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ASSEMBLY BILL NO. 160—ASSEMBLYMEN BUCKLEY, PARKS, GIUNCHIGLIANI, GOLDWATER, ANDERSON, ARBERRY, ATKINSON, BEERS, CARPENTER, CHOWNING, CHRISTENSEN, CLABORN, COLLINS, CONKLIN, GIBBONS, GRADY, GRIFFIN, HORNE, KOIVISTO, LESLIE, MABEY, MANENDO, MCCLAIN, MCCLEARY, MORTENSON, OCEGUERA, OHRENSCHALL, PERKINS, PIERCE, SHERER AND WILLIAMS

FEBRUARY 18, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provide protection to certain persons. (BDR 3-160)

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

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

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AN ACT relating to persons in need of protection; requiring a court to order an assignment of income anytime that financial assistance or support is ordered as part of an extended order for protection against domestic violence; authorizing a court to seal records and waive publication concerning a change of name when the person proves that his personal safety is at risk; providing for privileged communications between victims of domestic violence or sexual assault and their advocates; 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.** Chapter 31A of NRS is hereby amended by adding  
2     thereto a new section to read as follows:

3     *None of the provisions of NRS 31A.250 to 31A.330, inclusive,*  
4     *apply to an order of support for a minor child included in an*  
5     *extended order for protection against domestic violence pursuant*



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1 *to NRS 33.030 or an assignment of income ordered pursuant to*  
2 *section 8 of this act.*

3 **Sec. 2.** Chapter 33 of NRS is hereby amended by adding  
4 thereto the provisions set forth as sections 3 to 16, inclusive, of this  
5 act.

6 **Sec. 3.** *As used in sections 3 to 16, inclusive, of this act,*  
7 *unless the context otherwise requires, the words and terms defined*  
8 *in sections 4, 5 and 6 of this act have the meanings ascribed to*  
9 *them in those sections.*

10 **Sec. 4.** *“Enforcing authority” means the Welfare Division of*  
11 *the Department of Human Resources, its designated representative*  
12 *or the district attorney.*

13 **Sec. 5.** *“Income” includes, without limitation:*

- 14 1. *Wages, salaries, bonuses and commissions;*
- 15 2. *Any money from which financial assistance or support*  
16 *may be withheld pursuant to section 16 of this act;*
- 17 3. *Any other money due as a pension, annuity, unemployment*  
18 *compensation, a benefit because of disability or retirement, or as a*  
19 *return of contributions and interest; and*
- 20 4. *Any compensation of an independent contractor.*

21 **Sec. 6.** *“Obligor” means an adverse party who is ordered to*  
22 *provide financial assistance or support to a person pursuant to*  
23 *subparagraph (2) of paragraph (b) of subsection 2 of NRS 33.030.*

24 **Sec. 7.** *To the extent that any provision of sections 3 to 16,*  
25 *inclusive, of this act is inconsistent with the provisions of chapter*  
26 *130 of NRS regarding the effect, enforcement or modification of*  
27 *an order relating to the support of a child issued by a court other*  
28 *than a court of this state, the provision of this chapter does not*  
29 *apply to the order. The enforcement and any modification of such*  
30 *an order must comply with the provisions of chapter 130 of NRS.*

31 **Sec. 8.** *In any proceeding in which the court orders an*  
32 *adverse party to provide any financial assistance or support*  
33 *pursuant to subparagraph (2) of paragraph (b) of subsection 2 of*  
34 *NRS 33.030, the court shall order the obligor to assign to the*  
35 *person entitled to the payment of financial assistance or support,*  
36 *or to that person’s legal representative, that portion of the income*  
37 *of the obligor which is due or to become due and is sufficient to*  
38 *pay the amount ordered by the court.*

39 **Sec. 9.** 1. *The Court Administrator shall create a document*  
40 *that includes a copy of the provisions set forth in sections 3 to 16,*  
41 *inclusive, of this act and describes the manner in which to carry*  
42 *out an assignment of income that is ordered pursuant to section 8*  
43 *of this act, the effect of the assignment and the responsibilities of*  
44 *the applicant.*



1       2. *The Court Administrator shall distribute the document*  
2 *created pursuant to subsection 1 to each justice court and district*  
3 *court in this state.*

4       3. *The clerk of the court shall provide each party, free of cost,*  
5 *with a copy of the document created pursuant to subsection 1*  
6 *upon request.*

7       4. *The clerk of the court or other person designated by the*  
8 *court shall assist a person entitled pursuant to section 8 of this act*  
9 *to have the payment of financial assistance or support paid*  
10 *through an assignment of income in completing any forms or*  
11 *letters necessary to carry out the order of assignment of income.*  
12 *This assistance does not constitute the practice of law, but the*  
13 *clerk shall not render any advice or service that requires the*  
14 *professional judgment of an attorney. The clerk of the court shall*  
15 *not charge such a person for providing the person with a certified*  
16 *copy of the order of assignment of income.*

