

 **03hr\_AC-CF\_ab198\_pt01**



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Children and Families (AC-CF)**

### **COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### **INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)



Ayes: (7) Representatives Kestell, Albers, Jeskewitz,  
Vukmir, Sinicki, Miller and Krug.  
Noes: (0) None.  
Absent: (1) Representative Ladwig.

ASSEMBLY SUBSTITUTE AMENDMENT 1 ADOPTION  
RECOMMENDED, Ayes 7, Noes 0

Moved by Representative Krug, seconded by Representative  
Jeskewitz that **Assembly Bill 198** be recommended for passage as  
amended.

Ayes: (7) Representatives Kestell, Albers, Jeskewitz,  
Vukmir, Sinicki, Miller and Krug.  
Noes: (0) None.  
Absent: (1) Representative Ladwig.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0

---

David Matzen  
Committee Clerk

Vote Record

Committee on Children and Families

Date: 8-7-03

Moved by: Krug

Seconded by: Jeskewitz

AB 198

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
- Introduction       Rejection       Tabling       Nonconcurrence

Committee Member

**Representative Steve Kestell**

Aye

No

Absent

Not Voting

**Representative Bonnie Ladwig**

**Representative Sheryl Albers**

**Representative Suzanne Jeskewitz**

**Representative Leah Vukmir**

**Representative Christine Sinicki**

**Representative Mark Miller**

**Representative Shirley Krug**

Totals: 7 0 1 \_\_\_\_\_

Vote Record

Committee on Children and Families

Date: 8-7-03
Moved by: Krug Seconded by: Sinicki
AB 198 SB Clearinghouse Rule
AJR SJR Appointment
AR SR Other

A/S Amdt
A/S Amdt to A/S Amdt
A/S Sub Amdt
A/S Amdt to A/S Sub Amdt
A/S Amdt to A/S Amdt to A/S Sub Amdt

Be recommended for:
Passage Adoption Confirmation Concurrence Indefinite Postponement
Introduction Rejection Tabling Nonconcurrency

Table with 5 columns: Committee Member, Aye, No, Absent, Not Voting. Rows include Steve Kestell, Bonnie Ladwig, Sheryl Albers, Suzanne Jeskewitz, Leah Vukmir, Christine Sinicki, Mark Miller, Shirley Krug, and Totals (7, 0, 1).

# History of Assembly Bill 198

## ASSEMBLY BILL 198

## LC Amendment Memo

An Act to amend 767.263 (1) of the statutes; relating to: requiring a child support payee to notify the county child support agency and the payer of any employer change or substantial income changes.

2003

03-25.	A.	Introduced by Representatives Ziegelbauer, Ainsworth, Albers, Bies, Colon, Gunderson, Hahn, Kestell, F. Lasee, Lassa, Ott, Plouff and Townsend; cosponsored by Senators Roessler and Schultz.	
03-25.	A.	Read first time and referred to committee on Children and Families .....	142
04-17.	A.	Public hearing held.	
05-20.	A.	Assembly amendment <u>1</u> offered by Representative Ziegelbauer .....	209
07-25.	A.	Assembly substitute amendment <u>1</u> offered by Representative Ziegelbauer .....	311
08-07.	A.	Executive action taken.	
08-12.	A.	Report Assembly Substitute Amendment <u>1</u> adoption recommended by committee on Children and Families, Ayes 7, Noes 0 .....	323
08-12.	A.	Report passage as amended recommended by committee on Children and Families, Ayes 7, Noes 0 .....	323
08-12.	A.	Referred to committee on Rules .....	323

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## MEMORANDUM

**To:** Members, Assembly Committee on Children and Families  
**From:** Family Law Section, State Bar of Wisconsin  
**Date:** April 16, 2003  
**Re:** Assembly Bill 198, relating to: requiring a child support payee to notify the county child support agency and the payer of any employer change or substantial income changes

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The Family Law Section of the State Bar of Wisconsin is opposed to Assembly Bill 198, as introduced. It could support the bill if it were amended to apply to only certain child support cases involving “shared time” calculations.

The Family Law section opposes the bill, as introduced, for the following reasons:

- **Courts currently have the discretion to order an exchange of information between the payer and the payee, including financial information, if they choose to do so. Further, courts can order an annual adjustment in child support amounts, and often do so. Financial information is exchanged by the parties in this context.**
- **The bill, as introduced, is cumbersome, overly broad, and largely unnecessary as it relates to many child support situations.**

Under current law, child support payments are set using the percentage standard established in Chapter DWD 40, Wis. Admin. Code. Only in certain “shared-time” payer situations does the calculation of child support take into account the income of the payee. In these situations, the relative amounts of time that the payer and payee care for the child are also taken into account.

