

SENATE BILL NO. 134

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATOR KOOKESH

Introduced: 1/17/12

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to child support awards; and repealing Rule 90.3, Alaska Rules of Civil**
2 **Procedure."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 25 is amended by adding a new chapter to read:

5 **Chapter 28. Child Support Awards.**

6 **Sec. 25.28.010. Guidelines; primary physical custody.** (a) A tribunal shall
7 calculate a child support award in a case in which one parent is awarded primary
8 physical custody as an amount equal to the presumptive support obligation calculated
9 under (d) of this section multiplied by the noncustodial parent's proportionate income
10 share of combined monthly net income.

11 (b) To calculate the basic support obligation, the tribunal shall add together
12 the monthly net income of both parents and determine the basic support obligation
13 from the economic table as follows:

14 **ECONOMIC TABLE**

1 MONTHLY BASIC SUPPORT OBLIGATION
 2 FOR EACH CHILD

3 KEY: A = AGE 0-11 B = AGE 12-18

4 COMBINED

5 MONTHLY	6 ONE		7 TWO	
8 NET	9 CHILD		10 CHILDREN	
11 INCOME	12 FAMILY		13 FAMILY	
	14 A	15 B	16 A	17 B

18 For income less than \$1,000, the obligation is based on the resources
 19 and living expenses of each household

20 1,000	21 220	22 272	23 171	24 211
25 1,100	26 242	27 299	28 188	29 232
30 1,200	31 264	32 326	33 205	34 253
35 1,300	36 285	37 352	38 221	39 274
40 1,400	41 307	42 379	43 238	44 294
45 1,500	46 327	47 404	48 254	49 313
50 1,600	51 347	52 428	53 269	54 333
55 1,700	56 367	57 453	58 285	59 352
60 1,800	61 387	62 478	63 300	64 371
65 1,900	66 407	67 503	68 316	69 390
70 2,000	71 427	72 527	73 331	74 409
75 2,100	76 447	77 552	78 347	79 429
80 2,200	81 467	82 577	83 362	84 448
85 2,300	86 487	87 601	88 378	89 467
90 2,400	91 506	92 626	93 393	94 486
95 2,500	96 526	97 650	98 408	99 505
100 2,600	101 534	102 661	103 416	104 513
105 2,700	106 542	107 670	108 421	109 520
110 2,800	111 549	112 679	113 427	114 527
115 2,900	116 556	117 686	118 431	119 533
120 3,000	121 561	122 693	123 436	124 538

1	3,100	566	699	439	543
2	3,200	569	704	442	546
3	3,300	573	708	445	549
4	3,400	574	710	446	551
5	3,500	575	711	447	552
6	3,600	577	712	448	553
7	3,700	578	713	449	554
8	3,800	581	719	452	558
9	3,900	596	736	463	572
10	4,000	609	753	473	584
11	4,100	623	770	484	598
12	4,200	638	788	495	611
13	4,300	651	805	506	625
14	4,400	664	821	516	637
15	4,500	677	836	525	649
16	4,600	689	851	535	661
17	4,700	701	866	545	673
18	4,800	713	882	554	685
19	4,900	726	897	564	697
20	5,000	738	912	574	708
21	5,100	751	928	584	720
22	5,200	763	943	593	732
23	5,300	776	959	602	744
24	5,400	788	974	612	756
25	5,500	800	989	622	768
26	5,600	812	1,004	632	779
27	5,700	825	1,019	641	791
28	5,800	837	1,035	650	803
29	5,900	850	1,050	660	815
30	6,000	862	1,065	670	827
31	6,100	875	1,081	680	839

1	6,200	887	1,096	689	851
2	6,300	899	1,112	699	863
3	6,400	911	1,127	709	875
4	6,500	924	1,142	718	887
5	6,600	936	1,157	728	899
6	6,700	949	1,172	737	911
7	6,800	961	1,188	747	923
8	6,900	974	1,203	757	935
9	7,000	986	1,218	767	946
10	7,100	998	1,233	776	958
11	7,200	1,009	1,248	785	971
12	7,300	1,021	1,262	794	982
13	7,400	1,033	1,276	803	993
14	7,500	1,044	1,290	812	1,004
15	7,600	1,055	1,305	821	1,015
16	7,700	1,067	1,319	830	1,026
17	7,800	1,078	1,333	839	1,037
18	7,900	1,089	1,346	848	1,048
19	8,000	1,100	1,360	857	1,059
20	8,100	1,112	1,374	865	1,069
21	8,200	1,123	1,387	874	1,080
22	8,300	1,134	1,401	882	1,091
23	8,400	1,144	1,414	891	1,101
24	8,500	1,155	1,428	899	1,112
25	8,600	1,166	1,441	908	1,122
26	8,700	1,177	1,454	916	1,133
27	8,800	1,187	1,467	925	1,143
28	8,900	1,198	1,481	933	1,153
29	9,000	1,208	1,493	941	1,163
30	9,100	1,219	1,506	949	1,173
31	9,200	1,229	1,519	957	1,183

