

ASSEMBLY BILL NO. 386—ASSEMBLYWOMAN BUCKLEY

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions regarding obligation of child support and makes appropriation for audit of child support collection and enforcement by Welfare Division of Department of Human Resources and district attorneys of this State. (BDR 11-1231)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Contains Appropriation not included in Executive Budget.

~

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

AN ACT relating to child support; providing that a person who lawfully obtains custody of a child after an order for support for that child has been issued may enforce that order in certain circumstances; making an appropriation for a performance audit of the collection and enforcement of child support by the Welfare Division of the Department of Human Resources and the district attorneys of this State; 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 125B.040 is hereby amended to read as follows:

125B.040 1. The obligation of support imposed on the parents of a child also creates a cause of action on behalf of the legal representatives of either of them, or on behalf of third persons or public agencies furnishing support or defraying the reasonable expenses thereof.



2. In the absence of a court order, reimbursement from the nonsupporting parent is limited to not more than 4 years' support furnished before the bringing of the action.

3. *An order for the support of a child creates an obligation for the support of the child and follows the child to the person who has obtained lawful physical custody of the child.*

4. *A person who obtains lawful physical custody of a child for whom an order for support has been issued shall be deemed to be the person entitled to receive the payments ordered for the support of the child. Such a person may in the same manner as the person named in the order for support of the child and without petitioning the court for a new order:*

(a) *Enforce the existing order for support of the child; or*

(b) *Request modification of the order for support of the child.*

5. *The transfer of an obligation for support of a child pursuant to this section remains in effect as long as the person lawfully retains physical custody of the child or until a court orders otherwise. If the person ceases to have physical custody of the child, the person to whom the lawful physical custody of the child is transferred becomes the person entitled to receive the payments for the support of the child, unless a court orders otherwise.*

6. *A person who obtains lawful physical custody of a child and who was not a party to the original proceeding in which a court issued an order for the support of the child that wishes to enforce the order must:*

(a) *Provide the Welfare Division of the Department of Human Resources with a written declaration, under penalty of perjury, that the person has obtained lawful physical custody of the child;*

(b) *If the Welfare Division or its designee has not been responsible for enforcing the order, mail to the obligor at his last known address by first-class mail:*

(1) *A copy of the written declaration created pursuant to paragraph (a);*

(2) *A statement setting forth the name of the person, the month and year in which the person obtained physical custody of the child and the address to which the payments for support of the child must be sent; and*

(3) *Notice that the obligor must send future payments for support of the child to the person; and*

(c) *If the Welfare Division or its designee has not been responsible for enforcing the order, file a copy of the declaration created pursuant to paragraph (a) with the court that entered the order for support of the child and comply with the provisions of subsection 2 of NRS 125B.055.*



1 7. Upon receipt of a declaration created pursuant to
2 paragraph (a) of subsection 6, if the Welfare Division or its
3 designee has been responsible for enforcing the order for the
4 support of the child, the Welfare Division shall:

5 (a) Mail to the obligor at his last known address by first-class
6 mail:

7 (1) A copy of the declaration; and

8 (2) Notice to the obligor that the payments for support of
9 the child will be provided to the person who has lawful physical
10 custody of the child until such custody is terminated or until a
11 court orders otherwise; and

12 (b) File a copy of the declaration and notice with the court that
13 entered the order for support of the child.

14 8. A person who fails to comply with the requirements of
15 subsection 6 does not lose the right to receive payments ordered
16 for the support of the child but such failure may be considered by
17 a court in determining the amount of arrears owed by an obligor
18 to the person.

19 9. Notwithstanding the transfer of an obligation for the
20 support of a child made pursuant to this section, any arrears in
21 the payment of an obligation for the support of a child accrues to
22 the person who had lawful physical custody of the child at the time
23 that the payment was due and remains due until paid in full.

24 10. For the purposes of this section, visitation rights must not
25 be construed as a change of custody.

26 11. As used in this section, "lawful physical custody" means a
27 person who has obtained physical custody:

28 (a) Pursuant to an order of a court; or

29 (b) With the consent of the person who has been awarded
30 physical custody of the child pursuant to an order of a court.

31 Sec. 2. 1. There is hereby appropriated from the State
32 General Fund to the Legislative Committee on Children, Youth and
33 Families, or, if the Committee does not exist, to the Legislative
34 Commission, the sum of \$150,000 to contract with a qualified,
35 independent consultant to conduct a performance audit of the
36 enforcement and collection of child support by the Welfare Division
37 of the Department of Human Resources and the district attorneys of
38 this State.

39 2. The audit conducted pursuant to this section must examine:

40 (a) The customer service operations of the Welfare Division and
41 the district attorneys of this State established to assist with the
42 enforcement and collection of orders for the support of children.

43 (b) The effectiveness of the operations of the Welfare Division
44 and the district attorneys of this State in carrying out their duties



1 pursuant to chapters 31A and 425 of NRS, including, without
2 limitation:

- 3 (1) Locating obligor parents;
- 4 (2) Establishing paternity; and
- 5 (3) Enforcing orders for support of a child.

6 (c) The identification of best practices from other states
7 concerning methods for the efficient and expeditious enforcement
8 and collection of orders for the support of children.

9 3. On or before February 1, 2007, the Legislative Committee
10 on Children, Youth and Families, or, if the Committee does not
11 exist, the Legislative Commission, shall submit the report of the
12 consultant that contains the findings of the audit and any
13 recommendations for legislation to the Director of the Legislative
14 Counsel Bureau for transmittal to the 74th Session of the Nevada
15 Legislature.

16 **Sec. 3.** Any remaining balance of the appropriation made by
17 section 2 of this act must not be committed for expenditure after
18 June 30, 2007, and must be reverted to the State General Fund on or
19 before September 21, 2007.

20 **Sec. 4.** 1. This section and section 2 of this act become
21 effective upon passage and approval.

22 2. Sections 1 and 3 of this act become effective on July 1,
23 2005.

