



# Pacific Law Journal Review of Selected Nevada Legislative

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Volume 1989 | Issue 1

Article 77

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1-1-1989

## Domestic Relations; community property

The University of the Pacific, McGeorge School of Law

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### Recommended Citation

The University of the Pacific, McGeorge School of Law, *Domestic Relations; community property*, 1989 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1989/iss1/77>

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withholding imposed after a child support order was issued that did not require withholding because of a postponement.<sup>24</sup>

Chapter 320 permits an enforcing authority to withhold income as governed by this act in connection with a spousal support order if the authority is also collecting child support from the same person.<sup>25</sup> Chapter 320 also allows withholding, in connection with an order issued under this act, from the responsible parent's pension, annuity, or unemployment compensation.<sup>26</sup> Orders issued pursuant to this act are subject to the existing provisions governing enforcement of child support orders issued in another county or jurisdiction.<sup>27</sup>

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24. 1989 Nev. Stat. ch. 320, secs. 8, 9, at \_\_\_ (amending NEV. REV. STAT. §§ 31A.050, 31A.060).

25. *Id.* sec. 11, at \_\_\_ (amending NEV. REV. STAT. § 31A.110).

26. *Id.* sec. 12, at \_\_\_ (amending NEV. REV. STAT. § 31A.150). Support may also be withheld from money due the responsible parent in the form of disability benefits, retirement contributions, or money due to some other person because of the responsible parent's death. *Id.*

27. *Id.* sec. 13, at \_\_\_ (amending NEV. REV. STAT. § 31A.220). Chapter 320 authorizes county clerks to collect and disburse withholdings pursuant to orders issued under this act. *Id.* sec. 14, at \_\_\_ (amending NEV. REV. STAT. § 31A.240).

## **Domestic Relations; community property**

NEV. REV. STAT. § 422.2933 (repealed); §§ 123.220, 123.259 (amended).

AB 270 (Kissam); 1989 STAT. Ch. 170

Under existing law, upon petition of a spouse or guardian<sup>1</sup> of a spouse, a court can divide the community property<sup>2</sup> and obligations of a husband and wife into separate property<sup>3</sup> when doing so would be in the best interest of both spouses.<sup>4</sup> Chapter 170 requires that

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1. See NEV. REV. STAT. § 159.017 (1987) (definition of guardian).

2. See *id.* § 123.220 (1987) (amended by 1989 Nev. Stat. ch. 170, sec. 1, at \_\_\_) (community property defined).

3. See *id.* 123.130 (1987) (separate property defined). See also NEV. CONST. art. IV, § 31 (rights of husband and wife).

4. NEV. REV. STAT. § 123.259 (amended by 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_). See generally 1987 PAC. L.J. REV. NEV. LEGIS. 84 (regarding changes in community property law).

the petitioner show that one spouse has been or will be admitted to a facility for skilled nursing<sup>5</sup> or intermediate care,<sup>6</sup> or that the division of property allows the spouse to qualify for community-based services to the elderly.<sup>7</sup> If the basis for the partition of property is one spouse's prospective admittance into a nursing facility, Chapter 170 requires that the physician<sup>8</sup> of the spouse who is to be admitted to the facility give a written opinion stating the imminence of this admission.<sup>9</sup>

Chapter 170 permits written agreements<sup>10</sup> between spouses equally dividing their community assets and obligations.<sup>11</sup> Under prior law, a division of community assets and obligations excluded income.<sup>12</sup> Chapter 170 specifically authorizes the division of income.<sup>13</sup>

Under prior law, assets divided by an agreement between spouses were considered transferred for full and adequate consideration and had to be considered as separate assets of the spouse designated in the agreement.<sup>14</sup> Under Chapter 170, an agreement or court order dividing the community income, assets, and obligations of a husband and wife is not binding on the Welfare Division of the Department of Human Resources<sup>15</sup> in determining eligibility under the state plan for assistance to the medically indigent.<sup>16</sup>

RRH

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5. See NEV. REV. STAT. §§ 449.0039; 654.026 (1987) (definition of skilled nursing facility).

6. See *id.* §§ 449.0038; 654.025 (1987) (definition of intermediate care facility).

7. 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_ (amending NEV. REV. STAT. § 123.259). See generally NEV. REV. STAT. §§ 427A.250-.280 (1987) (establishing an Aging Services Division and community-based services to elderly persons).

8. See NEV. REV. STAT. § 0.040 (1987) (definition of physician).

9. 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_ (amending NEV. REV. STAT. § 123.259).

10. See NEV. REV. STAT. § 104.1201 3 (1987) (definition of agreement).

11. 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_ (amending NEV. REV. STAT. § 123.259) (the agreement is effective only when one spouse is admitted to a facility for skilled nursing or intermediate care or a division of property would allow one spouse to qualify for community-based services to the elderly).

12. 1987 Nev. Stat. ch. 434, sec. 1, at 1016 (amended by 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_).

13. 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_ (amending NEV. REV. STAT. § 123.259).

14. 1987 NEV. REV. STAT. ch. 731, secs. 1-2, at 1784 (repealed by 1989 Nev. Stat. ch. 170, sec. 3, at \_\_\_\_).

15. See NEV. REV. STAT. §§ 232.300 1 (1987) (creation of Department of Human Resources); 232.300 2(f) (1987) (creation of Welfare Division). See also *id.* §§ 422.270 1 (1987) (powers and duties of Department of Human Resources); 422.270 2 (1987) (powers and duties of Welfare Division).

16. 1989 Nev. Stat. ch. 170, sec. 2, at \_\_\_\_ (amending NEV. REV. STAT. § 123.259). See NEV. REV. STAT. § 422.008 (1987) (assistance to medically indigent defined). See also *id.* § 422.234 (1987) (creation of state plan for assistance to medically indigent).