1	9,300	1,239	1,532	966	1,193
2	9,400	1,250	1,545	974	1,203
3	9,500	1,260	1,557	982	1,213
4	9,600	1,270	1,570	989	1,223
5	9,700	1,280	1,582	997	1,233
6	9,800	1,290	1,594	1,005	1,242
7	9,900	1,300	1,606	1,013	1,252
8	10,000	1,310	1,619	1,021	1,262
9	10,100	1,319	1,631	1,028	1,271
10	10,200	1,329	1,643	1,036	1,281
11	10,300	1,339	1,655	1,044	1,290
12	10,400	1,348	1,666	1,051	1,299
13	10,500	1,358	1,678	1,059	1,308
14	10,600	1,367	1,690	1,066	1,318
15	10,700	1,377	1,701	1,073	1,327
16	10,800	1,386	1,713	1,081	1,336
17	10,900	1,395	1,724	1,088	1,345
18	11,000	1,404	1,736	1,095	1,354
19	11,100	1,413	1,747	1,102	1,363
20	11,200	1,422	1,758	1,110	1,371
21	11,300	1,431	1,769	1,117	1,380
22	11,400	1,440	1,780	1,124	1,389
23	11,500	1,449	1,791	1,131	1,398
24	11,600	1,458	1,802	1,138	1,406
25	11,700	1,467	1,813	1,145	1,415
26	11,800	1,475	1,823	1,151	1,423
27	11,900	1,484	1,834	1,158	1,431
28	12,000	1,492	1,844	1,165	1,440
29	COMBINED				
30	MONTHLY	THREE	FOUR	FIVE	
31	NET	CHILDREN	CHILDREN	CHILDREN	

1	INCOME	FAMILY		FAMILY		FAMILY	
		A	B	A	B	A	B
2							
3	For income less than \$1,000, the obligation is based on the resources						
4	and living expenses of each household						
5	1,000	143	177	121	149	105	130
6	1,100	157	194	133	164	116	143
7	1,200	171	211	144	179	126	156
8	1,300	185	228	156	193	136	168
9	1,400	199	246	168	208	147	181
10	1,500	212	262	179	221	156	193
11	1,600	225	278	190	235	166	205
12	1,700	238	294	201	248	175	217
13	1,800	251	310	212	262	185	228
14	1,900	264	326	223	275	194	240
15	2,000	277	342	234	289	204	252
16	2,100	289	358	245	303	213	264
17	2,200	302	374	256	316	223	276
18	2,300	315	390	267	330	233	288
19	2,400	328	406	278	343	242	299
20	2,500	341	421	288	356	251	311
21	2,600	346	428	293	362	256	316
22	2,700	351	435	298	368	259	321
23	2,800	356	440	301	372	262	324
24	2,900	360	445	305	376	266	328
25	3,000	364	449	308	380	268	331
26	3,100	367	453	310	383	270	334
27	3,200	369	457	312	386	272	336
28	3,300	371	459	314	388	273	339
29	3,400	372	460	315	389	274	340
30	3,500	373	461	316	390	275	341
31	3,600	374	462	317	391	276	342

