

---

---

ASSEMBLY BILL NO. 117—COMMITTEE ON JUDICIARY

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing withholding of income which is ordered to enforce payment of child support. (BDR 3-901)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

---

---

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:

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

3     31A.025 1. Except as otherwise provided in subsection ~~[2,]~~ **4**,  
4 whenever a court order requiring an obligor to make payments for  
5 the support of a child includes an order directing the withholding of  
6 income for the payment of the support, the procedure provided by  
7 this chapter for the withholding of income must be carried out  
8 immediately unless:

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

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

13     **2.** Except as otherwise provided in ~~[this paragraph,]~~ **subsection**  
14 **3**, a finding of good cause *pursuant to paragraph (b) of subsection*  
15 **1** must be based on a written finding by the court that the immediate  
16 withholding of income would not be in the best interests of the  
17 child. *A finding that the immediate withholding of income would*



\* A B 1 1 7 \*

1 *not be in the best interests of the child may be based on evidence*  
2 *that:*

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

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

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

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

16 ~~2.~~ 4. In the case of any court order requiring an obligor to  
17 make payments for the support of a child:

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

20 (b) In connection with which:

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

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

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

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

32 31A.040 1. The enforcing authority shall notify an obligor  
33 who is subject to the withholding of income by first-class mail to his  
34 last known address:

35 (a) That his income is being withheld;

36 (b) Of the amount of any arrearages;

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

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

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

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



1 (g) That he may contest the withholding; and  
2 (h) Of the grounds and procedures for contesting the  
3 withholding.

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

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

8 31A.050 1. Except as otherwise provided in subsection 2:

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

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

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

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

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

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

21 (III) The custody of the child; or

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

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

25 2. The provisions of subsection 1:

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

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

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

34 31A.060 1. If the court, after conducting a hearing requested  
35 pursuant to NRS 31A.050, determines that:

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

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

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



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

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

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

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

9 31A.070 1. The enforcing authority shall mail, by first-class  
10 mail, a notice to withhold income to an obligor's employer:

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

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

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

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

25 (a) Contain the social security number of the obligor;

26 (b) Specify the amount to be withheld from the income of the  
27 obligor;

28 (c) Specify the amount of the fee authorized in NRS 31A.090  
29 for the employer;

30 (d) Describe the limitation for withholding income prescribed in  
31 NRS 31.295;

32 (e) Describe the prohibition against terminating the employment  
33 of an obligor because of withholding and the penalties for  
34 wrongfully refusing to withhold pursuant to the notice to withhold  
35 income;

36 (f) Specify that, pursuant to NRS 31A.160, the withholding of  
37 income to enforce an order of a court for child support has priority  
38 over other proceedings against the same money; and

39 (g) Explain the duties of an employer upon the receipt of the  
40 notice to withhold income.

