

CS FOR SENATE BILL NO. 115(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/3/95

Offered: 5/2/95

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the Uniform Reciprocal Enforcement of Support Act; enacting
2 the Uniform Interstate Family Support Act; relating to administrative
3 establishment and disestablishment of paternity and establishing paternity by
4 affidavit; relating to child support enforcement; amending Alaska Rules of Civil
5 Procedure 79, 82, and 90.3(h)(2); and providing for an effective date."

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

7 * **Section 1.** AS 18.50.160(d) is repealed and reenacted to read:

8 (d) If the mother was married at conception, during the pregnancy, or at birth,
9 the name of the husband shall be entered on the certificate as the father of the child
10 unless

11 (1) paternity has been lawfully determined otherwise by a tribunal, in
12 which case the name of the father, if determined by a tribunal, shall be entered; or

13 (2) both the mother and the mother's husband execute affidavits

1 attesting that the husband is not the father and that another man is the father, and the
2 mother and the other man execute affidavits attesting that the other man is the father,
3 so long as the affidavits meet the requirements of (g) of this section.

4 * **Sec. 2.** AS 18.50.160(e) is repealed and reenacted to read:

5 (e) If the mother was not married at conception, during the pregnancy, or at
6 birth, the name of the father may not be entered on the certificate of birth, unless

7 (1) paternity has been lawfully determined by a tribunal, in which case
8 the name of the father, if determined by the tribunal, shall be entered;

9 (2) both the mother and the man to be named as the father have
10 executed affidavits attesting that that man is the father, so long as the affidavits meet
11 the requirements of (g) of this section; or

12 (3) as otherwise specified by statute.

13 * **Sec. 3.** AS 18.50.160 is amended by adding new subsections to read:

14 (g) An affidavit under (d) or (e) of this section must meet the following
15 requirements:

16 (1) the affidavit must be executed by all required individuals; an
17 affidavit may be executed jointly, individually, or in combination of jointly and
18 individually; and

19 (2) if an affidavit is executed by more than one individual, the
20 signature of each individual must be individually notarized.

21 (h) In this section, unless the context requires otherwise, "tribunal" means a
22 court, administrative agency, or quasi-judicial entity authorized by law to determine
23 parentage.

24 * **Sec. 4.** AS 25.25 is amended by adding new sections to read:

25 **ARTICLE 1. GENERAL PROVISIONS.**

26 **Sec. 25.25.101. DEFINITIONS.** In this chapter,

27 (1) "child" means an individual, whether over or under the age of
28 majority, who is or is alleged to be owed a duty of support by the individual's parent
29 or who is or is alleged to be the beneficiary of a support order directed to the parent;

30 (2) "child support order" means a support order for a child, including
31 a child who has attained the age of majority under the law of the issuing state;

1 (3) "duty of support" means an obligation imposed or imposable by law
2 to provide support for a child, spouse, or former spouse, including an unsatisfied
3 obligation to provide support;

4 (4) "home state" means the state in which a child lived with a parent
5 or a person acting as a parent for at least six consecutive months immediately
6 preceding the time of filing of a complaint or comparable pleading for support and, if
7 a child is less than six months old, the state in which the child lived from birth with
8 a parent or person acting as a parent; a period of temporary absence of a parent or
9 person acting as a parent is counted as part of the six-month or other period;

10 (5) "income" includes earnings or other periodic entitlements to money
11 from any source and any other property subject to withholding for support under the
12 law of this state;

13 (6) "income withholding order" means an order or other legal process
14 directed to an obligor, an obligor's employer, an obligor's future employer, or another
15 person, political subdivision, or department of the state, under AS 25.27 to withhold
16 support from the income of the obligor under AS 25.27;

17 (7) "initiating state" means a state in which a proceeding under this
18 chapter or a law substantially similar to this chapter, the former provisions of this
19 chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform
20 Reciprocal Enforcement of Support Act is filed for forwarding to a responding state;

21 (8) "initiating tribunal" means the authorized tribunal in an initiating
22 state;

23 (9) "issuing state" means the state in which a tribunal issues a support
24 order or renders a judgment determining parentage;

25 (10) "issuing tribunal" means the tribunal that issues a support order
26 or renders a judgment determining parentage;

27 (11) "law" includes decisional and statutory law and rules and
28 regulations having the force of law;

29 (12) "obligee" means

30 (A) an individual to whom a duty of support is or is alleged to
31 be owed or in whose favor a support order has been issued or a judgment

1 determining parentage has been rendered;

2 (B) a state or political subdivision to which the rights under a
3 duty of support or support order have been assigned or that has independent
4 claims based on financial assistance provided to an individual obligee; or

5 (C) an individual seeking a judgment determining parentage of
6 the individual's child;

7 (13) "obligor" means an individual or the estate of a decedent who

8 (A) owes or is alleged to owe a duty of support;

9 (B) is alleged but has not been adjudicated to be a parent of a
10 child; or

11 (C) is liable under a support order;

12 (14) "register" means to file a support order or judgment determining
13 parentage with a registering tribunal;

14 (15) "registering tribunal" means the tribunal in which a support order
15 or judgment determining parentage is registered;

16 (16) "responding state" means a state to which a proceeding is
17 forwarded under this chapter or a law substantially similar to this chapter, the former
18 provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act, or the
19 Revised Uniform Reciprocal Enforcement of Support Act;

20 (17) "responding tribunal" means the authorized tribunal in a
21 responding state;

22 (18) "spousal support order" means a support order for a spouse or
23 former spouse of the obligor;

24 (19) "state" means a state of the United States, the District of
25 Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession
26 subject to the jurisdiction of the United States; the term "state" includes a foreign
27 jurisdiction that has established procedures for issuance and enforcement of support
28 orders that are substantially similar to the procedures under this chapter;

29 (20) "support enforcement agency" means a public official or agency
30 authorized to seek

31 (A) enforcement of support orders or laws relating to the duty

- 1 of support;
- 2 (B) establishment or modification of child support orders;
- 3 (C) determination of parentage; or
- 4 (D) the location of obligors or their assets;

5 (21) "support order" means a judgment, decree, or order, whether

6 temporary, final, or subject to modification, for the benefit of a child, a spouse, or a

7 former spouse, that provides for monetary support, health care, arrearages, or

8 reimbursement, and may include related costs and fees, interest, income withholding,

9 attorney fees, and other relief;

10 (22) "tribunal" means a court, administrative agency, or quasi-judicial

11 entity authorized to establish, enforce, or modify support orders or to determine

12 parentage.

13 Sec. 25.25.102. TRIBUNALS OF THIS STATE. The superior court and the

14 child support enforcement agency are the tribunals of this state.

15 Sec. 25.25.103. REMEDIES CUMULATIVE. Remedies provided by this

16 chapter are cumulative and do not affect the availability of remedies under other law.

