

CS FOR HOUSE BILL NO. 344(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/6/98

Referred: Rules

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 crime of criminal nonsupport; relating to divorces, dissolutions, and actions to
3 declare a marriage void; and providing for an effective date."

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

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

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

11 (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] person may
12 not bring an action upon a judgment or decree of a court of the United States, or of
13 a state or territory within the United States, and an action may not be brought upon
14 a sealed instrument, unless the action is commenced within 10 years.

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

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

6 (1) the person is a natural person;

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

8 (3) the court, sitting without a jury, finds by a preponderance of
9 evidence that the contempt related to failure to pay money in connection with a child
10 support action or proceeding.

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

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

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

15 **Sec. 12.55.139. Penalties for criminal nonsupport.** In addition to other
16 penalties imposed, for the offense of criminal nonsupport under AS 11.51.120, the
17 court may suspend or revoke, for a period not to exceed one year, a hunting license,
18 sport fishing license, or both, issued under AS 16.05, if the defendant is a natural
19 person.

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

21 (e) A natural person applying for a license or tag for hunting or sport fishing
22 shall provide the person's social security number on the license application. Upon
23 request, the department shall provide the social security number to the child support
24 enforcement agency created in AS 25.27.010, or the child support agency of another
25 state, for child support purposes authorized by law.

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

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

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

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

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

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

16 * **Sec. 10.** AS 18.50.310(h) is amended to read:

17 (h) Marriage license applications shall be open for public inspection or
18 examination during normal business hours. **The bureau may, in response to a**
19 **request under AS 25.27.300, disclose to the child support enforcement agency**
20 **whether the bureau has a record indicating that a person has remarried after the**
21 **date specified by the agency.**

22 * **Sec. 11.** AS 22.35 is amended by adding a new section to read:

23 **Sec. 22.35.020. Copies of records for child support purposes.** If a copy of
24 a court record is requested by the child support enforcement agency created in
25 AS 25.27.010 or a child support agency of another state, the official custodian of the
26 record shall provide the requesting agency with a copy of the record, including any
27 social security number that the record might contain. If the requested record is
28 maintained by the court system in an electronic data base, the record may be supplied
29 by providing the requesting agency with a copy of the electronic record and a
30 statement certifying its contents. A requesting agency receiving otherwise confidential
31 information under this section may use it only for child support purposes authorized

1 by law.

2 * **Sec. 12.** AS 25.20.050(n) is amended to read:

3 (n) **Each** [ON AND AFTER JULY 1, 1997, A] paternity order or [AN]
4 acknowledgment made under this section must include **in the records relating to the**
5 **matter** the social security numbers, if ascertainable, of the following persons:

- 6 (1) the father;
7 (2) the mother;
8 (3) the child.

9 * **Sec. 13.** AS 25.24.160(d) is amended to read:

10 (d) **For each** [IN A] judgment issued under this section, the court shall include
11 **in the records relating to the matter** the social security numbers, if ascertainable, of
12 the following persons:

- 13 (1) each party to the action;
14 (2) each child whose rights are addressed in the judgment.

15 * **Sec. 14.** AS 25.24.210(e) is amended to read:

16 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition
17 must state in detail the terms of the agreement between the spouses concerning the
18 custody of children, child support, visitation, spousal maintenance and tax
19 consequences, if any, and fair and just division of property, including retirement
20 benefits. Agreements on spousal maintenance and property division must fairly allocate
21 the economic effect of dissolution and take into consideration the factors listed in
22 AS 25.24.160(a)(2) and (4). In addition, the petition must state

- 23 (1) the respective occupations of the petitioners;
24 (2) the income, assets, and liabilities of the respective petitioners at the
25 time of filing the petition;
26 (3) the date and place of the marriage;
27 (4) the name, date of birth, and current marital, educational, and
28 custodial status of each child born of the marriage or adopted by the petitioners who
29 is under the age of 19;
30 (5) whether the wife is pregnant;
31 (6) whether either petitioner requires medical care or treatment;

1 (7) whether any of the following has been issued or filed during the
2 marriage by or regarding either spouse as defendant, participant, or respondent:

3 (A) a criminal charge of a crime involving domestic violence;

4 (B) a protective order under AS 18.66.100 - 18.66.180;

5 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

6 or

7 (D) a protective order issued in another jurisdiction and filed
8 with the court in this state under AS 18.66.140;

9 (8) whether either petitioner has received the advice of legal counsel
10 regarding a divorce or dissolution;

11 (9) other facts and circumstances that the petitioners believe should be
12 considered;

13 (10) that the petition constitutes the entire agreement between the
14 petitioners; and

15 (11) any other relief sought by the petitioners [;

16 (12) THE SOCIAL SECURITY NUMBERS, IF ASCERTAINABLE,
17 OF THE FOLLOWING PERSONS:

18 (A) BOTH SPOUSES TO THE MARRIAGE BEING
19 DISSOLVED;

20 (B) EACH CHILD WHOSE RIGHTS ARE BEING
21 ADDRESSED IN THE PETITION FOR DISSOLUTION].

22 * **Sec. 15.** AS 25.24.210 is amended by adding a new subsection to read:

23 (f) A petition filed under this section must include or be accompanied by a
24 record of the social security numbers, if ascertainable, of the following persons:

25 (1) both spouses to the marriage being dissolved;

26 (2) each child whose rights are being addressed in the petition for
27 dissolution.

28 * **Sec. 16.** AS 25.24.230(i) is amended to read:

29 (i) **For each** [IN A] judgment issued under this section, the court shall include
30 **in the records relating to the matter** the social security numbers, if ascertainable, of
31 the following persons:

- 1 (1) each party to the dissolution of marriage;
 2 (2) each child whose rights are addressed in the judgment.

