

CS FOR SENATE BILL NO. 109(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/30/95
Referred: Finance

Sponsor(s): SENATOR ELLIS

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 or payment
9 schedule negotiated under (g)(1) of this section. The list must include the names,
10 social security numbers, dates of birth, and last known addresses of the obligors. The
11 list shall be updated by the agency on a monthly basis.

12 (b) The agency shall, on a monthly basis, provide a copy of the list to each
13 licensing entity through a computer-readable magnetic medium. A licensing entity
14 subject to this section shall implement procedures to accept and process the list.

1 Notwithstanding any other law to the contrary, a licensing entity may not issue or
2 renew a license for a person on the list except as provided in this section.

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

11 (d) A licensing entity shall issue a temporary license valid for a period of 150
12 days to an applicant whose name is on the list if the applicant is otherwise eligible for
13 a license. The temporary license may not be extended. Only one temporary license
14 may be issued during a regular license term and its validity shall coincide with the first
15 150 days of that license term. A license for the full or remainder of the license term
16 may 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 shall
18 be refunded by the licensing entity after retention of the temporary license fee, if any.

19 (e) Notices for use under (c) of this section shall be developed by each
20 licensing entity under guidelines provided by the agency and are subject to approval
21 by the agency. The notice must include the address and telephone number of the
22 agency and shall emphasize the necessity of obtaining a release from the agency as a
23 condition for the issuance or renewal of a license. The notice must inform an
24 applicant whose license is governed by (d) of this section that the licensing entity shall
25 issue a temporary license for 150 calendar days under (d) of this section if the
26 applicant is otherwise eligible and that, upon expiration of that time period, the license
27 will be denied unless the licensing entity has received a release from the agency. The
28 agency shall also develop a form that the applicant may use to request a review by the
29 agency. A copy of this form shall be included with each notice sent under (c) of this
30 section.

31 (f) The agency shall establish review procedures consistent with this section

1 to allow an applicant to have the underlying arrearage and relevant defenses
2 investigated, to provide an applicant information on the process of obtaining a
3 modification of a support order, or to provide an applicant assistance in the
4 establishment of a payment schedule on arrearages if the circumstances warrant.

5 (g) If the applicant wishes to challenge being included on the list, the applicant
6 shall submit to the agency a written request for review within 30 days after receiving
7 the notice under (c) of this section by using the form developed under (e) of this
8 section. Within 30 days after receiving a written request for review, the agency shall
9 inform the applicant in writing of the agency's findings. The agency shall immediately
10 send a release to the appropriate licensing entity and the applicant if any of the
11 following conditions is met:

12 (1) the applicant is found to be in substantial compliance with each
13 support order applicable to the applicant or has negotiated an agreement with the
14 agency for a payment schedule on arrearages and is in substantial compliance with the
15 negotiated agreement; if the applicant fails to be in substantial compliance with an
16 agreement negotiated under this paragraph, the agency shall send to the appropriate
17 licensing entity a revocation of any release previously sent to the entity for that
18 applicant;

19 (2) the applicant has submitted a timely request for review to the
20 agency, but the agency will be unable to complete the review and send notice of
21 findings to the applicant in sufficient time for the applicant to file a timely request for
22 judicial relief within the 150-day period during which the applicant's temporary license
23 is valid under (d) of this section; this paragraph applies only if the delay in completing
24 the review process is not the result of the applicant's failure to act in a reasonable,
25 timely, and diligent manner upon receiving notice from the licensing entity that the
26 applicant's name is on the list;

27 (3) the applicant has, within 30 days after receiving the agency's
28 findings following a request for review under (2) of this subsection, filed and served
29 a request for judicial relief under this section, but a resolution of that relief will not
30 be made within the 150-day period of the temporary license under (d) of this section;
31 this paragraph applies only if the delay in completing the judicial relief process is not

1 the result of the applicant's failure to act in a reasonable, timely, and diligent manner
2 upon receiving the agency's notice of findings; or

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

5 (h) An applicant is required to act with diligence in responding to notices from
6 the licensing entity and the agency with the recognition that the temporary license
7 granted under (d) of this section will lapse after 150 days and that the agency and,
8 where appropriate, the court must have time to act within that 150-day period. An
9 applicant's delay in acting, without good cause, that directly results in the inability of
10 the agency to complete a review of the applicant's request or the court to hear the
11 request for judicial relief within the required period does not constitute the diligence
12 required under this section that would justify the issuance of a release.

