

CS FOR HOUSE BILL NO. 344(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/18/98

Referred: Judiciary, Finance

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to paternity establishment and to support orders; relating to the
2 crimes of criminal nonsupport and aiding the nonpayment of child support;
3 amending Rule 37(b)(2)(D), Alaska Rules of Civil Procedure; and providing for
4 an effective date."

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

6 * **Section 1.** PURPOSE. The primary purpose of this Act is to amend the Alaska Statutes
7 to comply with the mandates of the federal Personal Responsibility and Work Opportunity
8 Reconciliation Act of 1996 and other federal law to ensure continued federal financial
9 participation for Alaska's child support enforcement, public assistance, and unemployment
10 programs.

11 * **Sec. 2.** AS 09.10.040(a) is amended to read:

12 (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] person may
13 not bring an action upon a judgment or decree of a court of the United States, or of
14 a state or territory within the United States, and an action may not be brought upon

1 a sealed instrument, unless the action is commenced within 10 years.

2 * **Sec. 3.** AS 09.50.020 is amended by adding a new subsection to read:

3 (b) In addition to the penalty specified in (a) of this section, the court may
4 suspend or revoke, for a period not to exceed one year, a hunting license, sport fishing
5 license, or both, issued under AS 16.05, or the person's ability to obtain the licenses,
6 if

7 (1) the person is a natural person;

8 (2) the contempt is one under AS 09.50.010(4) - (10); and

9 (3) the court, sitting without a jury, finds by a preponderance of
10 evidence that

11 (A) the contempt related to failure to pay money in connection
12 with a child support action or proceeding; or

13 (B) it appears that a right or remedy of a party in a child
14 support action or proceeding was defeated or prejudiced by the contempt.

15 * **Sec. 4.** AS 11.51.120(c) is amended to read:

16 (c) Criminal nonsupport is a class A misdemeanor **and is also punishable by**
17 **loss of hunting and sport fishing licenses as provided in AS 12.55.139.**

18 * **Sec. 5.** AS 11.51.122(d) is amended to read:

19 (d) Aiding the nonpayment of child support is a class A misdemeanor **and is**
20 **also punishable by loss of hunting and sport fishing licenses as provided in**
21 **AS 12.55.139.**

22 * **Sec. 6.** AS 12.55 is amended by adding a new section to read:

23 **Sec. 12.55.139. Penalties for criminal nonsupport or aiding the**
24 **nonpayment of child support.** In addition to other penalties imposed, for the offense
25 of criminal nonsupport under AS 11.51.120 or aiding the nonpayment of child support
26 under AS 11.51.122, the court may suspend or revoke, for a period not to exceed one
27 year, a hunting license, sport fishing license, or both, issued under AS 16.05, if the
28 defendant is a natural person.

29 * **Sec. 7.** AS 16.05.330 is amended by adding a new subsection to read:

30 (e) A natural person applying for a license or tag for hunting or sport fishing
31 shall provide the person's social security number on the license application. Upon

1 request, the department shall provide the social security number to the child support
2 enforcement agency created in AS 25.27.010, or the child support agency of another
3 state, for child support purposes authorized by law.

4 * **Sec. 8.** AS 16.05.346 is amended by adding a new subsection to read:

5 (d) A person applying for a permit under this section shall provide the person's
6 social security number on the permit application. Upon request, the department shall
7 provide the social security number to the child support enforcement agency created in
8 AS 25.27.010, or the child support agency of another state, for child support purposes
9 authorized by law.

10 * **Sec. 9.** AS 16.05.360 is amended to read:

11 **Sec. 16.05.360. Commissioner charged with license issuance.** The
12 commissioner or an authorized deputy shall issue each license and tag to a qualified
13 person under written application containing such reasonable information as required
14 by the commissioner. The commissioner shall designate the license and tag form or
15 type. The form or type must be sufficient to identify and locate the applicant, [AND]
16 establish the applicant's status as to residency and citizenship, **and supply the**
17 **person's social security number if required by this chapter.** Each application shall
18 be subscribed and sworn to by the applicant before an officer authorized to administer
19 oaths in the state.