3 * **Sec. 17.** AS 25.25.602(a) is amended to read:

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

7 (1) a letter of transmittal to the tribunal requesting registration and
 8 enforcement;

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

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

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

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

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

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

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

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

25 * **Sec. 18.** AS 25.25.611(a) is amended to read:

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

30 (1) the following requirements are met:

31 (A) the child, the individual obligee, and the obligor do not

1 reside in the issuing state;

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

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

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

15 * **Sec. 19.** AS 25.27.022(b) is amended to read:

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

21 * **Sec. 20.** AS 25.27.022 is amended by adding new subsections to read:

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

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

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

30 (e) The agency or the person who obtains an income withholding order under
31 this chapter shall immediately send a copy of the income withholding order, a copy

1 of the relevant provisions of AS 25.27.260 and this section, and an explanation of the
2 effect of the statutes to persons who may owe money to an obligor. These items may
3 be sent by first class mail or certified mail, return receipt requested, or they may be
4 served personally by a process server, except that the agency alternatively may send
5 the items by electronic means. An income withholding order made under this chapter
6 is binding upon a person, employer, political subdivision, or department of the state
7 immediately upon receipt of a copy of the income withholding order. **A person**
8 **receiving an income withholding order** [AN EMPLOYER] shall immediately begin
9 withholding the specified amount from the **obligor's earnings** [EMPLOYEE'S
10 WAGES]. The amount withheld shall be sent to the agency within seven business
11 days after the date the amount would otherwise have been paid or credited to the
12 **obligor** [EMPLOYEE]. An employer may, for each payment made under an order,
13 deduct \$5 from other wages or salary owed to the obligor.

14 * **Sec. 22.** AS 25.27.063(b) is amended to read:

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

22 * **Sec. 23.** AS 25.27.075 is repealed and reenacted to read:

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

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

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

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

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

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

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

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

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

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

29 (1) \$25 for each employee who is newly hired, rehired, or newly
30 returned to work; and

31 (2) \$500 if the failure is the result of a conspiracy between the

1 employee and either a labor organization or another employer not to supply the
2 required report or to supply a false or incomplete report concerning an employee.

3 (g) In this section,

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

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

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

15 * **Sec. 24.** AS 25.27.085 is amended by adding a new subsection to read:

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

23 * **Sec. 25.** AS 25.27.165(c) is amended to read:

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

1 responsibility. **If the putative father fails to file a response or fails to comply with**
 2 **an accompanying order within the time and in the manner required in this**
 3 **subsection, the agency may issue a decision by default establishing paternity and**
 4 **financial responsibility, except that, if the proceeding was instituted at the request**
 5 **of the putative father, the agency shall dismiss the proceeding without prejudice.**

6 * **Sec. 26.** AS 25.27 is amended by adding a new section to read:

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

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

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

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

19 * **Sec. 27.** AS 25.27.230(a) is repealed and reenacted to read:

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

23 * **Sec. 28.** AS 25.27.230 is amended by adding new subsections to read:

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

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

31 * **Sec. 29.** AS 25.27.240(a) is amended to read:

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

7 * **Sec. 30.** AS 25.27.250(a) is repealed and reenacted to read:

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

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

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

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

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

19 * **Sec. 31.** AS 25.27 is amended by adding a new section to read:

20 **Sec. 25.27.300. Requests pertaining to remarriage.** The agency shall, at the
21 request of a person who is an obligor under a support order enforced by the agency
22 that includes support for a parent with whom a child is living or at the request of a
23 child support enforcement agency of another jurisdiction that is enforcing a support
24 order that includes support for a parent with whom a child is living, request the Bureau
25 of Vital Statistics to disclose to the agency whether the parent has remarried in the
26 state after a specified date if the support order provides that the support for the parent
27 is payable only until the parent remarries. The agency may disclose to the obligor or
28 other child support enforcement agency, as applicable, the information provided by the
29 bureau.

30 * **Sec. 32.** AS 25.27.900(9) is amended to read:

31 (9) "support order" means any judgment, decree, or order that is issued

1 by a tribunal for the support and maintenance of a child or of [A CHILD AND] a
 2 parent with whom the child is living; "support order" includes a judgment, decree, or
 3 order

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

6 (B) for

7 (i) monetary support, including arrearages;

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

10 (iii) reimbursement of related costs;

11 (iv) payment of attorney fees and legal costs and other
 12 fees; and

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

15 * **Sec. 33.** AS 25.27.900 is amended by adding new paragraphs to read:

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

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

22 * **Sec. 34.** AS 28.15.061(b) is amended to read:

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

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

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

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

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

3 * **Sec. 35.** AS 28.15.061 is amended by adding a new subsection to read:

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

8 * **Sec. 36.** Section 148(c), ch. 87, SLA 1997, is amended to read:

9 (c) The amendments made by other sections of this Act are repealed July 1,
10 2001 [1999]. Each statute amended by this Act is repealed and reenacted on July 1,
11 2001 [1999], to read as it existed on the day before the amendment to the law under
12 this Act took effect. Notwithstanding AS 01.10.100(c), a statute repealed under (a) of
13 this section is revived and reenacted on July 1, 2001 [1999], to read as it existed on
14 the day before the effective date of (a) of this section. A court rule that was amended
15 by a statute repealed or reenacted by this Act is further amended on July 1, 2001
16 [1999], to delete the change that had been made by other sections of this Act.

17 * **Sec. 37.** AS 09.10.040(b) is repealed.

18 * **Sec. 38.** APPLICABILITY. The report required under AS 25.27.075(a), enacted by sec.
19 23 of this Act, applies to the hiring, rehiring, or return to work of an employee that occurs on
20 or after the effective date of this Act.

21 * **Sec. 39.** This Act takes effect immediately under AS 01.10.070(c).