17 * **Sec. 5.** AS 25.25 is amended by adding new sections to read:

18 **ARTICLE 2. JURISDICTION.**

19 Sec. 25.25.201. BASES FOR JURISDICTION OVER NONRESIDENT. In

20 a proceeding to establish, enforce, or modify a support order or to determine parentage,

21 a tribunal of this state may exercise personal jurisdiction over a nonresident individual

22 or the individual's guardian or conservator if

23 (1) the individual is personally served with a citation, summons, or

24 notice within this state;

25 (2) the individual submits to the jurisdiction of this state by consent,

26 by entering a general appearance, or by filing a responsive document having the effect

27 of waiving any contest to personal jurisdiction;

28 (3) the individual resided with the child in this state;

29 (4) the individual resided in this state and provided prenatal expenses

30 or support for the child;

31 (5) the child resides in this state as a result of the acts or directives of

1 the individual;

2 (6) the individual engaged in sexual intercourse in this state and the
3 child may have been conceived by that act of intercourse;

4 (7) the individual acknowledged parentage in a writing deposited with
5 the Bureau of Vital Statistics under AS 25.20.050; or

6 (8) there is another basis consistent with the constitutions of this state
7 and the United States for the exercise of personal jurisdiction.

8 Sec. 25.25.202. PROCEDURE WHEN EXERCISING JURISDICTION OVER
9 NONRESIDENT. A tribunal of this state exercising personal jurisdiction over a
10 nonresident under AS 25.25.201 may apply AS 25.25.316 to receive evidence from
11 another state and AS 25.25.318 to obtain discovery through a tribunal of another state.
12 In all other respects, AS 25.25.301 - 25.25.701 do not apply and the tribunal shall
13 apply the procedural and substantive law of this state, including the rules on choice of
14 law other than those established by this chapter.

15 Sec. 25.25.203. INITIATING AND RESPONDING TRIBUNAL OF THIS
16 STATE. Under this chapter, a tribunal of this state may serve as an initiating tribunal
17 to forward proceedings to another state and as a responding tribunal for proceedings
18 initiated in another state.

19 Sec. 25.25.204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.
20 (a) A tribunal of this state may exercise jurisdiction to establish a support order if the
21 complaint or comparable pleading is filed after a complaint or comparable pleading is
22 filed in another state only if

23 (1) the complaint or comparable pleading in this state is filed before
24 the expiration of the time allowed in the other state for filing a responsive pleading
25 challenging the exercise of jurisdiction by the other state;

26 (2) the contesting party timely challenges the exercise of jurisdiction
27 in the other state; and

28 (3) if relevant, this state is the home state of the child.

29 (b) A tribunal of this state may not exercise jurisdiction to establish a support
30 order if the complaint or comparable pleading is filed before a complaint or
31 comparable pleading is filed in another state if

1 (1) the complaint or comparable pleading in the other state is filed
2 before the expiration of the time allowed in this state for filing a responsive pleading
3 challenging the exercise of jurisdiction by this state;

4 (2) the contesting party timely challenges the exercise of jurisdiction
5 in this state; and

6 (3) if relevant, the other state is the home state of the child.

7 Sec. 25.25.205. CONTINUING, EXCLUSIVE JURISDICTION. (a) A
8 tribunal of this state issuing a support order consistent with the law of this state has
9 continuing, exclusive jurisdiction over a child support order

10 (1) as long as this state remains the residence of the obligor, the
11 individual obligee, or the child for whose benefit the support order is issued; or

12 (2) until each individual party has filed written consent with the tribunal
13 of this state for a tribunal of another state to modify the order and assume continuing,
14 exclusive jurisdiction.

15 (b) A tribunal of this state issuing a child support order consistent with the law
16 of this state may not exercise its continuing jurisdiction to modify the order if the
17 order has been modified by a tribunal of another state under a law substantially similar
18 to this chapter.

19 (c) If a child support order of this state is modified by a tribunal of another
20 state under a law substantially similar to this chapter, a tribunal of this state loses its
21 continuing, exclusive jurisdiction with regard to prospective enforcement of the order
22 issued in this state and may only

23 (1) enforce the order that was modified as to amounts accruing before
24 the modification;

25 (2) enforce nonmodifiable aspects of that order; and

26 (3) provide other appropriate relief for violations of that order that
27 occurred before the effective date of the modification.

28 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction
29 of a tribunal of another state that has issued a child support order under a law
30 substantially similar to this chapter.

31 (e) A temporary support order issued ex parte or pending resolution of a

jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 25.25.206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION. (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply AS 25.25.316 to receive evidence from another state and AS 25.25.318 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Sec. 25.25.207. RECOGNITION OF CHILD SUPPORT ORDERS. (a) If a proceeding is brought under this chapter, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) if only one tribunal has issued a child support order, the order of that tribunal shall be recognized;

(2) if two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal shall be recognized;

(3) if two or more tribunals have issued child support orders for the

1 same obligor and child, and more than one of the tribunals would have continuing,
2 exclusive jurisdiction under this chapter, an order issued by a tribunal in the current
3 home state of the child shall be recognized but, if an order has not been issued in the
4 current home state of the child, the order most recently issued must be recognized;

5 (4) if two or more tribunals have issued child support orders for the
6 same obligor and child, and none of the tribunals would have continuing, exclusive
7 jurisdiction under this chapter, the tribunal of this state may issue a child support order
8 that shall be recognized.

9 (b) The tribunal that has issued an order recognized under (a) of this section
10 is the tribunal having continuing, exclusive jurisdiction.

11 Sec. 25.25.208. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR
12 MORE OBLIGEES. In responding to multiple registrations or complaints for
13 enforcement of two or more child support orders in effect at the same time with regard
14 to the same obligor and different individual obligees, when at least one of the orders
15 was issued by a tribunal of another state, a tribunal of this state shall enforce those
16 orders in the same manner as if the multiple orders had been issued by a tribunal of
17 this state.

18 Sec. 25.25.209. CREDIT FOR PAYMENTS. Amounts collected and credited
19 for a particular period under a support order issued by a tribunal of another state shall
20 be credited against the amounts accruing or accrued for the same period under a
21 support order issued by the tribunal of this state.

22 * Sec. 6. AS 25.25 is amended by adding new sections to read:

23 ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION.

24 Sec. 25.25.301. PROCEEDINGS UNDER THIS CHAPTER. (a) Except as
25 otherwise provided in this chapter, AS 25.25.301 - 25.25.319 apply to all proceedings
26 under this chapter.

27 (b) This chapter provides for the following proceedings:

28 (1) establishment of an order for child support or spousal support under
29 AS 25.25.401;

30 (2) enforcement of a support order and income withholding order of
31 another state without registration under AS 25.25.501 - 25.25.502;

1 (3) registration of an order for child support or spousal support of
2 another state for enforcement under AS 25.25.601 - 25.25.612;

3 (4) modification of an order for child support or spousal support issued
4 by a tribunal of this state under AS 25.25.203 - 25.25.206;

5 (5) registration of an order for child support of another state for
6 modification under AS 25.25.601 - 25.25.612;

7 (6) determination of parentage under AS 25.25.701; and

8 (7) assertion of jurisdiction over nonresidents under AS 25.25.201 -
9 25.25.202.

10 (c) An individual or a support enforcement agency may commence a
11 proceeding authorized under this chapter by filing a complaint or a comparable
12 pleading in an initiating tribunal for forwarding to a responding tribunal or by filing
13 a complaint or a comparable pleading directly in a tribunal of another state that has
14 or can obtain personal jurisdiction over the respondent.

15 Sec. 25.25.302. ACTION BY MINOR PARENT. A minor parent, or a
16 guardian or other legal representative of a minor parent, may maintain a proceeding
17 on behalf of or for the benefit of the minor's child.

