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BILL: AB 160 Makes various changes to provide protection to certain persons.

NEVADA STATE WELFARE DIVISION

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The Child Support Enforcement Program, State Welfare Division, believes certain provisions of AB 160, as originally written, do not comply with federal regulations regarding child support income withholding orders. However, following discussions between Wendy Kameda of Clark County Legal Services, Child Support Enforcement Program Chief Leland Sullivan and Deputy Attorney General Don Winne, the Child Support Enforcement Program understands an amendment will be offered which addresses these concerns. This paper is intended to inform the Committee of federal mandates that strictly govern child support enforcement income withholding requirements.

State child support enforcement programs must comply with Title IV-D mandates to be eligible for both child support enforcement and Temporary Assistance to Needy Families (TANF) federal funding. Federal funding for TANF is contingent upon a state's compliance with federal child support mandates.

We wish to make the Committee aware of the following state and federal requirements regarding child support orders:

1. Child Support Payments Must Be Sent To The State Collection and Disbursement Unit.

Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires all states have centralized locations for the collection and disbursement of child support payments in all Title IV-D child support cases and in all non-IV-D cases in which the support order was initially issued in the state on or after January 1, 1994, and in which the income of the non-custodial parent is subject to income withholding. In Nevada the centralized payment location is known as the State Collection and Disbursement Unit or SCaDU. Centralized payment units were created to relieve employers of the burden of sending payments to multiple locations throughout the state, with the result being quicker payments to families receiving child support.

Section 14 of AB 160 requires that income assignment payments made pursuant to this act be sent directly to the custodian rather than SCaDU. This section is in conflict with federal regulations requiring all income withholding be sent to the state's centralized collection unit as previously explained.

Further, federal regulations (45 CFR 302.32) specifically require that in any case in which the custodian is receiving TANF benefits, payments must be made to the state disbursement unit and "shall not be made directly to the family." A family's eligibility for TANF benefits is contingent upon the recipient's compliance with child support regulations.

ASSEMBLY JUDICIARY

DATE: 3/10/03 ROOM: 3138 EXHIBIT 6

SUBMITTED BY: Leland Sullivan

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2. Standardized Income Withholding Notice

Federal law requires that all income withholding notices shall be issued in a format consistent with the federal notice approved by the Secretary of Health and Human Services. It does not appear that AB 160, as written, provides for this federal requirement.

3. Allocation of Multiple Orders

Federal regulations require that if there is more than one notice for withholding against an obligor, collections must be allocated between the families as specified by state law. The orders should not be paid on a "first come, first served" basis. AB 160 does not provide for this federal requirement.

4. Definition of Income

The meaning of "income" as defined in Section 5 of this act is inconsistent with the definition of income provided in NRS 31A.016. Specifically, this bill does not include in its definition of income monies due the obligor as a judgment, a settlement or the prize from any contest or lottery. While not a federal requirement, we recommend including judgments and settlements in the bill's definition of income. One study suggests that, nationwide, up to 5% of delinquent obligors are due insurance settlements. Omitting settlements and judgments from the definition of income potentially closes the door on a valuable source of support that may be available to families.

5. Calculation of Support

Federal regulations require states have one set of guidelines established by law for setting and modifying child support award amounts. We suggest this bill include a requirement that support ordered pursuant to this act be calculated in accordance with NRS 125B. This will ensure support orders issued as part of an extended order for protection against domestic violence are consistent with state child support statutes and federal regulations.

We appreciate the Committee considering the issues we have presented. We are concerned that if the bill does not fully comply with federal child support enforcement requirements, TANF funding for Nevada's families and child support funding may be jeopardized.

Mr. Sullivan is available to answer questions the Committee may have, and he may be contacted at (775) 684-0705 or by e-mail at lsulliva@welfare.state.nv.us.