17       **Sec. 10.** *NRS 31A.160 applies to all assignments of income*  
18 *pursuant to sections 3 to 16, inclusive, of this act to the extent that*  
19 *they apply to the support of a minor child. The assignment, with*  
20 *respect to the support of the minor child:*

21       1. *Must be calculated in accordance with NRS 31.295.*

22       2. *May include the amount of the current support due and a*  
23 *payment on the arrearages if previously ordered by a court of*  
24 *competent jurisdiction.*

25       **Sec. 11.** 1. *An order for an assignment of income issued*  
26 *pursuant to sections 3 to 16, inclusive, of this act operates as an*  
27 *assignment and is binding upon any existing or future employer of*  
28 *an obligor upon whom a copy of the order is served by certified*  
29 *mail, return receipt requested. The order may be modified or*  
30 *revoked at any time by the court.*

31       2. *To enforce the obligation for financial assistance or*  
32 *support, the employer shall cooperate with and provide relevant*  
33 *information concerning the obligor's employment to the person*  
34 *entitled to the financial assistance or support or that person's legal*  
35 *representative. A disclosure made in good faith pursuant to this*  
36 *subsection does not give rise to any action for damages for the*  
37 *disclosure.*

38       3. *If the order for support is amended or modified, the person*  
39 *entitled to the payment of financial assistance or support or that*  
40 *person's legal representative shall notify the employer of the*  
41 *obligor to modify the amount to be withheld accordingly.*

42       4. *To reimburse the employer for his costs in making the*  
43 *payment pursuant to the assignment of income, the employer may*  
44 *deduct up to \$3 from the amount paid to the obligor each time he*  
45 *makes a payment.*



1       5. *If an employer wrongfully refuses to honor an assignment*  
2 *of income or knowingly misrepresents the income of an employee,*  
3 *the court, upon request of the person entitled to the financial*  
4 *assistance or support or that person's legal representative, may*  
5 *enforce the assignment of income in the manner set forth in*  
6 *section 12 of this act.*

7       6. *Compliance by an employer with an order of assignment of*  
8 *income operates as a discharge of the employer's liability to the*  
9 *employee as to that portion of the employee's income affected.*

10      **Sec. 12.** 1. *If an employer wrongfully refuses to withhold*  
11 *income as required pursuant to sections 3 to 16, inclusive, of this*  
12 *act after receiving a copy of the order that was sent by certified*  
13 *mail pursuant to subsection 1 of section 11 of this act, or*  
14 *knowingly misrepresents the income of an employee, the enforcing*  
15 *authority or the person entitled to payment or his legal*  
16 *representative may apply for and the court may issue an order*  
17 *directing the employer to appear and show cause why he should*  
18 *not be subject to the penalty prescribed in subsection 2.*

19       2. *At the hearing on the order to show cause, the court, upon*  
20 *a finding that the employer wrongfully refused to withhold income*  
21 *as required or knowingly misrepresented an employee's income:*

22       (a) *May order the employer to comply with the requirements of*  
23 *sections 3 to 16, inclusive, of this act;*

24       (b) *May order the employer to provide accurate information*  
25 *concerning the employee's income;*

26       (c) *May order the employer to pay punitive damages to the*  
27 *person to whom financial assistance or support is owed in an*  
28 *amount not to exceed \$1,000 for each pay period he failed to*  
29 *withhold income as required or knowingly misrepresented the*  
30 *income of the employee; and*

31       (d) *Shall require the employer to pay the amount the employer*  
32 *failed or refused to withhold from the obligor's income.*

33      **Sec. 13.** 1. *An employer shall not use an assignment of*  
34 *income pursuant to sections 3 to 16, inclusive, of this act as a basis*  
35 *for the discharge of an employee or for disciplinary action against*  
36 *the employee. An employer who discharges or disciplines an*  
37 *employee in violation of this section shall reinstate the employee*  
38 *with no loss of pay or benefits, is liable for any payments of*  
39 *financial assistance or support not paid and shall be fined \$1,000.*

40       2. *If an employee prevails in an action for reinstatement*  
41 *based on this section, the employer is liable, in an amount of not*  
42 *less than \$2,500, for payment of the employee's costs and*  
43 *attorney's fees incurred in that action.*

44      **Sec. 14.** *In any proceeding in which a court makes or has*  
45 *made an order of assignment of income for the payment of*