Under the rule, a payer parent who cares for the child between 30% and 40% of overnights (or equivalents) per year pays the other parent (the payee) an amount that is less than he or she would pay under the percentage standard. There is no determination or offset of any obligation of the other parent (the payee). However, once the parent with less time cares for the child more than 40% of the time, the current rule reduces the child support obligation of the parent with less time and requires the determination and offset of the obligation of the parent with more time. Thus, only when the payer cares for the child on more than 40% of overnights is the income of the payee taken into consideration. In all other cases, the payee’s income is, essentially, irrelevant.

**State Bar of Wisconsin**

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158  
(800) 728-7788 ♦ (608) 257-3838 ♦ Fax (608) 257-5502 ♦ Internet: [www.wisbar.org](http://www.wisbar.org) ♦ Email: [service@wisbar.org](mailto:service@wisbar.org)



- **There is no need for a payee in a non-“shared-time” situation to share the information about changes of income or employer as required under the bill. The bill, as introduced, will generate unneeded paper work and record keeping for child support agencies to keep track of in cases where the payee’s income is not relevant to setting the child support amount.**

It should be noted that the Department of Workforce Development has held public hearings on Clearinghouse Rule 03-022, which would modify DWD 40. The proposed revisions to the “shared time” formula in CR 03-022 will expand the numbers of payees who have relevant information under Assembly Bill 198. The proposed rule, as currently drafted, would provide that the incomes of both parents would be considered whenever the parent with less physical placement cares for the child at least 25% of the time.

If you have any questions about this memo, please contact Dan Rossmiller, Public Affairs Director of the State Bar of Wisconsin at (608) 250-6140 or [drossmiller@wisbar.org](mailto:drossmiller@wisbar.org).



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**WISCONSIN CHILD**

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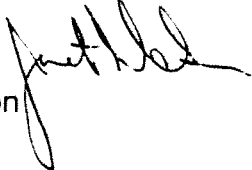
**SUPPORT ENFORCEMENT ASSOCIATION**

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*Memorandum*

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**TO** : Assembly Committee on Children and Families  
**FROM** : Janet Nelson, Chair, Legislative Committee,  
Wisconsin Child Support Enforcement Association   
**DATE** : April 17, 2003  
**SUBJECT** : Testimony on 2003 Assembly Bill 198, which requires a support payee to notify the child support agency and the payer of any employer change or substantial income changes.

The Wisconsin Child Support Enforcement Association represents Wisconsin's county and tribal child support agencies. Our members manage approximately 340,000 support cases each year. The WCSEA opposes Assembly Bill 198's blanket mandate requiring all support payees to report employment and income information to our member agencies and payers, as this information is immaterial in most support situations.

Pursuant to Wisconsin Statute § 767.25, courts set child support orders based upon the percentage standards established by the Department of Workforce Development in its administrative rules, Chapter DWD 40. DWD 40.03 requires that support orders be set based upon payers' gross income, not payees'. The support recipient's income is only relevant in limited circumstances, including shared-time<sup>i</sup> and split-custody<sup>ii</sup> families. There is no legitimate reason to require payees who are not in shared-time or split-custody situations to provide employer or income information to payers or support agencies. As the agencies do not need the information to work their support cases, we have no reason to dedicate resources to collect it.

There is a rationale basis for Wis. Stat. § 767.263's current requirement that support payers notify child support agencies and payees of employer changes and substantial changes in income. When a payer changes jobs, the support agency needs to notify the new employer of its obligation to deduct support payments from the payer's income. If the payer's income changes substantially, notice of the change allows the support agency or the payee to timely seek a new support order consistent with the change in income. As Wisconsin law prevents retroactive modifications of support, this notice is needed if the children are to receive the support to which they are entitled.

It would be reasonable to amend § 767.263 to say that courts **may** order payees in appropriate cases to provide income information to payers and support agencies. This

would allow the order to be made when relevant, in shared-time and split-custody situations, without creating an unnecessary burden on the majority of support payees.

The Wisconsin Child Support Enforcement Association greatly appreciates the tools Wisconsin's legislators have provided to enhance our support collection efforts. Wisconsin is a consistent national leader in both support collections and agency cost efficiency because of the partnership between State government and our Association's members. The WCSEA respectfully opposes Assembly Bill 198's requirement that payees provide payers and support agencies with unneeded employment and income information.

Thank you for your time and attention.

