

ASSEMBLY BILL NO. 644—COMMITTEE ON JUDICIARY

(ON BEHALF OF WELFARE DIVISION—CHILD SUPPORT ENFORCEMENT)

MARCH 22, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing obligations for support of children. (BDR 3-636)

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 obligations for the support of children; revising provisions concerning the notice to withhold income sent to the employer of a person alleged to be liable for child support; providing that all payments made pursuant to an order for the assignment of income for the payment of child support be made to the welfare division of the department of human resources or its designated representative for appropriate disbursement; revising the procedure for notifying an employer of his duty to enroll a child of his employee in a plan of health insurance as ordered by a court; repealing a provision that requires a recipient of a payment of child support to provide notice of his receipt of such payment to certain persons; 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.** NRS 31A.070 is hereby amended to read as follows:
2 31A.070 1. The enforcing authority shall mail, by ~~certified mail,~~
3 ~~return receipt requested,~~ ***first-class mail,*** a notice to withhold income to an
4 obligor's employer:
5 (a) If the provisions of subsection 2 of NRS 31A.025 apply,
6 immediately upon determining that the obligor is delinquent in the payment
7 of support; or
8 (b) If the provisions of subsection 2 of NRS 31A.025 do not apply,
9 immediately upon the entry of the order of support.
10 2. ~~The~~ ***If an employer of an obligor does not begin to withhold***
11 ***income from the obligor after receiving the notice to withhold income***

1 *that was mailed pursuant to subsection 1, the enforcing authority shall*
2 *mail, by certified mail, return receipt requested, another notice to*
3 *withhold income to the employer.*

4 **3. A** notice to withhold income may be issued electronically and must:

5 (a) Contain the social security number of the obligor;

6 (b) Specify the amount to be withheld from the income of the obligor;

7 (c) Specify the amount of the fee authorized in NRS 31A.090 for the
8 employer;

9 (d) Describe the limitation for withholding income prescribed in NRS
10 31.295;

11 (e) Describe the prohibition against terminating the employment of an
12 obligor because of withholding and the penalties for wrongfully refusing to
13 withhold pursuant to the notice to withhold income;

14 (f) Specify that, pursuant to NRS 31A.160, the withholding of income to
15 enforce an order of a court for child support has priority over other
16 proceedings against the same money; and

17 (g) Explain the duties of an employer upon the receipt of the notice to
18 withhold income.

19 **Sec. 2.** NRS 31A.095 is hereby amended to read as follows:

20 31A.095 1. If an employer wrongfully refuses to withhold income as
21 required pursuant to NRS 31A.025 to 31A.190, inclusive, *after receiving a*
22 *notice to withhold income that was sent by certified mail pursuant to*
23 *subsection 2 of NRS 31A.070*, or knowingly misrepresents the income of
24 an employee, the enforcing authority may apply for and the court may issue
25 an order directing the employer to appear and show cause why he should
26 not be subject to the penalty prescribed in subsection 2 of NRS 31A.120.

27 2. At the hearing on the order to show cause, the court, upon a finding
28 that the employer wrongfully refused to withhold income as required or
29 knowingly misrepresented an employee's income:

30 (a) May order the employer to comply with the requirements of NRS
31 31A.025 to 31A.190, inclusive;

32 (b) May order the employer to provide accurate information concerning
33 the employee's income;

34 (c) May fine the employer pursuant to subsection 2 of NRS 31A.120;
35 and

36 (d) Shall require the employer to pay the amount the employer failed or
37 refused to withhold from the obligor's income.

38 **Sec. 3.** NRS 31A.270 is hereby amended to read as follows:

39 31A.270 NRS 31A.160 applies to all assignments of income pursuant
40 to NRS 31A.250 to ~~31A.340,~~ **31A.330**, inclusive. The assignment:

41 1. Must be calculated in accordance with NRS 31.295.

42 2. May include the amount of the current support due and a payment on
43 the arrearages if previously ordered by a court of competent jurisdiction.

1 **Sec. 4.** NRS 31A.280 is hereby amended to read as follows:

2 31A.280 1. An order for an assignment issued pursuant to NRS
3 31A.250 to ~~31A.340,~~ **31A.330**, inclusive, operates as an assignment and
4 is binding upon any existing or future employer of an obligor upon whom a
5 copy of the order is served by certified mail, return receipt requested. The
6 order may be modified or revoked at any time by the court.