1	3,700	375	463	318	392	277	343
2	3,800	377	466	319	394	278	344
3	3,900	386	477	326	404	284	352
4	4,000	395	488	334	413	291	360
5	4,100	404	500	341	422	298	368
6	4,200	413	511	350	431	305	377
7	4,300	422	522	357	441	311	385
8	4,400	431	532	364	449	317	392
9	4,500	438	542	371	458	323	400
10	4,600	446	552	377	467	329	407
11	4,700	455	562	384	475	335	414
12	4,800	463	572	391	483	341	422
13	4,900	470	581	398	491	347	429
14	5,000	479	592	404	500	353	437
15	5,100	487	602	411	509	359	443
16	5,200	494	611	418	517	365	451
17	5,300	503	621	425	525	371	458
18	5,400	511	632	432	533	377	466
19	5,500	518	641	439	542	383	473
20	5,600	527	651	446	551	389	480
21	5,700	535	661	452	559	395	488
22	5,800	543	671	459	567	401	495
23	5,900	551	681	466	575	407	502
24	6,000	559	691	473	584	413	509
25	6,100	567	701	479	593	418	517
26	6,200	575	710	486	601	424	524
27	6,300	583	721	493	609	430	532
28	6,400	591	731	500	617	436	539
29	6,500	599	740	506	626	442	546
30	6,600	607	750	513	635	448	554
31	6,700	615	761	520	643	454	561

1	6,800	623	770	527	651	460	568
2	6,900	631	780	533	659	466	575
3	7,000	639	790	540	668	472	583
4	7,100	647	800	547	677	478	591
5	7,200	654	809	554	684	484	598
6	7,300	662	818	560	693	490	605
7	7,400	670	828	567	701	496	613
8	7,500	677	837	574	709	502	620
9	7,600	685	846	581	718	507	627
10	7,700	692	855	587	726	513	634
11	7,800	700	865	594	734	519	642
12	7,900	707	874	601	742	525	649
13	8,000	714	883	607	750	531	656
14	8,100	722	892	614	759	536	663
15	8,200	729	901	620	767	542	670
16	8,300	736	910	627	775	548	677
17	8,400	743	919	633	783	553	684
18	8,500	750	928	640	791	559	691
19	8,600	758	936	646	799	565	698
20	8,700	765	945	653	807	570	705
21	8,800	772	954	659	815	576	712
22	8,900	779	962	665	822	582	719
23	9,000	786	971	672	830	587	726
24	9,100	792	980	678	838	593	732
25	9,200	799	988	684	846	598	739
26	9,300	806	996	691	854	604	746
27	9,400	813	1,005	697	861	609	753
28	9,500	820	1,013	703	869	614	759
29	9,600	826	1,021	709	877	620	766
30	9,700	833	1,030	716	884	625	773
31	9,800	840	1,038	722	892	631	779

1	9,900	846	1,046	728	900	636	786
2	10,000	853	1,054	734	907	641	793
3	10,100	859	1,062	740	915	647	799
4	10,200	866	1,070	746	922	652	806
5	10,300	872	1,078	752	930	657	812
6	10,400	879	1,086	758	937	662	819
7	10,500	885	1,094	764	944	668	825
8	10,600	891	1,102	770	952	673	832
9	10,700	898	1,109	776	959	678	838
10	10,800	904	1,117	782	966	683	844
11	10,900	910	1,125	788	974	688	851
12	11,000	916	1,132	794	981	693	857
13	11,100	922	1,140	799	988	698	863
14	11,200	928	1,147	805	995	703	869
15	11,300	934	1,155	811	1,002	708	876
16	11,400	940	1,162	817	1,009	714	882
17	11,500	946	1,170	822	1,017	719	888
18	11,600	952	1,177	828	1,024	723	894
19	11,700	958	1,184	834	1,031	728	900
20	11,800	964	1,191	839	1,038	733	906
21	11,900	970	1,199	845	1,045	738	912
22	12,000	975	1,206	851	1,051	743	919.

23 (c) The economic table in (b) of this section is presumptive for up to five
24 children and for combined monthly net incomes up to and including \$12,000. When
25 support is awarded for more than five children in the physical custody of one parent,
26 the tribunal shall add the column for five children to the column equal to the additional
27 children over five. When combined monthly net income exceeds \$12,000, on written
28 findings of fact, the tribunal may exceed the presumptive amount of support set for
29 combined monthly net incomes of \$12,000.

30 (d) The tribunal shall calculate a presumptive support obligation by adding
31 average monthly expenditures for child health care expenses allowable under

1 AS 25.28.040 to the basic support obligation in (b) of this section.

2 (e) The tribunal may allow the obligor parent to reduce child support
3 payments by up to 75 percent for a period in which the obligor parent has extended
4 visitation of more than 27 consecutive days. The order must specify the amount of the
5 reduction that is allowable if the extended visitation is exercised.