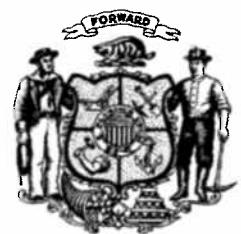
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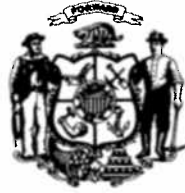
<sup>i</sup> A shared-time situation exists when the payer has placement of the children at least 30% of the year (109.5 days or more). Support is calculated for a shared-time payer pursuant to DWD 40.04(2), using both parents' incomes.

<sup>ii</sup> A split-custody situation occurs when a family has more than one child, and each parent has primary physical placement of at least one child. Support is calculated for a split-custody payer pursuant to DWD 40.04(3), using both parents' incomes.



# WISCONSIN STATE LEGISLATURE





**BOB ZIEGELBAUER**

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STATE REPRESENTATIVE • TWENTY FIFTH ASSEMBLY DISTRICT

**Committee on Children and Families**

**Representative Steve Kestell, Chair**

**Thursday, April 17, 2003**

**10:00 a.m. – 328-NW**

**Support for AB 198**

Mr. Chairman and Members:

Thank you for scheduling this hearing on AB 198 and for your consideration of it.

AB 198 was introduced at the suggestion of a local Manitowoc attorney who specializes in family law and relates to information shared between the parties involved in determining maintenance orders.

He encountered a situation where the recipient of a maintenance payment order received a significant increase in salary. As he was representing the payer of that maintenance order, he filed a motion to reduce the maintenance and was successful in doing so. However, since his client did not find out about the salary increase until well after the fact, he was not able to file the motion in a timely manner. As a result, his client paid more maintenance than might have been necessary under Wisconsin law.

Under current law, a payer of a child support, family support, or maintenance order is required to notify the child support agency and the payee of any substantial increase in salary or any change in employer. However, under current law, the payee is not required to provide similar information to the child support agency or payer.

Since the income of each of the parties is taken into account in determining the maintenance order, it seems only fair and reasonable to require that such information be shared equally among the parties. AB 198 is intended to level the field so that the parties are treated the same under the law.

Thank you again for your consideration. I would be happy to answer any questions you might have.

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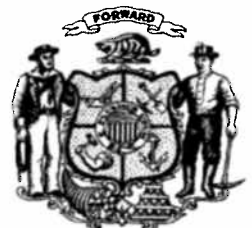
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# WISCONSIN STATE LEGISLATURE



## Matzen, David

---

**From:** Kostelic, Luanne  
**Sent:** Friday, April 25, 2003 4:47 PM  
**To:** Matzen, David  
**Subject:** FW: Rep. Ziegelbauer's AB 198



AB 198 Oppose  
Memo.doc

-----Original Message-----


From: Dan Rossmiller [mailto:DRossmiller@wisbar.org]  
Sent: Friday, April 25, 2003 2:34 PM  
To: Kostelic, Luanne  
Subject: RE: Rep. Ziegelbauer's [REDACTED]

Luanne,

Just to clarify. The concerns are those of the Family Law Section of the State Bar, which has about 1300 members who devote a significant part of their practice to matters affecting marriage, divorce, paternity, custody & placement and child support, etc.

The Family Law Section's concerns are mainly focused on bill being overly broad as it applies to child support.

Attached is a memo that was distributed to committee members. I suggest you read the email first and go back to the memo if you have any questions. (Let me apologize. I should have given your office a copy. Unfortunately, I ran out of copies. Rookie mistake.)

In short, Family Law Section takes the position that in child support cases the information about the payee's employer would seldom if ever be relevant, and the information about the change of income would be relevant in only a small percentage of cases. 

In greater detail, the Family Law Section takes the position that the requirement AB 198 imposes should only apply in those "shared time" cases where both parties' income is relevant to setting the amount of the child support order. That means cases where both parents have responsibility for caring of the child a significant amount of the time AND the parent with less time has the child for at least 40% of the time. This is a relatively small subset of the overall cases and is even a small subset of shared time cases.

(Shared time treatment begins when the parent with less time has the child for at least 30% of the time. In cases where the payer parent with less time has care of the child between 30 and 40% of the time, the payer receives a reduction what he or she would have to pay under the straight percentage of income standard, but the payee parent's income is not considered. Once you get above 40% placement, both parents' incomes are considered.)

I spoke with Janet Nelson, the Chief Counsel for the Milwaukee County Child Support Enforcement Agency. She told me that shared time case comprise about 15% or less of the cases here office deals with. (Admittedly, Milwaukee County has a higher number of paternity cases than the rest of the state and shared time placements are less likely in paternity situations than in divorce situations, but the point is that the requirement proposed under the bill is relevant in only a small proportion of the total child support cases.) In all cases other than certain shared time cases, AB 198 would be requiring the payee to provide information to the child support agency that is irrelevant.

