

SENATE BILL NO. 126—SENATOR NEAL

PREFILED JANUARY 29, 2025

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic relations. (BDR 11-582)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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; revising provisions relating to the granting of a divorce and the disposition of certain pension or retirement benefits upon dissolution of marriage; revising provisions requiring certain documents to be provided before disbursement of certain pension or retirement benefits upon dissolution of marriage; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, a court granting a divorce has the duty to provide to the parties an explanation, or ensure that an explanation has been provided, 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. (NRS 125.150) **Section 1** of this bill requires that such explanation be a full explanation of any provisions relating to the disposition of pension or retirement benefits or any related order.

Existing law provides for the disposition of pension or retirement benefits provided by the Public Employees’ Retirement System or the Judicial Retirement Plan upon the dissolution of marriage. Existing law codifies the “time rules” whereby the community interest in such retirement benefits is calculated by dividing an employee’s length of service during marriage by his or her total length of service. (NRS 125.155) With an exception for homemakers, **section 2** of this bill replaces the “time rule” with the “frozen benefit rule,” whereby the community interest in such retirement benefits is “frozen” at the salary base and years of service of the party participating in the retirement system on the date on which the decree of legal separation or divorce is entered. The “frozen benefit rule” currently applies to military pensions under the Uniformed Services Former Spouses’ Protection Act. (10 U.S.C. § 1408(a)(4)(B))

Under existing law, a person seeking disbursement of pension or retirement benefits provided by the Public Employees’ Retirement System or the Judicial Retirement Plan pursuant to a domestic relations order must submit to the Executive Officer of the Public Employees’ Retirement Board, or his or her



23 designee, certain judgments, decrees or orders. (NRS 286.6703) **Section 3** of this
24 bill requires that any order submitted to the Executive Officer relating to the
25 disposition of community property that is issued pursuant to a decree of divorce
26 must be expressly referenced in the authorizing decree of divorce.

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

1 **Section 1.** NRS 125.150 is hereby amended to read as follows:
2 125.150 Except as otherwise provided in NRS 125.155 and
3 125.165, and unless the action is contrary to a premarital agreement
4 between the parties which is enforceable pursuant to chapter 123A
5 of NRS:
6 1. In granting a divorce, the court:
7 (a) May award such alimony to either spouse, in a specified
8 principal sum or as specified periodic payments, as appears just and
9 equitable;
10 (b) Shall, to the extent practicable, make an equal disposition of
11 the community property of the parties, including, without limitation,
12 any community property transferred into an irrevocable trust
13 pursuant to NRS 123.125 over which the court acquires jurisdiction
14 pursuant to NRS 164.010, except that the court may make an
15 unequal disposition of the community property in such proportions
16 as it deems just if the court finds a compelling reason to do so and
17 sets forth in writing the reasons for making the unequal disposition;
18 and
19 (c) Shall provide ~~an~~ *a full* explanation, or ensure that ~~an~~ *a*
20 *full* explanation has been provided, to the parties of any provision
21 relating to the disposition of pension or retirement benefits that will
22 be included in the decree of divorce or any related order.
23 2. Except as otherwise provided in this subsection, in granting
24 a divorce, the court shall dispose of any property held in joint
25 tenancy in the manner set forth in subsection 1 for the disposition of
26 community property. If a party has made a contribution of separate
27 property to the acquisition or improvement of property held in joint
28 tenancy, the court may provide for the reimbursement of that party
29 for his or her contribution. The amount of reimbursement must not
30 exceed the amount of the contribution of separate property that can
31 be traced to the acquisition or improvement of property held in joint
32 tenancy, without interest or any adjustment because of an increase in
33 the value of the property held in joint tenancy. The amount of
34 reimbursement must not exceed the value, at the time of the
35 disposition, of the property held in joint tenancy for which the
36 contribution of separate property was made. In determining whether



1 to provide for the reimbursement, in whole or in part, of a party who
2 has contributed separate property, the court shall consider:

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

5 (b) The length of the marriage; and

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

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

15 3. A party may file a postjudgment motion in any action for
16 divorce, annulment or separate maintenance to obtain adjudication
17 of any community property or liability omitted from the decree or
18 judgment as the result of fraud or mistake. A motion pursuant to this
19 subsection must be filed within 3 years after the discovery by the
20 aggrieved party of the facts constituting the fraud or mistake. The
21 court has continuing jurisdiction to hear such a motion and shall
22 equally divide the omitted community property or liability between
23 the parties unless the court finds that:

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

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

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

37 4. Except as otherwise provided in NRS 125.141, whether or
38 not application for suit money has been made under the provisions
39 of NRS 125.040, the court may award a reasonable attorney's fee to
40 either party to an action for divorce.

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



1 6. In the event of the death of either party or the subsequent
2 remarriage of the spouse to whom specified periodic payments were
3 to be made, all the payments required by the decree must cease,
4 unless it was otherwise ordered by the court.

5 7. If the court adjudicates the property rights of the parties, or
6 an agreement by the parties settling their property rights has been
7 approved by the court, whether or not the court has retained
8 jurisdiction to modify them, the adjudication of property rights, and
9 the agreements settling property rights, may nevertheless at any time
10 thereafter be modified by the court upon written stipulation signed
11 and acknowledged by the parties to the action, and in accordance
12 with the terms thereof.