18 Sec. 25.25.303. APPLICATION OF LAW OF THIS STATE. Except as
19 otherwise provided by this chapter, a responding tribunal of this state shall

20 (1) apply the procedural and substantive law, including the rules on
21 choice of law, generally applicable to similar proceedings originating in this state and
22 may exercise all powers and provide all remedies available in those proceedings; and

23 (2) determine the duty of support and the amount payable under the law
24 and support guidelines of this state.

25 Sec. 25.25.304. DUTIES OF INITIATING TRIBUNAL. Upon the filing of
26 a complaint or comparable pleading authorized by this chapter, an initiating tribunal
27 of this state shall forward three copies of the complaint or comparable pleading and
28 its accompanying documents

29 (1) to the responding tribunal or appropriate support enforcement
30 agency in the responding state; or

31 (2) if the identity of the responding tribunal is unknown, to the state

1 information agency of the responding state with a request that they be forwarded to the
2 appropriate tribunal and that receipt be acknowledged.

3 Sec. 25.25.305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

4 (a) When a responding tribunal of this state receives a complaint or comparable
5 pleading from an initiating tribunal or directly under AS 25.25.301(c), it shall cause
6 the complaint or pleading to be filed and notify the petitioner by first class mail where
7 and when it was filed.

8 (b) A responding tribunal of this state, to the extent otherwise specifically
9 authorized by law, may do one or more of the following:

10 (1) issue or enforce a support order, modify a child support order, or
11 render a judgment to determine parentage;

12 (2) order an obligor to comply with a support order, specifying the
13 amount and the manner of compliance;

14 (3) order income withholding;

15 (4) determine the amount of any arrearages, and specify a method of
16 payment;

17 (5) enforce orders by civil or criminal contempt, or both;

18 (6) set aside property for satisfaction of the support order;

19 (7) place liens and order execution on the obligor's property;

20 (8) order an obligor to keep the tribunal informed of the obligor's
21 current residential address, telephone number, employer, address of employment, and
22 telephone number at the place of employment;

23 (9) issue a bench warrant for an obligor who has failed after proper
24 notice to appear at a hearing ordered by the tribunal and enter the bench warrant in
25 any local and state computer systems for criminal warrants;

26 (10) order the obligor to seek appropriate employment by specified
27 methods;

28 (11) award reasonable attorney fees and other fees and costs; and

29 (12) grant any other available remedy.

30 (c) A responding tribunal of this state shall include in a support order issued
31 under this chapter, or in the documents accompanying the order, the calculations on

1 which the support order is based.

2 (d) A responding tribunal of this state may not condition the payment of a
3 support order issued under this chapter upon compliance by a party with provisions for
4 visitation.

5 (e) If a responding tribunal of this state issues an order under this chapter, the
6 tribunal shall send a copy of the order by first class mail to the petitioner and the
7 respondent and to the initiating tribunal, if any.

8 Sec. 25.25.306. INAPPROPRIATE TRIBUNAL. If a complaint or comparable
9 pleading is received by an inappropriate tribunal of this state, it shall forward the
10 complaint or pleading, and accompanying documents, to an appropriate tribunal in this
11 state or another state and notify the petitioner by first class mail where and when the
12 complaint or pleading was sent.

13 Sec. 25.25.307. DUTIES OF CHILD SUPPORT ENFORCEMENT AGENCY.

14 (a) The child support enforcement agency of this state, upon request, shall provide
15 services to a petitioner in a proceeding under this chapter.

16 (b) In providing services under this chapter to the petitioner, the child support
17 enforcement agency shall, as appropriate,

18 (1) take all steps necessary to enable an appropriate tribunal in this
19 state or another state to obtain jurisdiction over the respondent;

20 (2) request an appropriate tribunal to set a date, time, and place for a
21 hearing;

22 (3) make a reasonable effort to obtain all relevant information,
23 including information as to income and property of the parties;

24 (4) send written notice from an initiating, responding, or registering
25 tribunal to the petitioner by first class mail within two days of receipt, exclusive of
26 Saturdays, Sundays, and legal holidays;

27 (5) send a copy of a written communication from the respondent or the
28 respondent's attorney to the petitioner by first class mail within two days of receipt,
29 exclusive of Saturdays, Sundays, and legal holidays; and

30 (6) notify the petitioner if jurisdiction over the respondent cannot be
31 obtained.

1 (c) This chapter does not create or negate a relationship of attorney and client
2 or other fiduciary relationship between the child support enforcement agency or the
3 attorney for the agency and the individual being assisted by the agency.

4 Sec. 25.25.309. PRIVATE COUNSEL. An individual may employ private
5 counsel to represent the individual in proceedings authorized by this chapter.

6 Sec. 25.25.310. DUTIES OF STATE INFORMATION AND LOCATOR
7 AGENCY. The child support enforcement agency is the state information agency
8 under this chapter, and it shall

9 (1) compile and maintain a current list, including addresses, of the
10 courts in this state that have jurisdiction under this chapter and the appropriate agency
11 offices in this state and transmit a copy to the state information agency of every other
12 state;

13 (2) maintain a register of tribunals and support enforcement agencies
14 received from other states;

15 (3) forward to the appropriate tribunal in this state all documents
16 concerning a proceeding under this chapter received from an initiating tribunal or the
17 state information agency of the initiating state; and

18 (4) obtain information concerning the location of the obligor and the
19 obligor's property within this state that is not exempt from execution by postal
20 verification and federal or state locator services, examination of telephone directories,
21 requests for the obligor's address from employers, and examination of governmental
22 records, including, to the extent not prohibited by other law, those relating to real
23 property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses,
24 and social security.

25 Sec. 25.25.311. PLEADINGS AND ACCOMPANYING DOCUMENTS. (a)
26 A petitioner seeking to establish or modify a support order or to determine parentage
27 in a proceeding under this chapter shall verify the complaint or comparable pleading.
28 Unless otherwise ordered under AS 25.25.312, or otherwise prohibited by law, the
29 complaint or comparable pleading or accompanying documents must provide, so far
30 as known, the name, residential address, and social security numbers of the obligor and
31 the obligee, and the name, sex, residential address, social security number, and date

1 of birth of each child for whom support is sought. The complaint or comparable
2 pleading must be accompanied by a certified copy of any support order in effect. The
3 complaint or comparable pleading may include other information that may assist in
4 locating or identifying the respondent.

5 (b) The complaint or comparable pleading must specify the relief sought. The
6 complaint or comparable pleading and accompanying documents must conform
7 substantially with the requirements imposed by the forms mandated by federal law for
8 use in cases filed by a support enforcement agency.

9 Sec. 25.25.312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL
10 CIRCUMSTANCES. Subject to the provisions of AS 25.27.275 and upon a finding,
11 which may be made ex parte, that the health, safety, or liberty of a party or child
12 would be unreasonably put at risk by the disclosure of identifying information, or if
13 an existing order so provides, a tribunal shall order that the address of the child or
14 party or other identifying information not be disclosed in a pleading or other document
15 filed in a proceeding under this chapter.

16 Sec. 25.25.313. COSTS AND FEES. (a) Notwithstanding any other provision
17 of law, including a rule of the Alaska Supreme Court, at the time a complaint or
18 comparable pleading is filed under this chapter, a tribunal may not require the
19 petitioner to pay a filing fee or other costs.

