

CHAPTER.....

AN ACT relating to retirement; revising provisions governing eligibility for membership in the Public Employees' Retirement System; revising provisions governing the options for service retirement allowances under the System; revising provisions relating to the granting of a divorce; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Eligible retired public employees receive retirement allowances through membership in and contributions to the Public Employees' Retirement System. (Chapter 286 of NRS) Under existing law, certain persons are not eligible to be members of the System, including substitute teachers. (NRS 286.297) **Section 1** of this bill makes substitute teachers eligible for membership in the System.

Existing law provides several different alternative options to an unmodified retirement allowance under the Public Employees' Retirement System that members are authorized to elect upon retirement. (NRS 286.590) **Section 2** of this bill provides the additional alternative option of a reduced service retirement allowance with a benefit paid for 6 months to a designated beneficiary or an alternate beneficiary.

Existing law specifies certain powers and duties of courts in granting a divorce. (NRS 125.150) **Section 2.5** of this bill requires a court, in granting a divorce, to provide an explanation, or ensure that an explanation has been provided, to the parties of any provision relating to the disposition of pension or retirement benefits that will be included in the decree of divorce or any related order.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. NRS 286.297 is hereby amended to read as follows:
286.297 The following persons are not eligible to become members of the System:

1. Inmates of state institutions even though they may be receiving compensation for services performed for the institution.
2. Independent contractors or persons rendering professional services on a fee, retainer or contract basis.
3. Except as otherwise provided in NRS 286.525, persons retired under the provisions of this chapter who are employed by a participating public employer.
4. Members of boards or commissions of the State of Nevada or of its political subdivisions when such boards or commissions are advisory or directive and when membership thereon is not compensated except for expenses incurred. Receipt of a fee for



attendance at official sessions of a particular board or commission does not constitute compensation for the purpose of this subsection.

5. ~~Substitute teachers and students~~ *Students* who are employed by the institution which they attend.

6. District judges, judges of the Court of Appeals and justices of the Supreme Court first elected or appointed on or after July 1, 1977, who are not enrolled in the System at the time of election or appointment.

7. Members of the professional staff of the Nevada System of Higher Education who are employed on or after July 1, 1977.

8. Persons employed on or after July 1, 1979, under the Comprehensive Employment and Training Act.

9. Except as otherwise provided in NRS 286.293, persons assigned to intermittent or temporary positions unless the assignment exceeds 6 consecutive months.

10. Persons employed on or after July 1, 1981, as part-time guards at school crossings.

11. Nurses who:

(a) Are not full-time employees;

(b) Are paid an hourly wage on a daily basis;

(c) Do not receive the employee benefits received by other employees of the same employer; and

(d) Do not work a regular schedule or are requested to work for a shift at a time.

Sec. 2. NRS 286.590 is hereby amended to read as follows:

286.590 The alternatives to an unmodified service retirement allowance are as follows:

1. Option 2 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that it continue after the retired employee's death for the life of the beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of retirement should the beneficiary survive the retired employee.

2. Option 3 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that it continue after the retired employee's death at one-half the rate paid to the retired employee and be paid for the life of the beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of retirement should the beneficiary survive the retired employee.

3. Option 4 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the



provision that it continue after the retired employee's death for the life of the retired employee's beneficiary, whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of the election, should the retired employee's beneficiary survive the retired employee, beginning on the attainment by the surviving beneficiary of age 60. If a beneficiary designated under this option dies after the date of the retired employee's death but before attaining age 60, the contributions of the retired employee which have not been returned to the retired employee or the retired employee's beneficiary must be paid to the estate of the deceased beneficiary.

4. Option 5 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that it continue after the retired employee's death at one-half the rate paid to the retired employee and be paid for the life of the retired employee's beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of the election, should the retired employee's beneficiary survive the retired employee, beginning on the attainment by the surviving beneficiary of age 60. If a beneficiary designated under this option dies after the date of the retired employee's death but before attaining age 60, the contributions of the retired employee which have not been returned to the retired employee or the retired employee's beneficiary must be paid to the estate of the deceased beneficiary.

5. Option 6 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that a specific sum per month, which cannot exceed the monthly allowance paid to the retired employee, be paid after the retired employee's death to the beneficiary for the life of the beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of retirement, should the beneficiary survive the retired employee.

6. Option 7 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that a specific sum per month, which cannot exceed the monthly allowance paid to the retired employee, be paid after the retired employee's death to the beneficiary for the life of the beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of election, should the beneficiary survive the retired employee, beginning on the attainment by the surviving beneficiary of age 60 years. If a surviving beneficiary dies after the date of the retired



employee's death, but before attaining age 60, all contributions of the retired employee which have not been returned to the retired employee or the retired employee's beneficiary must be paid to the estate of the beneficiary.

7. Option 8 consists of a reduced service retirement allowance payable monthly during the retired employee's life, with the provision that a specific sum per month, which cannot exceed the monthly allowance paid to the retired employee, be paid for 6 months after the retired employee's death to the beneficiary whom the retired employee nominates by written designation acknowledged and filed with the Board at the time of retirement, should the beneficiary survive the retired employee. The retired employee may also designate at the time of retirement one alternate beneficiary should the initial designated beneficiary not survive the retired employee. Except as otherwise provided in this subsection, if the designated beneficiary dies less than 6 months after the date of the retired employee's death, any amount which has not been paid to the designated beneficiary pursuant to this subsection must be paid to the estate of the designated beneficiary. If the retired employee designated an alternate beneficiary, any amount which has not been paid pursuant to this subsection to the initial designated beneficiary before the initial designated beneficiary's death must be paid to the alternate designated beneficiary. If the alternate designated beneficiary also later dies less than 6 months after the date of the retired employee's death, any amount which has not been paid to the alternate designated beneficiary pursuant to this subsection must be paid to the estate of the alternate designated beneficiary. If the initial designated beneficiary and, if applicable, the alternate designated beneficiary do not survive the retired employee, any amount which is required to be paid pursuant to this subsection to a beneficiary must be paid to the estate of the retired employee.

Sec. 2.5. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and 125.165, 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 either spouse, 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, including, without limitation,



any community property transferred into an irrevocable trust pursuant to NRS 123.125 over which the court acquires jurisdiction pursuant to NRS 164.010, 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 **⚡**; and

(c) Shall provide an explanation, or ensure that an explanation has been provided, to the parties of any provision relating to the disposition of pension or retirement benefits that will be included in the decree of divorce or any related order.

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;

(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. A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment as the result of fraud or mistake. A motion pursuant to this



subsection must be filed within 3 years after the discovery by the aggrieved party of the facts constituting the fraud or mistake. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:

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

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

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

4. 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.

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

6. 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.

7. 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.

8. 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.

9. 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.

10. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether 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.



11. If the court determines that alimony should be awarded pursuant to the provisions of subsection 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.

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" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2023.

