

SENATE BILL NO. 334—SENATOR OHRENSCHALL

MARCH 22, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations. (BDR 11-992)

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; authorizing hearings and trials relating to domestic relations to be conducted in private; establishing various provisions concerning records of actions relating to domestic relations; revising provisions relating to the disposition of community property; repealing certain provisions, including those relating to the disposition of a pension or retirement benefit provided by the Public Employees’ Retirement System or the Judicial Retirement Plan; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes either party in an action for divorce to demand that the  
2 trial be conducted in private. Upon such a demand, existing law requires all  
3 persons, except for officers of the court, parties, counsel and staff, witnesses,  
4 parents, guardians and siblings of the parties, to be excluded from the trial unless  
5 good cause is shown. (NRS 125.080) **Section 6** of this bill repeals such provisions  
6 and **section 2** of this bill reenacts similar provisions applicable to the entire title of  
7 NRS governing domestic relations. Additionally, **section 2** authorizes the court to  
8 permit persons who would generally be excluded from a private hearing or trial to  
9 remain present for some or all of the hearing or trial under certain circumstances.  
10 Existing law: (1) requires certain papers and pleadings in an action for divorce  
11 to be open to public inspection; and (2) provides that either party to the divorce  
12 may petition the court for the sealing of papers, records, proceedings and evidence  
13 that are not otherwise required to be open to public inspection. (NRS 125.110)  
14 **Section 6** repeals such provisions and **section 3** of this bill establishes provisions  
15 relating to records in any action brought pursuant to the title of NRS governing  
16 domestic relations. Specifically, **section 3** requires the following records in any  
17 action brought pursuant to the title of NRS governing domestic relations to be open  
18 to public inspection: (1) the summons and proof of its service; (2) if the summons



19 was served by publication, the affidavit for publication; (3) pleadings; and (4)  
20 orders of the court. **Section 3** also: (1) requires records with personal information to  
21 be sealed by the court; (2) authorizes a party to demand that certain records be  
22 sealed or redacted by the court or clerk under certain circumstances; and (3)  
23 establishes procedures relating to the unsealing of such records.

24 Existing law requires the court to make an equal disposition of community  
25 property in granting a divorce. (NRS 125.150) **Section 4** of this bill requires the  
26 court, in determining an equal disposition of community property, to issue any  
27 order necessary to equalize the burdens and benefits of each party related to  
28 retirement benefits. Specifically, **section 4** also requires survivor and death benefits  
29 to be included in such a determination relating to retirement benefits. Finally,  
30 **section 4** sets forth a nonexclusive list of orders that a court may use to equalize  
31 such burdens and benefits. **Section 5** of this bill: (1) provides that **section 4** applies  
32 to actions filed on or after July 1, 2021; and (2) authorizes parties to decrees and  
33 judgments which conflict with the amendatory provisions of **section 4** to file a  
34 postjudgment motion to adjudicate the conflict under certain circumstances.

35 Existing law establishes various provisions relating to determining the value of  
36 an interest in or entitlement to a pension or retirement benefit provided by the  
37 Public Employees' Retirement System or the Judicial Retirement Plan. (NRS  
38 125.155) **Section 6** repeals such provisions.

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

1 **Section 1.** Title 11 of NRS is hereby amended by adding  
2 thereto a new chapter to consist of the provisions set forth as  
3 sections 2 and 3 of this act.

4 **Sec. 2. 1. Notwithstanding any other provision of law, the**  
5 **court shall, upon demand of a party, direct that the hearing or**  
6 **trial in any action brought pursuant to this title be private.**

7 **2. Except as otherwise provided in subsections 3 and 4, upon**  
8 **the demand of a party pursuant to subsection 1, all persons must**  
9 **be excluded from the court or chambers during the hearing or**  
10 **trial, except:**

11 **(a) The officers of the court;**

12 **(b) The parties;**

13 **(c) The counsel for the parties and their staff;**

14 **(d) The witnesses for the parties, including, without limitation,**  
15 **expert witnesses;**

