

State of Alaska

Department of Revenue
Administrative Services Division



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April 11, 2009

The Honorable Jay Ramras
Chair, Judiciary Committee
Alaska House of Representatives
Alaska State Capitol, Room 120
Juneau, AK 99801

Dear Representative Ramras;

There is only one difference between the Senate CS for SB 96 and the House CS for HB 192. On page 2 of both bills, Sec 1 included paragraph (a) of intent language but the Senate CS inadvertently left out paragraph (b) which is in CSHB 192 as follows:

“(b) The proposed changes made in AS 25.25.101(19) under sec. 3 of this Act are conforming amendments that will result in procedural changes in Alaska for enforcement and modification of child support orders from other jurisdictions. UIFSA does not determine the authority of an Indian tribe to enter, modify, or enforce a child support order. In Alaska, the scope of tribal authority to enter, modify, or enforce a child support order is an unsettled legal question, due in part to the lack of Indian country in most of the state. In adopting UIFSA conforming amendments, the legislature does not intend to grant or restrict tribal jurisdiction to enter, modify, or enforce child support orders, and the amendments are not intended to either directly or impliedly, to acknowledge, expand, or restrict tribal jurisdiction.”

The Department supports including this intent language in CSSB 96 if that bill is to pass (H)JUD and move to (H)FIN for further consideration

Thank you for working with us on this issue.

Sincerely,

Ginger Blaisdell
Director

4/10

Alaska State Legislature

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Senator Betty Davis bdavis@legis.state.ak.us
<http://www.akdemocrats.org>

SB 96

TITLE: "An Act relating to nonpayment of child support: relating to certain judicial and administrative orders for medical support of a child;."

SPONSOR STATEMENT (c)

SB 96 brings the state into compliance with the federal Uniform Interstate Family Services Act (UIFSA) that require states to have guidelines addressing how either or both parents will provide for a child's healthcare needs and to include an "Indian tribe" in the definition of state. Both amendments to Alaska's child support state plan are conforming amendments which will result in procedural changes in Alaska for enforcement and modification of child support orders from other jurisdictions.

If a parent is ordered to pay for healthcare including cash medical support, the Child Support Services Division must enforce the ongoing medical support obligation as well as collect any cash medical support arrears. Including an "Indian tribe" in the definition of state does not expand or restrict tribal jurisdiction.

Failure to satisfy these mandated requirements jeopardizes 85 million dollars in federal funding for both Alaska's Child support program and Temporary Assistance To Needy Families (TANF).

- 1. This bill adds an “Indian tribe” and “United States Virgin Islands” to the definition of state.**
- 2. This bill adds to existing law the authority for a tribunal to order either or both parents to pay cash medical support, if warranted.**
- 3. In addition, the bill directs Child Support Services Division (CSSD) to review child support orders for modification on a federally mandated three-year cycle.**
- 4. The bill adds cash medical support to the definition of arrearage and the definition of support order thereby enabling CSSD to use its existing enforcement tools to collect a cash medical support obligation on behalf of the child.**
- 5. Finally, the bill removes the language limiting who may request the correction of a clerical mistake in an administrative order or request the vacation of an administrative order based upon a default income.**

SB 96 puts Alaska in compliance with the federal requirements which assure that Alaska’s children receive the medical support to which they are entitled.

In addition, adoption of SB 96 assures 85 million in federal dollars to Alaska for the Child Support Enforcement and Temporary Assistance for Needy Families (TANF) programs.

I appreciate your support of this important bill.

CS FOR SENATE BILL NO. 96(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/9/09

Referred: Rules

Sponsor(s): SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to nonpayment of child support, to the definition of the term "state"**
2 **for the purposes of the Uniform Interstate Family Support Act, to certain judicial and**
3 **administrative orders for medical support of a child, to periodic review and adjustment**
4 **of child support orders, to relief from administrative child support orders, to child**
5 **support arrearages, and to medical support of a child and the Alaska Native family**
6 **assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and**
7 **providing for an effective date."**

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

9 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
10 to read:

11 **DEFINITION OF "STATE"; LEGISLATIVE INTENT.** It is the intent of the
12 legislature that in order to bring Alaska into conformity with the nationwide Uniform
13 Interstate Family Support Act (UIFSA), as approved by the American Bar Association on

1 February 9, 1993, and as in effect on August 22, 1996, including any amendments officially
 2 adopted as of that date by the National Conference of Commissioners on Uniform State Laws,
 3 it is necessary to amend AS 25.25.101 to include "an Indian tribe" and "the United States
 4 Virgin Islands" in the definition of "state."