It is my understanding that there are 468,820 child support cases in Wisconsin. County child support agencies are involved in 380,486 of these cases. That reflects only those cases called "IV-D" (pronounced "four-dee"). In the other 88,334 cases, the county child



support agency plays no role, either because payments are being made on time and in the proper amounts or because private enforcement is being used.

["IV-D cases" are child support recipients who are receiving services from the county child support agency under Title IV-D of the federal Social Security Act (hence the name). Such services are provided free of charge to most public assistance recipients and are available to parents who do not receive public assistance for a fee based on the individual's ability to pay. "Non-IV-D cases" are parents who do not receive child support enforcement services.]

Even if we assume that 20% of the cases statewide are shared time placement cases wherein the payee's income is relevant, AB 198 would require payees to provide the county child support agency with information in over 304,000 IV-D cases where it is not relevant. (I can't imagine that Rep. Ziegelbauer would want to impose those higher costs on counties in a time of fiscal crisis.)

Perhaps the simplest suggestion/solution would be to amend the bill to provide that in child support and family orders, the court MAY order the payee to notify the county child support agency and the payer about a substantial change of income (i.e., make it permissive). Presumably, the court would be able to determine when the information would be relevant and when it wouldn't. By deleting the language about change of employer, you would avoid all of the concerns being expressed by the domestic abuse community with regard to stalker ex-spouses/boyfriends, etc.

Finally, while I am not aware that the Family Law Section has any particular concerns about requiring maintenance payees to report changes of income, I'm not sure how many of the people receiving maintenance also receive child support. In general, it is my understanding that people receiving maintenance tend to be older and to have been involved in more traditional relationships (e.g., one-earner households) which results in a significant disparity in income and work-experience/earning capacity. Almost by definition, older people are less likely to have young children. I'm not sure it makes sense to require the group of maintenance payees that doesn't receive child support notify the county child support agency. I'm not sure what the agency would do with that information. I think making the bill permissive as described in the previous paragraph is the best answer.

Please feel free to contact me if you have any questions or if you would like additional information.

Sincerely,

Dan Rossmiller  
Public Affairs Director  
State Bar of Wisconsin  
(608) 250-6140 (voice)  
(608) 257-4343 (fax)  
WISCONSIN LAWYERS  
Expert Advisers. Serving You.

-----Original Message-----

From: Kostelic, Luanne [mailto:Luanne.Kostelic@legis.state.wi.us]  
Sent: Friday, April 25, 2003 9:59 AM  
To: Dan Rossmiller  
Subject: Rep. Ziegelbauer's AB 198

Just checking back with you on Bob's bill. The Committee chair called and wanted to know if we are ready for an exec. Where does the Bar's concerns lay? Any suggestions to improve? How many child support cases would you say this affects?

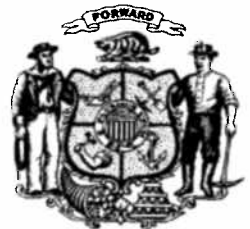
Thanks,

Luanne

> Office of Rep. Bob Ziegelbauer  
> Staff  
> Luanne Wavrunek Kostelic  
> Thomas M. Kelly III  
>  
> State Capitol  
> 207-North, PO Box 8953; Madison, WI 53708-8953  
> Phone: (608) 266-0315 or Toll Free: 1-888-529-0025  
> Fax: (608) 266-0316 or (608) 282-3625  
> Website:  
> Visit weekly to answer Rep. Ziegelbauer's  
> "Question of the Week"  
> <http://www.bobziegelbauer.com>  
>  
> In the District  
> 1213 S. 8th Street, PO Box 325  
> Manitowoc, WI 54221-0325  
> Office: (920) 684-6783  
> Home: (920) 684-4362  
>  
>



# WISCONSIN STATE LEGISLATURE





Rep. Kestell  
17. West

BOB ZIEGELBAUER

STATE REPRESENTATIVE • TWENTY FIFTH ASSEMBLY DISTRICT

DATE: May 22, 2003  
TO: Children & Families Committee Members  
FROM: Bob Ziegelbauer (Manitowoc: 920-684-6783; e-mail: bziegel@lakefield.net)  
RE: **Amendment 1 to AB 198** (relating to permitting a court to require a child support payee to notify the county child support agency and the payer of ~~employer change or~~ substantial income changes.)