13 (i) Except as otherwise provided in this section, the agency may not issue a
14 release if the applicant is not in substantial compliance with the order for support or
15 is not in substantial compliance with an agreement negotiated under (g)(1) of this
16 section. The agency shall notify the applicant in writing that the applicant may request
17 any or all of the following: (1) judicial relief from the agency's decision not to issue
18 a release or the agency's decision to revoke a release under (g)(1) of this section; (2)
19 a judicial determination of substantial compliance; (3) a modification of the support
20 order. The notice must also contain the name and address of the court in which the
21 applicant may file the request for relief and inform the applicant that the applicant's
22 name shall remain on the list if the applicant does not request judicial relief within 30
23 days after receiving the notice. The applicant shall comply with all statutes and rules
24 of court implementing this section. This section does not limit an applicant's authority
25 under other law to request an order to show cause or notice of motion to modify a
26 support order or to fix a payment schedule on arrearages accruing under a support
27 order or to obtain a court finding of substantial compliance with a support order.

28 (j) A request for judicial relief from the agency's decision must state the
29 grounds on which relief is requested and the judicial action shall be limited to those
30 stated grounds. Judicial relief under this subsection is not an appeal, and shall be
31 governed by court rules adopted to implement this section. Unless otherwise provided

1 by court rule, the court shall hold an evidentiary hearing within 20 calendar days of
2 the filing of service on the opposing party. The court's decision shall be limited to a
3 determination of each of the following issues:

4 (1) whether there is a support order or a payment schedule on
5 arrearages;

6 (2) whether the petitioner is the obligor covered by the support order;
7 and

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

10 (k) If the court finds that the obligor is in substantial compliance with the
11 support order or payment schedule, the agency shall immediately send a release under
12 (g) of this section to the appropriate licensing entity and the applicant.

13 (l) When the obligor is in substantial compliance with a support order or
14 payment schedule, the agency shall mail to the applicant and the appropriate licensing
15 entity a release stating that the applicant is in substantial compliance. The receipt of
16 a release shall serve to notify the applicant and the licensing entity that, for the
17 purposes of this section, the applicant is in substantial compliance with the support
18 order or payment schedule unless the agency, under (a) of this section, certifies
19 subsequent to the issuance of a release that the applicant is once again not in
20 substantial compliance with a support order or payment schedule.

21 (m) The agency may enter into interagency agreements with the state agencies
22 that have responsibility for the administration of licensing entities as necessary to
23 implement this section to the extent that it is cost effective to implement the
24 interagency agreements. The agreements shall provide for the receipt by the other
25 state agencies and licensing entities of federal funds to cover that portion of costs
26 allowable in federal law and regulation and incurred by the state agencies and licensing
27 entities in implementing this section.

28 (n) Notwithstanding any other provision of law, the licensing entities subject
29 to this section shall assess a fee for issuance of a temporary license under this section.
30 The licensing entity shall set the amount of the fee so that the fees collected under this
31 section cover the costs of implementing and administering this section.

1 (o) The process described in (g) of this section is the sole administrative
2 remedy for contesting the issuance to the applicant of a temporary license or the denial
3 of a license under this section. The procedures specified in AS 44.62.330 - 44.62.630
4 (Administrative Procedure Act) do not apply to the denial or failure to issue or renew
5 a license under this section.

6 (p) The agency and licensing entities, as appropriate, shall adopt regulations
7 necessary to implement this section.