5 * **Sec. 2.** AS 11.51.122(a) is amended to read:

6 (a) A person commits the crime of aiding the nonpayment of child support in
 7 the second degree if the person knows that an obligor has a duty under an
 8 administrative or judicial order for periodic payment of child support, for cash
 9 medical support, or for the provision of health care coverage for a child under a
 10 medical support order or a cash medical support order, or both and

11 (1) being a person with a statutory duty to disclose information to a
 12 child support enforcement agency intentionally withholds the information when it is
 13 requested by a child support enforcement agency;

14 (2) being an employer of the obligor, intentionally withholds
 15 information about the residence or employment of the obligor, the eligibility of the
 16 obligor's children for coverage under the employer's health insurance plan, or the cost
 17 of the coverage of the children under the plan, when that information is requested by a
 18 child support enforcement agency or when the employer is required by state or federal
 19 law to report the information without a request by a child support enforcement agency;
 20 or

21 (3) intentionally participates in a commercial, business, employment,
 22 or other arrangement with the obligor, knowing at the time that the arrangement is
 23 made that it will allow the obligor to avoid paying all or some of the support when it is
 24 due or to avoid having a lien placed on assets for the payment of delinquent support;
 25 receipt of a substantial asset for less than fair market value from an obligor after the
 26 obligor's support order has been established constitutes a rebuttable presumption that
 27 the person receiving the asset knew that the transfer would allow the obligor to avoid
 28 paying all or some of the support or to avoid having a lien placed on the asset.

29 * **Sec. 3.** AS 25.25.101(19) is amended to read:

30 (19) "state" means a state of the United States, the District of
 31 Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or

any territory or insular possession subject to the jurisdiction of the United States; the term "state" includes an Indian tribe and a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter or under the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act;

* **Sec. 4.** AS 25.27.060(c) is amended to read:

(c) In a court or administrative proceeding where the support of a minor child is at issue, the court or agency, as applicable, may order either parent or both parents to pay the amount necessary for support, maintenance, nurture, and education of the child. Regardless of whether a support order for periodic payments is issued, the court or agency shall issue a medical support order, a cash medical support order, or both. The medical support order shall require health care insurance coverage for the child if health care insurance coverage is available to either parent or both parents for the child at a reasonable cost. The court or agency shall consider whether the child is eligible for services through the Indian Health Service or other insurance coverage before ordering either parent or both parents to provide health care coverage through insurance, cash medical support, or other means or a combination of insurance, cash medical support, or other means. The court or agency shall allocate equally the cost of health care insurance for the child between the parents unless there is good cause to allocate the costs unequally. If the obligor has the duty to make periodic payments for non-medical child support, the obligor's periodic payments shall be decreased by the amount of the other parent's portion of payments for health insurance ordered by the court or agency and actually paid by the obligor. If the obligor has a duty to make periodic payments for non-medical child support, the periodic payments shall be increased by the obligor's portion of payments for health insurance if the other parent is ordered to and actually does obtain and pay for insurance. The court or agency shall allocate equally between the parents the cost of reasonable health care expenses not covered by private insurance unless there is good cause to allocate the costs unequally. One parent shall reimburse the other parent for the first parent's share of the uncovered expenses paid by the parent within 30 days after receipt by the first

parent of the bill for the health care, payment verification, and, if applicable, a health insurance statement indicating what portion of the cost is uncovered. The medical support order must meet the requirements of AS 25.27.063. Upon a showing of good cause, the court may order the parents required to pay support to give reasonable security for payments.

* **Sec. 5.** AS 25.27.160(c) is amended to read:

(c) If the agency is establishing only [A] medical support [ORDER], the notice and finding of financial responsibility must state

(1) that health care insurance shall be provided for the child to whom the duty of support is owed if health care insurance is available to the alleged obligor at a reasonable cost and that the alleged obligor and the other parent shall share equally the cost of the health care insurance and the costs of reasonable health care expenses not covered by insurance;

(2) **the sum of periodic payments of cash medical support for which either parent or both parents are found to be responsible under this chapter;**

(3) the name of the alleged obligee and the obligee's custodian;

(4) [(3)] that the alleged obligor may appear and show cause in a hearing held by the agency why the finding is incorrect, should not be finally ordered, and should be modified or rescinded, because

(A) no duty of support is owed;

(B) health care insurance for the child is not available to the alleged obligor at a reasonable cost;

(C) adequate health care is available to the child through the Indian Health Service or other insurance coverage; or

(D) there is good cause to allocate the costs of health insurance, **cash medical support,** or uninsured health care expenses unequally between the parents;

(5) [(4)] that, if the person served with the notice under this subsection does not request a hearing within 30 days, a copy of the medical support order will be sent to the person's employer under AS 25.27.063(b) without further notice or hearing

1 for inclusion of the child in family health coverage if it is available through the
2 person's employer.

3 * **Sec. 6.** AS 25.27.193 is amended to read:

4 **Sec. 25.27.193. Periodic review or adjustment of support orders.** As
5 necessary to comply with 42 U.S.C. 666, the agency, by regulation, shall provide
6 procedures and standards for the modification, through a three-year cycle of
7 [PERIODIC] review or adjustment, of a support order. Regulations adopted under this
8 section must include procedures for periodic notice of the right to request review,
9 procedures for hearings, and standards for adjustments regarding future periodic
10 support payments. A modification under this section may be made without a showing
11 of a material change in circumstances.

12 * **Sec. 7.** AS 25.27.195(a) is amended to read:

13 (a) A clerical mistake in an administrative order issued by the agency or an
14 error arising from an oversight or omission by the agency may be corrected by the
15 agency at any time [ON THE MOTION OF AN OBLIGOR].