20 (b) If an obligee prevails, a responding tribunal may assess against an obligor
21 filing fees, including fees that were waived under (a) of this section, reasonable
22 attorney fees, other costs, necessary travel expenses, and other reasonable expenses
23 incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees,
24 costs, or expenses against the obligee or the support enforcement agency of either the
25 initiating or the responding state except as required by other law or court rule.
26 Attorney fees may be taxed as costs, and may be ordered paid directly to the attorney,
27 who may enforce the order in the attorney's own name. Payment of support owed to
28 the obligee has priority over fees, costs, and expenses assessed under this subsection.

29 (c) The tribunal shall order the payment of costs and reasonable attorney fees,
30 including filing fees that were waived under (a) of this section, by a party who
31 requests a hearing under this chapter if it determines that the hearing was requested

1 primarily for delay. In a proceeding under AS 25.25.601 - 25.25.612, a hearing is
2 presumed to have been requested primarily for delay if a registered support order is
3 confirmed or enforced without change; however, the party who requested the hearing
4 may present evidence to rebut this presumption.

5 Sec. 25.25.314. LIMITED IMMUNITY OF PETITIONER. (a) Participation
6 by a petitioner in a proceeding before a responding tribunal, whether in person, by
7 private attorney, or through services provided by the support enforcement agency, does
8 not confer personal jurisdiction over the petitioner in another proceeding.

9 (b) A petitioner is not amenable to service of civil process while physically
10 present in this state to participate in a proceeding under this chapter.

11 (c) The immunity granted by this section does not extend to civil litigation
12 based on acts unrelated to a proceeding under this chapter committed by a party while
13 present in this state to participate in the proceeding.

14 Sec. 25.25.315. NONPARENTAGE AS DEFENSE. A party whose parentage
15 of a child has been previously determined under law may not plead nonparentage as
16 a defense to a proceeding under this chapter.

17 Sec. 25.25.316. SPECIAL RULES OF EVIDENCE AND PROCEDURE. (a)
18 The physical presence of the petitioner in a responding tribunal of this state is not
19 required for the establishment, enforcement, or modification of a support order or the
20 rendition of a judgment determining parentage.

21 (b) A verified complaint or comparable pleading, affidavit, document
22 substantially complying with federally mandated forms, and a document incorporated
23 by reference in any of them, not excluded under the hearsay rule if given in person,
24 is admissible in evidence if given under oath by a party or witness residing in another
25 state.

26 (c) A copy of the record of child support payments certified as a true copy of
27 the original by the custodian of the record may be forwarded to a responding tribunal.
28 The copy is evidence of facts asserted in it and is admissible to show whether
29 payments were made.

30 (d) Copies of bills for testing for parentage, and for prenatal and postnatal
31 health care of the mother and child, furnished to the adverse party at least 10 days

1 before trial or other proceeding, are admissible in evidence to prove the amount of the
2 charges billed and that the charges were reasonable, necessary, and customary.

3 (e) Documentary evidence transmitted from another state to a tribunal of this
4 state by telephone, telecopier, or other means that do not provide an original writing
5 may not be excluded from evidence on an objection based on the means of
6 transmission.

7 (f) In a proceeding under this chapter, a tribunal of this state may permit a
8 party or witness residing in another state to be deposed or to testify by telephone,
9 audiovisual means, or other electronic means at a designated tribunal or other location
10 in that state. A tribunal of this state shall cooperate with tribunals of other states in
11 designating an appropriate location for the deposition or testimony.

12 (g) If a party called to testify at a civil hearing refuses to answer on the
13 ground that the testimony may be self-incriminating, the trier of fact may draw an
14 adverse inference from the refusal.

15 (h) A privilege against disclosure of communications between spouses does not
16 apply in a proceeding under this chapter.

17 (i) The defense of immunity based on the relationship of husband and wife or
18 parent and child does not apply in a proceeding under this chapter.

19 Sec. 25.25.317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal
20 of this state may communicate with a tribunal of another state in writing, or by
21 telephone or other means, to obtain information concerning the laws of that state, the
22 legal effect of a judgment, decree, or order of that tribunal, and the status of a
23 proceeding in the other state. A tribunal of this state may furnish similar information
24 by similar means to a tribunal of another state.

25 Sec. 25.25.318. ASSISTANCE WITH DISCOVERY. A tribunal of this state
26 may

27 (1) request a tribunal of another state to assist in obtaining discovery;
28 and

29 (2) upon request, compel a person over whom it has jurisdiction to
30 respond to a discovery order issued by a tribunal of another state.

31 Sec. 25.25.319. RECEIPT AND DISBURSEMENT OF PAYMENTS. The

1 child support enforcement agency of this state shall disburse promptly any amounts
2 received under a support order, as directed by the order. The agency shall furnish to
3 a requesting party or tribunal of another state a certified statement by the custodian of
4 the record of the amounts and dates of all payments received.

5 ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER.

6 Sec. 25.25.401. COMPLAINT TO ESTABLISH SUPPORT ORDER. (a) If
7 a child support order entitled to recognition under this chapter has not been issued, a
8 responding tribunal of this state may issue a child support order if

9 (1) the individual seeking the order resides in another state; or

10 (2) the support enforcement agency seeking the order is located in
11 another state.

12 (b) The tribunal may issue a temporary child support order if

13 (1) the respondent has signed a verified statement acknowledging
14 parentage;

15 (2) the respondent has been determined under law to be the parent; or

16 (3) there is other clear and convincing evidence that the respondent is
17 the child's parent.

18 (c) If a spousal support order entitled to recognition under this chapter has not
19 been issued, a responding superior court of this state may issue a spousal support order
20 if

21 (1) the individual seeking the order resides in another state; or

22 (2) the support enforcement agency seeking the order is located in
23 another state.

24 (d) If, after providing an obligor with notice and opportunity to be heard, an
25 appropriate tribunal finds that the obligor owes a duty of support, the tribunal shall
26 issue a support order directed to the obligor and may issue other orders under
27 AS 25.25.305.

28 (e) Before issuing an order under (b) of this section, the child support
29 enforcement agency shall adopt regulations for issuing such an order.

30 ARTICLE 5. DIRECT ENFORCEMENT OF ORDER OF
31 ANOTHER STATE WITHOUT REGISTRATION.

1 Sec. 25.25.501. RECOGNITION OF INCOME WITHHOLDING ORDER OF
2 ANOTHER STATE. (a) An income withholding order issued in another state may
3 be sent by first class mail to the person or entity defined as the obligor's employer
4 under AS 25.27 without first filing a complaint or comparable pleading or registering
5 the order with a tribunal of this state. Upon receipt of the order, the employer shall

6 (1) treat an income withholding order issued in another state that
7 appears regular on its face as if it had been issued by a tribunal of this state;

8 (2) immediately provide a copy of the order to the obligor; and

9 (3) distribute the funds as directed in the withholding order.

10 (b) An obligor may contest the validity or enforcement of an income
11 withholding order issued in another state in the same manner as if the order had been
12 issued by a tribunal of this state. AS 25.25.604 applies to the contest. The obligor
13 shall give notice of the contest to a support enforcement agency providing services to
14 the obligee and

15 (1) to the person or agency designated to receive payments in the
16 income withholding order; or

17 (2) if a person or agency is not designated, to the obligee.