8 (q) In this section,

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

11 (2) "license"

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

16 (i) license relating to boxing or wrestling under
17 AS 05.10;

18 (ii) authorization to perform an occupation regulated
19 under AS 08;

20 (iii) teacher certificate under AS 14.20;

21 (iv) authorization under AS 18.08 to perform emergency
22 medical services;

23 (v) asbestos worker certification under AS 18.31;

24 (vi) boiler operator's license under AS 18.60.395;

25 (vii) certificate of fitness under AS 18.62;

26 (viii) hazardous painting certification under AS 18.63;

27 (ix) security guard license under AS 18.65.400 -
28 18.65.490;

29 (x) license relating to insurance under AS 21.27;

30 (xi) employment agency permit under AS 23.15.330 -
31 23.15.520;

1 (xii) registration as a broker-dealer, agent, or investment
2 adviser under AS 45.55.030;

3 (xiii) certification as a pesticide applicator under
4 AS 46.03.320;

5 (xiv) certification as a storage tank worker or contractor
6 under AS 46.03.375; and

7 (xv) certification as a water and wastewater works
8 operator under AS 46.30;

9 (B) does not include

10 (i) a vessel license issued under AS 16.05.490 or
11 16.05.530;

12 (ii) a commercial fishing license under AS 16.05.480,
13 including a crewmember fishing license;

14 (iii) an entry permit or interim-use permit issued under
15 AS 16.43;

16 (iv) a license issued under AS 47.35;

17 (v) a business license issued under AS 43.70; or

18 (vi) a driver's license issued under AS 28.15;

19 (3) "licensee" means a person holding a license or applying to renew
20 a license;

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

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

27 (6) "substantial compliance with a support order or payment schedule"
28 means that, with respect to a support order or a negotiated payment schedule under (g)
29 of this section, whichever is applicable, the obligor has no more than \$2,500 past due
30 and has cumulatively paid an amount equal to or greater than the amount due for eight
31 months during the past 12 months; with respect to a support order or payment schedule

1 that has been in effect for less than one year, "substantial compliance" means that the
2 obligor has no more than \$2,500 past due and has cumulatively paid an amount equal
3 to or greater than 67 percent of the amount due during the period the support order or
4 payment schedule has been in effect.

5 Sec. 25.27.246. ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S
6 DRIVER'S LICENSE. (a) The agency shall compile and maintain a list of obligors
7 who have a driver's license and are not in substantial compliance with a support order
8 or payment schedule negotiated under (f)(1) of this section. The list must include the
9 names, social security numbers, dates of birth, and last known addresses of the
10 obligors. The list shall be updated by the agency on a monthly basis.

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

18 (c) If the licensee fails to obtain a release during the 150-day period following
19 notice under (b) and (d) of this section, the agency shall notify the department that the
20 licensee's driver's license should be suspended and further renewals or applications
21 should be denied until the agency sends the department a release for the licensee.
22 Upon receiving the agency's notice under this subsection, the department shall suspend
23 the licensee's driver's license and may not issue or renew a driver's license for the
24 licensee until the department receives a release to do so from the agency. If a license
25 or application is suspended or denied under this section, funds paid by the applicant
26 or licensee may not be refunded by the department.

27 (d) The notice under (b) of this section must include the address and telephone
28 number of the agency and shall emphasize the necessity of obtaining a release from
29 the agency as a condition for avoiding suspension or denial of the person's driver's
30 license. The notice must also inform the licensee that, if a license or application is
31 suspended or denied under this section, funds paid by the licensee will not be refunded

1 by the department. The agency shall also develop a form that the licensee may use
2 to request a review by the agency. A copy of this form shall be included with each
3 notice sent under (b) of this section.

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

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

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

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

30 (3) the licensee has, within 30 days after receiving the agency's findings
31 following a request for review under (2) of this subsection, filed and served a request

1 for judicial relief under this section, but a resolution of that relief will not be made
2 within the 150-day period before license suspension under (c) of this section; this
3 paragraph applies only if the delay in completing the judicial relief process is not the
4 result of the licensee's failure to act in a reasonable, timely, and diligent manner upon
5 receiving the agency's notice of findings; or

6 (4) the licensee has obtained a judicial finding of substantial
7 compliance.