16 * **Sec. 8.** AS 25.27.195(b) is amended to read:

17 (b) The [UPON THE MOTION OF AN OBLIGOR, THE] agency may, at any
18 time, vacate an administrative support order issued by the agency under AS 25.27.160
19 that was based on a default amount rather than on the obligor's actual ability to pay.

20 * **Sec. 9.** AS 25.27.900(2) is repealed and reenacted to read:

21 (2) "arrearage" means a debt that is past due and equal to at least one
22 monthly obligation under the support order for one or more of the following:

- 23 (A) monetary support;
- 24 (B) cash medical support;
- 25 (C) payment of health care costs or maintenance of health
- 26 insurance;
- 27 (D) reimbursement of related costs;
- 28 (E) payment of attorney fees and legal costs and other fees;
- 29 (F) penalty, interest, and other relief as required by a support
- 30 order;

31 * **Sec. 10.** AS 25.27.900(12) is amended to read:

(12) "support order" means any judgment, decree, or order that is issued by a tribunal for the support and maintenance of a child or of a parent with whom the child is living; "support order" includes a judgment, decree, or order

(A) on behalf of a child who has reached the age of majority if the judgment, decree, or order was lawfully issued; and

(B) for any or all of the following:

(i) monetary support, including arrearages;

(ii) payment of health care costs or maintenance of health insurance;

(iii) **payment of cash medical support;**

(iv) reimbursement of related costs;

(v) [(iv)] payment of attorney fees and legal costs and other fees; or

(vi) [(v)] penalty, interest, and other relief as required by a tribunal;

* **Sec. 11.** AS 47.07.025(b) is amended to read:

(b) Through the child support services agency or on its own behalf, the department may garnish the wages, salary, or other employment income of a person who

(1) is required by a medical support order, **cash medical support order, or both,** under AS 25.27.060(c) to provide **insurance or cash** coverage of the costs of medical care to a child who is eligible for medical assistance under this chapter;

(2) has received payment from a third party for the costs of the services; and

(3) has not used the payments to reimburse, as appropriate, the other parent or custodian of the child, the provider of the services, or the department.

* **Sec. 12.** AS 47.27.200(o) is amended to read:

(o) The applicability of AS 25.27 in the case of a recipient under an Alaska Native family assistance program includes the following:

(1) an obligor is liable to the Alaska Native family assistance program

1 in the amount of the family assistance provided by the program to a child to whom the
 2 obligor owes a duty of support except that, if a support order has been entered, the
 3 liability of the obligor for assistance provided by an Alaska Native family assistance
 4 program may not exceed the amount of support provided for in the support order, and,
 5 if a medical support order, cash medical support order, or both, [ORDER OF
 6 SUPPORT] has been entered, the liability of the obligor for assistance granted under
 7 AS 47.07 may not exceed the amount of support provided for in the medical support
 8 order, cash medical support order, or both [ORDER OF SUPPORT]; the child
 9 support services agency shall send notice of accruing liability under this paragraph in
 10 the same manner as required under AS 25.27.120(c), and, if the agency fails to comply
 11 with the notice requirement of this paragraph, interest does not accrue on the liability
 12 to the Alaska Native family assistance program unless a support order or medical
 13 support order, or cash medical support order, as applicable, has been entered;

14 (2) the child support services agency may appear in an action
 15 authorized under AS 25.27.045 at the agency's own discretion if an obligor under
 16 AS 25.27 is liable to the Alaska Native family assistance program under (1) of this
 17 subsection;

18 (3) an Alaska Native family assistance program to which the child
 19 support services agency erroneously disburses an overpayment of child support under
 20 an income withholding order is liable to the state for the amount disbursed, plus
 21 interest at the rate imposed under AS 25.27.062(f)(1);

22 (4) when the right to receive child support has been assigned to an
 23 Alaska Native family assistance program, an agreement under AS 25.27.065(a) that
 24 has not been adopted as an administrative order of the child support services agency is
 25 not effective during a period when the obligee is receiving assistance under an Alaska
 26 Native family assistance program;

27 (5) the child support services agency, on behalf of an Alaska Native
 28 family assistance program, shall take all necessary action permitted by law to enforce
 29 child support orders entered under AS 25.27, including petitioning the court for orders
 30 to aid in the enforcement of child support;

31 (6) if an obligor under AS 25.27 is liable to an Alaska Native family

1 assistance program under (1) of this subsection, the state is subrogated to the rights of
2 the obligee to take actions authorized under AS 25.27.130(a);

3 (7) notwithstanding AS 25.27.130(c), the recovery of an amount for
4 which an obligor under AS 25.27 is liable that exceeds the total assistance granted
5 under AS 47.07 and this chapter shall be paid to the obligee;

6 (8) except as provided in AS 25.27.130(f), if an obligee under
7 AS 25.27 is not receiving assistance under AS 47.07 or this chapter at the time the
8 state recovers money in an action under AS 25.27.130(d) or (1) of this subsection, the
9 recovery of any amount for which the obligor is liable shall be distributed to the
10 obligee for support payments, including medical support payments, that had become
11 due and unpaid since the termination of assistance under AS 47.07 or this chapter
12 under a support order in favor of the obligee;