7 2. To enforce the obligation for support, the employer shall cooperate
8 with and provide relevant information concerning the obligor's
9 employment to the person entitled to the support or that person's legal
10 representative. A disclosure made in good faith pursuant to this subsection
11 does not give rise to any action for damages for the disclosure.

12 3. If the order for support is amended or modified, the person entitled
13 to the payment of support or that person's legal representative shall notify
14 the employer of the obligor to modify the amount to be withheld
15 accordingly.

16 4. To reimburse the employer for his costs in making the payment
17 pursuant to the assignment, he may deduct \$3 from the amount paid to the
18 obligor each time he makes a payment.

19 5. If an employer wrongfully refuses to honor an assignment or
20 knowingly misrepresents the income of an employee, the court, upon
21 request of the person entitled to the support or that person's legal
22 representative, may enforce the assignment in the manner provided in NRS
23 31A.095 for the enforcement of the withholding of income.

24 6. Compliance by an employer with an order of assignment operates as
25 a discharge of the employer's liability to the employee as to that portion of
26 the employee's income affected.

27 **Sec. 5.** NRS 31A.300 is hereby amended to read as follows:

28 31A.300 In any proceeding where a court makes or has made an order
29 of assignment of income for the payment of the support of a child to a
30 person, ~~{receiving welfare payments for the maintenance of minor~~
31 ~~children,}~~ the court shall direct that payments made pursuant to the
32 assignment be made to the ~~{welfare division or its designated~~
33 ~~representative,}~~ **enforcing authority**. The district attorney may appear in
34 any proceeding to enforce that order. ***The enforcing authority shall***
35 ***disburse the payments so received to the person to whom the assignment***
36 ***was made in the amount that the person is entitled to receive.***

37 **Sec. 6.** NRS 31A.310 is hereby amended to read as follows:

38 31A.310 1. The person or other entity to whom support is ordered to
39 be paid by assignment of income shall notify the court and the employer of
40 the obligor, by any form of mail requiring a return receipt, of any change
41 of address within a reasonable time after that change.

42 2. If the employer or the legal representative of the person entitled to
43 the payment for support is unable to deliver payments as required pursuant

1 to NRS 31A.250 to ~~31A.340,~~ **31A.330**, inclusive, within 3 months
2 because of the failure of the person entitled to the support to notify the
3 employer or his legal representative of a change of address, the employer or
4 legal representative shall not make any further payments pursuant to the
5 assignment and shall return all undeliverable payments to the employee.

6 **Sec. 7.** NRS 31A.330 is hereby amended to read as follows:

7 31A.330 1. Money may be withheld for the support of a child
8 pursuant to NRS 31A.250 to ~~31A.340,~~ **31A.330**, inclusive, from any
9 money due to:

10 (a) The obligor as a pension, an annuity, unemployment compensation, a
11 benefit because of disability, retirement or other cause;

12 (b) The obligor as a return of contributions and interest; or

13 (c) Some other person because of the death of the obligor,
14 from the ~~state,~~ **State of Nevada**, a political subdivision of the ~~state~~ **State**
15 **of Nevada** or an agency of either, a public trust, corporation or board or a
16 system for retirement, disability or annuity established by a statute of this
17 state.

18 2. When a certified copy of any order of assignment is served by
19 certified mail, return receipt requested, on any entity described in
20 subsection 1, other than the Federal Government, it must comply with any
21 request for a return of employee contributions by an employee named in the
22 order by paying the contributions to the person entitled to the payment of
23 support or that person's legal representative unless the entity has received a
24 certified copy of an order terminating the order of assignment. A court may
25 not directly or indirectly condition the issuance, modification or
26 termination of, or condition the terms or conditions of, any order for the
27 support of a child upon the issuance of such a request by an employee.

