

HOUSE BILL NO. 344

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/23/98

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to paternity establishment and child support; relating to the
2 crimes of criminal nonsupport and aiding the nonpayment of child support; and
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 Alaska statutes to
7 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 09.50.020 is amended by adding a new subsection to read:

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

1 if

- 2 (1) the person is a natural person;
- 3 (2) the contempt is one under AS 09.50.010(4) - 09.50.010(10); and
- 4 (3) the court, sitting without a jury, finds by a preponderance of
- 5 evidence that

6 (A) the contempt related to failure to pay money in connection

7 with a child support action or proceeding; or

8 (B) it appears that a right or remedy of a party in a child

9 support action or proceeding was defeated or prejudiced by the contempt.

10 * **Sec. 3.** AS 11.51.120(c) is amended to read:

11 (c) Criminal nonsupport is a class A misdemeanor, **and is also punishable by**

12 **loss of hunting and sport fishing licenses as provided in AS 12.55.138.**

13 * **Sec. 4.** AS 11.51.122(d) is amended to read:

14 (d) Aiding the nonpayment of child support is a class A misdemeanor, **and is**

15 **also punishable by loss of hunting and sport fishing licenses as provided in**

16 **AS 12.55.138.**

17 * **Sec. 5.** AS 12.55 is amended by adding a new section to read:

18 **Sec. 12.55.138. Penalties for criminal nonsupport or aiding the**

19 **nonpayment of child support.** In addition to other penalties imposed for the offense

20 of criminal nonsupport under AS 11.51.120 or aiding the nonpayment of child support

21 under AS 11.51.122, the court may suspend or revoke, for a period not to exceed one

22 year, a hunting license, sport fishing license, or both, issued under AS 16.05, if the

23 defendant is a natural person.

24 * **Sec. 6.** AS 16.05.330 is amended by adding a new subsection to read:

25 (e) A natural person applying for a license or tag for hunting or sport fishing

26 shall provide the person's social security number on the license application. Upon

27 request, the department shall provide the social security number to the child support

28 enforcement agency created in AS 25.27.010, or the child support agency of another

29 state, for child support purposes authorized by law.

30 * **Sec. 7.** AS 16.05.346 is amended by adding a new subsection to read:

31 (d) A person applying for a permit under this section shall provide the person's

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

5 * **Sec. 8.** AS 16.05.360 is amended to read:

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

15 * **Sec. 9.** AS 16.05.360 is amended by adding a new subsection to read:

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

20 * **Sec. 10.** AS 25.20.050 is amended by adding a new subsection to read:

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

26 * **Sec. 11.** AS 25.25.602(a) is amended to read:

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

30 (1) a letter of transmittal to the tribunal requesting registration and
31 enforcement;

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

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

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

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

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

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

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

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

17 * **Sec. 12.** AS 25.25.611(a) is amended to read:

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

22 (1) the following requirements are met:

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

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

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

29 (2) [AN INDIVIDUAL PARTY OR] the child, **or a party who is an**
30 **individual**, is subject to the personal jurisdiction of the tribunal and all of the
31 [INDIVIDUAL] parties **who are individuals** have filed a written consent in the issuing

1 tribunal providing that a tribunal of this state may modify the support order and
 2 assume continuing, exclusive jurisdiction over the order; however, if the issuing state
 3 is a foreign jurisdiction that has not enacted a law or procedure substantially similar
 4 to this chapter, the written consent of an [THE] individual [PARTY] residing in this
 5 state is not required for the tribunal to assume jurisdiction to modify the child support
 6 order.

7 * **Sec. 13.** AS 25.27.022(b) is amended to read:

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

13 * **Sec. 14.** AS 25.27.022 is amended by adding new subsections to read:

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

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

21 * **Sec. 15.** AS 25.27.062(e) is amended to read:

22 (e) The agency or the person who obtains an income withholding order under
 23 this chapter shall immediately send a copy of the income withholding order, a copy
 24 of the relevant provisions of AS 25.27.260 and this section, and an explanation of the
 25 effect of the statutes to persons who may owe money to an obligor. These items may
 26 be sent by first class mail or certified mail, return receipt requested, or they may be
 27 served personally by a process server, except that the agency alternatively may send
 28 the items by electronic means. An income withholding order made under this chapter
 29 is binding upon a person, employer, political subdivision, or department of the state
 30 immediately upon receipt of a copy of the income withholding order. **A person**
 31 **receiving an income withholding order** [AN EMPLOYER] shall immediately begin

1 withholding the specified amount from the **obligor's earnings** [EMPLOYEE'S
2 WAGES]. The amount withheld shall be sent to the agency within seven business
3 days after the date the amount would otherwise have been paid or credited to the
4 **obligor** [EMPLOYEE]. An employer may, for each payment made under an order,
5 deduct \$5 from other wages or salary owed to the obligor.

6 * **Sec. 16.** AS 25.27.063(b) is amended to read:

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

14 * **Sec. 17.** AS 25.27.075 is repealed and reenacted to read:

15 **Sec. 25.27.075. Employment information.** (a) An employer doing business
16 in the state shall report to the agency the hiring, rehiring, or return to work of each
17 employee occurring on or after the effective date of this bill section. The report shall
18 be made within the time limits set out in (b) of this section. The report must contain
19 the name, address, and social security number of the newly hired employee, the name
20 and address of the employer, and the identifying number assigned to the employer by
21 the United States Department of the Treasury, Internal Revenue Service.