6 (f) The tribunal may calculate child support based on a determination of the
7 potential income of a parent who voluntarily and unreasonably is unemployed or
8 underemployed. A determination of potential income may not be made for a parent
9 who is physically or mentally incapacitated or who is caring for a child under two
10 years of age to whom the parents owe a joint legal responsibility. Potential income
11 shall be based on the parent's work history, qualifications, and job opportunities. The
12 tribunal may also consider potential income from assets that are not producing income
13 or are producing low income.

14 (g) In this section, "monthly net income" means one-twelfth of the parent's
15 total annual income from all sources less

16 (1) mandatory deductions, including

17 (A) federal, state, and local income tax;

18 (B) social security tax or the equivalent contribution to an
19 alternate plan established by a public employer, and self-employment tax;

20 (C) Medicare tax;

21 (D) mandatory union dues;

22 (E) mandatory contributions to a retirement or pension plan;

23 (2) voluntary contributions to a retirement or pension plan or account
24 in which the earnings are tax-free or tax-deferred, except that the total amount of these
25 voluntary contributions plus any mandatory contributions under (1)(E) of this
26 subsection may not exceed 7.5 percent of the parent's gross wages and self-
27 employment income;

28 (3) child support and alimony payments arising from previous
29 relationships that are required by another tribunal and actually paid;

30 (4) child support for children from prior relationships living with the
31 parent, calculated by using the formula under this chapter; and

1 (5) work-related child care expenses for the child who is the subject of
2 the child support order.

3 **Sec. 25.28.020. Child support guidelines for shared, divided, and hybrid**
4 **custody awards.** (a) The tribunal shall calculate shared, divided, and hybrid physical
5 custody awards as provided in this section.

6 (b) The tribunal shall calculate a child support award in a case in which the
7 parents are awarded shared physical custody by

8 (1) calculating the annual amount each parent would pay to the other
9 parent under AS 25.28.010 assuming the other parent had primary custody; in this
10 calculation, the income limit in AS 25.28.030(c) and the minimum support amount in
11 AS 25.28.030(d) apply;

12 (2) multiplying the amount determined under (1) of this subsection for
13 each parent by the percentage of time the other parent has physical custody of the
14 child; however, if the tribunal finds that the percentage of time each parent will have
15 physical custody does not accurately reflect the ratio of funds each parent will directly
16 spend on supporting the child, the tribunal shall vary this percentage to reflect its
17 findings;

18 (3) determining which parent has the greater amount under (2) of this
19 subsection; the parent with the greater amount under (2) of this subsection is the
20 obligor parent, and the annual award is equal to the difference between the two
21 amounts under (2) of this subsection; however, if the amount is greater than the
22 amount of support calculated under AS 25.28.010 assuming the obligor parent has
23 primary custody, the annual support is the amount calculated under AS 25.28.010.

24 (c) The child support award for shared custody under (b) of this section must
25 be paid in 12 equal monthly installments, except that if

26 (1) shared custody is based on the obligor parent's having physical
27 custody for periods of 30 consecutive days or more, the total annual award may be
28 paid in equal installments over those months in which the obligor parent does not have
29 physical custody; or

30 (2) the obligor parent's income is seasonal, the tribunal may order
31 unequal monthly support payments as provided in AS 25.28.030(e) and (f).

1 (d) The child support order must state that failure to exercise sufficient
2 physical custody to qualify for shared physical custody under (b) or (c) of this section
3 is grounds for modification of the child support order. Denial of visitation by the
4 custodial parent is not cause to increase a child support award.

5 (e) The tribunal shall

6 (1) calculate a child support award in a case in which the parents are
7 awarded divided custody by determining the amount each parent would pay to the
8 other parent for support of a child for whom that parent has primary physical custody
9 under AS 25.28.010, taking into account the income limit in AS 25.28.030(c) and the
10 minimum support amount in AS 25.28.030(d), and offsetting those amounts; and

11 (2) consider whether the amount determined under (1) of this
12 subsection should be varied under AS 25.28.030(b).

