

Amendment No. 151

Assembly Amendment to Assembly Bill No. 386

(BDR 11-1231)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend the bill as a whole by deleting section 1 and adding a new section designated section 1, following the enacting clause, to read 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.

MSN/RBL

Date: 4/19/2005

A.B. No. 386—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.

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.

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

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

(1) A copy of the declaration; and

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

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

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

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

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

11. As used in this section, “lawful physical custody” means a person who has obtained physical custody:

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

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

Amend sec. 2, page 2, line 18, by deleting:

“Department of Human Resources” and inserting:

“Legislative Committee on Children, Youth and Families, or, if the Committee does not exist, to the Legislative Commission,”.

Amend sec. 2, page 2, line 22, by deleting “Resources.” and inserting:

“Resources and the district attorneys of this State.”.

Amend sec. 2, page 2, lines 24 and 27, after “Division” by inserting:

“and the district attorneys of this State”.

Amend sec. 2, page 2, line 28, by deleting “its” and inserting “their”.

Amend sec. 2, page 2, lines 36 and 37, by deleting:

“Department of Human Resources” and inserting:

“Legislative Committee on Children, Youth and Families, or, if the Committee does not exist, the Legislative Commission,”.

Amend sec. 4, page 3, by deleting line 1 and inserting:

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

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

Amend the title of the bill, seventh line, by deleting “Resources;” and inserting:

“Resources and the district attorneys of this State;”.

Amend the summary of the bill to read as follows:

“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)”.