18 Sec. 25.25.502. ADMINISTRATIVE ENFORCEMENT OF ORDERS. (a) A
19 party seeking to enforce a support order or an income withholding order, or both,
20 issued by a tribunal of another state may send the documents required for registering
21 the order to the child support enforcement agency of this state.

22 (b) Upon receipt of the documents, the child support enforcement agency,
23 without initially seeking to register the order, shall consider and, if appropriate, use
24 any administrative procedure authorized by the law of this state to enforce a support
25 order or an income withholding order, or both. If the obligor does not contest
26 administrative enforcement, the order need not be registered. If the obligor contests
27 the validity or administrative enforcement of the order, the child support enforcement
28 agency shall register the order under this chapter.

29 ARTICLE 6. ENFORCEMENT AND MODIFICATION OF
30 SUPPORT ORDER AFTER REGISTRATION.

31 Sec. 25.25.601. REGISTRATION OF ORDER FOR ENFORCEMENT. A

1 support order or an income withholding order issued by a tribunal of another state may
2 be registered in this state for enforcement.

3 Sec. 25.25.602. PROCEDURE TO REGISTER ORDER FOR
4 ENFORCEMENT. (a) A support order or income withholding order of another state
5 may be registered in this state by sending the following documents and information
6 to a tribunal of this state:

7 (1) a letter of transmittal requesting registration and enforcement;

8 (2) two copies, including one certified copy, of all orders to be
9 registered, including any modification of an order;

10 (3) a sworn statement by the party seeking registration or a certified
11 statement by the custodian of the records showing the amount of any arrearage;

12 (4) the name of the obligor and, if known,

13 (A) the obligor's address and social security number;

14 (B) the name and address of the obligor's employer and any
15 other source of income of the obligor;

16 (C) a description and the location of property in this state of the
17 obligor not exempt from execution; and

18 (D) the name and address of all potential third party resources,
19 including a health insurer, that might be available to meet the requirements of
20 a medical support order; and

21 (5) the name and address of the obligee and, if applicable, the agency
22 or person to whom support payments are to be remitted.

23 (b) On receipt of a request for registration, the registering tribunal shall file
24 the order as a foreign judgment, together with one copy of the documents and
25 information, regardless of their form.

26 (c) A complaint or comparable pleading seeking a remedy that must be
27 affirmatively sought under other law of this state may be filed at the same time as the
28 request for registration or later. The pleading must specify the grounds for the remedy
29 sought.

30 Sec. 25.25.603. EFFECT OF REGISTRATION FOR ENFORCEMENT. (a)
31 A support order or income withholding order issued in another state is registered when

1 the order is filed in the registering tribunal of this state.

2 (b) A registered order issued in another state is enforceable in the same
3 manner and is subject to the same procedures as an order issued by a tribunal of this
4 state.

5 (c) Except as otherwise provided in AS 25.25.601 - 25.25.612, a tribunal of
6 this state shall recognize and enforce, but may not modify, a registered order if the
7 issuing tribunal had jurisdiction.

8 Sec. 25.25.604. CHOICE OF LAW. (a) The law of the issuing state governs
9 the nature, extent, amount, and duration of current payments and other obligations of
10 support and the payment of arrearages under the order.

11 (b) In a proceeding for arrearages, the statute of limitation under the laws of
12 this state or of the issuing state, whichever is longer, applies.

13 Sec. 25.25.605. NOTICE OF REGISTRATION OF ORDER. (a) When a
14 support order or income withholding order issued in another state is registered, the
15 registering tribunal shall notify the nonregistering party. Notice shall be given by first
16 class, certified, or registered mail or by any means of personal service authorized by
17 the law of this state. The notice must be accompanied by a copy of the registered
18 order and the documents and relevant information accompanying the order.

19 (b) The notice must inform the nonregistering party

20 (1) that a registered order is enforceable as of the date of registration
21 in the same manner as an order issued by a tribunal of this state;

22 (2) that a hearing to contest the validity or enforcement of the
23 registered order must be requested within 20 days after the date of mailing or personal
24 service of the notice;

25 (3) that failure to contest the validity or enforcement of the registered
26 order in a timely manner will result in confirmation of the order and enforcement of
27 the order and the alleged arrearages and precludes further contest of that order with
28 respect to any matter that could have been asserted; and

29 (4) of the amount of alleged arrearages.

30 (c) Upon registration of an income withholding order for enforcement, the
31 registering tribunal shall notify the obligor's employer under AS 25.27.

1 Sec. 25.25.606. PROCEDURE TO CONTEST VALIDITY OR
2 ENFORCEMENT OF REGISTERED ORDER. (a) A nonregistering party seeking
3 to contest the validity or enforcement of a registered order in this state shall request
4 a hearing within 20 days after the date of mailing or personal service of notice of the
5 registration. The nonregistering party may seek to vacate the registration, to assert a
6 defense to an allegation of noncompliance with the registered order, or to contest the
7 remedies being sought or the amount of alleged arrearages under AS 25.25.607.

8 (b) If the nonregistering party fails to contest the validity or enforcement of
9 the registered order in a timely manner, the order is confirmed by operation of law.

10 (c) If a nonregistering party requests a hearing to contest the validity or
11 enforcement of the registered order, the registering tribunal shall schedule the matter
12 for hearing and give notice to the parties by first class mail of the date, time, and place
13 of the hearing.

14 Sec. 25.25.607. CONTEST OF REGISTRATION OR ENFORCEMENT. (a)
15 A party contesting the validity or enforcement of a registered order or seeking to
16 vacate the registration has the burden of proving one or more of the following
17 defenses:

18 (1) the issuing tribunal lacked personal jurisdiction over the contesting
19 party;

20 (2) the order was obtained by fraud;

21 (3) the order has been vacated, suspended, or modified by a later order;

22 (4) the issuing tribunal has stayed the order pending appeal;

23 (5) there is a defense under the law of this state to the remedy sought;

24 (6) full or partial payment has been made; or

25 (7) the statute of limitation under AS 25.25.604 precludes enforcement
26 of some or all of the arrearages.

27 (b) If a party presents evidence establishing a full or partial defense under (a)
28 of this section, the tribunal may stay enforcement of the registered order, continue the
29 proceeding to permit production of additional relevant evidence, and issue other
30 appropriate orders. An uncontested portion of the registered order may be enforced
31 by all remedies available under the law of this state.

1 (c) If the contesting party does not establish a defense under (a) of this section
2 to the validity or enforcement of the order, the registering tribunal shall issue an order
3 confirming the order.

4 Sec. 25.25.608. CONFIRMED ORDER. Confirmation of a registered order,
5 whether by operation of law or after notice and hearing, precludes further contest of
6 the order with respect to a matter that could have been asserted at the time of
7 registration.

8 Sec. 25.25.609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF
9 ANOTHER STATE FOR MODIFICATION. If a party or the child support
10 enforcement agency seeks to modify, or to modify and enforce, a child support order
11 issued in another state but not registered in this state, the party or agency shall register
12 that order in this state in the same manner provided in AS 25.25.601 - 25.25.604. A
13 complaint for modification may be filed at the same time as a request for registration,
14 or later. The pleading must specify the grounds for modification.