13 (f) The tribunal shall

14 (1) calculate a child support award in a case in which the parents are
15 awarded hybrid custody by

16 (A) applying AS 25.28.010, taking into account the income
17 limit in AS 25.28.030(c) and the minimum support amount in
18 AS 25.28.030(d), to determine support for a child in the primary physical
19 custody of each parent;

20 (B) applying (b) of this section to determine support for a child
21 in the shared physical custody of the parents;

22 (C) adjusting pro rata the percentages provided in
23 AS 25.28.010(b) based on the number of children to which each type of
24 custody applies; and

25 (D) combining the amounts to determine the net obligation; and

26 (2) consider whether the amount determined under (1) of this
27 subsection should be varied under AS 25.28.030(b).

28 **Sec. 25.28.030. Exceptions to support awards.** (a) Notwithstanding the
29 requirements in AS 25.28.010 and 25.28.020, the tribunal may vary the award for the
30 reasons stated in this section.

31 (b) The tribunal may vary the child support award as calculated under the

1 other provisions of this chapter for good cause on proof by a preponderance of the
2 evidence that manifest injustice would result if the support award were not varied. The
3 tribunal shall specify in writing the reason for the variation, the amount of support that
4 would have been required but for the variation, and the estimated value of any
5 property conveyed instead of support calculated under the other provisions of this
6 chapter. Good cause may include a finding that unusual circumstances exist that
7 require variation of the award in order to award an amount of support that is just and
8 proper for the parties to contribute toward the nurture and education of their children.
9 The tribunal shall consider the custodial parent's income in this determination.

10 (c) The calculation for primary physical custody under AS 25.28.010 does not
11 apply to the extent that the supporting parent has an annual net income of more than
12 \$105,000. The tribunal may make an additional award only if it is just and proper,
13 taking into account the needs of the child, the standard of living of the child, and the
14 extent to which that standard should reflect the supporting parent's ability to pay.

15 (d) Except as provided in AS 25.28.010(d) and 25.28.020, the minimum child
16 support amount that may be ordered is \$75 a month or \$900 a year for one child and,
17 for each additional child, \$50 a month.

18 (e) If the noncustodial parent's income is seasonal, the tribunal may order that
19 the annual support amount be paid in unequal monthly payments, with higher
20 payments during the months the parent expects to receive higher income and lower
21 payments in other months; the tribunal may not make an unequal payment order unless

22 (1) the tribunal finds that the burden of budgeting for periods of
23 unequal income should be placed on the obligee rather than the obligor; and

24 (2) the obligee agrees.

25 (f) An order of the tribunal for unequal payments under (e) of this section
26 must specify the annual support amount, the average monthly support amount, and the
27 amount due for each month. The order must provide that variations from the average
28 monthly amount begin with monthly payments in excess of the average monthly
29 amount so that a deficit situation cannot occur. Until the excess payments begin, the
30 tribunal shall order payment of the average monthly amount.

31 **Sec. 25.28.040. Health care expenses.** (a) The tribunal shall include in the

1 order coverage of the child's health care needs and require health insurance for the
2 child if insurance is available to either parent or both parents at a reasonable cost. The
3 tribunal shall consider whether the child is eligible for services through the Indian
4 Health Service, any other entity, or other insurance coverage before ordering either
5 parent or both parents to provide health care coverage through insurance, cash medical
6 support, or other means. A court shall find that health insurance is available only if the
7 dependent child has reasonable geographic access to the covered services or the
8 insurance includes the coverage of transportation needed for the services.

9 (b) The tribunal shall allocate equally the cost of insurance between the
10 parents unless the tribunal orders otherwise for good cause. An obligor's child support
11 obligation shall be decreased by the amount of the obligee's portion of health
12 insurance payments ordered by the tribunal and actually paid by the obligor. The
13 tribunal shall increase a child support award by the obligor's portion of health
14 insurance if the obligee is ordered to, and actually does, obtain and pay for insurance.

15 (c) The cost of insurance is the cost attributable to the child for whom support
16 is paid. If the cost to the employee of covering the employee alone is the same as the
17 cost to the employee of covering the employee and dependents, then there is no
18 additional cost to the employee for adding the child and no portion of the cost of
19 coverage may be allocated to the child. If dependent coverage can be added for a
20 single cost, rather than for each dependent, and the dependent coverage covers
21 dependents in addition to the child subject to the order, the cost of the dependent
22 coverage shall be allocated equally among the dependents covered. If there is reason
23 to believe that there is an incremental cost to the employee for insuring dependents but
24 evidence of that incremental cost is unavailable, the cost of insurance is determined by
25 dividing the total cost of coverage by the number of family members covered and
26 multiplying that amount by the number of children subject to the order.