13 (9) after payment to the obligee under (8) of this subsection, the state
14 may retain an amount not to exceed the total unreimbursed assistance paid on behalf
15 of the obligee under AS 47.07 or this chapter;

16 (10) if an alleged obligor is liable to an Alaska Native family
17 assistance program under (1) of this subsection, and a support order has not been
18 entered, the child support services agency may, at its own discretion, undertake an
19 action to establish paternity and a duty of support using the procedures prescribed in
20 AS 25.27 and may enforce a duty of support using the procedures prescribed in
21 AS 25.27; the agency may also institute administrative proceedings to determine the
22 paternity of a child born out of wedlock upon application of an Alaska Native family
23 assistance program; the agency may not recover costs of genetic tests required under
24 this paragraph from a person who is a recipient of assistance under an Alaska Native
25 family assistance program;

26 (11) when a hearing officer makes a determination under
27 AS 25.27.170(d), the hearing officer shall, in addition to the factors described in
28 AS 25.27.170(e), consider the amount of the alleged obligor's liability to an Alaska
29 Native family assistance program under (1) of this subsection;

30 (12) notwithstanding AS 25.27.255(a), the child support services
31 agency may not pay to an obligee any money that has been assigned to an Alaska

1 Native family assistance program.

2 * **Sec. 13.** The uncoded law of the State of Alaska is amended by adding a new section to
3 read:

4 INDIRECT COURT RULE AMENDMENT. AS 25.27.060(c), amended by sec. 4 of
5 this Act, has the effect of changing Rule 90.3, Alaska Rules of Civil Procedure, by changing
6 standards for issuance of medical and other support orders by the court.

7 * **Sec. 14.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. This Act applies to actions filed on or after the effective date of
10 this section and to motions filed on or after the effective date in proceedings filed before, on,
11 or after the effective date of this section.

12 * **Sec. 15.** The uncoded law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
15 regulations necessary to implement this Act. The regulations take effect under AS 44.62
16 (Administrative Procedure Act), but not before July 1, 2009.

17 * **Sec. 16.** The uncoded law of the State of Alaska is amended by adding a new section to
18 read:

19 CONDITIONAL EFFECT. Section 4 of this Act takes effect only if sec. 13 of this Act
20 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
21 of the State of Alaska.

22 * **Sec. 17.** Section 15 of this Act takes effect immediately under AS 01.10.070(c).

23 * **Sec. 18.** Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2009.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 27, 2009

SUBJECT: Sectional Summary (CSSB 96(); (Work Order No. 26-LS0485\E))

TO: Senator Betty Davis
Attn: Lynda Zaugg

FROM: Jean M. Mischel
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Adds reference to cash medical support to the crime of aiding the nonpayment of child support in the second degree.

Section 2. Adds the Virgin Islands and Indian Tribes to the definition of "state."

Section 3. Amends order of support provision to include both parents, medical support, and insurance.

Section 4. Adds medical support to provision authorizing the initiation of administrative action to establish a duty of support.

Section 5. Amends periodic reviews of support orders to require a three year cycle of review.

Section 6. Deletes motion requirement for correcting an administrative mistake in a support order.

Section 7. Deletes motion requirement for vacating a support order that is based on a default amount.

Section 8. Redefines "arrearage" for child support purposes.

Section 9. Amends the definition of "support order" to include cash medical support.

Section 10. Amends garnishment provision to include insurance and cash medical support.

Section 11. Amends the Alaska Native family assistance program to include obligations for cash medical support.

Section 12. Provides for an indirect court rule amendment to Rule 90.3, Alaska Rules of Civil Procedure for changes made in the bill.

Section 13. Makes bill changes applicable to child support actions filed on or after the bill's effective date.

Section 14. Authorizes the Department of Revenue to proceed to adopt regulations needed under the bill.

Section 15. Provides for a conditional effect for the court rule amendment in sec. 12 only for two-thirds majority vote.

Section 16. Makes sec. 14 effective immediately.

Section 17. Provides for a July 1, 2009, effective date for all other bill sections.

JMM:ljw
09-125.ljw

CS FOR SENATE BILL NO. 96(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/3/09

Referred: Judiciary, Finance

Sponsor(s): SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to nonpayment of child support, to the definition of the term "state"**
2 **for the purposes of the Uniform Interstate Family Support Act, to certain judicial and**
3 **administrative orders for medical support of a child, to periodic review and adjustment**
4 **of child support orders, to relief from administrative child support orders, to child**
5 **support arrearages, and to medical support of a child and the Alaska Native family**
6 **assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and**
7 **providing for an effective date."**

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

9 * **Section 1.** AS 11.51.122(a) is amended to read:

10 (a) A person commits the crime of aiding the nonpayment of child support in
11 the second degree if the person knows that an obligor has a duty under an
12 administrative or judicial order for periodic payment of child support, for cash
13 medical support, or for the provision of health care coverage for a child under a

1 medical support order **or a cash medical support order, or both** and

2 (1) being a person with a statutory duty to disclose information to a
3 child support enforcement agency intentionally withholds the information when it is
4 requested by a child support enforcement agency;