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

17 (h) Except as otherwise provided in this section, the agency may not issue a
18 release if the applicant is not in substantial compliance with the order for support or
19 is not in substantial compliance with an agreement negotiated under (f)(1) of this
20 section. The agency shall notify the licensee in writing that the licensee may request
21 any or all of the following: (1) judicial relief from the agency's decision not to issue
22 a release or the agency's decision to revoke a release under (f)(1) of this section; (2)
23 a judicial determination of substantial compliance; (3) a modification of the support
24 order. The notice must also contain the name and address of the court in which the
25 licensee may file the request for relief and inform the licensee that the licensee's name
26 shall remain on the list if the licensee does not request judicial relief within 30 days
27 after receiving the notice. The licensee shall comply with all statutes and rules of
28 court implementing this section. This section does not limit a licensee's authority
29 under other law to request an order to show cause or notice of motion to modify a
30 support order or to fix a payment schedule on arrearages accruing under a support
31 order or to obtain a court finding of substantial compliance with a support order.

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

8 (1) whether there is a support order or a payment schedule on
9 arrearages;

10 (2) whether the petitioner is the obligor covered by the support order;
11 and

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

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

17 (k) When the obligor is in substantial compliance with a support order or
18 payment schedule, the agency shall mail to the applicant and the department a release
19 stating that the licensee is in substantial compliance. The receipt of a release shall
20 serve to notify the licensee and the department that, for the purposes of this section,
21 the applicant is in substantial compliance with the support order or payment schedule
22 unless the agency, under (a) of this section, certifies subsequent to the issuance of a
23 release that the licensee is once again not in substantial compliance with a support
24 order or payment schedule.

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

30 (m) The agency and department, as appropriate, shall adopt regulations
31 necessary to implement this section.

- 1 (n) In this section,
- 2 (1) "department" means the Department of Public Safety;
- 3 (2) "driver's license" or "license" means a driver's license, as defined
- 4 in AS 28.40.100;
- 5 (3) "licensee" means a person holding or requesting a driver's license;
- 6 (4) "list" means the list of obligors compiled and maintained under (a)
- 7 of this section;
- 8 (5) "substantial compliance with a support order or payment schedule"
- 9 means that, with respect to a support order or a negotiated payment schedule under (f)
- 10 of this section, whichever is applicable, the obligor has no more than \$2,500 past due
- 11 and has cumulatively paid an amount equal to or greater than the amount due for eight
- 12 months during the past 12 months; with respect to a support order or payment schedule
- 13 that has been in effect for less than one year, "substantial compliance" means that the
- 14 obligor has no more than \$2,500 past due and has cumulatively paid an amount equal
- 15 to or greater than 67 percent of the amount due during the period the support order or
- 16 payment schedule has been in effect.

17 * **Sec. 2. REPORT.** (a) In furtherance of the public policy of increasing child support

18 enforcement and collections, on or before January 1, 1998, the child support enforcement

19 agency shall make a report to the legislature and the governor based on data collected by the

20 licensing entities and the agency in a format prescribed by the agency. The report must

21 contain

22 (1) the number of delinquent obligors on the lists maintained by the agency

23 under AS 25.27.244 - 25.27.246;

24 (2) the number of delinquent obligors who also were applicants or licensees

25 subject to AS 25.27.244 - 25.27.246;

26 (3) the number of new licenses and renewals that were delayed or denied and

27 temporary licenses issued subject to AS 25.27.244 and the number of new licenses and

28 renewals granted following receipt by licensing entities of releases under AS 25.27.244 by

29 July 1, 1997;

30 (4) the number of licenses under AS 28.15 that were suspended under

31 AS 25.27.246 and the number of licenses under AS 28.15 that were reinstated following

1 receipt by the Department of Public Safety of releases under AS 25.27.246 by July 1, 1997;
2 and

3 (5) the costs incurred in the implementation and enforcement of AS 25.27.244
4 - 25.27.246.

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

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