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Domestic Relations; spouse's right to military pensions

NEV. REV. STAT.— (new)

SB 437 (Committee on Judiciary); 1983 STAT. Ch 301

With the enactment of Chapter 301, the former spouse of a member of the United States Armed Forces who received a decree of divorce on or after June 26, 1981, and on or before January 31, 1983, may petition for a modification of the adjudication of property rights¹ to determine the nonmember spouse's right to (1) support² or (2) the member spouse's military pension.³ Chapter 301 is apparently designed to permit modification of the nonmember spouse's right to the member spouse's military pension during the period after the United States Supreme Court decision in *McCarty v. McCarty*⁴ and prior to the effective date of federal legislation overturning the *McCarty* decision.⁵ In addition, Chapter 301 incorporates the jurisdictional requirements of the federal law⁶ by conferring upon the state court jurisdiction over the member spouse if the member spouse (1) is a resident of the state, other than by reason of a military assignment,⁷ (2) is domiciled within the area covered by the jurisdiction of the court,⁸ or (3) consented to jurisdiction when the decree of divorce was entered or at any hearing to modify the decree of divorce.⁹ Finally, Chapter 301 provides that a petition for modification must be filed no later than December 30, 1983.¹⁰

1. NEV. REV. STAT. §125.150 (adjudication of property rights and right to modification of property rights).

2. *Id.* (right to support); see also *Buchanan v. Buchanan*, 90 Nev. 209, 215, 523 P.2d 1, 5 (1974) (enumeration of the factors to consider in establishing support payments).

3. 1983 Nev. Stat. c. 301, §1(1), at 740.

4. 453 U.S. 210, 220-36 (1981) (holding that a court could not order a division of nondisability retirement pay as part of a distribution of community property incident to a divorce proceeding).

5. See 10 U.S.C. §1408(e)(1) A court can treat disposable retirement or retainer pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member spouse or as property of the member and his spouse in accordance with the law of the jurisdiction of the court. *Id.*

6. See *id.* §1408(c)(4).

7. 1983 Nev. Stat. c. 301, §1(2)(a), at 740.

8. *Id.* c. 301, §1(2)(b), at 740; see also NEV. CONST. art. 6, §6 (jurisdiction of Nevada state district courts).

9. 1983 Nev. Stat. c. 301, §1(2)(c), at 740.

10. *Id.* c. 301, §1(3), at 740.