

ASSEMBLY BILL NO. 231—COMMITTEE ON JUDICIARY

(ON BEHALF OF WELFARE DIVISION—CHILD SUPPORT ENFORCEMENT)

FEBRUARY 15, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions relating to enforcement of child support and appointment of guardian ad litem in paternity action. (BDR 11-445)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to children; imposing certain requirements before a court may waive arrearages in the payment of child support; expanding the class of persons to whom district attorneys must provide certain services for the support of children; clarifying certain provisions regarding the appointment of a guardian ad litem in an action to determine paternity; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 125B of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *Before a court issues or modifies an order for the support of a child,*
4 *the court shall determine whether any of the parties to the proceeding are*
5 *receiving or have ever received public assistance. If the court determines*
6 *that any of those parties are receiving or have ever received public*
7 *assistance, the court shall not waive any arrearages in the payment of*
8 *child support until after it has provided the welfare division of the*
9 *department of human resources with notice and an opportunity to be*
10 *heard regarding the matter.*

11 **Sec. 2.** NRS 125B.002 is hereby amended to read as follows:

12 125B.002 As used in NRS 125B.002 to 125B.180, inclusive, ***and***
13 ***section 1 of this act,*** unless the context otherwise requires, the words and

1 terms defined in NRS 125B.004 and 125B.008 have the meanings ascribed
2 to them in those sections.

3 **Sec. 3.** NRS 125B.150 is hereby amended to read as follows:

4 125B.150 1. The district attorney of the county of residence of the
5 child , or *of* a parent , *alleged parent or guardian* who does not have
6 physical custody of the child , shall take such action as is necessary to
7 establish parentage of the child and locate and take legal action, including
8 the establishment or adjustment of an obligation of support, against a
9 ~~{parent}~~ *person* who has a duty to support the child when requested to do
10 so by the ~~{custodial}~~ parent , *alleged parent or guardian* or a public
11 agency which provides assistance to the parent , *alleged parent, guardian*
12 or child. If the court for cause transfers the action to another county, the
13 clerk of the receiving court shall notify the district attorney of that county,
14 and that district attorney shall proceed to prosecute the cause of action and
15 take such further action as is necessary to establish parentage and to
16 establish or adjust the obligation of support and to enforce the payment of
17 support pursuant to this chapter or chapter 31A, 126, 130 or 425 of NRS.

18 2. In a county where the district attorney has deputies to aid him in the
19 performance of his duties, the district attorney shall designate himself or a
20 particular deputy as responsible for performing the duties imposed by
21 subsection 1.

22 3. Except as otherwise provided in NRS 126.101, the district attorney
23 and his deputies do not represent the parent , *alleged parent, guardian* or
24 ~~{the}~~ child in the performance of their duties pursuant to this chapter and
25 chapter 31A, 126, 130 or 425 of NRS, but are rendering a public service as
26 representatives of the state.

27 4. Officials of the welfare division of the department of human
28 resources are entitled to access to the information obtained by the district
29 attorney if that information is relevant to the performance of their duties.
30 The district attorney or his deputy shall inform each person who provides
31 information pursuant to this section concerning the limitations on the
32 confidentiality between lawyer and client under these circumstances.

33 5. Disclosures of criminal activity by a parent or child are not
34 confidential.

35 6. The district attorney shall inform each parent who applies for his
36 assistance in this regard that a procedure is available to collect unpaid
37 support from any refund owed to the parent who has a duty to support the
38 child because an excessive amount of money was withheld to pay his
39 federal income tax. The district attorney shall submit to the welfare
40 division all documents and information it requires to pursue such a
41 collection if:

42 (a) The applicant is not receiving public assistance.

43 (b) The district attorney has in his records:

1 (1) A copy of the order of support for a child and any modifications
2 of the order which specify their date of issuance and the amount of the
3 ordered support;

4 (2) A copy of a record of payments received or, if no such record is
5 available, an affidavit signed by the custodial parent attesting to the
6 amount of support owed; and

7 (3) The current address of the custodial parent.

8 (c) From the records in his possession, the district attorney has reason to
9 believe that the amount of unpaid support is not less than \$500.

10 Before submitting the documents and information to the welfare division,
11 the district attorney shall verify the accuracy of the documents submitted
12 relating to the amount claimed as unpaid support and the name and social
13 security number of the parent who has a duty to support the child. If the
14 district attorney has verified this information previously, he need not
15 reverify it before submitting it to the welfare division.

16 7. The welfare division shall adopt such regulations as are necessary to
17 carry out the provisions of subsection 6.

18 **Sec. 4.** NRS 126.101 is hereby amended to read as follows:

19 126.101 1. The child must be made a party to the action. If he is a
20 minor, he must be represented by his general guardian or a guardian ad
21 litem appointed by the court. The child's mother or father may not
22 represent the child as guardian or otherwise. If a district attorney brings an
23 action pursuant to NRS 125B.150 ~~and the interests of the child:~~

24 *(a) Are adequately represented by the appointment of the district*
25 *attorney as his guardian ad litem,* the district attorney shall act as guardian
26 ad litem for the child without the need for court appointment . ~~if the~~
27 ~~interests of the child are adequately represented by the appointment of the~~
28 ~~district attorney. If the interests of the child are~~

29 *(b) Are* not adequately represented by the appointment ~~of the district~~
30 *attorney as his guardian ad litem,* the welfare division of the department
31 of human resources must be appointed as guardian ad litem in the case.

32 2. The natural mother and a man presumed to be the father under NRS
33 126.051 must be made parties, but if more than one man is presumed to be
34 the natural father, only a man presumed pursuant to subsection 2 of NRS
35 126.051 is an indispensable party. Any other presumed or alleged father
36 may be made a party.

37 3. The court may align the parties.