5 (2) being an employer of the obligor, intentionally withholds
6 information about the residence or employment of the obligor, the eligibility of the
7 obligor's children for coverage under the employer's health insurance plan, or the cost
8 of the coverage of the children under the plan, when that information is requested by a
9 child support enforcement agency or when the employer is required by state or federal
10 law to report the information without a request by a child support enforcement agency;
11 or

12 (3) intentionally participates in a commercial, business, employment,
13 or other arrangement with the obligor, knowing at the time that the arrangement is
14 made that it will allow the obligor to avoid paying all or some of the support when it is
15 due or to avoid having a lien placed on assets for the payment of delinquent support;
16 receipt of a substantial asset for less than fair market value from an obligor after the
17 obligor's support order has been established constitutes a rebuttable presumption that
18 the person receiving the asset knew that the transfer would allow the obligor to avoid
19 paying all or some of the support or to avoid having a lien placed on the asset.

20 * **Sec. 2.** AS 25.25.101(19) is amended to read:

21 (19) "state" means a state of the United States, the District of
22 Columbia, the Commonwealth of Puerto Rico, **the United States Virgin Islands**, or
23 any territory or insular possession subject to the jurisdiction of the United States; the
24 term "state" includes **an Indian tribe and** a foreign jurisdiction that has enacted a law
25 or established procedures for issuance and enforcement of support orders that are
26 substantially similar to the procedures under this chapter or under the Uniform
27 Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal
28 Enforcement of Support Act;

29 * **Sec. 3.** AS 25.27.060(c) is amended to read:

30 (c) In a court or administrative proceeding where the support of a minor child
31 is at issue, the court or agency, as applicable, may order either **parent** or both parents

to pay the amount necessary for support, maintenance, nurture, and education of the child. Regardless of whether a support order for periodic payments is issued, the court or agency shall issue a medical support order, a cash medical support order, or both. The medical support order shall require health care insurance coverage for the child if health care insurance coverage is available to either parent or both parents for the child at a reasonable cost. The court or agency shall consider whether the child is eligible for services through the Indian Health Service or other insurance coverage before ordering either parent or both parents to provide health care coverage through insurance, cash medical support, or other means or a combination of insurance, cash medical support, or other means. The court or agency shall allocate equally the cost of health care insurance for the child between the parents unless there is good cause to allocate the costs unequally. If the obligor has the duty to make periodic payments for non-medical child support, the obligor's periodic payments shall be decreased by the amount of the other parent's portion of payments for health insurance ordered by the court or agency and actually paid by the obligor. If the obligor has a duty to make periodic payments for non-medical child support, the periodic payments shall be increased by the obligor's portion of payments for health insurance if the other parent is ordered to and actually does obtain and pay for insurance. The court or agency shall allocate equally between the parents the cost of reasonable health care expenses not covered by private insurance unless there is good cause to allocate the costs unequally. One parent shall reimburse the other parent for the first parent's share of the uncovered expenses paid by the parent within 30 days after receipt by the first parent of the bill for the health care, payment verification, and, if applicable, a health insurance statement indicating what portion of the cost is uncovered. The medical support order must meet the requirements of AS 25.27.063. Upon a showing of good cause, the court may order the parents required to pay support to give reasonable security for payments.

* **Sec. 4.** AS 25.27.160(c) is amended to read:

(c) If the agency is establishing only [A] medical support [ORDER], the notice and finding of financial responsibility must state

(1) that health care insurance shall be provided for the child to whom

the duty of support is owed if health care insurance is available to the alleged obligor at a reasonable cost and that the alleged obligor and the other parent shall share equally the cost of the health care insurance and the costs of reasonable health care expenses not covered by insurance;

(2) the sum of periodic payments of cash medical support for which either parent or both parents are found to be responsible under this chapter;

(3) the name of the alleged obligee and the obligee's custodian;

(4) [(3)] that the alleged obligor may appear and show cause in a hearing held by the agency why the finding is incorrect, should not be finally ordered, and should be modified or rescinded, because

(A) no duty of support is owed;

(B) health care insurance for the child is not available to the alleged obligor at a reasonable cost;

(C) adequate health care is available to the child through the Indian Health Service or other insurance coverage; or

(D) there is good cause to allocate the costs of health insurance, cash medical support, or uninsured health care expenses unequally between the parents;

(5) [(4)] that, if the person served with the notice under this subsection does not request a hearing within 30 days, a copy of the medical support order will be sent to the person's employer under AS 25.27.063(b) without further notice or hearing for inclusion of the child in family health coverage if it is available through the person's employer.

* Sec. 5. AS 25.27.193 is amended to read:

Sec. 25.27.193. Periodic review or adjustment of support orders. As necessary to comply with 42 U.S.C. 666, the agency, by regulation, shall provide procedures and standards for the modification, through a three-year cycle of [PERIODIC] review or adjustment, of a support order. Regulations adopted under this section must include procedures for periodic notice of the right to request review, procedures for hearings, and standards for adjustments regarding future periodic

support payments. A modification under this section may be made without a showing of a material change in circumstances.

