

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 62

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES DAVIES, B.Davis, Elton

Introduced: 2/1/95

Referred: State Affairs, Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain licenses and applications for licenses for persons who**
2 **are not in substantial compliance with orders, judgments, or payment schedules**
3 **for child support; and providing for an effective date."**

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

5 *** Section 1.** AS 25.27 is amended by adding new sections to read:

6 Sec. 25.27.244. ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S
7 OCCUPATIONAL LICENSE. (a) The agency shall compile and maintain a list of
8 obligors who are not in substantial compliance with a support order. The list must
9 include the names, social security numbers, dates of birth, and last known addresses
10 of the obligors. The list shall be updated by the agency on a monthly basis.

11 (b) The agency shall, on a monthly basis, provide a copy of the list to each
12 licensing entity through a computer-readable magnetic medium. A licensing entity
13 subject to this section shall implement procedures to accept and process the list.
14 Notwithstanding any other law to the contrary, a licensing entity may not issue or

1 renew a license for a person on the list except as provided in this section.

2 (c) Promptly after receiving an application from an applicant and before
3 issuing or renewing a license, a licensing entity shall determine whether the applicant
4 is on the most recent list provided by the agency. If the applicant is on the list, the
5 licensing entity shall immediately serve notice under (e) or (f) of this section of the
6 licensing entity's intent to withhold issuance or renewal of the license. The notice
7 shall be considered given when delivered personally to the obligor or deposited in the
8 U.S. mail addressed to the applicant's last known mailing address on file with the
9 licensing entity.

10 (d) Except as provided for commercial fishing licenses under (e) of this
11 section, a licensing entity shall issue a temporary license valid for a period of 150 days
12 to an applicant whose name is on the list if the applicant is otherwise eligible for a
13 license. The temporary license may not be extended. Only one temporary license may
14 be issued during a regular license term and its validity shall coincide with the first 150
15 days of that license term. A license for the full or remainder of the license term may
16 be issued or renewed only upon compliance with this section. If a license or
17 application is denied under this section, funds paid by the applicant or licensee may
18 not be refunded by the licensing entity.

19 (e) If the Department of Fish and Game receives an application under
20 AS 16.05.480 for issuance or renewal of a commercial fishing license, other than a
21 crewmember fishing license, from an applicant whose name is on the list, the
22 Department of Fish and Game shall issue the license if the applicant otherwise
23 qualifies for it. Along with the license, the Department of Fish and Game shall send
24 to the applicant a notice that the license will not be reissued or renewed the next time
25 it is applied for if the applicant's name is on the list at the time of the subsequent
26 application unless the Department of Fish and Game receives a release from the
27 agency.

28 (f) Notices for use under (c) and (e) of this section, as applicable, shall be
29 developed by each licensing entity under guidelines provided by the agency and are
30 subject to approval by the agency. The notice must include the address and telephone
31 number of the agency and shall emphasize the necessity of obtaining a release from

1 the agency as a condition for the issuance or renewal of a license. The notice must
2 inform an applicant whose license is governed by (d) of this section that the licensing
3 entity shall issue a temporary license for 150 calendar days under (d) of this section
4 if the applicant is otherwise eligible and that, upon expiration of that time period, the
5 license will be denied unless the licensing entity has received a release from the
6 agency. The notice must also inform the applicant that, if a license or application is
7 denied under this section, funds paid by the applicant will not be refunded by the
8 licensing entity. The agency shall also develop a form that the applicant may use to
9 request a review by the agency. A copy of this form shall be included with each
10 notice sent under (c) or (e) of this section.

11 (g) The agency shall establish review procedures consistent with this section
12 to allow an applicant to have the underlying arrearage and relevant defenses
13 investigated, to provide an applicant information on the process of obtaining a
14 modification of a support order, or to provide an applicant assistance in the
15 establishment of a payment schedule on arrearages if the circumstances warrant.