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

28 9. In addition to any other factors the court considers relevant
29 in determining whether to award alimony and the amount of such an
30 award, the court shall consider:

- 31 (a) The financial condition of each spouse;
- 32 (b) The nature and value of the respective property of each
33 spouse;
- 34 (c) The contribution of each spouse to any property held by the
35 spouses pursuant to NRS 123.030;
- 36 (d) The duration of the marriage;
- 37 (e) The income, earning capacity, age and health of each spouse;
- 38 (f) The standard of living during the marriage;
- 39 (g) The career before the marriage of the spouse who would
40 receive the alimony;
- 41 (h) The existence of specialized education or training or the
42 level of marketable skills attained by each spouse during the
43 marriage;
- 44 (i) The contribution of either spouse as homemaker;



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

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

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

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

13 (b) Whether the spouse who would receive such alimony
14 provided financial support while the other spouse obtained job skills
15 or education.

16 11. If the court determines that alimony should be awarded
17 pursuant to the provisions of subsection 10:

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

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

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

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

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

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

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

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

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

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

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

40 (III) Courses of training in skills desirable for
41 employment.

42 12. For the purposes of this section, a change of 20 percent or
43 more in the gross monthly income of a spouse who is ordered to pay
44 alimony shall be deemed to constitute changed circumstances
45 requiring a review for modification of the payments of alimony. As



1 used in this subsection, "gross monthly income" means the total
2 amount of income received each month from any source of a person
3 who is not self-employed or the gross income from any source of a
4 self-employed person, after deduction of all legitimate business
5 expenses, but without deduction for personal income taxes,
6 contributions for retirement benefits, contributions to a pension or
7 for any other personal expenses.

8 **Sec. 2.** NRS 125.155 is hereby amended to read as follows:

9 125.155 Unless the action is contrary to a premarital agreement
10 between the parties which is enforceable pursuant to chapter 123A
11 of NRS or is prohibited by specific statute:

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

16 (a) *Except as otherwise provided in paragraph (b), shall base*
17 *its determination upon the amount of the pension or retirement*
18 *benefits to which the participating party would have been entitled*
19 *using the salary base and years of service of the participating*
20 *party on the date on which a decree of legal separation or divorce*
21 *is entered.*

22 (b) *If the nonparticipating party is a homemaker:*

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

28 ~~(b)~~ (2) Shall not base its determination upon any estimated
29 increase in the value of the interest or entitlement resulting from a
30 promotion, raise or any other efforts made by the party who
31 contributed to the interest or entitlement as a result of his or her
32 continued employment after the date of a decree of legal separation
33 or divorce.

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

40 (a) On its own motion or pursuant to an agreement of the
41 parties, require the participating party to furnish a performance or
42 surety bond, executed by the participating party as principal and by
43 a corporation qualified under the laws of this state as surety, made
44 payable to the party who is not a participant under the plan, and
45 conditioned upon the payment of the pension or retirement benefits.



1 The bond must be in a principal sum equal to the amount of the
2 determined interest of the nonparticipating party in the pension or
3 retirement benefits and must be in a form prescribed by the court.

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

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

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

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

25 (a) An agreement of the parties; or

26 (b) An order of the court,

27 ↪ a party who is a participant in the Public Employees' Retirement
28 System or the Judicial Retirement Plan provides an alternative to an
29 unmodified service retirement allowance pursuant to NRS 1A.450
30 or 286.590.

31 **Sec. 3.** NRS 286.6703 is hereby amended to read as follows:

32 286.6703 1. A person may submit a judgment, decree or
33 order of a district court, the Court of Appeals or the Supreme Court
34 of the State of Nevada relating to child support, alimony or the
35 disposition of community property to the Executive Officer or the
36 designee of the Executive Officer for a determination of whether
37 the judgment, decree or order entitles an alternate payee to receive
38 from the System all or a portion of the allowance or benefit of a
39 member or a retired employee.

40 2. The judgment, decree or order submitted to the Executive
41 Officer must be signed by a district judge, the judges of the Court of
42 Appeals or by the justices of the Supreme Court and entered and
43 certified by the clerk of the district court or the Clerk of the
44 Supreme Court. *Any order relating to the disposition of community*
45 *property that is issued by a district judge, the judges of the Court*



1 *of Appeals or the justices of the Supreme Court pursuant to a*
2 *decree of divorce must be expressly referenced in the authorizing*
3 *decree of divorce.*

4 3. The Executive Officer or the designee of the Executive
5 Officer shall, in accordance with rules prescribed by the Board,
6 determine whether the judgment, decree or order entitles the
7 alternate payee to receive an allowance or benefit from the System.
8 An alternate payee is entitled to receive an allowance or benefit
9 from the System if the judgment, decree or order:

10 (a) Specifies clearly the names and last known mailing
11 addresses, if any, of the member or retired employee and the
12 alternate payee;

13 (b) Specifies clearly the amount, percentage or manner of
14 determining the amount of the allowance or benefit of the member
15 or retired employee that must be paid by the System to each
16 alternate payee;

17 (c) Specifically directs the System to pay an allowance or
18 benefit to the alternate payee;

19 (d) Does not require the System to provide an allowance or
20 benefit or any option not otherwise provided under this chapter; and

21 (e) Does not require the payment of an allowance or benefit to
22 an alternate payee before the retirement of a member or the
23 distribution to or withdrawal of contributions by a member.

24 4. For purposes of this section, "alternate payee" means a
25 spouse, former spouse, child or other dependent of a member or
26 retired employee who, pursuant to a judgment, decree or order
27 relating to child support, alimony or the disposition of community
28 property, is entitled to receive all or a portion of the allowance or
29 benefit of a member or retired member from the System.