27 (d) The tribunal shall allocate equally between the parties the cost of
28 reasonable health care expenses not covered by insurance unless the tribunal orders
29 otherwise for good cause. A party shall reimburse the other party for the party's share
30 of the uncovered health care expenses within 30 days after receipt of the bill for the
31 health care, payment verification, and, if applicable, a health insurance statement

1 indicating what portion of the cost is uncovered. The tribunal shall allocate the
2 reasonable, uncovered health care expenses exceeding \$5,000 in a calendar year based
3 on the parties' relative financial circumstances when the expenses occur.

4 (e) In this section,

5 (1) "cash medical support" means an amount ordered to be paid toward
6 the cost of health insurance provided by a public entity or by another parent through
7 employment or otherwise, or for other health care expenses not covered by insurance;

8 (2) "health care expenses" includes medical, dental, vision, and mental
9 health counseling expenses.

10 **Sec. 25.28.050. Child support affidavit and documentation.** (a) Subject to
11 the confidentiality requirements of Rule 90.1(f), Alaska Rules of Civil Procedure, each
12 parent in a proceeding of a tribunal at which child support is involved shall file a
13 statement under oath, accompanied by documentation verifying the statement, that
14 states the parent's monthly net income and the components of monthly net income as
15 defined in AS 25.28.010. This statement and documentation must be filed with a
16 party's initial pleading in superior court, including the dissolution petition, divorce
17 complaint or answer, motion to modify, and any response to a motion to modify. The
18 documents must be redacted to delete social security numbers and to provide only
19 partial financial account information as provided in Rule 90.1(f), Alaska Rules of
20 Civil Procedure. The statement must state whether the parent has access to health
21 insurance for the children and, if so, the additional cost to the parent of the children's
22 health insurance.

23 (b) While there is an ongoing monthly support obligation, each party shall
24 provide to the other party, within 30 days after a written request, documents such as
25 tax returns and pay stubs showing the party's income for the prior calendar year. The
26 party making the request shall provide documentation of the party's annual income for
27 the same period at the time the request is made. A request under this section may not
28 be made more than once a year. This section does not preclude discovery under the
29 Alaska Rules of Civil Procedure. If a party has made a reasonable demand for
30 documentation under this subsection, a tribunal may modify a child support arrearage
31 retroactively.

1 (c) Unless the information has already been provided to the tribunal under
2 Rule 90.1(f), Alaska Rules of Civil Procedure, a statement under (a) of this section
3 must be accompanied by a confidential information sheet as described in Rule 90.1,
4 Alaska Rules of Civil Procedure. Once a complete confidential information sheet has
5 been submitted to the tribunal listing names, dates of birth, and social security
6 numbers as required, the parties shall omit or redact social security numbers from
7 documents subsequently filed in the action unless otherwise ordered by the tribunal.

8 (d) The tribunal may withhold or assess costs or attorney fees for a violation
9 of this section as the circumstances and discouragement of like conduct in the future
10 may require. Costs and attorney fees may be imposed on offending attorneys or
11 parties.

12 **Sec. 25.28.060. Travel expenses.** After determining an award of child support
13 under this chapter, the court shall allocate between the parties reasonable travel
14 expenses that are necessary to exercise visitation as may be just and proper for the
15 parties to contribute.

16 **Sec. 25.28.070. Modification; defense against arrearages.** (a) A tribunal may
17 modify a final child support award on a showing of a material change of
18 circumstances as provided by state law. A material change of circumstances shall be
19 presumed if support as calculated under this chapter is more than 15 percent greater or
20 less than the outstanding support order. An award may be modified to require cash
21 medical support regardless of whether insurance is available to either parent if neither
22 parent has purchased health insurance. In this subsection, "support" includes health
23 insurance payments or cash medical support made under AS 25.28.040.

24 (b) A tribunal may not modify a child support arrearage retroactively, except
25 as authorized by AS 25.27.166(d) and AS 25.28.050(b). A modification that is
26 effective on or after the date that a motion for modification, or a notice of petition for
27 modification by the child support services agency, is served on the opposing party is
28 not considered a retroactive modification.

29 (c) The tribunal may find that a parent and a parent's assignee are precluded
30 from collecting arrearages for support of a child that accumulated during a time period
31 exceeding two months for which the parent agreed or acquiesced to the obligor

1 exercising primary custody of the child. A finding that preclusion is a defense must be
2 based on clear and convincing evidence.

