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WENDY KAMEDA

March 10, 2003

Judiciary Committee
Nevada State Assembly
Legislative Building
Carson City, NV 89710

Members of the Judiciary Committee,

Thank you Chairman Anderson and distinguished members of the Judiciary Committee. My name is Wendy Kameda; up until I retired on December 31, 2002, I was a domestic violence attorney for Clark County Legal Services Program, Inc. My position was funded through a Department of Justice Civil Legal Assistance grant to assist low-income residents of Clark County whose protection orders were being violated by their abusers. I am here today to speak in favor of those provisions of AB 160 that would allow a Nevada court to waive the existing publication requirement for a legal name change under certain circumstances and would require that a wage assignment issue at the time child support is ordered in an Extended Order of Protection Against Domestic Violence.

1. Modification of the Nevada Statute for Legally Changing Your Name

In 1999, the Social Security Administration articulated its policy to assist victims of family violence in obtaining new social security numbers, stating "[s]ometimes the best way to evade an abuser and reduce the risk of further violence may be to relocate and establish a new identity." SSA Publication No 05-10093, June 1999.

N.R.S. § 41.280 currently requires that an applicant for name change publish his present name and the name which he desires to bear in the future in a newspaper of general circulation in the county, once a week for 3 successive weeks.

For survivors of domestic violence, changing names may be a means of last resort to escape continued abuse or harassment. Requiring the publication of a victim's current and future name in the newspaper allows an abuser to track the victim, from county to county, and state to state. Therefore, victims are discouraged from using this process and turn to other means, including simply assuming false identities. One obvious problem with an assumed identity is that a victim who cannot provide proof of identity suffers difficulties or delays in receiving the very Federal and State services intended to benefit victims. This morning you will hear testimony confirming this, by a letter from one such survivor and domestic violence advocates.

AB 160 would give Nevada judges the discretion to waive the publication requirement upon a showing that such publication would place the applicant's personal safety at risk. In enacting this provision and safeguarding the identity of such applicants, Nevada would be acting in a manner consistent with the Social Security Administration and Arizona, California, Colorado, Michigan, New Mexico, New York, and Washington, states that have considered this issue and modified their statutes accordingly. Relevant excerpts from some of these state statutes are contained in Exhibit A to my testimony.

ASSEMBLY JUDICIARY SUBCOMMITTEE
DATE: 3/20/03 EXHIBIT C
SUBMITTED BY: Wendy Kameda

2. Enforcement of Extended Protection Orders containing an award of Child Support

N.R.S. § 33.030 gives a court the authority to order a noncustodial parent to pay child support in Extended Protection Orders Against Domestic Violence. However, some noncustodial parents are using court-ordered child support payments as economic leverage to continue their harassment and manipulation of a victim. At present, any method available to victims to enforce a child support award after payment is not forthcoming (that is, retain an attorney or try themselves to have the noncomplying parent held in contempt, or apply for the services of the local child support enforcement agency) entails time, expense and delay. This inability to initiate quick enforcement of child support awards undermines the validity of the protection order for the noncomplying parent, while subjecting the victim and the victim's children to untold financial and personal hardship.

I understand that AB 160 raises a host of concerns for both the Child Support Enforcement Program and various employer groups. However, these concerns relate to the manner in which child support is calculated and the wage assignment is carried out and not to the underlying issue of whether a wage assignment should issue concurrently with the order for child support. I have spoken with representatives for both groups; to address their concerns, I propose the amendments to AB 160 contained in Exhibit B to my testimony. However, I believe that we are in substantial agreement on the following:

1. The income assigned for child support should be sent to the State Collection and Disbursement Unit; the Child Support Enforcement Program of the State Welfare Division will assist the Court Administrator in the development of a simple application form that the clerk of the court, TPO office or other entity can than make available to a victim to quickly "open" an enforcement file in NOMADS.
2. The Income Assignment Notice form should be consistent with the Federal and State Income Withholding Notice; the Child Support Enforcement Program of the State Welfare Division will assist the Court Administrator in any required modification of its form, that the clerk of the court, TPO office or other entity can than make available to a victim to enforce the child support order.
3. To avoid ambiguity, provisions concerning the calculation of child support and the obligations of the recipient of the Notice and penalties for noncompliance should refer to or mirror the relevant existing provisions of the Nevada Revised Statutes.

Thank you for your consideration of my testimony and I will be pleased to answer any questions you may have.

Respectfully,

Wendy R. Kameda

EXHIBIT A

Relevant Language From The Name Change Statutes Of Other States

Arizona: Arizona's statute gives its court discretion in whether to require publication.

> "A. *If* upon the filing of the application for change of name, *the court deems it proper* that notice be given, it *may* order that notice of the application be given by publication or by service upon any party interested."
> A.R.S. § 12-602 (2001) (italics added)

California: California's statute creates an exemption from the requirement that the proposed new name be published for victims of domestic violence.

> "(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence ... the petition, the order of the court and the copy published ... shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential ... ."
> Deering's California Codes Annotated, Cal. Code Civ. Proc. § 1277

Colorado: Colorado's statute exempts victims of domestic violence from the publication requirement.

> "(2) Public notice of such name change through publication ... shall not be required if the petitioner has been
>
> (a) The victim of a crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence ...."
> C.R.S. § 13-15-102

New Mexico: New Mexico's statute exempts victims of domestic violence from the publication requirement.

> "B. If the court finds that publication of an applicant's name change will jeopardize the applicant's personal safety, the court shall not require publication." N. M. Stat. Ann. § 40-8-2

New York: New York's statute creates an exception from the publication requirement, where publication would jeopardize an applicant's personal safety.

> "If the court shall find that the publication of an applicant's change of name would jeopardize such applicant's personal safety, the provision ... requiring publication shall be waived and shall be inapplicable."
> N.Y. CLS R. § 64-a.

EXHIBIT B

Proposed Amendments to AB 160

Delete Sections 1 through 16, in their entirety.

Proposed New Language to N.R.S. § (2) (b) [essentially, a paraphrase of N.R.S. § 31A.025]

"Any order of the court for the support of a minor child shall include an order directing the assignment of income for the payment of the support unless the court specifically finds good cause for the postponement of the assignment. A finding of good cause must be based upon a written finding by the court that the immediate assignment of income would not be in the best interests of the child. (The amount of the assignment of income shall be determined by Chapter 125B of the Nevada Revised Statutes, and the enforcement of the assignment will be done under the provisions of Chapter 31A of the Nevada Revised Statutes.)

The Welfare Division of the Department of Human Resources and the Judicial Council of the State of Nevada shall work together with other interested State and local offices and agencies to develop the procedures and forms needed to allow the assignee to enforce any such assignment in an expeditious and safe manner."