15 Sec. 25.25.610. EFFECT OF REGISTRATION FOR MODIFICATION. A
16 tribunal of this state may enforce a child support order of another state registered for
17 purposes of modification in the same manner as if the order had been issued by a
18 tribunal of this state, but the registered order may be modified only if the requirements
19 of AS 25.25.611 have been met.

20 Sec. 25.25.611. MODIFICATION OF CHILD SUPPORT ORDER OF
21 ANOTHER STATE. (a) After a child support order issued in another state has been
22 registered in this state, the responding tribunal of this state may modify that order only
23 if, after notice and an opportunity for hearing, it finds that

24 (1) the following requirements are met:

25 (A) the child, the individual obligee, and the obligor do not
26 reside in the issuing state;

27 (B) a petitioner who is not a resident of this state seeks
28 modification; and

29 (C) the respondent is subject to the personal jurisdiction of the
30 tribunal of this state; or

31 (2) an individual party or the child is subject to the personal jurisdiction

1 of the tribunal and all of the individual parties have filed a written consent in the
2 issuing tribunal providing that a tribunal of this state may modify the support order and
3 assume continuing, exclusive jurisdiction over the order.

4 (b) Modification of a registered child support order is subject to the same
5 requirements, procedures, and defenses that apply to the modification of an order
6 issued by a tribunal of this state and the order may be enforced and satisfied in the
7 same manner.

8 (c) A tribunal of this state may not modify any aspect of a child support order
9 that may not be modified under the law of the issuing state.

10 (d) On issuance of an order modifying a child support order issued in another
11 state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

12 (e) Within 30 days after issuance of a modified child support order, the party
13 obtaining the modification shall file a certified copy of the order with the issuing
14 tribunal that had continuing, exclusive jurisdiction over the earlier order and in each
15 tribunal in which the party knows that an earlier order has been registered.

16 Sec. 25.25.612. RECOGNITION OF ORDER MODIFIED IN ANOTHER
17 STATE. A tribunal of this state shall recognize a modification of its earlier child
18 support order by a tribunal of another state that assumed jurisdiction under a law
19 substantially similar to this chapter and, upon request, except as otherwise provided
20 in this chapter, shall

21 (1) enforce the order that was modified only as to amounts accruing
22 before the modification;

23 (2) enforce only nonmodifiable aspects of that order;

24 (3) provide other appropriate relief only for violations of that order that
25 occurred before the effective date of the modification; and

26 (4) recognize the modifying order of the other state, upon registration,
27 for the purpose of enforcement.

28 ARTICLE 7. DETERMINATION OF PARENTAGE.

29 Sec. 25.25.701. PROCEEDING TO DETERMINE PARENTAGE. (a) A
30 tribunal of this state may serve as an initiating or responding tribunal in a proceeding
31 brought under this chapter or a law substantially similar to this chapter, the former

1 provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act, or the
2 Revised Uniform Reciprocal Enforcement of Support Act to determine whether the
3 petitioner is a parent of a particular child or to determine whether a respondent is a
4 parent of that child.

5 (b) In a proceeding to determine parentage, a responding tribunal of this state
6 shall apply the procedural and substantive law of this state and the rules of this state
7 on choice of law.

8 ARTICLE 8. INTERSTATE RENDITION.

9 Sec. 25.25.801. GROUNDS FOR RENDITION. (a) The governor or a
10 designee of the governor may

11 (1) demand that the governor of another state surrender an individual
12 found in the other state who is charged criminally in this state with having failed to
13 provide for the support of an obligee; or

14 (2) on the demand by the governor of another state, surrender an
15 individual found in this state who is charged criminally in the other state with having
16 failed to provide for the support of an obligee.

17 (b) A provision for extradition of individuals not inconsistent with this chapter
18 applies to the demand even if the individual whose surrender is demanded was not in
19 the demanding state when the crime was allegedly committed and has not fled from
20 that state.

21 Sec. 25.25.802. CONDITIONS OF RENDITION. (a) Before making demand
22 that the governor of another state surrender an individual charged criminally in this
23 state with having failed to provide for the support of an obligee, the governor of this
24 state or the designee of the governor may require a prosecutor of this state to
25 demonstrate that the obligee had initiated proceedings for support under this chapter
26 at least 60 days previously or that the proceeding would be of no avail.

27 (b) If, under this chapter or a law substantially similar to this chapter, the
28 former provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act,
29 or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of
30 another state makes a demand that the governor of this state surrender an individual
31 charged criminally in that state with having failed to provide for the support of a child

1 or other individual to whom a duty of support is owed, the governor or a designee of
2 the governor may require a prosecutor to investigate the demand and report whether
3 a proceeding for support has been initiated or would be effective. If it appears that a
4 proceeding would be effective but has not been initiated, the governor or designee may
5 delay honoring the demand for a reasonable time to permit the initiation of a
6 proceeding.

7 (c) If a proceeding for support has been initiated and the individual whose
8 rendition is demanded prevails, the governor or the designee of the governor may
9 decline to honor the demand. If the petitioner prevails and the individual whose
10 rendition is demanded is subject to a support order, the governor or designee may
11 decline to honor the demand if the individual is complying with the support order.

12 ARTICLE 9. MISCELLANEOUS PROVISIONS.

13 Sec. 25.25.901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

14 This chapter shall be applied and construed to effectuate its general purpose to make
15 uniform the law with respect to the subject of this chapter among states enacting it.

16 Sec. 25.25.902. SEVERABILITY CLAUSE. Under AS 01.10.030, if a
17 provision of this chapter or its application to a person or circumstance is held invalid,
18 the invalidity does not affect other provisions or applications of this chapter that can
19 be given effect without the invalid provision or application.

20 Sec. 25.25.903. SHORT TITLE. This chapter may be cited as the Uniform
21 Interstate Family Support Act.

22 * Sec. 7. AS 25.27.020(a) is amended to read:

23 (a) The agency shall

24 (1) seek enforcement of child support orders [OF THE SUPERIOR
25 COURTS] of the state in other jurisdictions and shall obtain, enforce, and administer
26 the orders in this state;

27 (2) adopt regulations to carry out the purposes of this chapter **and**
28 AS 25.25, including regulations that establish

29 (A) schedules for determining the amount an obligor is liable
30 to contribute toward the support of an obligee under this chapter and under 42
31 U.S.C. 651 - 669 (Title IV-D, Social Security Act);