16 **(e) The parents or guardians of the parties; and**

17 **(f) The siblings of the parties.**

18 **3. The court may, upon oral or written motion of either party**  
19 **or on its own motion, exclude the parents, guardians or siblings of**  
20 **a party, or witnesses for a party, from the court or chambers**  
21 **during the hearing or trial. If good cause is shown for the**  
22 **exclusion of any such person, the court shall exclude the person.**

23 **4. If the court determines that the interests of justice or the**  
24 **best interest of the child, as applicable, would be served, the court**



1 *may permit a person to remain, observe and hear relevant portions*  
2 *of the proceedings.*

3 **Sec. 3. 1.** *Notwithstanding any other provision of law and*  
4 *except as otherwise provided in subsections 2 and 4, the following*  
5 *records in any action brought pursuant to this title must be open to*  
6 *public inspection in the office of the county clerk:*

7 (a) *The summons and proof of its service;*

8 (b) *If the summons was served by publication, the affidavit for*  
9 *publication;*

10 (c) *Any pleading; and*

11 (d) *Any order issued by the court, including, without*  
12 *limitation, orders relating to the judgment, the default of a party*  
13 *or authorization of service of process by publication.*

14 2. *The court may, upon the motion of a party, issue an order*  
15 *sealing or redacting any record described in subsection 1, except*  
16 *for the summons or a final judgment of the court.*

17 3. *Any record not described in subsection 1 must, upon the*  
18 *written request of any party to the action, filed with the clerk, be*  
19 *sealed and shall not be open to inspection except to the parties or*  
20 *their attorneys, or when required as evidence in another action or*  
21 *proceeding.*

22 4. *Any record of an action brought pursuant to this title*  
23 *which contains the personal information of a party or a minor*  
24 *child must be sealed by the court and shall not be open to*  
25 *inspection except to the parties or their attorneys, or when*  
26 *required as evidence in another action or proceeding.*

27 5. *Any record sealed pursuant to this section may be unsealed*  
28 *upon:*

29 (a) *The motion of the court;*

30 (b) *The motion of a party and good cause shown; or*

31 (c) *The stipulation of all the parties to the action.*

32 6. *A motion filed by a party pursuant to subsection 5 must be*  
33 *served upon on all of the parties to the action.*

34 7. *As used in this section, "record" includes, without*  
35 *limitation, papers, evidence, exhibits and transcripts, regardless of*  
36 *medium.*

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

38 125.150 Except as otherwise provided in NRS ~~125.155 and~~  
39 125.165, and unless the action is contrary to a premarital agreement  
40 between the parties which is enforceable pursuant to chapter 123A  
41 of NRS:

42 1. In granting a divorce, the court:

43 (a) May award such alimony to either spouse, in a specified  
44 principal sum or as specified periodic payments, as appears just and  
45 equitable; and



1 (b) Shall, to the extent practicable, make an equal disposition of  
2 the community property of the parties, including, without limitation,  
3 any community property transferred into an irrevocable trust  
4 pursuant to NRS 123.125 over which the court acquires jurisdiction  
5 pursuant to NRS 164.010, except ~~[that the]~~ *as otherwise provided in*  
6 *subsection 3.*

7 *2. In making an equal disposition of the community property*  
8 *pursuant to paragraph (b) of subsection 1, the court shall, to the*  
9 *extent practicable, issue any order necessary to equalize the*  
10 *benefits and burdens of each party in order to ensure that each*  
11 *party receives an equal disposition of any retirement plan, whether*  
12 *public or private, including, without limitation, the value of all*  
13 *survivor and death benefits. If the retirement plan provides that*  
14 *the post-divorce death of one party affects the benefits of the other*  
15 *party, the court shall issue an order which provides security for*  
16 *the retirement benefits of each party, and any such order may*  
17 *include, without limitation, provisions which require:*

18 *(a) The disposition of any retirement, death or survivor benefit*  
19 *payable during the life or upon the death of either party;*

20 *(b) A party to elect a survivor benefit annuity or requiring a*  
21 *party to make a similar election in any case that the retirement*  
22 *plan provides for such an election, except that the court shall not*  
23 *order a retirement plan to provide increased benefits determined*  
24 *on the basis of actuarial value;*

