

ASSEMBLY BILL NO. 210—ASSEMBLYMAN OHRENSCHALL

MARCH 2, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to family law. (BDR 1-818)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§§ 1, 2)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 family law; requiring the resolution of disputes before a family court by nonadversarial methods under certain circumstances; revising provisions governing the mandatory mediation program in a family court in a county whose population is 700,000 or more; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the family court in a judicial district, where practicable
2 and appropriate, to encourage the resolution of disputes through nonadversarial or
3 alternative methods of dispute resolution. (NRS 3.225) **Section 1** of this bill
4 requires the family court to require the resolution of disputes through such
5 nonadversarial or alternative methods of dispute resolution under certain
6 circumstances.

7 Existing law requires the district court of a county whose population is 100,000
8 or more (currently Clark and Washoe Counties) to establish by rule approved by the
9 Nevada Supreme Court a mandatory mediation program for cases involving the
10 custody or visitation of a child. Under existing law, the district court of every
11 county other than Clark and Washoe Counties is authorized to establish such a
12 program. The program must authorize a court to exclude a case from the program
13 when certain good causes are shown. (NRS 3.475, 3.500)

14 **Section 2** of this bill requires the expansion of the mandatory mediation
15 program in Clark County to include issues involving the property rights and
16 financial issues of the parties involved in a family law dispute. **Section 2** further
17 requires a court, as necessary, to refer issues involving the property rights or
18 financial issues of the parties to a special master, mediator, early neutral evaluator



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19 or certain experts for assistance in resolving a dispute. Finally, **section 2** revises the
20 circumstances under which good cause exists to exclude a case from the program.

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

1 **Section 1.** NRS 3.225 is hereby amended to read as follows:

2 3.225 1. The family court, ~~{shall,}~~ wherever practicable and
3 appropriate, ~~{encourage}~~ *shall require* the resolution of disputes
4 before the court through nonadversarial methods or other
5 alternatives to traditional methods of resolution of disputes ~~{}~~
6 *unless good cause is shown not to require the use of such*
7 *nonadversarial or other alternative methods.*

8 2. The family court or, in a judicial district that does not
9 include a family court, the district court, shall enter into agreements
10 or otherwise cooperate with local agencies ~~{that}~~ *or qualified*
11 *persons who* provide services related to matters within the
12 jurisdiction of family courts to assist the family court or district
13 court in providing the necessary support services to the families
14 before the court.

15 **Sec. 2.** NRS 3.475 is hereby amended to read as follows:

16 3.475 1. In a county whose population is 700,000 or more,
17 the district court shall establish by rule approved by the Supreme
18 Court a program of mandatory mediation in cases that involve the
19 *property rights or financial issues of the parties in a family law*
20 *dispute, or the* custody or visitation of a child.

21 2. The program must:

22 (a) Require the impartial mediation of the issues ~~{of custody and~~
23 ~~visitation and authorize the impartial mediation of any other~~
24 ~~nonfinancial issue deemed appropriate by the court.}~~ *listed in*
25 *subsection 1.*

26 (b) Authorize the court to exclude a case from the program for
27 good cause shown, including, but not limited to, a showing that:

28 (1) There is a history of child abuse or domestic violence by
29 one *or more* of the parties;

30 (2) The parties are currently participating in private
31 mediation ~~{or}~~, *a collaborative divorce process, a cooperative*
32 *divorce process or early neutral evaluation;*

33 (3) One of the parties resides outside of the jurisdiction of the
34 court ~~{}~~, *unless that party:*

35 (I) *Has previously appeared in the action; and*

36 (II) *Is available by telephone or video communication to*
37 *participate in the mediation; or*

38 (4) *There is a history of mental health issues, personality*
39 *disorders or substance abuse, or any combination thereof, with*



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1 *one or more of the parties, such that the use of any form of*
2 *impartial mediation would likely not result in a final resolution of*
3 *the dispute, and would require court orders to manage the conflict*
4 *between the parties to protect one or more of the parties or the*
5 *children, if any, from abusive conduct by one of the parties. In*
6 *finding good cause pursuant to this subparagraph, the court shall:*

7 *(I) Provide notice to the parties and conduct a hearing*
8 *on the record; and*

9 *(II) Make findings of fact to justify the exemption from*
10 *participating in impartial mediation.*

11 (c) Provide standards for the training of the mediators assigned
12 to cases, including, but not limited to:

13 (1) Minimum educational requirements, which must not be
14 restricted to any particular professional or educational training;

15 (2) Minimum requirements for training in the procedural
16 aspects of mediation and the interpersonal skills necessary to act as
17 a mediator;

18 (3) A minimum period of apprenticeship for persons who
19 have not previously acted as domestic mediators;

20 (4) Minimum requirements for continuing education; and

21 (5) Procedures to ensure that potential mediators understand
22 the high standard of ethics and confidentiality related to their
23 participation in the program.

24 (d) Prohibit the mediator from reporting to the court any
25 information about the mediation other than whether the dispute was
26 resolved.

27 (e) Establish a sliding schedule of fees for participation in the
28 program based on the ability of a party to pay ~~+~~ *for his or her*
29 *participation in the program.*

30 (f) Provide for the acceptance of gifts and grants offered in
31 support of the program.

32 (g) ~~Allow~~ *Authorize* the court to refer the parties to a private
33 mediator.

34 3. *The desire of the parties not to participate in a process of*
35 *impartial mediation, standing alone, does not constitute good*
36 *cause to exclude a case from the program established pursuant to*
37 *this section.*

38 4. *At the time the initial pleading is filed in a district court for*
39 *which the program is established, in a case that involves any issue*
40 *listed in subsection 1, each party and his or her attorney must file*
41 *a declaration with the court certifying that the party has received*
42 *information both verbally and in writing concerning alternative*
43 *dispute resolution processes.*

44 5. *Unless good cause is shown pursuant to paragraph (b) of*
45 *subsection 2, the court shall refer any issue involving the property*



1 *rights or financial issues of the parties to a special master or*
2 *mediator, appraiser, accountant, divorce financial analyst, mental*
3 *health specialist or early neutral evaluator for assistance in*
4 *resolving the dispute.*

5 6. The costs of the program *established pursuant to this*
6 *section* must be paid from the county general fund. All fees, gifts
7 and grants collected pursuant to this section must be deposited in the
8 county general fund.

9 ~~{4. This section does not prohibit a court from referring a~~
10 ~~financial or other issue to a special master or other person for~~
11 ~~assistance in resolving the dispute.}~~ *This subsection does not apply*
12 *to the payment of private practitioners for any services performed*
13 *that are not associated with the program.*

14 **Sec. 3.** The provisions of NRS 354.599 do not apply to any
15 additional expenses of a local government that are related to the
16 provisions of this act.