16 (h) If the applicant wishes to challenge being included on the list, the applicant
17 shall submit to the agency a written request for review within 30 days after receiving
18 the notice under (c) or (e) of this section by using the form developed under (f) of this
19 section. Within 30 days after receiving a written request for review, the agency shall
20 inform the applicant in writing of the agency's findings. The agency shall immediately
21 send a release to the appropriate licensing entity and the applicant if any of the
22 following conditions is met:

23 (1) the applicant is found to be in substantial compliance with each
24 support order applicable to the applicant or has negotiated an agreement with the
25 agency for a payment schedule on arrearages and is in substantial compliance with the
26 negotiated agreement; if the applicant fails to be in substantial compliance with an
27 agreement negotiated under this paragraph, the agency shall send to the appropriate
28 licensing entity a revocation of any release previously sent to the entity for that
29 applicant;

30 (2) the applicant has submitted a timely request for review to the
31 agency, but the agency will be unable to complete the review and send notice of

1 findings to the applicant in sufficient time for the applicant to file a timely request for
2 judicial relief within the 150-day period during which the applicant's temporary license
3 is valid under (d) of this section or before the subsequent licensing period under (e)
4 of this section; this paragraph applies only if the delay in completing the review
5 process is not the result of the applicant's failure to act in a reasonable, timely, and
6 diligent manner upon receiving notice from the licensing entity that the applicant's
7 name is on the list;

8 (3) the applicant has, within 30 days after receiving the agency's
9 findings following a request for review under (2) of this subsection, filed and served
10 a request for judicial relief under this section, but a resolution of that relief will not
11 be made within the 150-day period of the temporary license under (d) of this section
12 or before the subsequent licensing period under (e) of this section; this paragraph
13 applies only if the delay in completing the judicial relief process is not the result of
14 the applicant's failure to act in a reasonable, timely, and diligent manner upon
15 receiving the agency's notice of findings; or

16 (4) the applicant has obtained a judicial finding of substantial
17 compliance.

18 (i) An applicant is required to act with diligence in responding to notices from
19 the licensing entity and the agency with the recognition that the temporary license
20 granted under (d) of this section will lapse after 150 days or that a subsequent license
21 will not be issued under (e) of this section and that the agency and, where appropriate,
22 the court must have time to act within that 150-day period or before the subsequent
23 license is needed, as applicable. An applicant's delay in acting, without good cause,
24 that directly results in the inability of the agency to complete a review of the
25 applicant's request or the court to hear the request for judicial relief within the required
26 period does not constitute the diligence required under this section that would justify
27 the issuance of a release.

28 (j) Except as otherwise provided in this section, the agency may not issue a
29 release if the applicant is not in substantial compliance with the order for support or
30 is not in substantial compliance with an agreement negotiated under (h)(1) of this
31 section. The agency shall notify the applicant in writing that the applicant may request

1 any or all of the following: (1) judicial relief from the agency's decision not to issue
2 a release or the agency's decision to revoke a release under (h)(1) of this section; (2)
3 a judicial determination of substantial compliance; (3) a modification of the support
4 order. The notice must also contain the name and address of the court in which the
5 applicant may file the request for relief and inform the applicant that the applicant's
6 name shall remain on the list if the applicant does not request judicial relief within 30
7 days after receiving the notice. The applicant shall comply with all statutes and rules
8 of court implementing this section. This section does not limit an applicant's authority
9 under other law to request an order to show cause or notice of motion to modify a
10 support order or to fix a payment schedule on arrearages accruing under a support
11 order or to obtain a court finding of substantial compliance with a support order.

12 (k) A request for judicial relief from the agency's decision must state the
13 grounds on which relief is requested and the judicial action shall be limited to those
14 stated grounds. Judicial relief under this subsection is not an appeal, and shall be
15 governed by court rules adopted to implement this section. Unless otherwise provided
16 by court rule, the court shall hold an evidentiary hearing within 20 calendar days of
17 the filing of service on the opposing party. The court's decision shall be limited to a
18 determination of each of the following issues:

19 (1) whether there is a support order or a payment schedule on
20 arrearages;

21 (2) whether the petitioner is the obligor covered by the support order;
22 and

23 (3) whether the obligor is in substantial compliance with the support
24 order or payment schedule.

25 (l) If the court finds that the obligor is in substantial compliance with the
26 support order or payment schedule, the agency shall immediately send a release under
27 (h) of this section to the appropriate licensing entity and the applicant.

28 (m) When the obligor is in substantial compliance with a support order or
29 payment schedule, the agency shall mail to the applicant and the appropriate licensing
30 entity a release stating that the applicant is in substantial compliance. The receipt of
31 a release shall serve to notify the applicant and the licensing entity that, for the

1 purposes of this section, the applicant is in substantial compliance with the support
2 order or payment schedule unless the agency, under (a) of this section, certifies
3 subsequent to the issuance of a release that the applicant is once again not in
4 substantial compliance with a support order or payment schedule.