25 *(c) A share of other community property to be allotted to a*  
26 *party in order to sufficiently offset the actuarial equivalent of the*  
27 *retirement and survivor benefits of the other party;*

28 *(d) An insurance-based substitute for the survivor or death*  
29 *benefits in order to balance the retirement benefits;*

30 *(e) A retirement plan to make payments directly to a*  
31 *nonmember party, unless otherwise prohibited by the terms of the*  
32 *retirement plan; or*

33 *(f) The employed party to make payments to the unemployed*  
34 *party directly after the employed party is eligible to retire.*

35 *3. The court may make an unequal disposition of the*  
36 *community property pursuant to paragraph (b) of subsection 1*  
37 *in such proportions as it deems just if the court finds a compelling*  
38 *reason to do so and sets forth in writing the reasons for making the*  
39 *unequal disposition.*

40 ~~[2.]~~ *4. Except as otherwise provided in this subsection, in*  
41 *granting a divorce, the court shall dispose of any property held in*  
42 *joint tenancy in the manner set forth in subsection 1 for the*  
43 *disposition of community property. If a party has made a*  
44 *contribution of separate property to the acquisition or improvement*  
45 *of property held in joint tenancy, the court may provide for the*



1 reimbursement of that party for his or her contribution. The amount  
2 of reimbursement must not exceed the amount of the contribution of  
3 separate property that can be traced to the acquisition or  
4 improvement of property held in joint tenancy, without interest or  
5 any adjustment because of an increase in the value of the property  
6 held in joint tenancy. The amount of reimbursement must not  
7 exceed the value, at the time of the disposition, of the property held  
8 in joint tenancy for which the contribution of separate property was  
9 made. In determining whether to provide for the reimbursement, in  
10 whole or in part, of a party who has contributed separate property,  
11 the court shall consider:

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

14 (b) The length of the marriage; and

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

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

24 ~~§~~ 5. A party may file a postjudgment motion in any action  
25 for divorce, annulment or separate maintenance to obtain  
26 adjudication of any community property or liability omitted from  
27 the decree or judgment as the result of fraud or mistake. A motion  
28 pursuant to this subsection must be filed within 3 years after the  
29 discovery by the aggrieved party of the facts constituting the fraud  
30 or mistake. The court has continuing jurisdiction to hear such a  
31 motion and shall equally divide the omitted community property or  
32 liability between the parties unless the court finds that:

33 (a) The community property or liability was included in a prior  
34 equal disposition of the community property of the parties or in an  
35 unequal disposition of the community property of the parties which  
36 was made pursuant to written findings of a compelling reason for  
37 making that unequal disposition; or

38 (b) The court determines a compelling reason in the interests of  
39 justice to make an unequal disposition of the community property or  
40 liability and sets forth in writing the reasons for making the unequal  
41 disposition.

42 ↪ If a motion pursuant to this subsection results in a judgment  
43 dividing a defined benefit pension plan, the judgment may not be  
44 enforced against an installment payment made by the plan more  
45 than 6 years after the installment payment.



1 ~~[4.]~~ 6. Except as otherwise provided in NRS 125.141, whether  
2 or not application for suit money has been made under the  
3 provisions of NRS 125.040, the court may award a reasonable  
4 attorney's fee to either party to an action for divorce.

5 ~~[5.]~~ 7. In granting a divorce, the court may also set apart such  
6 portion of the separate property of either spouse for the other  
7 spouse's support or the separate property of either spouse for the  
8 support of their children as is deemed just and equitable.

9 ~~[6.]~~ 8. In the event of the death of either party or the  
10 subsequent remarriage of the spouse to whom specified periodic  
11 payments were to be made, all the payments required by the decree  
12 must cease, unless it was otherwise ordered by the court.

13 ~~[7.]~~ 9. If the court adjudicates the property rights of the parties,  
14 or an agreement by the parties settling their property rights has been  
15 approved by the court, whether or not the court has retained  
16 jurisdiction to modify them, the adjudication of property rights, and  
17 the agreements settling property rights, may nevertheless at any time  
18 thereafter be modified by the court upon written stipulation signed  
19 and acknowledged by the parties to the action, and in accordance  
20 with the terms thereof.

