*

28 4. Except as otherwise provided in NRS 125.141, whether or
29 not application for suit money has been made under the provisions
30 of NRS 125.040, the court may award a reasonable attorney’s fee to
31 either party to an action for divorce.

32 ~~14.1~~ 5. In granting a divorce, the court may also set apart such
33 portion of the husband’s separate property for the wife’s support, the
34 wife’s separate property for the husband’s support or the separate
35 property of either spouse for the support of their children as is
36 deemed just and equitable.

37 ~~15.1~~ 6. In the event of the death of either party or the
38 subsequent remarriage of the spouse to whom specified periodic
39 payments were to be made, all the payments required by the decree
40 must cease, unless it was otherwise ordered by the court.

41 ~~16.1~~ 7. If the court adjudicates the property rights of the
42 parties, or an agreement by the parties settling their property rights
43 has been approved by the court, whether or not the court has
44 retained jurisdiction to modify them, the adjudication of property
45 rights, and the agreements settling property rights, may nevertheless



1 at any time thereafter be modified by the court upon written
2 stipulation signed and acknowledged by the parties to the action,
3 and in accordance with the terms thereof.

4 ~~17-1~~ 8. If a decree of divorce, or an agreement between the
5 parties which was ratified, adopted or approved in a decree of
6 divorce, provides for specified periodic payments of alimony, the
7 decree or agreement is not subject to modification by the court as to
8 accrued payments. Payments pursuant to a decree entered on or after
9 July 1, 1975, which have not accrued at the time a motion for
10 modification is filed may be modified upon a showing of changed
11 circumstances, whether or not the court has expressly retained
12 jurisdiction for the modification. In addition to any other factors the
13 court considers relevant in determining whether to modify the order,
14 the court shall consider whether the income of the spouse who is
15 ordered to pay alimony, as indicated on the spouse's federal income
16 tax return for the preceding calendar year, has been reduced to such
17 a level that the spouse is financially unable to pay the amount of
18 alimony the spouse has been ordered to pay.

19 ~~18-1~~ 9. In addition to any other factors the court considers
20 relevant in determining whether to award alimony and the amount
21 of such an award, the court shall consider:

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

41 ~~19-1~~ 10. In granting a divorce, the court shall consider the need
42 to grant alimony to a spouse for the purpose of obtaining training or
43 education relating to a job, career or profession. In addition to any
44 other factors the court considers relevant in determining whether
45 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:~~ **11.** 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:~~ **12.** 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. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)



1 **Sec. 36.** (Deleted by amendment.)

2 **Sec. 37.** (Deleted by amendment.)

3 **Sec. 38.** (Deleted by amendment.)

4 **Sec. 39.** (Deleted by amendment.)

5 **Sec. 40.** (Deleted by amendment.)

6 **Sec. 41.** (Deleted by amendment.)

7 **Sec. 42.** (Deleted by amendment.)

8 **Sec. 43.** (Deleted by amendment.)

9 **Sec. 44.** (Deleted by amendment.)

10 **Sec. 45.** (Deleted by amendment.)

11 **Sec. 46.** (Deleted by amendment.)

12 **Sec. 47.** (Deleted by amendment.)

13 **Sec. 48.** (Deleted by amendment.)

14 **Sec. 49.** (Deleted by amendment.)

15 **Sec. 50.** (Deleted by amendment.)

16 **Sec. 51.** (Deleted by amendment.)

17 **Sec. 52.** (Deleted by amendment.)

18 **Sec. 53.** (Deleted by amendment.)

19 **Sec. 54.** (Deleted by amendment.)

20 **Sec. 55.** (Deleted by amendment.)

21 **Sec. 56.** Chapter 246 of NRS is hereby amended by adding
22 thereto a new section to read as follows:

23 **1. In a county whose population is 700,000 or more, the**
24 **board of county commissioners may impose by ordinance an**
25 **additional fee of not more than \$14 for the issuance of a marriage**
26 **license.**

27 **2. An ordinance adopted pursuant to subsection 1 must**
28 **include a provision creating a special revenue fund designated as**
29 **the fund for the promotion of marriage tourism. Any money**
30 **collected from a fee imposed pursuant to subsection 1 must be**
31 **paid by the county clerk to the county treasurer, and the county**
32 **treasurer shall deposit the money received in the fund.**

33 **3. Any interest earned on money in the fund, after deducting**
34 **any applicable charges, must be credited to the fund.**

35 **4. Any money remaining in the fund at the end of a fiscal**
36 **year must not revert to the county general fund, and the balance**
37 **in the fund must be carried forward to the next fiscal year.**

38 **5. The money in the fund:**

39 **(a) Must be used by the county clerk only to promote wedding**
40 **tourism in the county.**

41 **(b) Must not be used to replace or supplant any money**
42 **available to fund the regular operations of the office of the county**
43 **clerk.**

44 **6. If a board of county commissioners adopts an ordinance**
45 **pursuant to subsection 1, on or before July 1 of each year, the**



county clerk shall submit to the board of county commissioners a report of the projected expenditures of the money in the fund for the following fiscal year.

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. This act becomes effective upon passage and approval.

