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## Domestic Relations; dissolution of marriage

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## Domestic Relations; dissolution of marriage

NEV. REV. STAT. § 125.161 (repealed).  
SB 11 (Smith); 1989 STAT. Ch. 34  
(Effective March 20, 1989)

Prior law permitted the former spouse of a member of the Armed Forces of the United States to bring an action in the district court<sup>1</sup> for the partition of military retirement benefits<sup>2</sup> which were not disposed of in the decree of divorce.<sup>3</sup> Chapter 34 terminates the district courts' jurisdiction over actions for the partition of a former spouse's military retirement benefits which are pending as of March 30, 1989.<sup>4</sup> Under Chapter 34, the district court retains jurisdiction for the purposes of entering and enforcing judgments made pursuant to an agreement or settlement of any action for partition, unless the agreement provides otherwise.<sup>5</sup>

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1. See NEV. REV. STAT. § 125.020 (1987) (specifies requirements for district court jurisdiction over dissolution of marriage).

2. In *McCarty v. McCarty*, the United States Supreme Court held that federal law precluded the application of state community property laws to the division of military nondisability retirement pay, stating that those payments were "personal entitlements" of the retiree. *McCarty v. McCarty*, 453 U.S. 210, (1980). In response to this ruling, Congress enacted the Uniformed Services Former Spouses' Protection Act. 10 U.S.C. § 1408 (1982 ed. and Supp. V). The Act permitted state courts to treat "disposable retired or retainer pay" as community property. *Mansell v. Mansell*, \_\_\_ U.S. \_\_\_, 109 S.Ct. 2023, 2024 (1989). Since disability benefits are not subject to federal, state, or local taxation, many retirees elect to waive their retirement pay in favor of disability benefits. In *Mansell v. Mansell*, the United States Supreme Court clarified their holding in the *McCarty* case by stating that the Uniformed Services Former Spouses' Protection Act did not authorize states to treat as community property those amounts waived by the retiree in order to receive disability benefits. *Id.*

3. 1987 Nev. Stat. ch. 493, sec. 1, at 1150 (repealed by 1989 Nev. Stat. Ch. 34, sec. 1, at \_\_\_). See generally, 10 U.S.C. § 1408 (Supp. V 1987) (payment of retired or retainer pay in compliance with court orders).

4. 1989 Nev. Stat. ch. 34, sec. 1, at \_\_\_ (repealing NEV. REV. STAT. § 125.161). See generally U.S.C. § 1408 (discussing the payment of military retirement benefits pursuant to a final decree of divorce, dissolution, annulment, or legal separation).

5. 1989 NEV. STAT. ch. 34, sec. 2, at \_\_\_. Chapter 34 does not affect any right or obligation arising from any final judgment entered prior to March 30, 1989. *Id.*