* **Sec. 6.** AS 25.27.195(a) is amended to read:

(a) A clerical mistake in an administrative order issued by the agency or an error arising from an oversight or omission by the agency may be corrected by the agency at any time [ON THE MOTION OF AN OBLIGOR].

* **Sec. 7.** AS 25.27.195(b) is amended to read:

(b) The [UPON THE MOTION OF AN OBLIGOR, THE] agency may, at any time, vacate an administrative support order issued by the agency under AS 25.27.160 that was based on a default amount rather than on the obligor's actual ability to pay.

* **Sec. 8.** AS 25.27.900(2) is repealed and reenacted to read:

(2) "arrearage" means a debt that is past due and equal to at least one monthly obligation under the support order for one or more of the following:

(A) monetary support;

(B) cash medical support;

(C) payment of health care costs or maintenance of health insurance;

(D) reimbursement of related costs;

(E) payment of attorney fees and legal costs and other fees;

(F) penalty, interest, and other relief as required by a support order;

* **Sec. 9.** AS 25.27.900(12) is amended to read:

(12) "support order" means any judgment, decree, or order that is issued by a tribunal for the support and maintenance of a child or of a parent with whom the child is living; "support order" includes a judgment, decree, or order

(A) on behalf of a child who has reached the age of majority if the judgment, decree, or order was lawfully issued; and

(B) for any or all of the following:

(i) monetary support, including arrearages;

(ii) payment of health care costs or maintenance of health insurance;

(iii) payment of cash medical support;

(iv) reimbursement of related costs;

(v) [(iv)] payment of attorney fees and legal costs and

other fees; or

(vi) [(v)] penalty, interest, and other relief as required

by a tribunal;

* **Sec. 10.** AS 47.07.025(b) is amended to read:

(b) Through the child support services agency or on its own behalf, the department may garnish the wages, salary, or other employment income of a person who

(1) is required by a medical support order, cash medical support order, or both, under AS 25.27.060(c) to provide insurance or cash coverage of the costs of medical care to a child who is eligible for medical assistance under this chapter;

(2) has received payment from a third party for the costs of the services; and

(3) has not used the payments to reimburse, as appropriate, the other parent or custodian of the child, the provider of the services, or the department.

* **Sec. 11.** AS 47.27.200(o) is amended to read:

(o) The applicability of AS 25.27 in the case of a recipient under an Alaska Native family assistance program includes the following:

(1) an obligor is liable to the Alaska Native family assistance program in the amount of the family assistance provided by the program to a child to whom the obligor owes a duty of support except that, if a support order has been entered, the liability of the obligor for assistance provided by an Alaska Native family assistance program may not exceed the amount of support provided for in the support order, and, if a medical support order, cash medical support order, or both, [ORDER OF SUPPORT] has been entered, the liability of the obligor for assistance granted under AS 47.07 may not exceed the amount of support provided for in the medical support order, cash medical support order, or both [ORDER OF SUPPORT]; the child support services agency shall send notice of accruing liability under this paragraph in

1 the same manner as required under AS 25.27.120(c), and, if the agency fails to comply
 2 with the notice requirement of this paragraph, interest does not accrue on the liability
 3 to the Alaska Native family assistance program unless a support order or medical
 4 support order, or cash medical support order, as applicable, has been entered;

5 (2) the child support services agency may appear in an action
 6 authorized under AS 25.27.045 at the agency's own discretion if an obligor under
 7 AS 25.27 is liable to the Alaska Native family assistance program under (1) of this
 8 subsection;

9 (3) an Alaska Native family assistance program to which the child
 10 support services agency erroneously disburses an overpayment of child support under
 11 an income withholding order is liable to the state for the amount disbursed, plus
 12 interest at the rate imposed under AS 25.27.062(f)(1);

13 (4) when the right to receive child support has been assigned to an
 14 Alaska Native family assistance program, an agreement under AS 25.27.065(a) that
 15 has not been adopted as an administrative order of the child support services agency is
 16 not effective during a period when the obligee is receiving assistance under an Alaska
 17 Native family assistance program;

18 (5) the child support services agency, on behalf of an Alaska Native
 19 family assistance program, shall take all necessary action permitted by law to enforce
 20 child support orders entered under AS 25.27, including petitioning the court for orders
 21 to aid in the enforcement of child support;

22 (6) if an obligor under AS 25.27 is liable to an Alaska Native family
 23 assistance program under (1) of this subsection, the state is subrogated to the rights of
 24 the obligee to take actions authorized under AS 25.27.130(a);

25 (7) notwithstanding AS 25.27.130(c), the recovery of an amount for
 26 which an obligor under AS 25.27 is liable that exceeds the total assistance granted
 27 under AS 47.07 and this chapter shall be paid to the obligee;

28 (8) except as provided in AS 25.27.130(f), if an obligee under
 29 AS 25.27 is not receiving assistance under AS 47.07 or this chapter at the time the
 30 state recovers money in an action under AS 25.27.130(d) or (1) of this subsection, the
 31 recovery of any amount for which the obligor is liable shall be distributed to the