3 **Sec. 25.28.080. Third-party custody.** (a) When the state, or another third
4 party entitled to child support, has custody of all children of a parent, the parent's
5 support obligation to the third party is an amount equal to the parent's prorated
6 presumptive support obligation specified in AS 25.28.010(d). If the third party has
7 custody of some but not all children, the parent's support obligation to the third party
8 is an amount equal to the parent's prorated presumptive support obligation specified in
9 AS 25.28.010(d) for the total number of the parent's children in third-party custody
10 and divided by the total number of the parent's children. In this subsection, the number
11 of the parent's children includes only children of the parent who live with the parent,
12 are substantially supported by the parent, or are in custody of the third party entitled to
13 support.

14 (b) If, in addition to a support obligation to a third party, one or both parents
15 retain primary or shared physical custody of at least one of their children, the support
16 obligation between the parents is calculated under the other provisions of this chapter,
17 without consideration of the third-party custodian or any children in the custody of the
18 third-party custodian, except that the parent's prorated presumptive support obligation
19 under AS 25.28.010(d) must be adjusted pro rata for the number of children in the
20 primary custody of a parent, or shared custody of the parents, compared to the total
21 number of children. After that calculation is completed, any support owed may be
22 offset with support owed to a third-party custodian under (a) of this section in order to
23 minimize transactions.

24 **Sec. 25.28.090. Dependent tax deduction.** The court may allocate the
25 dependent tax deduction for each child between the parties as is just and proper and in
26 the child's best interests. The allocation must be consistent with AS 25.24.152 and
27 federal law.

28 **Sec. 25.28.300. Definitions.** In this chapter,

29 (1) "child support" and "child support obligation" have the meaning
30 given "duty of support" in AS 25.27.900;

31 (2) "divided custody" means that one parent has primary physical

1 custody of one or more children of the relationship and the other parent has primary
 2 custody of one or more other children of the relationship, and the parents do not share
 3 physical custody of any of their children;

4 (3) "hybrid custody" means that at least one parent has primary
 5 physical custody of one or more children of the relationship, and the parents have
 6 shared physical custody of at least one child of the relationship;

7 (4) "primary physical custody" or "primary custody" means that a child
 8 resides with the other parent for a period, specified in the custody order, of less than
 9 25 percent of the year;

10 (5) "shared physical custody" or "shared custody" means that a child
 11 resides with one parent for a period, specified in writing in the custody order, of at
 12 least 25 percent but not more than 75 percent of the year, regardless of the status of
 13 legal custody;

14 (6) "tribunal" means the superior court or the child support services
 15 agency created in AS 25.27.010.

16 * **Sec. 2.** AS 47.10.120(a) is amended to read:

17 (a) When a child in need of aid is committed under this chapter, the court or
 18 the child support services agency created in AS 25.27.010 shall, after giving the parent
 19 a reasonable opportunity to be heard, require that the parent pay to the department in a
 20 manner that the court or the child support services agency directs a sum to cover in
 21 full or in part the maintenance and care of the child. The support obligation shall be
 22 calculated under AS 25.28 [RULE 90.3(i) OF THE ALASKA RULES OF CIVIL
 23 PROCEDURE].

24 * **Sec. 3.** AS 47.12.230(a) is amended to read:

25 (a) When a delinquent minor is committed under this chapter, the court or the
 26 child support services agency created in AS 25.27.010 shall, after giving the parent a
 27 reasonable opportunity to be heard, require that the parent pay to the department in a
 28 manner that the court or the child support services agency directs a sum to cover in
 29 full or in part the maintenance and care of the minor. The support obligation shall be
 30 calculated under AS 25.28 [RULE 90.3(i) OF THE ALASKA RULES OF CIVIL
 31 PROCEDURE].

1 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 REPEAL OF COURT RULE. Rule 90.3, Alaska Rules of Civil Procedure, is repealed.

4 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 NONAPPLICABILITY OF TWO-THIRDS VOTE REQUIREMENT. Because the
7 rule repealed in sec. 4 of this Act is a substantive rule rather than a rule of practice or
8 procedure, the repeal of the rule takes effect even if sec. 4 of this Act does not receive the
9 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
10 Alaska.