20 * **Sec. 10.** AS 16.05.360 is amended by adding a new subsection to read:

21 (b) Upon request, the department shall provide a social security number
22 provided by an applicant under (a) of this section to the child support enforcement
23 agency created in AS 25.27.010, or the child support agency of another state, for child
24 support purposes authorized by law.

25 * **Sec. 11.** AS 25.20.050 is amended by adding a new subsection to read:

26 (p) An order for genetic testing issued by a tribunal under (e) of this section
27 in an action to establish paternity may be enforced by a superior court through the use
28 of the court's contempt powers. If the tribunal is the child support enforcement
29 agency, it may use the procedure set out in AS 25.27.167 for enforcement of
30 administrative orders.

31 * **Sec. 12.** AS 25.25.602(a) is amended to read:

1 (a) A support order or income withholding order of another state may be
 2 registered in this state by sending the following documents and information to a
 3 tribunal of this state:

4 (1) a letter of transmittal to the tribunal requesting registration and
 5 enforcement;

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

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

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

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

12 (B) the name and address of the obligor's employer and any
 13 other source of income of the obligor; **and**

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

16 [(D) THE NAMES AND ADDRESSES OF ALL POTENTIAL
 17 THIRD-PARTY RESOURCES, INCLUDING A HEALTH INSURER, THAT
 18 MIGHT BE AVAILABLE TO MEET THE REQUIREMENTS OF A
 19 MEDICAL SUPPORT ORDER; AND]

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

22 * **Sec. 13.** AS 25.25.611(a) is amended to read:

23 (a) After a child support order issued in another state has been registered in
 24 this state, unless the provisions of AS 25.25.613 apply, the responding tribunal of this
 25 state may modify that order only if, after notice and an opportunity for hearing, it finds
 26 that

27 (1) the following requirements are met:

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

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

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

3 (2) [AN INDIVIDUAL PARTY OR] the child, **or a party who is an**
4 **individual**, is subject to the personal jurisdiction of the tribunal and all of the
5 [INDIVIDUAL] parties **who are individuals** have filed a written consent in the issuing
6 tribunal providing that a tribunal of this state may modify the support order and
7 assume continuing, exclusive jurisdiction over the order; however, if the issuing state
8 is a foreign jurisdiction that has not enacted a law or procedure substantially similar
9 to this chapter, the written consent of **an** [THE] individual [PARTY] residing in this
10 state is not required for the tribunal to assume jurisdiction to modify the child support
11 order.

12 * **Sec. 14.** AS 25.27.022(b) is amended to read:

13 (b) **Except for requests for assistance made under (c) of this section or**
14 **AS 25.25.501, requests** [REQUESTS] from child support enforcement agencies in
15 other states shall be made by application containing the information that this state's
16 agency requires and including written authorization from the requesting state agency
17 and the obligee for this state's agency to initiate necessary action.

18 * **Sec. 15.** AS 25.27.022 is amended by adding new subsections to read:

19 (c) Requests from a child support agency of another state for assistance in
20 enforcing support orders through high-volume automated administrative enforcement
21 may be made by electronic or other means and must include the information required
22 by 42 U.S.C. 666(a)(14).

23 (d) An employer receiving an income withholding order from a child support
24 agency of another state shall comply with the choice of law provisions of
25 AS 25.25.502(d), 25.25.503, and 42 U.S.C. 666(b)(6)(A)(i)(V).