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

24 (1) if the report is submitted magnetically or electronically, the report
25 shall be made in a format mutually agreed upon by the employer and the agency; an
26 employer reporting under this paragraph shall make two transmissions a month, not
27 less than 12 days nor more than 16 days apart; or

28 (2) if not made magnetically or electronically, the report shall be made
29 on a United States Department of the Treasury, Internal Revenue Service, W-4 form,
30 or at the option of the employer, an equivalent form; an employer reporting under this
31 paragraph shall make the report to the agency not later than 20 days after the date of

1 the hiring, rehiring, or return to work of the employee; the report shall be transmitted
2 by the employer by first class mail.

3 (c) An employer that does business in this state and that has employees in at
4 least one other state is not required to comply with (a) of this section if

5 (1) in compliance with the laws of that state, the employer submits
6 timely electronic or magnetic reports of hires, rehires, or returns to work to the state
7 directory of new hires of another state in which the employer has employees; and

8 (2) has provided written notification of its election under this subsection
9 to the secretary of United States Department of Health and Human Services.

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

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

17 (f) In addition to other sanctions available under the law, a labor organization
18 or another employer that violates this section is liable for a civil penalty of not more
19 than

20 (1) \$25 for each failure to meet the requirements of this section for
21 each employee who is newly hired, rehired, or newly returned to work; and

22 (2) \$500 for each failure to meet the requirements of this section if the
23 failure is the result of a conspiracy between the employee and either a labor
24 organization or another employer to not supply the required report or to supply a false
25 or incomplete report concerning the employee.

26 (g) In this section,

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

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

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

7 * **Sec. 18.** AS 25.27.085 is amended by adding a new subsection to read:

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

15 * **Sec. 19.** AS 25.27.165(c) is amended to read:

16 (c) A person served with a notice of paternity and financial responsibility **and**
 17 **accompanying orders under (b) of this section** shall file a response, admitting or
 18 denying paternity and providing the required financial information, within 20 days after
 19 the date of service of the notice of paternity and financial responsibility. If the
 20 putative father admits paternity, the agency shall issue, within 20 days after the
 21 admission of paternity, a decision establishing paternity. If the putative father denies
 22 paternity, the putative father shall submit to genetic testing, as provided in an
 23 accompanying order under (b) of this section, within 30 days after the date of service
 24 of the notice of paternity and financial responsibility. **If the putative father fails to**
 25 **file a response or to comply with an accompanying order within the time and in**
 26 **the manner required in this subsection, the agency may issue a decision by default**
 27 **establishing paternity and financial responsibility, except that if the proceeding**
 28 **was instituted at the request of the putative father, the agency shall dismiss the**
 29 **proceeding without prejudice.**

30 * **Sec. 20.** AS 25.27 is amended by adding a new section to read:

31 **Sec. 25.27.167. Contempt of order for genetic testing.** (a) If a person who

1 is located in this state fails to comply with an order for genetic testing issued by the
2 agency in this state, or the tribunal of another state, the agency in this state may certify
3 the facts to the superior court of this state.

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

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

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

12 * **Sec. 21.** AS 25.27.230(a) is repealed and reenacted to read:

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

16 * **Sec. 22.** AS 25.27.230 is amended by adding new subsections to read:

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

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

24 * **Sec. 23.** AS 25.27.240(a) is amended to read:

25 (a) The agency of this state or another state, **or a party or other entity**
26 **seeking to enforce a child support obligation**, may, at any time after recording of a
27 lien recorded under AS 25.27.230, serve a copy of the lien upon any person, political
28 subdivision, or department of the state possessing earnings, or deposits or balances
29 held in any bank account of any nature that are due, owing, or belonging to the
30 obligor.

31 * **Sec. 24.** AS 25.27.250(a) is repealed and reenacted to read:

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

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

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

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

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

12 * **Sec. 25.** AS 25.27.900(9) is amended to read:

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

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

19 (B) for

20 (i) monetary support, including arrearages;

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

23 (iii) reimbursement of related costs;

24 (iv) payment of attorney's [ATTORNEY] fees and legal
25 costs and other fees; and

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

28 * **Sec. 26.** AS 25.27.900 is amended by adding new paragraphs to read:

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

31 (12) "high-volume automated administrative enforcement" means the

1 use of automatic data processing to search various state data bases, including license
2 records, employment service data, and state new-hire registries, to determine whether
3 information is available regarding a parent who owes a child support obligation.

4 * **Sec. 27.** AS 28.15.061(b) is amended to read:

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

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

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

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

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

16 * **Sec. 28.** AS 28.15.061 is amended by adding a new subsection to read:

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

21 * **Sec. 29.** Section 148(c), ch. 87, SLA 1997 is repealed.

22 * **Sec. 30.** The provisions of AS 25.20.050(p), added by sec. 10 of this Act, and
23 AS 25.27.167, added by sec. 20 of this Act, have the effect of amending Rule 37(b)(2)(D),
24 Alaska Rules of Civil Procedure, by permitting the use of contempt of court powers to enforce
25 orders for genetic testing.

26 * **Sec. 31.** The provisions of AS 25.20.050(p), added by sec. 10 of this Act, and
27 AS 25.27.167, added by sec. 20 of this Act, take effect only if sec. 30 of this Act receives the
28 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State
29 of Alaska.

30 * **Sec. 32.** This Act takes effect immediately under AS 01.10.070(c).