1 *financial assistance or support pursuant to section 8 of this act,*  
2 *the court shall direct that payments made pursuant to the*  
3 *assignment be sent directly to the person for whom the assignment*  
4 *of income was made, or to that person's legal representative, at the*  
5 *address specified by the person. The district attorney may appear*  
6 *in any proceeding to enforce that order if the assignment of*  
7 *income is at least in part ordered for the support of a minor child.*

8 **Sec. 15.** 1. *The person or other entity to whom financial*  
9 *assistance or support is ordered to be paid by the assignment of*  
10 *income pursuant to section 8 of this act shall notify the court and*  
11 *the employer of the obligor, by any form of mail requiring a return*  
12 *receipt, of any change of address within a reasonable time after*  
13 *that change.*

14 2. *If the employer or the legal representative of the person*  
15 *entitled to the payment of financial assistance or support is unable*  
16 *to deliver payments as required pursuant to sections 3 to 16,*  
17 *inclusive, of this act within 3 months because of the failure of the*  
18 *person entitled to the financial assistance or support to notify*  
19 *the employer or his legal representative of a change of address, the*  
20 *employer or legal representative shall not make any further*  
21 *payments pursuant to the assignment and shall return all*  
22 *undeliverable payments to the employee.*

23 **Sec. 16.** 1. *Money may be withheld pursuant to an*  
24 *assignment of income granted pursuant to section 8 of this act*  
25 *from any money due:*

26 (a) *The obligor as a pension, an annuity, unemployment*  
27 *compensation, a benefit because of disability, retirement or other*  
28 *cause;*

29 (b) *The obligor as a return of contributions and interest; or*

30 (c) *Some other person because of the death of the obligor,*  
31 *from the State of Nevada, a political subdivision of the State of*  
32 *Nevada or an agency of either, a public trust, corporation or*  
33 *board, or a system for retirement, disability or annuity established*  
34 *by a statute of this state.*

35 2. *When a certified copy of any order of assignment is served*  
36 *by certified mail, return receipt requested, on any entity described*  
37 *in subsection 1, other than the Federal Government, the entity*  
38 *must comply with any request for a return of employee*  
39 *contributions made by the employee named in the order by paying*  
40 *the contributions to the person entitled to the payment of financial*  
41 *assistance or support or that person's legal representative unless*  
42 *the entity has received a certified copy of an order terminating the*  
43 *order of assignment. A court may not directly or indirectly*  
44 *condition the issuance, modification or termination of, or*



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1 *condition the terms or conditions of, any order for the support of a*  
2 *child upon the issuance of such a request by an employee.*

3 **Sec. 17.** NRS 41.280 is hereby amended to read as follows:  
4 41.280 1. ~~Upon~~ *Except as otherwise provided in*  
5 *subsection 2, upon the filing of the petition , the applicant shall*  
6 *make out and procure a notice ~~[- which shall state] that must:~~*

7 *(a) State the fact of the filing of the petition, its object, his*  
8 *present name and the name which he desires to bear in the future ~~[-~~*  
9 *The notice shall be] ; and*

10 *(b) Be published in some newspaper of general circulation in the*  
11 *county once a week for 3 successive weeks.*

12 *2. If the applicant submits proof satisfactory to the court that*  
13 *publication of the change of name would place his personal safety*  
14 *at risk, the court shall not require the applicant to comply with the*  
15 *provisions of subsection 1 and shall order the records concerning*  
16 *the petition and any proceedings concerning the petition to be*  
17 *sealed and to be opened for inspection only upon an order of the*  
18 *court for good cause shown or upon the request of the applicant.*

19 **Sec. 18.** Chapter 49 of NRS is hereby amended by adding  
20 thereto the provisions set forth as sections 19 to 26, inclusive, of this  
21 act.

22 **Sec. 19.** *As used in sections 19 to 26, inclusive, of this act,*  
23 *the words and terms defined in sections 20, 21 and 22 of this act*  
24 *have the meanings ascribed to them in those sections.*

25 **Sec. 20.** *“Domestic violence” means an act described in*  
26 *NRS 33.018.*

27 **Sec. 21.** *“Sexual assault” means a violation of NRS 200.366*  
28 *or an attempt to violate or conspiracy to violate NRS 200.366.*

29 **Sec. 22.** *“Victim’s advocate” means a person who works for*  
30 *a nonprofit program that provides assistance to victims of*  
31 *domestic violence or sexual assault with or without compensation*  
32 *and who has received at least 20 hours of relevant training.*

33 **Sec. 23.** *A communication shall be deemed to be confidential*  
34 *if the communication is between a victim of domestic violence or*  
35 *sexual assault and a victim’s advocate and is not intended to be*  
36 *disclosed to third persons other than:*