28 **Sec. 8.** NRS 31A.350 is hereby amended to read as follows:

29 31A.350 1. If a court orders a parent to obtain health insurance for
30 his child and the parent fails to comply with the order, the enforcing
31 authority shall mail to the parent's employer or labor organization by
32 ~~certified~~ **first-class** mail, a notice requiring the employer or organization
33 to enroll the child in the plan of health insurance provided for his
34 employees or its members. The notice must include:

35 (a) The parent's name and social security number;

36 (b) A statement that the parent has been required by an order of the
37 court to obtain and maintain health insurance for his child;

38 (c) The name, date of birth and social security number for the child; and

39 (d) A statement that any assistance needed to complete the enrollment of
40 the child in a plan of health insurance may be obtained from the parents of
41 the child and the enforcing authority.

2. Except as otherwise provided in subsection 6, no enforcing authority may mail or cause to be mailed a notice to enroll pursuant to subsection 1 unless:

(a) The enforcing authority first notifies the parent by certified mail at his last known address of:

(1) Its intent to seek enrollment of the child; and

(2) The provisions of subsection 6; and

(b) The parent fails, within 15 days after the notice is mailed, to provide written proof to the enforcing authority that:

(1) The parent has enrolled the child in a plan of health insurance required by the order of the court; or

(2) The coverage required by the order of the court was not available at a reasonable cost for more than 30 days before the date on which the notice was mailed.

3. Except as otherwise provided in this subsection, upon receipt of a notice to enroll, mailed pursuant to subsection 1, the employer or labor organization shall enroll the child named in the notice in the plan of health insurance provided for his employees or its members. The child must be enrolled without regard to any restrictions upon periods for enrollment. If more than one plan is offered by the employer or labor organization, and each plan may be extended to cover the child, the child must be enrolled in the parent's plan. If the parent's plan cannot be extended to cover the child, the child must be enrolled in the plan with the least expensive option for providing coverage for a dependent that is otherwise available to the parent, subject to the eligibility requirements of that plan. An employer, labor organization, health maintenance organization or other insurer is not required to enroll the child in a plan of health insurance if the child is not otherwise eligible to be enrolled in that plan. If the child is not eligible to be enrolled in the parent's plan of health insurance, the employer or labor organization shall notify the enforcing authority.

4. After the child is enrolled in a plan of health insurance, the premiums required to be paid by the parent for the child's coverage may be deducted from the parent's wages. If the parent's wages are not sufficient to pay for those premiums, the employer or labor organization shall notify the enforcing authority.

5. A notice to enroll sent pursuant to subsection 1 has the same effect as an enrollment application signed by the parent. No employer or labor organization may refuse to enroll a child because a parent has not signed an enrollment application.

6. If the enforcing authority:

(a) Has complied with the requirements of subsection 2 regarding a parent; and

(b) Subsequently determines that the parent:

1 (1) Has another employer or belongs to another labor organization;
2 and

3 (2) Does not have the child enrolled in a plan of health insurance as
4 required by the order of the court,
5 the enforcing authority shall, without again complying with the
6 requirements of subsection 2, mail pursuant to subsection 1 a subsequent
7 notice to enroll to the other employer or labor organization. Any employer
8 or labor organization receiving such a notice shall notify the parent
9 immediately of the receipt of that notice and comply with the provisions of
10 this section unless, within 20 days after the notice was mailed to the
11 employer or labor organization, the enforcing authority notifies the
12 employer or labor organization that the parent has provided the enforcing
13 authority with written proof that the parent has enrolled the child in a plan
14 of health insurance required by the order of the court.

15 7. An employer or labor organization shall, without liability to the
16 parent, provide to the enforcing authority, upon request, information about
17 the name of the insurer and the number of the parent's policy of health
18 insurance.

19 8. The enforcing authority may withhold wages or other income and
20 require withholding of state tax refunds whenever the responsible parent
21 has received payment from the third party and not used the payment to
22 reimburse the other parent or provider to the extent necessary to reimburse
23 the Medicaid agency.

24 9. The remedy provided by this section is in addition to, and is not a
25 substitute for, any other remedy available for the enforcement of such an
26 order.

27 **Sec. 9.** NRS 31A.340 is hereby repealed.

28 **Sec. 10.** This act becomes effective on July 1, 1999.

TEXT OF REPEALED SECTION

31A.340 Notice of receipt of money assigned. Upon receipt of money paid pursuant to NRS 31A.250 to 31A.340, inclusive, the person entitled to the payment of support or that person's legal representative shall, within 10 days after such receipt, send written notice of that fact to the parties and the employer or agency withholding and transmitting the assignment.