26 * **Sec. 16.** AS 25.27.062(e) is amended to read:

27 (e) The agency or the person who obtains an income withholding order under
28 this chapter shall immediately send a copy of the income withholding order, a copy
29 of the relevant provisions of AS 25.27.260 and this section, and an explanation of the
30 effect of the statutes to persons who may owe money to an obligor. These items may
31 be sent by first class mail or certified mail, return receipt requested, or they may be

1 served personally by a process server, except that the agency alternatively may send
 2 the items by electronic means. An income withholding order made under this chapter
 3 is binding upon a person, employer, political subdivision, or department of the state
 4 immediately upon receipt of a copy of the income withholding order. **A person**
 5 **receiving an income withholding order** [AN EMPLOYER] shall immediately begin
 6 withholding the specified amount from the **obligor's earnings** [EMPLOYEE'S
 7 WAGES]. The amount withheld shall be sent to the agency within seven business
 8 days after the date the amount would otherwise have been paid or credited to the
 9 **obligor** [EMPLOYEE]. An employer may, for each payment made under an order,
 10 deduct \$5 from other wages or salary owed to the obligor.

11 * **Sec. 17.** AS 25.27.063(b) is amended to read:

12 (b) If an obligor who is required to provide health care coverage under a
 13 medical support order is eligible for family health coverage through an employer
 14 [DOING BUSINESS IN THE STATE], the court or agency issuing the medical
 15 support order shall send a copy of the medical support order to the employer. **If the**
 16 **agency has notice that the obligor has changed or will be changing employment**
 17 **and is or will be eligible for family health coverage through the new employer, the**
 18 **agency shall send a copy of the medical support order to the new employer.**

19 * **Sec. 18.** AS 25.27.075 is repealed and reenacted to read:

20 **Sec. 25.27.075. Employment information.** (a) An employer doing business
 21 in the state shall report to the agency the hiring, rehiring, or return to work of each
 22 employee. The report shall be made within the time limits set out in (b) of this
 23 section. The report must contain the name, address, and social security number of the
 24 newly hired employee, the name and address of the employer, and the identifying
 25 number assigned to the employer by the United States Department of the Treasury,
 26 Internal Revenue Service.

27 (b) An employer required to report under (a) of this section shall use the
 28 following procedures to make the report:

29 (1) if the report is submitted magnetically or electronically, the report
 30 shall be made in a format mutually agreed upon by the employer and the agency; an
 31 employer reporting under this paragraph shall make two transmissions a month, not

1 less than 12 days nor more than 16 days apart; or

2 (2) if the report is not submitted magnetically or electronically, the
3 report shall be made on a United States Department of the Treasury, Internal Revenue
4 Service, W-4 form or, at the option of the employer, on an equivalent form; an
5 employer reporting under this paragraph shall make the report to the agency not later
6 than 20 days after the date of the hiring, rehiring, or return to work of the employee;
7 the report shall be transmitted by the employer by first class mail.

8 (c) An employer that does business in this state and that has employees in at
9 least one other state is not required to comply with (a) of this section if, in compliance
10 with the laws of that state, the employer

11 (1) submits timely magnetic or electronic reports of hires, rehires, or
12 returns to work to the state directory of new hires of another state in which the
13 employer has employees; and

14 (2) has provided written notification of its election under this subsection
15 to the United States Secretary of Health and Human Services.

16 (d) In addition to reporting under (a) of this section, a labor organization of
17 which an obligor is a member or another employer of the obligor shall promptly
18 provide to the agency, or the child support enforcement agency of another state,
19 information requested regarding the obligor's compensation, employment, wages or
20 salary, and occupation.

21 (e) An employer may charge \$1 to each employee who is reported to the
22 agency under this section to cover the cost of the reporting.

23 (f) In addition to other sanctions available under the law, a labor organization
24 or another employer that violates this section is liable for a civil penalty for each
25 failure to meet the requirements of this section of not more than

26 (1) \$25 for each employee who is newly hired, rehired, or newly
27 returned to work; and

28 (2) \$500 if the failure is the result of a conspiracy between the
29 employee and either a labor organization or another employer not to supply the
30 required report or to supply a false or incomplete report concerning an employee.