1 obligee for support payments, including medical support payments, that had become
 2 due and unpaid since the termination of assistance under AS 47.07 or this chapter
 3 under a support order in favor of the obligee;

4 (9) after payment to the obligee under (8) of this subsection, the state
 5 may retain an amount not to exceed the total unreimbursed assistance paid on behalf
 6 of the obligee under AS 47.07 or this chapter;

7 (10) if an alleged obligor is liable to an Alaska Native family
 8 assistance program under (1) of this subsection, and a support order has not been
 9 entered, the child support services agency may, at its own discretion, undertake an
 10 action to establish paternity and a duty of support using the procedures prescribed in
 11 AS 25.27 and may enforce a duty of support using the procedures prescribed in
 12 AS 25.27; the agency may also institute administrative proceedings to determine the
 13 paternity of a child born out of wedlock upon application of an Alaska Native family
 14 assistance program; the agency may not recover costs of genetic tests required under
 15 this paragraph from a person who is a recipient of assistance under an Alaska Native
 16 family assistance program;

17 (11) when a hearing officer makes a determination under
 18 AS 25.27.170(d), the hearing officer shall, in addition to the factors described in
 19 AS 25.27.170(e), consider the amount of the alleged obligor's liability to an Alaska
 20 Native family assistance program under (1) of this subsection;

21 (12) notwithstanding AS 25.27.255(a), the child support services
 22 agency may not pay to an obligee any money that has been assigned to an Alaska
 23 Native family assistance program.

24 * **Sec. 12.** The uncoded law of the State of Alaska is amended by adding a new section to
 25 read:

26 **INDIRECT COURT RULE AMENDMENT.** AS 25.27.060(c), amended by sec. 3 of
 27 this Act, has the effect of changing Rule 90.3, Alaska Rules of Civil Procedure, by changing
 28 standards for issuance of medical and other support orders by the court.

29 * **Sec. 13.** The uncoded law of the State of Alaska is amended by adding a new section to
 30 read:

31 **APPLICABILITY.** This Act applies to actions filed on or after the effective date of

1 this section and to motions filed on or after the effective date in proceedings filed before, on,
2 or after the effective date of this section.

3 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
6 regulations necessary to implement this Act. The regulations take effect under AS 44.62
7 (Administrative Procedure Act), but not before July 1, 2009.

8 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 CONDITIONAL EFFECT. Section 3 of this Act takes effect only if sec. 12 of this Act
11 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
12 of the State of Alaska.

13 * **Sec. 16.** Section 14 of this Act takes effect immediately under AS 01.10.070(c).

14 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2009.

SENATE BILL NO. 96

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Introduced: 2/4/09

Referred: Health and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to nonpayment of child support; relating to certain judicial and**
2 **administrative orders for medical support of a child; relating to periodic review and**
3 **adjustment of child support orders; relating to relief from administrative child support**
4 **orders; relating to child support arrearages; relating to medical support of a child and**
5 **the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil**
6 **Procedure; and providing for an effective date."**

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

8 * **Section 1.** AS 11.51.122(a) is amended to read:

9 (a) A person commits the crime of aiding the nonpayment of child support in
10 the second degree if the person knows that an obligor has a duty under an
11 administrative or judicial order for periodic payment of child support, for cash
12 medical support, or for the provision of health care coverage for a child under a
13 medical support order or a cash medical support order, or both and

1 (1) being a person with a statutory duty to disclose information to a
 2 child support enforcement agency intentionally withholds the information when it is
 3 requested by a child support enforcement agency;

4 (2) being an employer of the obligor, intentionally withholds
 5 information about the residence or employment of the obligor, the eligibility of the
 6 obligor's children for coverage under the employer's health insurance plan, or the cost
 7 of the coverage of the children under the plan, when that information is requested by a
 8 child support enforcement agency or when the employer is required by state or federal
 9 law to report the information without a request by a child support enforcement agency;
 10 or

11 (3) intentionally participates in a commercial, business, employment,
 12 or other arrangement with the obligor, knowing at the time that the arrangement is
 13 made that it will allow the obligor to avoid paying all or some of the support when it is
 14 due or to avoid having a lien placed on assets for the payment of delinquent support;
 15 receipt of a substantial asset for less than fair market value from an obligor after the
 16 obligor's support order has been established constitutes a rebuttable presumption that
 17 the person receiving the asset knew that the transfer would allow the obligor to avoid
 18 paying all or some of the support or to avoid having a lien placed on the asset.