5 (n) The agency may enter into interagency agreements with the state agencies
6 that have responsibility for the administration of licensing entities as necessary to
7 implement this section to the extent that it is cost effective to implement the
8 interagency agreements. The agreements shall provide for the receipt by the other
9 state agencies and licensing entities of federal funds to cover that portion of costs
10 allowable in federal law and regulation and incurred by the state agencies and licensing
11 entities in implementing this section.

12 (o) Notwithstanding any other provision of law, the licensing entities subject
13 to this section may levy a surcharge on a fee collected to cover the costs of
14 implementing and administering this section.

15 (p) The process described in (h) of this section is the sole administrative
16 remedy for contesting the issuance to the applicant of a temporary license or the denial
17 of a license under this section. The procedures specified in AS 44.62.330 - 44.62.630
18 (Administrative Procedure Act) do not apply to the denial or failure to issue or renew
19 a license under this section.

20 (q) The agency and licensing entities, as appropriate, shall adopt regulations
21 necessary to implement this section.

22 (r) In this section,

23 (1) "applicant" means a person applying for issuance or renewal of a
24 license;

25 (2) "license"

26 (A) means, except as provided in (B) of this paragraph, a
27 license, certificate, permit, registration, or other authorization that, at the time
28 of issuance, will be valid for more than 150 days that may be acquired from
29 a state agency to perform an occupation, including the following:

30 (i) license relating to boxing or wrestling under

31 AS 05.10;

- 1 (ii) authorization to perform an occupation regulated
2 under AS 08;
- 3 (iii) teacher certificate under AS 14.20;
- 4 (iv) commercial fishing license under AS 16.05.480,
5 except for a crewmember fishing license;
- 6 (v) entry permit or interim use permit under AS 16.43;
- 7 (vi) authorization under AS 18.08 to perform emergency
8 medical services;
- 9 (vii) asbestos worker certification under AS 18.31;
- 10 (viii) boiler operator's license under AS 18.60.395;
- 11 (ix) certificate of fitness under AS 18.62;
- 12 (x) hazardous painting certification under AS 18.63;
- 13 (xi) security guard license under AS 18.65.400 -
14 18.65.490;
- 15 (xii) license relating to insurance under AS 21.27;
- 16 (xiii) employment agency permit under AS 23.15.330 -
17 23.15.520;
- 18 (xiv) registration as a broker-dealer, agent, or investment
19 adviser under AS 45.55.030;
- 20 (xv) certification as a pesticide applicator under
21 AS 46.03.320;
- 22 (xvi) certification as a storage tank worker or contractor
23 under AS 46.03.375; and
- 24 (xvii) certification as a water and wastewater works
25 operator under AS 46.30;
- 26 (B) does not include
- 27 (i) a vessel license issued under AS 16.05.490 or
28 16.05.530;
- 29 (ii) a license issued under AS 47.35;
- 30 (iii) a business license issued under AS 43.70; or
- 31 (iv) a driver's license issued under AS 28.15;

1 (3) "licensee" means a person holding a license or applying to renew
2 a license;

3 (4) "licensing entity" means the state agency that issues or renews a
4 license; in the case of a license issued or renewed by the Department of Commerce
5 and Economic Development after an applicant's qualifications are determined by
6 another agency, "licensing entity" means the department;

7 (5) "list" means the list of obligors compiled and maintained under (a)
8 of this section;

9 (6) "substantial compliance with a support order or payment schedule"
10 means that, with respect to a support order or a negotiated payment schedule under (h)
11 of this section, the obligor has no more than \$2,500 past due and has cumulatively
12 paid an amount equal to or greater than the amount due for one month during the past
13 12 months.

14 Sec. 25.27.246. ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S
15 DRIVER'S LICENSE. (a) The agency shall compile and maintain a list of obligors
16 who have a driver's license and are not in substantial compliance with a support order.
17 The list must include the names, social security numbers, dates of birth, and last
18 known addresses of the obligors. The list shall be updated by the agency on a monthly
19 basis.

20 (b) The agency shall serve notice under (d) of this section to each person on
21 the list that the person's driver's license will be suspended in 150 days, and will not
22 be reissued or renewed the next time it is applied for if the person's name is on the
23 list at the time of the subsequent application, unless the licensee receives a release
24 from the agency. The notice shall be considered given when delivered personally to
25 the obligor or deposited in the U.S. mail addressed to the obligor's last known mailing
26 address on file with the agency.