31 (g) In this section,

1 (1) "employee" has the meaning given in 26 U.S.C. 3401(c);
2 "employee" does not include an employee of a federal or state agency performing
3 intelligence or counterintelligence functions if the head of that agency has determined
4 that reporting under this section on the employee could endanger the safety of the
5 employee or compromise an ongoing investigation or intelligence mission;

6 (2) "employer" has the meaning given in 26 U.S.C. 3401(d);
7 "employer" includes a governmental entity and a labor organization;

8 (3) "labor organization" has the meaning given in 29 U.S.C. 152; "labor
9 organization" includes an entity that is used by the labor organization and another
10 employer to carry out hiring or other requirements described in 29 U.S.C. 158(f)(3) in
11 accordance with an agreement between the labor organization and the other employer.

12 * **Sec. 19.** AS 25.27.085 is amended by adding a new subsection to read:

13 (g) If a person fails to comply with a subpoena issued under this section, the
14 agency may apply to the court for an order to compel obedience by proceedings for
15 contempt as in the case of disobedience of the requirements of a subpoena issued by
16 a court. In addition to the other remedies available to the court to compel compliance
17 with a subpoena under this section, the court may take an action described in
18 AS 09.50.020(b) regarding hunting and sport fishing licenses of a person failing to
19 comply with the subpoena.

20 * **Sec. 20.** AS 25.27.165(c) is amended to read:

21 (c) A person served with a notice of paternity and financial responsibility **and**
22 **accompanying orders under (b) of this section** shall file a response, admitting or
23 denying paternity and providing the required financial information, within 20 days after
24 the date of service of the notice of paternity and financial responsibility. If the
25 putative father admits paternity, the agency shall issue, within 20 days after the
26 admission of paternity, a decision establishing paternity. If the putative father denies
27 paternity, the putative father shall submit to genetic testing, as provided in (b) of this
28 section, within 30 days after the date of service of the notice of paternity and financial
29 responsibility. **If the putative father fails to file a response or fails to comply with**
30 **an accompanying order within the time and in the manner required in this**
31 **subsection, the agency may issue a decision by default establishing paternity and**

financial responsibility, except that, if the proceeding was instituted at the request of the putative father, the agency shall dismiss the proceeding without prejudice.

* **Sec. 21.** AS 25.27 is amended by adding a new section to read:

Sec. 25.27.167. Contempt of order for genetic testing. (a) If a person who is located in this state fails to comply with an order for genetic testing issued by the agency in this state, or the tribunal of another state, the agency in this state may certify the facts to the superior court of this state.

(b) Upon certification under (a) of this section, the court shall issue an order directing the person to appear and show cause why the person should not be punished for contempt. The order and a copy of the certified statement shall be served on the person in the manner required for service of court orders to show cause.

(c) After service under (b) of this section, the court has jurisdiction of the matter brought under this section.

(d) The law of this state applicable to contempt of a court order applies to a proceeding for contempt of order for genetic testing brought under this section.

* **Sec. 22.** AS 25.27.230(a) is repealed and reenacted to read:

(a) The agency shall assert a lien upon the real or personal property of the obligor in the amount of the obligor's liability if an arrearage occurs under a support order being enforced by the agency.

* **Sec. 23.** AS 25.27.230 is amended by adding new subsections to read:

(e) A lien arising in another state under the child support laws of that state shall be given full faith and credit in this state. The lien may be asserted in this state upon the real or personal property of the obligor in the amount of the obligor's liability by complying with the requirements of this section.

(f) A lien recorded under this section is a judgment lien and may be enforced by execution under AS 09.35 in the full amount of the obligor's liability at the time of execution.

* **Sec. 24.** AS 25.27.240(a) is amended to read:

(a) The agency of this state or another state, **or a party or other entity seeking to enforce a child support obligation,** may, at any time after recording of a lien recorded under AS 25.27.230, serve a copy of the lien upon any person, political

1 subdivision, or department of the state possessing earnings, or deposits or balances
 2 held in any bank account of any nature that are due, owing, or belonging to the
 3 obligor.