As a result of comments received at the April 17<sup>th</sup> Committee hearing on AB 198, and after consultation with representatives of the State Bar of WI and the WI Child Support Enforcement Agency, I have had drafted an amendment which will be taken up at your **Wednesday, May 28<sup>th</sup> Executive Session.**

As you may recall from my testimony, **under current law**, a payer of a child support, family support, or maintenance order is required to notify the child support agency and the payee of any substantial increase in salary or any change in employer. However, under current law, the payee is not required to provide similar information to the child support agency or payer. In some situations, it would be helpful and appropriate to notify the other party of this information.

**AB 198 would have required** a child support payee to notify the county child support agency and the payer of any employer changes or substantial income changes.

**Amendment 1 to AB 198 amends** the bill to provide that in child support and family orders, the court MAY order the payee to notify the county child support agency and the payer about a substantial change of income (i.e., make it permissive). Presumably, the court would be able to determine when the information would be relevant and when it wouldn't. The payee would not have to report a change of employer.

This amendment attempts to address the concerns raised about the compulsory nature of the bill, and concerns about providing information when not necessary.

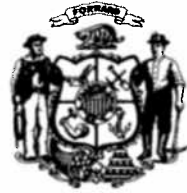
I hope you will find this a compromise you can support. As always please don't hesitate to contact me if I can answer any questions, or provide any further information on this amendment.

###

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Rep. Kestell  
17. West

BOB ZIEGELBAUER

STATE REPRESENTATIVE • TWENTY FIFTH ASSEMBLY DISTRICT

DATE: August 6, 2003  
TO: Children & Families Committee Members  
FROM: Bob Ziegelbauer (Manitowoc: 920-684-6783; e-mail: bziegel@lakefield.net)  
RE: **Assembly Substitute Amendment 1 to AB 198** (relating to permitting a court to require a maintenance or child support payee to notify the county child support agency and the payer of any substantial income changes.)

As a result of comments received at the April 17<sup>th</sup> Committee hearing on AB 198, and after consultation with representatives of the State Bar of WI and the WI Child Support Enforcement Agency, I introduced a substitute amendment which will be taken up at your **Thursday, August 7<sup>th</sup> Executive Session.**

As you may recall from my testimony, **under current law**, a payer of a child support, family support, or maintenance order is required to notify the child support agency and the payee of any substantial increase in salary or any change in employer. However, under current law, the payee is not required to provide similar information to the child support agency or payer. In some situations, it would be helpful and appropriate to notify the other party of this information.

**AB 198 would have required** a child support payee to notify the county child support agency and the payer of any employer changes or substantial income changes.

**Assembly Substitute Amendment 1 to AB 198 amends** the bill to **permit a court** to include in an order for maintenance an order that requires the payee of the maintenance to notify the county child support agency and the payer of any substantial change in the payee's income and to include in an order for child or family support, **if the court considered the income of the payee in determining the support amount.**

This amendment attempts to address the concerns raised about the compulsory nature of the bill, and concerns about providing information when not necessary.

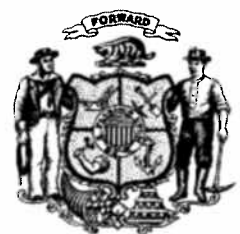
I hope you will find this a compromise you can support. As always please don't hesitate to contact me if I can answer any questions, or provide any further information on this amendment.

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# WISCONSIN STATE LEGISLATURE





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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2003 Assembly Bill 198**

**Assembly Substitute  
Amendment 1**

*Memo published:* August 11, 2003

*Contact:* Anne Sappenfield, Senior Staff Attorney (267-9485)

Under *current law*, each order for child support, family support, or maintenance must include an order that the payer notify the county child support agency and the payee, within 10 business days, of any change of employer and of any substantial change in the amount of his or her income, including receipt of a bonus, such that his or her ability to pay child support, family support, or maintenance is affected.

*Assembly Bill 198* requires each order for support or maintenance to also include an order that the payee notify the county child support agency and the payer, within 10 business days, of any change of employer and of any substantial change in the amount of his or her income, including the receipt of a bonus.

*Assembly Substitute Amendment 1* provides that an order for maintenance payments may include an order that the payee notify the county child support agency and the payer, within 10 business days, of any substantial change in the amount of the payee's income, including the receipt of a bonus. In addition, if the court considers the payee's income in determining the amount of support under a child support or family support order, the support order may include an order that the payee notify the child support agency and the payer of any substantial change in income, as described above.

The Assembly Committee on Children and Families recommended adoption of Assembly Substitute Amendment 1 and passage of the bill, as amended, on August 7, 2003. For each motion, the vote was Ayes, 7; Noes, 0.

AS:jal;ksm