27 (c) If the licensee fails to obtain a release during the 150-day period following
28 notice under (b) and (d) of this section, the agency shall notify the department that the
29 licensee's driver's license should be suspended and further renewals or applications
30 should be denied until the agency sends the department a release for the licensee.
31 Upon receiving the agency's notice under this subsection, the department shall suspend

1 the licensee's driver's license and may not issue or renew a driver's license for the
2 licensee until the department receives a release to do so from the agency. If a license
3 or application is suspended or denied under this section, funds paid by the applicant
4 or licensee may not be refunded by the department.

5 (d) The notice under (b) of this section must include the address and telephone
6 number of the agency and shall emphasize the necessity of obtaining a release from
7 the agency as a condition for avoiding suspension or denial of the person's driver's
8 license. The notice must also inform the licensee that, if a license or application is
9 suspended or denied under this section, funds paid by the licensee will not be refunded
10 by the department. The agency shall also develop a form that the licensee may use
11 to request a review by the agency. A copy of this form shall be included with each
12 notice sent under (b) of this section.

13 (e) The agency shall establish review procedures consistent with this section
14 to allow a licensee to have the underlying arrearage and relevant defenses investigated,
15 to provide a licensee with information on the process of obtaining a modification of
16 a support order, or to provide a licensee with assistance in the establishment of a
17 payment schedule on arrearages if the circumstances warrant.

18 (f) If a licensee wishes to challenge being included on the list, the licensee
19 shall submit to the agency a written request for review within 30 days after the notice
20 under (b) of this section was personally delivered or postmarked by using the form
21 developed under (d) of this section. Within 30 days after receiving a written request
22 for review, the agency shall inform the licensee in writing of the agency's findings.
23 The agency shall immediately send a release to the department and the licensee if any
24 of the following conditions is met:

25 (1) the licensee is found to be in substantial compliance with each
26 support order applicable to the licensee or has negotiated an agreement with the agency
27 for a payment schedule on arrearages and is in substantial compliance with the
28 negotiated agreement; if the licensee fails to be in substantial compliance with an
29 agreement negotiated under this paragraph, the agency shall send to the department a
30 revocation of any release previously sent to the entity for that licensee;

31 (2) the licensee has submitted a timely request for review to the

1 agency, but the agency will be unable to complete the review and send notice of
2 findings to the licensee in sufficient time for the licensee to file a timely request for
3 judicial relief within the 150-day period before the licensee's license will be suspended
4 under (c) of this section; this paragraph applies only if the delay in completing the
5 review process is not the result of the licensee's failure to act in a reasonable, timely,
6 and diligent manner upon receiving notice from the agency that the licensee's driver's
7 license will be suspended in 150 days;

8 (3) the licensee has, within 30 days after receiving the agency's
9 findings following a request for review under (2) of this subsection, filed and served
10 a request for judicial relief under this section, but a resolution of that relief will not
11 be made within the 150-day period before license suspension under (c) of this section;
12 this paragraph applies only if the delay in completing the judicial relief process is not
13 the result of the licensee's failure to act in a reasonable, timely, and diligent manner
14 upon receiving the agency's notice of findings; or

15 (4) the licensee has obtained a judicial finding of substantial
16 compliance.

17 (g) A licensee is required to act with diligence in responding to notices from
18 the agency with the recognition that the person's driver's license will be suspended
19 after 150 days or that a subsequent license will not be issued and that the agency and,
20 where appropriate, the court must have time to act within that 150-day period or before
21 the subsequent license is needed, as applicable. A licensee's delay in acting, without
22 good cause, that directly results in the inability of the agency to complete a review of
23 the licensee's request or the court to hear the request for judicial relief within the
24 required period does not constitute the diligence required under this section that would
25 justify the issuance of a release.

26 (h) Except as otherwise provided in this section, the agency may not issue a
27 release if the applicant is not in substantial compliance with the order for support or
28 is not in substantial compliance with an agreement negotiated under (f)(1) of this
29 section. The agency shall notify the licensee in writing that the licensee may request
30 any or all of the following: (1) judicial relief from the agency's decision not to issue
31 a release or the agency's decision to revoke a release under (f)(1) of this section; (2)

1 a judicial determination of substantial compliance; (3) a modification of the support
2 order. The notice must also contain the name and address of the court in which the
3 licensee may file the request for relief and inform the licensee that the licensee's name
4 shall remain on the list if the licensee does not request judicial relief within 30 days
5 after receiving the notice. The licensee shall comply with all statutes and rules of
6 court implementing this section. This section does not limit a licensee's authority
7 under other law to request an order to show cause or notice of motion to modify a
8 support order or to fix a payment schedule on arrearages accruing under a support
9 order or to obtain a court finding of substantial compliance with a support order.