1 (B) procedures for hearings conducted under AS 25.27.170;
2 [AND]
3 (C) subject to AS 25.27.025 and to federal law, a uniform rate
4 of interest on arrearages of support that shall be charged the obligor upon
5 notice if child support payments are 10 or more days overdue or if payment is
6 made by a check backed by insufficient funds; however, an obligor may not be
7 charged interest on late payment of a child support obligation, other than a
8 payment on arrearages, if the obligor is
9 (i) employed and income is being withheld from the
10 obligor's wages under an income withholding order;
11 (ii) receiving unemployment compensation and child
12 support obligations are being withheld from the obligor's unemployment
13 payments under AS 23.20.401; or
14 (iii) receiving compensation for disabilities under
15 AS 23.30 and child support obligations are being withheld from the
16 obligor's compensation payments; **and**
17 **(D) procedures for establishing and disestablishing paternity**
18 **under AS 25.27.165 - 25.27.166, including procedures for hearings;**
19 (3) administer and enforce AS 25.25 (Uniform **Interstate Family**
20 **[RECIPROCAL ENFORCEMENT OF]** Support Act);
21 (4) establish, enforce, and administer child support obligations
22 administratively under this chapter;
23 (5) administer the state plan required under 42 U.S.C. 651 - 669 (Title
24 IV-D, Social Security Act) as amended;
25 (6) disburse support payments collected by the agency to the obligee,
26 together with interest charged under (2)(C) of this subsection;
27 (7) establish and enforce administratively under this chapter, or through
28 the superior courts of the state, child support orders from other jurisdictions pertaining
29 to obligors within the state;
30 (8) enforce and administer spousal support orders if a spousal support
31 obligation has been established with respect to the spouse and if the support obligation

1 established with respect to the child of that spouse is also being administered; and

2 (9) obtain a medical support order as part of a child support order if
3 health care coverage is available to the obligor at a reasonable cost; the agency shall
4 consider whether adequate health care is available to the child through the Indian
5 Health Service or other insurance coverage before it orders an obligor to provide health
6 care coverage through insurance or other means; the medical support order must meet
7 the requirements of AS 25.27.063; [AND]

8 (10) act on behalf of the Department of Health and Social Services in
9 the enforcement of AS 47.07.025(b);

10 (11) establish or disestablish, administratively under AS 25.27.165 -
11 25.27.166 or through court action, the paternity of a child;

12 (12) promptly provide to the Bureau of Vital Statistics, in a format
13 approved by the bureau, any final agency decision administratively establishing
14 or disestablishing the paternity of a child born in this state; and

15 (13) act as the central registry for all child support orders.

16 * Sec. 8. AS 25.27.022 is amended to read:

17 Sec. 25.27.022. ESTABLISHMENT AND ENFORCEMENT REQUESTS
18 FROM OTHER STATES. (a) The agency may act, under the laws of this state,
19 upon requests from similar state agencies in other states that operate child support
20 enforcement programs under 42 U.S.C. 651 - 669 (Title IV-D Social Security Act)
21 to establish or disestablish paternity and to establish and enforce against obligors
22 within this state support obligations determined in other states.

23 (b) Requests from child support enforcement agencies in other states shall be
24 made by application containing the information that this state's agency requires and
25 including written authorization from the requesting state agency and the obligee for
26 this state's agency to initiate necessary action [NECESSARY TO ESTABLISH,
27 ENFORCE, AND COLLECT THE SUPPORT OBLIGATION ON THEIR BEHALF].

28 * Sec. 9. AS 25.27.040(a) is amended to read:

29 (a) The agency may [SHALL] appear on behalf of minor children or their
30 mother or legal custodian or the state and initiate efforts to have the paternity of
31 children born out of wedlock determined by the court. When the agency is a party to

1 a court [IN AN] action in which paternity is contested, it shall request and pay for
2 genetic testing [TESTS] and procedures under AS 25.20.050(f). The agency may
3 recover the costs of the tests as a cost of the court action, except that costs may not
4 be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420
5 (Aid to Families with Dependent Children).

6 * **Sec. 10.** AS 25.27.040(c) is amended to read:

7 (c) When the agency is a party in a court [AN] action in which paternity is
8 contested, the agency shall move for a default judgment in a case that meets the
9 conditions specified in AS 25.20.050(g).

10 * **Sec. 11.** AS 25.27.075(f) is amended to read:

11 (f) The agency shall retain the information received under (a), (d), and (e) of
12 this section for a particular employee only if the agency is responsible for establishing,
13 enforcing, or collecting a support obligation of the employee or if the employee is a
14 party to an administrative or judicial proceeding to determine the paternity of a
15 child. If the employee does not owe a support obligation or is not a party to a
16 paternity proceeding, the agency may not create a record regarding the employee, and
17 the information contained in the notice shall be promptly destroyed.

18 * **Sec. 12.** AS 25.27.085 is amended to read:

19 Sec. 25.27.085. SUBPOENAS. The agency, with the concurrence of the
20 commissioner of revenue, may subpoena persons, books, records, and documents to
21 (1) determine the extent and location of assets of any obligor who is
22 more than 45 days in arrears in a child support obligation established either by court
23 or administrative order;

24 (2) determine the paternity of a child under AS 25.27.165; or

25 (3) disestablish the paternity of a child under AS 25.27.166.

26 * **Sec. 13.** AS 25.27.140(a) is amended to read:

27 (a) If no support order has been entered, the agency may establish paternity
28 and a duty of support utilizing the procedures prescribed in AS 25.27.160 - 25.27.220
29 and may enforce a duty of support utilizing the procedure prescribed in AS 25.27.230 -
30 25.27.270. Action under this subsection may be undertaken upon application of an
31 obligee, or at the agency's own discretion if the obligor is liable to the state under

1 AS 25.27.120(a) or (b).

2 * **Sec. 14.** AS 25.27 is amended by adding new sections to read:

3 Sec. 25.27.165. DETERMINATION OF PATERNITY IN AN
4 ADMINISTRATIVE PROCEEDING. (a) Upon application from a mother, custodian,
5 or legal custodian of a child, or from a state, the agency may institute administrative
6 proceedings to determine the paternity of a child born out of wedlock.

7 (b) In order to initiate a paternity proceeding administratively, the agency shall
8 serve a mother and putative father, as appropriate, with a notice of paternity and
9 financial responsibility. The notice shall be served personally as set out in Alaska
10 Rule of Civil Procedure 4(d) or by registered, certified, or insured mail, return receipt
11 requested, for restricted delivery only to the person to whom the notice is directed or
12 to the person authorized under federal law to receive that person's restricted delivery
13 mail. The notice must be accompanied by

14 (1) an administrative order requiring that the mother, child, and putative
15 father submit to genetic testing to be arranged by the agency;

16 (2) an administrative order requiring the putative father to provide
17 financial information, as defined by the agency in regulation, within 20 days after
18 service of the notice; all financial information provided to the agency under an order
19 under this paragraph shall be held confidential by the agency, according to any
20 applicable regulations; and

21 (3) a notice of right to informal conference, to be held within 20 days
22 after receipt of an admission of paternity or service upon the parties of genetic test
23 results.

24 (c) A person served with a notice of paternity and financial responsibility shall
25 file a response, admitting or denying paternity and providing the required financial
26 information, within 20 days after the date of service of the notice of paternity and
27 financial responsibility. If the putative father admits paternity, the agency shall issue,
28 within 20 days after the admission of paternity, a decision establishing paternity. If
29 the putative father denies paternity, the putative father shall submit to genetic testing,
30 as provided in (b) of this section, within 30 days after the date of service of the notice
31 of paternity and financial responsibility.

1 (d) Upon receipt of genetic test results, the agency shall serve on the putative
2 father notice of the test results and of the date for the informal conference. Service
3 of the notice shall be made by first class mail. If the genetic test results are negative
4 under the standard set in AS 25.20.050(d), the agency shall issue a finding of
5 nonpaternity within 20 days after the agency's receipt of the test results. If the genetic
6 test results are positive under the standard set in AS 25.20.050(d), the agency shall
7 issue an informal conference decision within 20 days after the agency's receipt of the
8 test results.