4 * **Sec. 25.** AS 25.27.250(a) is repealed and reenacted to read:

5 (a) Without prior notice to the obligor, the agency may issue to any person,
 6 including an entity, political subdivision, or state agency, an order to withhold and
 7 deliver property under this section; the order may be issued

8 (1) immediately upon issuance of an income withholding order that
 9 provides for immediate income withholding under AS 25.27.062(a);

10 (2) immediately after an arrearage occurs under a support order
 11 described in AS 25.27.150(a);

12 (3) at the expiration of 30 days after the date of service of a notice and
 13 finding of financial responsibility under AS 25.27.160; or

14 (4) at the expiration of 30 days after service of a decision establishing
 15 paternity and financial responsibility under AS 25.27.165.

16 * **Sec. 26.** AS 25.27.900(9) is amended to read:

17 (9) "support order" means any judgment, decree, or order that is issued
 18 by a tribunal for the support and maintenance of a child or of [A CHILD AND] a
 19 parent with whom the child is living; "support order" includes a judgment, decree, or
 20 order

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

23 (B) for

24 (i) monetary support, including arrearages;

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

27 (iii) reimbursement of related costs;

28 (iv) payment of attorney fees and legal costs and other
 29 fees; and

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

1 * **Sec. 27.** AS 25.27.900 is amended by adding new paragraphs to read:

2 (11) "arrearage" means a debt for support that is past due and equal to
3 at least one monthly obligation under the support order;

4 (12) "high-volume automated administrative enforcement" means the
5 use of automatic data processing to search various state data bases, including license
6 records, employment service data, and state new-hire registries, to determine whether
7 information is available regarding a parent who owes a child support obligation.

8 * **Sec. 28.** AS 28.15.061(b) is amended to read:

9 (b) An application under (a) of this section must

10 (1) contain the applicant's full name, social security number, date and
11 place of birth, sex, and mailing and residence addresses;

12 (2) state whether the applicant has been previously licensed as a driver
13 and, if so, when and by what jurisdiction;

14 (3) state whether any previous driver's license issued to the applicant
15 has ever been suspended or revoked or whether an application for a driver's license has
16 ever been refused and, if so, the date of and reason for the suspension, revocation, or
17 refusal; and

18 (4) contain other information that the department may reasonably
19 require to determine the applicant's identity, competency, and eligibility.

20 * **Sec. 29.** AS 28.15.061 is amended by adding a new subsection to read:

21 (g) Upon request, the department shall provide a social security number
22 provided under this section to the child support enforcement agency created in
23 AS 25.27.010, or the child support agency of another state, for child support purposes
24 authorized by law.

25 * **Sec. 30.** AS 09.10.040(b) is repealed.

26 * **Sec. 31.** Section 148(c), ch. 87, SLA 1997, is repealed.

27 * **Sec. 32.** The provisions of AS 25.20.050(p), added by sec. 11 of this Act, and
28 AS 25.27.167, added by sec. 21 of this Act, have the effect of amending Rule 37(b)(2)(D),
29 Alaska Rules of Civil Procedure, by permitting the use of contempt of court powers to enforce
30 orders for genetic testing.

31 * **Sec. 33.** The provisions of AS 25.20.050(p), added by sec. 11 of this Act, and

1 AS 25.27.167, added by sec. 21 of this Act, take effect only if sec. 32 of this Act receives the
2 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
3 of Alaska.

4 * **Sec. 34.** APPLICABILITY. The report required under AS 25.27.075(a), enacted by sec.
5 18 of this Act, applies to the hiring, rehiring, or return to work of an employee that occurs on
6 or after the effective date of this Act.

7 * **Sec. 35.** This Act takes effect immediately under AS 01.10.070(c).