10 (i) A request for judicial relief from the agency's decision must state the
11 grounds on which relief is requested and the judicial action shall be limited to those
12 stated grounds. Judicial relief under this subsection is not an appeal, and shall be
13 governed by court rules adopted to implement this section. Unless otherwise provided
14 by court rule, the court shall hold an evidentiary hearing within 20 calendar days of
15 the filing of service on the opposing party. The court's decision shall be limited to a
16 determination of each of the following issues:

17 (1) whether there is a support order or a payment schedule on
18 arrearages;

19 (2) whether the petitioner is the obligor covered by the support order;
20 and

21 (3) whether the obligor is in substantial compliance with the support
22 order or payment schedule.

23 (j) If the court finds that the obligor is in substantial compliance with the
24 support order or payment schedule, the agency shall immediately send a release under
25 (f) of this section to the department and the licensee.

26 (k) When the obligor is in substantial compliance with a support order or
27 payment schedule, the agency shall mail to the applicant and the department a release
28 stating that the licensee is in substantial compliance. The receipt of a release shall
29 serve to notify the licensee and the department that, for the purposes of this section,
30 the applicant is in substantial compliance with the support order or payment schedule
31 unless the agency, under (a) of this section, certifies subsequent to the issuance of a

1 release that the licensee is once again not in substantial compliance with a support
2 order or payment schedule.

3 (l) Notwithstanding any other provision of law, the department may levy a
4 surcharge on a fee collected under AS 28.15 to cover the costs of implementing and
5 administering this section.

6 (m) The process described in (f) of this section is the sole administrative
7 remedy for contesting the suspension or the denial of a driver's license under this
8 section. The procedures specified in AS 28 or AS 44.62.330 - 44.62.630
9 (Administrative Procedure Act) do not apply to the suspension or failure to issue or
10 renew a license under this section.

11 (n) The agency and department, as appropriate, shall adopt regulations
12 necessary to implement this section.

13 (o) In this section,

14 (1) "department" means the Department of Public Safety;

15 (2) "driver's license" or "license" means a driver's license, as defined
16 in AS 28.40.100;

17 (3) "licensee" means a person holding or requesting a driver's license;

18 (4) "list" means the list of obligors compiled and maintained under (a)
19 of this section;

20 (5) "substantial compliance with a support order or payment schedule"
21 means that, with respect to a support order or a negotiated payment schedule under (f)
22 of this section, the obligor has no more than \$2,500 past due and has cumulatively
23 paid an amount equal to or greater than the amount due for one month during the past
24 12 months.

25 * **Sec. 2. REPORT.** (a) In furtherance of the public policy of increasing child support
26 enforcement and collections, on or before January 1, 1998, the child support enforcement
27 agency shall make a report to the legislature and the governor based on data collected by the
28 licensing entities and the agency in a format prescribed by the agency. The report must
29 contain

30 (1) the number of delinquent obligors on the lists maintained by the agency
31 under AS 25.27.244 - 25.27.246;

1 (2) the number of delinquent obligors who also were applicants or licensees
2 subject to AS 25.27.244 - 25.27.246;

3 (3) the number of new licenses and renewals that were delayed or denied and
4 temporary licenses issued subject to AS 25.27.244 and the number of new licenses and
5 renewals granted following receipt by licensing entities of releases under AS 25.27.244 by
6 July 1, 1997;

7 (4) the number of licenses under AS 28.15 that were suspended under
8 AS 25.27.246 and the number of licenses under AS 28.15 that were reinstated following
9 receipt by the Department of Public Safety of releases under AS 25.27.246 by July 1, 1997;
10 and

11 (5) the costs incurred in the implementation and enforcement of AS 25.27.244
12 - 25.27.246.

13 (b) A licensing entity receiving an inquiry from the agency under (a) of this section
14 shall cooperate with the agency. When queried as to the licensed status of an applicant who
15 has had a license denied or suspended under AS 25.27.244 or 25.27.246 or has been granted
16 a temporary license under AS 25.27.244, the licensing entity shall respond only that the
17 license was denied or suspended or that the temporary license was issued.

18 * **Sec. 3.** This Act takes effect January 1, 1996.