37 *1. A person who is present to further the interest of the*  
38 *victim;*

39 *2. A person reasonably necessary for the transmission of the*  
40 *communication; or*

41 *3. A person who is participating in the advice, counseling or*  
42 *assistance of the victim, including, without limitation, a member of*  
43 *the victim’s family.*

44 **Sec. 24.** *Except as otherwise provided in section 26 of this*  
45 *act, a victim of domestic violence or sexual assault who seeks*



1 *advice, counseling or assistance from a victim's advocate has a*  
2 *privilege to refuse to disclose, and to prevent any other person*  
3 *from disclosing, confidential communications set forth in section*  
4 *23 of this act.*

5 **Sec. 25.** *1. The privilege provided pursuant to section 24*  
6 *of this act may be claimed by:*

- 7 (a) *The victim of domestic violence;*
- 8 (b) *The guardian or conservator of the victim;*
- 9 (c) *The personal representative of a deceased victim; and*
- 10 (d) *The victim's advocate, but only on behalf of the victim.*

11 *2. The authority of a victim's advocate to claim the privilege*  
12 *is presumed in the absence of evidence to the contrary.*

13 **Sec. 26.** *There is no privilege pursuant to section 24 of this*  
14 *act if:*

15 *1. The purpose of the victim in seeking services from a*  
16 *victim's advocate is to enable or aid any person to commit or plan*  
17 *to commit what the victim knows or reasonably should have*  
18 *known is a crime or fraud;*

19 *2. The communication concerns a report of abuse or neglect*  
20 *of a child or older person in violation of NRS 200.508 or*  
21 *200.5093, but only as to that portion of the communication;*

22 *3. The communication is relevant to an issue of breach of*  
23 *duty by the victim's advocate to the victim or by the victim to the*  
24 *victim's advocate; or*

25 *4. Disclosure of the communication is otherwise required by*  
26 *law.*

27 **Sec. 27.** NRS 125B.240 is hereby amended to read as follows:

28 125B.240 The court shall not issue an order pursuant to NRS  
29 125B.210, unless it finds the existence of one or more of the  
30 following conditions:

31 1. The obligor-parent is not receiving income which may be  
32 subject to an assignment or withholding pursuant to chapter 31A of  
33 NRS ~~§~~ *or sections 3 to 16, inclusive, of this act*, and there is reason  
34 to believe that he has income from some source which may be  
35 subject to an assignment.

36 2. An assignment or withholding of income pursuant to chapter  
37 31A of NRS *or sections 3 to 16, inclusive, of this act* would not be  
38 sufficient to meet the obligation of the support of a child for reasons  
39 other than a change of circumstances which would qualify for a  
40 reduction in the amount of the support ordered.

41 3. The history of employment of the obligor-parent makes an  
42 assignment or withholding of income pursuant to chapter 31A of  
43 NRS *or sections 3 to 16, inclusive, of this act* difficult to enforce or  
44 not a practical means for securing the payment of the obligation of





1 support. Such a history may be evidenced by such conditions as  
2 multiple, concurrent or consecutive employers.

3 **Sec. 28.** NRS 608.1576 is hereby amended to read as follows:

4 608.1576 If an employer provides benefits for health care to  
5 his employees and the benefits include coverage of the employee's  
6 family, the employer shall:

7 1. Permit an employee who is required by the order of a court  
8 or administrative tribunal to provide health coverage for his child to  
9 enroll the child for coverage as a member of his family without  
10 regard to a restriction on periods of enrollment applicable to the  
11 employee.

12 2. If the parent so required is enrolled for coverage but does not  
13 apply to enroll the child, permit the child's other parent or the  
14 Welfare Division of the Department of Human Resources to enroll  
15 the child.

16 3. Not terminate the enrollment of the child in that coverage or  
17 otherwise eliminate that coverage of the child unless the insurer has  
18 written proof that:

19 (a) The order for medical coverage is no longer in effect; or

20 (b) The child is or will be enrolled in comparable coverage  
21 through another insurer on or before the effective date of the  
22 termination of enrollment or elimination of coverage.

23 4. Withhold from the employee's wages, and pay to the insurer  
24 if the employer is not self-insured, the employee's share, if any, of  
25 the cost of the coverage provided for the child but not more than the  
26 amount of withholding for insurance permitted by federal law or  
27 regulation.

28 The purpose of this section is to ensure that children are promptly  
29 enrolled in a program of health insurance provided by the  
30 responsible parent and that the health insurance is maintained. The  
31 remedies provided in this section are cumulative and in addition to  
32 any other remedy provided by law to the extent they are not  
33 inconsistent with the provisions of chapters 31A, 125B, 130 and 425  
34 of NRS ~~[ ]~~ *and sections 3 to 16, inclusive, of this act.*

