

CHAPTER.....

AN ACT relating to child support; making various changes to provisions governing the withholding of income which is ordered to enforce the payment of child support; and providing other matters properly relating thereto.

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

Section 1. NRS 31A.025 is hereby amended to read as follows:

31A.025 1. Except as otherwise provided in subsection ~~[2,]~~ 4, whenever a court order requiring an obligor to make payments for the support of a child includes an order directing the withholding of income for the payment of the support, the procedure provided by this chapter for the withholding of income must be carried out immediately unless:

(a) All parties agree in writing that there should be no immediate withholding; or

(b) The court finds good cause for the postponement of withholding.

2. Except as otherwise provided in ~~[this paragraph,]~~ *subsection 3*, a finding of good cause *pursuant to paragraph (b) of subsection 1* must be based on a written finding by the court that the immediate withholding of income would not be in the best interests of the child. *A finding that the immediate withholding of income would not be in the best interests of the child may be based on evidence that:*

(a) The obligor has not been found to be in arrears for the payment of child support and is willing and able to pay the amount ordered by the court;

(b) The obligor was unaware that he was the parent of the child for whom he owes an obligation of support during any time in which an arrearage for the payment of child support accrued and is willing and able to pay the amount ordered by the court; or

(c) The obligor has provided full payment of his obligation for support for each of the immediately preceding 12 months.

3. In an action for modification or adjustment of a previous order for the support of a child, a finding of good cause may be based on evidence of payment in a timely manner by the obligor under the previous order for support.

~~[2-]~~ 4. In the case of any court order requiring an obligor to make payments for the support of a child:

(a) That does not include an order directing the withholding of income for the payment of the support; or

(b) In connection with which:

(1) Good cause has been found by the court for the postponement of withholding; or

(2) All parties have agreed in writing that there should be no immediate withholding,

the procedure for the withholding of income must be carried out when the obligor becomes delinquent in paying the support of a child. The person entitled to the payment of support or his legal representative shall notify the enforcing authority when the procedure for the withholding of income must be carried out pursuant to this subsection.

Sec. 2. NRS 31A.040 is hereby amended to read as follows:

31A.040 1. The enforcing authority shall notify an obligor who is subject to the withholding of income by first-class mail to his last known address:

(a) That his income is being withheld;

(b) Of the amount of any arrearages;

(c) Of the amount being withheld from his income to pay current support and the amount being withheld to pay any arrearages;

(d) That a notice to withhold income applies to any current or subsequent employer;

(e) That a notice to withhold income of the obligor has been mailed to his employer;

(f) Of the information provided to his employer pursuant to NRS 31A.070;

(g) That he may contest the withholding; and

(h) Of the grounds and procedures for contesting the withholding.

2. The provisions of this section are applicable only to an obligor against whom there is entered an order of a kind described in subsection ~~2~~ 4 of NRS 31A.025.

Sec. 3. NRS 31A.050 is hereby amended to read as follows:

31A.050 1. Except as otherwise provided in subsection 2:

(a) If an obligor, within 15 days after a notice of withholding is mailed to him pursuant to NRS 31A.040, requests a hearing to contest the withholding, the enforcing authority shall apply for a hearing before the court.

(b) The obligor may contest the withholding on the following grounds:

(1) The court which issued the order for support lacked personal jurisdiction over him;

(2) There is a mistake of fact as to:

(I) Whether the obligor has been delinquent in the payment of support;

(II) The amount of the arrearages or support; or

(III) The custody of the child; or

(3) The order of support was obtained by fraud.

No other issues or defenses may be presented to or determined by the court.

2. The provisions of subsection 1:

(a) Are applicable only to an obligor against whom there is entered an order of a kind described in subsection ~~2~~ 4 of NRS 31A.025.

(b) Do not apply to an obligor who requests a hearing pursuant to NRS 130.606 to contest the enforcement, through the withholding of income, of an order for support that is registered pursuant to chapter 130 of NRS.

Sec. 4. NRS 31A.060 is hereby amended to read as follows:

31A.060 1. If the court, after conducting a hearing requested pursuant to NRS 31A.050, determines that:

(a) The court that issued the order of support lacked jurisdiction or the order was obtained by fraud or a mistake of fact, it shall issue an order to stay the withholding.

(b) The order of support is valid and there is no fraud or mistake of fact, it shall issue an order confirming the withholding without modification.

2. The court shall make its decision within 45 days after the notice of the withholding is mailed to the obligor pursuant to NRS 31A.040.

3. If the court issues an order confirming the withholding, it may assess costs and attorney's fees against the obligor.

4. The enforcing authority shall give written notice to the obligor of the decision of the court.

5. The provisions of this section are applicable only to an obligor against whom there is entered an order of a kind described in subsection ~~2~~ 4 of NRS 31A.025.

Sec. 5. NRS 31A.070 is hereby amended to read as follows:

31A.070 1. The enforcing authority shall mail, by first-class mail, a notice to withhold income to an obligor's employer:

(a) If the provisions of subsection ~~2~~ 4 of NRS 31A.025 apply, immediately upon determining that the obligor is delinquent in the payment of support; or

(b) If the provisions of subsection ~~2~~ 4 of NRS 31A.025 do not apply, immediately upon the entry of the order of support ~~1~~, *unless an exception set forth in paragraph (a) or (b) of subsection 1 of NRS 31A.025 applies.*

2. If an employer of an obligor does not begin to withhold income from the obligor after receiving the notice to withhold income that was mailed pursuant to subsection 1, the enforcing authority shall mail, by certified mail, return receipt requested, another notice to withhold income to the employer.

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

- (a) Contain the social security number of the obligor;
- (b) Specify the amount to be withheld from the income of the obligor;
- (c) Specify the amount of the fee authorized in NRS 31A.090 for the employer;
- (d) Describe the limitation for withholding income prescribed in NRS 31.295;
- (e) Describe the prohibition against terminating the employment of an obligor because of withholding and the penalties for wrongfully refusing to withhold pursuant to the notice to withhold income;
- (f) Specify that, pursuant to NRS 31A.160, the withholding of income to enforce an order of a court for child support has priority over other proceedings against the same money; and
- (g) Explain the duties of an employer upon the receipt of the notice to withhold income.