21 ~~[8.]~~ 10. If a decree of divorce, or an agreement between the  
22 parties which was ratified, adopted or approved in a decree of  
23 divorce, provides for specified periodic payments of alimony, the  
24 decree or agreement is not subject to modification by the court as to  
25 accrued payments. Payments pursuant to a decree entered on or after  
26 July 1, 1975, which have not accrued at the time a motion for  
27 modification is filed may be modified upon a showing of changed  
28 circumstances, whether or not the court has expressly retained  
29 jurisdiction for the modification. In addition to any other factors the  
30 court considers relevant in determining whether to modify the order,  
31 the court shall consider whether the income of the spouse who is  
32 ordered to pay alimony, as indicated on the spouse's federal income  
33 tax return for the preceding calendar year, has been reduced to such  
34 a level that the spouse is financially unable to pay the amount of  
35 alimony the spouse has been ordered to pay.

36 ~~[9.]~~ 11. In addition to any other factors the court considers  
37 relevant in determining whether to award alimony and the amount  
38 of such an award, the court shall consider:

- 39 (a) The financial condition of each spouse;  
40 (b) The nature and value of the respective property of each  
41 spouse;  
42 (c) The contribution of each spouse to any property held by the  
43 spouses pursuant to NRS 123.030;  
44 (d) The duration of the marriage;  
45 (e) The income, earning capacity, age and health of each spouse;



1 (f) The standard of living during the marriage;  
2 (g) The career before the marriage of the spouse who would  
3 receive the alimony;

4 (h) The existence of specialized education or training or the  
5 level of marketable skills attained by each spouse during the  
6 marriage;

7 (i) The contribution of either spouse as homemaker;

8 (j) The award of property granted by the court in the divorce,  
9 other than child support and alimony, to the spouse who would  
10 receive the alimony; and

11 (k) The physical and mental condition of each party as it relates  
12 to the financial condition, health and ability to work of that spouse.

13 ~~11.0~~ 12. In granting a divorce, the court shall consider the need  
14 to grant alimony to a spouse for the purpose of obtaining training or  
15 education relating to a job, career or profession. In addition to any  
16 other factors the court considers relevant in determining whether  
17 such alimony should be granted, the court shall consider:

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

20 (b) Whether the spouse who would receive such alimony  
21 provided financial support while the other spouse obtained job skills  
22 or education.

23 ~~11.1~~ 13. If the court determines that alimony should be  
24 awarded pursuant to the provisions of subsection ~~11.0~~ 12:

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

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

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

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

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

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

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

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

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

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





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

3 (III) Courses of training in skills desirable for  
4 employment.

5 ~~[H2.]~~ 14. For the purposes of this section, a change of 20  
6 percent or more in the gross monthly income of a spouse who is  
7 ordered to pay alimony shall be deemed to constitute changed  
8 circumstances requiring a review for modification of the payments  
9 of alimony. As used in this subsection, "gross monthly income"  
10 means the total amount of income received each month from any  
11 source of a person who is not self-employed or the gross income  
12 from any source of a self-employed person, after deduction of all  
13 legitimate business expenses, but without deduction for personal  
14 income taxes, contributions for retirement benefits, contributions to  
15 a pension or for any other personal expenses.

16 **Sec. 5.** 1. The amendatory provisions of section 4 of this act  
17 apply to an action filed on or after July 1, 2021.

18 2. A decree or judgment in any action for divorce, annulment  
19 or separate maintenance issued before July 1, 2021, which conflicts  
20 with the amendatory provisions of section 4 of this act shall be  
21 treated as a mistake which accrued on July 1, 2021, for the purpose  
22 of a postjudgment motion filed pursuant to subsection 5 of NRS  
23 125.150, as amended by section 4 of this act.

24 **Sec. 6.** NRS 125.080, 125.110 and 125.155 are hereby  
25 repealed.

26 **Sec. 7.** This act becomes effective on July 1, 2021.

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## TEXT OF REPEALED SECTIONS

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### **125.080 Trial of divorce action may be private.**

1. In any action for divorce, the court shall, upon demand of either party, direct that the trial and issue or issues of fact joined therein be private.