19 * **Sec. 2.** AS 25.27.060(c) is amended to read:

20 (c) In a court or administrative proceeding where the support of a minor child
 21 is at issue, the court or agency, as applicable, may order either **parent** or both parents
 22 to pay the amount necessary for support, maintenance, nurture, and education of the
 23 child. Regardless of whether a support order for periodic payments is issued, the court
 24 or agency shall issue a medical support order, **a cash medical support order, or**
 25 **both**. The medical support order shall require health care insurance coverage for the
 26 child if health care insurance coverage is available to either parent **or both parents** for
 27 the child at a reasonable cost. The court or agency shall consider whether the child is
 28 eligible for services through the Indian Health Service or other insurance coverage
 29 before ordering either parent **or both parents** to provide health care coverage through
 30 insurance, **cash medical support,** or other means **or a combination of insurance,**
 31 **cash medical support, or other means.** The court or agency shall allocate equally the

cost of health care insurance for the child between the parents unless there is good cause to allocate the costs unequally. If the obligor has the duty to make periodic payments for non-medical child support, the obligor's periodic payments shall be decreased by the amount of the other parent's portion of payments for health insurance ordered by the court or agency and actually paid by the obligor. If the obligor has a duty to make periodic payments for non-medical child support, the periodic payments shall be increased by the obligor's portion of payments for health insurance if the other parent is ordered to and actually does obtain and pay for insurance. The court or agency shall allocate equally between the parents the cost of reasonable health care expenses not covered by private insurance unless there is good cause to allocate the costs unequally. One parent shall reimburse the other parent for the first parent's share of the uncovered expenses paid by the parent within 30 days after receipt by the first parent of the bill for the health care, payment verification, and, if applicable, a health insurance statement indicating what portion of the cost is uncovered. The medical support order must meet the requirements of AS 25.27.063. Upon a showing of good cause, the court may order the parents required to pay support to give reasonable security for payments.

* Sec. 3. AS 25.27.160(c) is amended to read:

(c) If the agency is establishing only [A] medical support [ORDER], the notice and finding of financial responsibility must state

(1) that health care insurance shall be provided for the child to whom the duty of support is owed if health care insurance is available to the alleged obligor at a reasonable cost and that the alleged obligor and the other parent shall share equally the cost of the health care insurance and the costs of reasonable health care expenses not covered by insurance;

(2) the sum of periodic payments of cash medical support for which either parent or both parents are found to be responsible under this chapter;

(3) the name of the alleged obligee and the obligee's custodian;

(4) [(3)] that the alleged obligor may appear and show cause in a hearing held by the agency why the finding is incorrect, should not be finally ordered,

1 and should be modified or rescinded, because

2 (A) no duty of support is owed;

3 (B) health care insurance for the child is not available to the
4 alleged obligor at a reasonable cost;

5 (C) adequate health care is available to the child through the
6 Indian Health Service or other insurance coverage; or

7 (D) there is good cause to allocate the costs of health insurance,
8 cash medical support, or uninsured health care expenses unequally between
9 the parents;

10 (5) [(4)] that, if the person served with the notice under this subsection
11 does not request a hearing within 30 days, a copy of the medical support order will be
12 sent to the person's employer under AS 25.27.063(b) without further notice or hearing
13 for inclusion of the child in family health coverage if it is available through the
14 person's employer.

15 * **Sec. 4.** AS 25.27.193 is amended to read:

16 **Sec. 25.27.193. Periodic review or adjustment of support orders.** As
17 necessary to comply with 42 U.S.C. 666, the agency, by regulation, shall provide
18 procedures and standards for the modification, through a three-year cycle of
19 [PERIODIC] review or adjustment, of a support order. Regulations adopted under this
20 section must include procedures for periodic notice of the right to request review,
21 procedures for hearings, and standards for adjustments regarding future periodic
22 support payments. A modification under this section may be made without a showing
23 of a material change in circumstances.

24 * **Sec. 5.** AS 25.27.195(a) is amended to read:

25 (a) A clerical mistake in an administrative order issued by the agency or an
26 error arising from an oversight or omission by the agency may be corrected by the
27 agency at any time [ON THE MOTION OF AN OBLIGOR].

28 * **Sec. 6.** AS 25.27.195(b) is amended to read:

29 (b) The [UPON THE MOTION OF AN OBLIGOR, THE] agency may, at any
30 time, vacate an administrative support order issued by the agency under AS 25.27.160
31 that was based on a default amount rather than on the obligor's actual ability to pay.

1 * **Sec. 7.** AS 25.27.900(2) is repealed and reenacted to read:

2 (2) "arrearage" means a debt that is past due and equal to at least one
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7 insurance;

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9 (E) payment of attorney fees and legal costs and other fees;

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15 whom the child is living; "support order" includes a judgment, decree, or order

16 (A) on behalf of a child who has reached the age of majority if
17 the judgment, decree, or order was lawfully issued; and

18 (B) for any or all of the following:

19 (i) monetary support, including arrearages;

20 (ii) payment of health care costs or maintenance of
21 health insurance;

22 **(iii) payment of cash medical support;**

23 **(iv)** [(iii)] reimbursement of related costs;

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31 who

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: 773-09-0026
 () Publish Date: _____

Identifier (file name): CSSB96(HSS)-DOR-CSS-03-02-09
 Title: Cash Medical Support for Minor Children
 Sponsor: _____
 Requester: Governor
 Dept. Affected: Revenue
 RDU: Child Support Services Division
 Component: Child Support Services Division
 Component Number: 111

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
-------------------------------	--	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation does not require any additional funding.

Prepared by: John Mallonee
 Division: Child Support Services Division
 Approved by: Jerry Burnett
Department of Revenue

Phone: 269-6801
 Date/Time: 12/12/2008 / 5:00pm
 Date: 12/15/2008