9 (e) If the agency issues a decision establishing paternity under (d) of this
10 section, the putative father is entitled to a formal hearing if a written request for
11 hearing is served on the agency by certified mail, return receipt requested, within 30
12 days after the date of service of the agency's decision.

13 (f) If a request for a formal hearing is made under (e) of this section, an
14 execution under AS 25.27.062 and 25.27.230 - 25.27.270 may not be stayed unless the
15 putative father posts security or a bond in the amount of child support that would have
16 been due under the informal conference decision pending the decision on the formal
17 hearing. If no request for a formal hearing is made under (e) of this section, the
18 informal conference decision establishing paternity is final.

19 (g) If a request for a formal hearing is made under (e) of this section, the
20 hearing officer shall consider the evidence applying the standards set in
21 AS 25.20.050(d).

22 (h) If a putative father who requests a formal hearing under (e) of this section
23 fails to appear at the formal hearing, the hearing officer shall enter a final decision
24 establishing paternity.

25 (i) The agency may recover any costs it pays for genetic tests required by this
26 section, except that costs may not be recovered from a person who is a recipient of aid
27 under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children).

28 Sec. 25.27.166. DISESTABLISHMENT OF PATERNITY. (a) The agency
29 shall, by regulation, establish procedures and standards for the disestablishment of
30 paternity of a child whose paternity was established in this state other than by court
31 order if the paternity was not established by genetic test results that met the standard

1 set out in AS 25.20.050(d) at the time the test was performed.

2 (b) The agency's standards and procedures under (a) of this section must

3 (1) allow a person to petition the agency to disestablish paternity only
4 once per child;

5 (2) allow a petition to disestablish paternity to be brought only within
6 three years after the child's birth or three years after the petitioner knew or should have
7 known of the father's putative paternity of the child, whichever is later; and

8 (3) provide standards and notice and hearing procedures that are
9 equivalent to those used for establishment of paternity under AS 25.27.165.

10 (c) The agency shall disestablish paternity under this section if genetic test
11 results are negative under the standard set out in AS 25.20.050(d) and if the other
12 standards established in its regulations are met.

13 (d) If a decision under this section disestablishes paternity, the petitioner's
14 child support obligation or liability for public assistance under AS 25.27.120 is
15 modified retroactively to extinguish arrearages for child support and accrued liability
16 for public assistance based on the alleged paternity that is disestablished under this
17 section. This subsection may be implemented only to the extent not prohibited by
18 federal law.

19 (e) The costs of genetic testing under this section shall be assessed against the
20 petitioner if paternity is not disestablished. If paternity is disestablished under this
21 section, the costs of genetic testing shall be assessed against

22 (1) the individual to whom the petitioner paid or owed child support
23 payments for the child for whom paternity was disestablished; or

24 (2) the agency if there is no individual who meets the description in (1)
25 of this subsection.

26 * **Sec. 15.** AS 25.27.180(a) is amended to read:

27 (a) Within 20 days **after** [OF] the date of the hearing, the hearing officer shall
28 adopt findings and a decision determining whether **paternity is established and**
29 **whether** a duty of support exists and, if a duty of support is found, the amount of
30 periodic payments or sum for which the alleged obligor is found to be responsible.

31 * **Sec. 16.** AS 25.27.180(c) is amended to read:

(c) A decision regarding support rendered under (a) of this section is modified to the extent that a subsequent order, judgment, or decree of a superior court is inconsistent with the decision entered under (a) of this section.

* **Sec. 17.** AS 25.27.210(a) is amended to read:

(a) Judicial review by the superior court of a final administrative [AN AGENCY] decision establishing or disestablishing paternity and establishing or modifying a duty of support or amounts of support due may be obtained by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. A notice of appeal shall be filed within 30 days after [OF] the decision.

* **Sec. 18.** AS 25.27.210(c) is amended to read:

(c) The complete record includes

(1) the notice and finding of financial responsibility, the notice of paternity and financial responsibility, or the notice of and petition for an action disestablishing paternity, as applicable;

(2) the request for a hearing;

(3) the decision of the hearing officer;

(4) the exhibits admitted or rejected;

(5) the written evidence;

(6) all other documents in the case, including decisions of the agency.

* **Sec. 19.** AS 25.27.230(a) is amended to read:

(a) At the expiration of 30 days after [FROM EITHER] (1) the date of distribution of an income withholding order under AS 25.27.062, [OR] (2) the date of service of a notice and finding of financial responsibility under AS 25.27.160, or (3) the date of service of a decision establishing paternity under AS 25.27.165(c) or (d), the agency may assert a lien upon the real or personal property of the obligor, in the amount of the obligor's liability.

* **Sec. 20.** AS 25.27.250(a) is amended to read:

(a) At the expiration of [EITHER] (1) 15 days after [FROM] the date of service of an income withholding order under AS 25.27.062 or notice under AS 25.27.150, or (2) 30 days after [FROM] the date of service of a notice and finding of financial responsibility under AS 25.27.160, or (3) 30 days after service of a

1 **decision establishing paternity under AS 25.27.165(c) or (d)**, the agency may issue
2 to any person, political subdivision, or department of the state an order to withhold and
3 deliver property.

4 * **Sec. 21.** AS 25.25.010, 25.25.020, 25.25.030, 25.25.040, 25.25.050, 25.25.060, 25.25.070,
5 25.25.080, 25.25.090, 25.25.100, 25.25.110, 25.25.120, 25.25.130, 25.25.140, 25.25.150,
6 25.25.160, 25.25.170, 25.25.171, 25.25.173, 25.25.175, 25.25.180, 25.25.190, 25.25.200,
7 25.25.210, 25.25.220, 25.25.230, 25.25.240, 25.25.250, 25.25.252, 25.25.254, 25.25.256,
8 25.25.258, 25.25.260, and 25.25.270 are repealed.

9 * **Sec. 22.** AS 25.25.313(c), added by sec. 6 of this Act, has the effect of amending Alaska
10 Rules of Civil Procedure 79 and 82, by requiring the court to award costs and attorney fees
11 under certain circumstances.

12 * **Sec. 23.** AS 25.27.166(d), enacted by sec. 14 of this Act, has the effect of amending
13 Alaska Rule of Civil Procedure 90.3(h)(2) by allowing retroactive modification of child
14 support arrearages under circumstances involving disestablishment of paternity.

15 * **Sec. 24.** TRANSITION: REGULATIONS. The Department of Revenue, child support
16 enforcement agency, may immediately proceed to adopt regulations to implement the changes
17 made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
18 but not before January 1, 1996.

19 * **Sec. 25.** AS 25.27.166(d), enacted by sec. 14 of this Act, may take effect with only a
20 majority vote of both houses of the legislature because the court rule it amends is an
21 interpretive rule not governed by the procedural requirements of art. IV, sec. 15, Constitution
22 of the State of Alaska.

23 * **Sec. 26.** AS 25.25.313(c), added by sec. 6 of this Act, takes effect only if sec. 22 of this
24 Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

26 * **Sec. 27.** Section 24 of this Act takes effect immediately under AS 01.10.070(c).

27 * **Sec. 28.** Except as provided in sec. 27 of this Act, this Act takes effect January 1, 1996.