2. Except as otherwise provided in subsection 3, upon such demand of either party, all persons must be excluded from the court or chambers wherein the action is tried, except:

- (a) The officers of the court;
- (b) The parties;
- (c) The counsel for the parties;
- (d) The witnesses for the parties;
- (e) The parents or guardians of the parties; and
- (f) The siblings of the parties.





3. The court may, upon oral or written motion of either party, order a hearing to determine whether to exclude the parents, guardians or siblings of either party, or witnesses for either party, from the court or chambers wherein the action is tried. If good cause is shown for the exclusion of any such person, the court shall exclude any such person from the court or chambers wherein the action is tried.

**125.110 What pleadings and papers open to public inspection; written request of party for sealing.**

1. In any action for divorce, the following papers and pleadings in the action shall be open to public inspection in the clerk's office:

(a) In case the complaint is not answered by the defendant, the summons, with the affidavit or proof of service; the complaint with memorandum endorsed thereon that the default of the defendant in not answering was entered, and the judgment; and in case where service is made by publication, the affidavit for publication of summons and the order directing the publication of summons.

(b) In all other cases, the pleadings, the finding of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, and the judgment.

2. All other papers, records, proceedings and evidence, including exhibits and transcript of the testimony, shall, upon the written request of either party to the action, filed with the clerk, be sealed and shall not be open to inspection except to the parties or their attorneys, or when required as evidence in another action or proceeding.

**125.155 Pension or retirement benefit provided by Public Employees' Retirement System or Judicial Retirement Plan: Determination of value of interest or entitlement; disposition; termination of obligation to pay.** Unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS or is prohibited by specific statute:

1. In determining the value of an interest in or entitlement to a pension or retirement benefit provided by the Public Employees' Retirement System pursuant to chapter 286 of NRS or the Judicial Retirement Plan established pursuant to NRS 1A.300, the court:

(a) Shall base its determination upon the number of years or portion thereof that the contributing party was employed and received the interest or entitlement, beginning on the date of the marriage and ending on the date on which a decree of legal separation or divorce is entered; and

(b) Shall not base its determination upon any estimated increase in the value of the interest or entitlement resulting from a promotion, raise or any other efforts made by the party who contributed to the interest or entitlement as a result of his or her



continued employment after the date of a decree of legal separation or divorce.

2. The court may, in making a disposition of a pension or retirement benefit provided by the Public Employees' Retirement System or the Judicial Retirement Plan, order that the benefit not be paid before the date on which the participating party retires. To ensure that the party who is not a participant will receive payment for the benefits, the court may:

(a) On its own motion or pursuant to an agreement of the parties, require the participating party to furnish a performance or surety bond, executed by the participating party as principal and by a corporation qualified under the laws of this state as surety, made payable to the party who is not a participant under the plan, and conditioned upon the payment of the pension or retirement benefits. The bond must be in a principal sum equal to the amount of the determined interest of the nonparticipating party in the pension or retirement benefits and must be in a form prescribed by the court.

(b) On its own motion or pursuant to an agreement of the parties, require the participating party to purchase a policy of life insurance. The amount payable under the policy must be equal to the determined interest of the nonparticipating party in the pension or retirement benefits. The nonparticipating party must be named as a beneficiary under the policy and must remain a named beneficiary until the participating party retires.

(c) Pursuant to an agreement of the parties, increase the value of the determined interest of the nonparticipating party in the pension or retirement benefit as compensation for the delay in payment of the benefit to that party.

(d) On its own motion or pursuant to an agreement of the parties, allow the participating party to provide any other form of security which ensures the payment of the determined interest of the nonparticipating party in the pension or retirement benefit.

3. If a party receives an interest in or an entitlement to a pension or retirement benefit which the party would not otherwise have an interest in or be entitled to if not for a disposition made pursuant to this section, the interest or entitlement and any related obligation to pay that interest or entitlement terminates upon the death of either party unless pursuant to:

- (a) An agreement of the parties; or
- (b) An order of the court,

↳ a party who is a participant in the Public Employees' Retirement System or the Judicial Retirement Plan provides an alternative to an



unmodified service retirement allowance pursuant to NRS 1A.450  
or 286.590.

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