

HOUSE BILL NO. 513

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES KOTT, Coghill, Harris, Hawker, McGuire, Rokeberg, Anderson, Lynn, Dahlstrom

Introduced: 2/16/04

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the enforcement of support orders through suspension of drivers'
2 licenses; changing the name of the child support enforcement agency to the child
3 support services agency; amending Rules 90.3 and 90.5, Alaska Rules of Civil
4 Procedure; and providing for an effective date."

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

6 * **Section 1.** AS 25.27.010 is amended to read:

7 **Sec. 25.27.010. Creation of child support services [ENFORCEMENT]**
8 **agency.** There is created in the Department of Revenue the child support services
9 [ENFORCEMENT] agency.

10 * **Sec. 2.** AS 25.27.246(a) is amended to read:

11 (a) The agency shall compile and maintain a list of obligors who have a
12 driver's license and are not in substantial compliance with a support order [OR
13 PAYMENT SCHEDULE NEGOTIATED UNDER (f)(1) OF THIS SECTION]. The
14 agency may not include an obligor on the list unless the agency has sent to the obligor,

1 at the obligor's most recent address on file with the agency, written notice of the
 2 arrearages at least 60 days before placement on the list. The list must include the
 3 names, social security numbers, dates of birth, and last known addresses of the
 4 persons. The list shall be updated by the agency on a monthly basis.

5 * **Sec. 3.** AS 25.27.246(c) is amended to read:

6 (c) If the licensee fails to obtain a release during the 150-day period following
 7 notice under (b) and (d) of this section **or if the agency revokes a release of a**
 8 **person's license under (o) or (p) of this section**, the agency shall notify the
 9 department that the licensee's driver's license should be suspended and further
 10 renewals or applications should be denied until the agency sends the department a
 11 release for the licensee. Upon receiving the agency's notice under this subsection, the
 12 department shall suspend the licensee's driver's license and may not issue or renew a
 13 driver's license for the licensee until the department receives a release to do so from
 14 the agency. If a license is suspended or an application is denied under this section,
 15 money paid by the applicant or licensee may not be refunded by the department.

16 * **Sec. 4.** AS 25.27.246(f) is amended to read:

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

24 (1) the licensee is found to be in substantial compliance with each
 25 support order applicable to the licensee or has negotiated an agreement with the
 26 agency for a payment schedule on arrearages and is in substantial compliance with the
 27 negotiated agreement; [IF THE LICENSEE FAILS TO BE IN SUBSTANTIAL
 28 COMPLIANCE WITH AN AGREEMENT NEGOTIATED UNDER THIS
 29 PARAGRAPH, THE AGENCY SHALL SEND TO THE DEPARTMENT A
 30 REVOCATION OF ANY RELEASE PREVIOUSLY SENT TO THE ENTITY FOR
 31 THAT LICENSEE;]

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

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

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

18 * **Sec. 5.** AS 25.27.246(h) is amended to read:

19 (h) **If the agency refuses to release the license under (f) of this section or**
 20 **the agency revokes a release under (o) or (p) of this section, the** [EXCEPT AS
 21 OTHERWISE PROVIDED IN THIS SECTION, THE AGENCY MAY NOT ISSUE
 22 A RELEASE IF THE LICENSEE IS NOT IN SUBSTANTIAL COMPLIANCE
 23 WITH THE ORDER FOR SUPPORT OR WITH AN AGREEMENT NEGOTIATED
 24 UNDER (f)(1) OF THIS SECTION. THE] agency shall notify the licensee in writing
 25 that the licensee may request any or all of the following: (1) judicial relief from the
 26 agency's decision not to issue a release or the agency's decision to revoke a release
 27 under **(o) or (p)** [(f)(1)] of this section; (2) a judicial determination of substantial
 28 compliance; (3) a modification of the support order. The notice must also contain the
 29 name and address of the court in which the licensee may file the request for relief
 30 [AND INFORM THE LICENSEE THAT THE LICENSEE'S NAME SHALL
 31 REMAIN ON THE LIST IF THE LICENSEE DOES NOT REQUEST JUDICIAL

1 RELIEF WITHIN 30 DAYS AFTER RECEIVING THE NOTICE]. The licensee shall
 2 comply with all statutes and rules of court implementing this section. This section
 3 does not limit a licensee's authority under other law to request an order to show cause
 4 or notice of motion to modify a support order or to fix a payment schedule on
 5 arrearages accruing under a support order or to obtain a court finding of substantial
 6 compliance with a support order [OR A COURT FINDING OF COMPLIANCE
 7 WITH SUBPOENAS AND WARRANTS DESCRIBED IN (a) OF THIS SECTION].

8 * **Sec. 6.** AS 25.27.246(i) is amended to read:

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

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

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

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

24 * **Sec. 7.** AS 25.27.246(k) is amended to read:

25 (k) If a licensee is in substantial compliance with a support order or payment
 26 schedule, the agency shall mail to the licensee and the department a release stating that
 27 the licensee is in substantial compliance. The receipt of a release shall serve to notify
 28 the licensee and the department that, for the purposes of this section, the licensee is in
 29 substantial compliance with the support order or payment schedule unless the agency

30 **(1)** [,] under (a) of this section, certifies subsequent to the issuance of a
 31 release that the licensee is once again not in substantial compliance with a support

1 order; or

2 **(2) under (o) or (p) of this section, revokes a release because the**
 3 **license is not in substantial compliance with a payment schedule negotiated under**
 4 **this section** [OR PAYMENT SCHEDULE].

5 * **Sec. 8.** AS 25.27.246 is amended by adding new subsections to read:

6 (o) If the agency releases a license under (f)(2) or (3) of this section because
 7 the review could not be completed within the 150-day period, the review process,
 8 including any request for judicial relief, may be completed after the 150-day period.
 9 If, at the completion of the review process, the licensee is found not to be in
 10 substantial compliance with each support order applicable to the licensee and has not
 11 entered into a payment schedule under this section, the agency shall send to the
 12 department a revocation of the release previously sent to the department for that
 13 licensee. The agency shall send notice of the revocation to the licensee as provided in
 14 (h) of this section.

15 (p) If the licensee fails to be in substantial compliance with a payment
 16 schedule negotiated under this section, the agency shall send to the department a
 17 revocation of any release previously sent to the department for that licensee. The
 18 agency shall send notice of the revocation to the licensee as provided in (h) of this
 19 section.

20 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 INDIRECT COURT RULE AMENDMENT. Section 1 of this Act has the effect of
 23 changing Rule 90.3, Alaska Rules of Civil Procedure, by changing the name of the child
 24 support enforcement agency to the child support services agency.

25 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 26 read:

27 INDIRECT COURT RULE AMENDMENT. Sections 1 - 8 of this Act have the effect
 28 of changing Rule 90.5, Alaska Rules of Civil Procedure, by changing the name of the child
 29 support enforcement agency to the child support services agency and by changing the
 30 procedure for expedited relief from action against a driver's license for unpaid support.

31 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TWO-THIRDS VOTE NOT REQUIRED FOR RULE 90.3 AMENDMENT. Because
 3 Rule 90.3, Alaska Rules of Civil Procedure, was adopted under the Alaska Supreme Court's
 4 interpretive authority exercised under art. IV, sec. 1, Constitution of the State of Alaska, sec. 1
 5 of this Act takes effect for the purpose of amending Rule 90.3, Alaska Rules of Civil
 6 Procedure, without needing to meet the two-thirds vote requirement normally applicable to
 7 changing court rules under art. IV, sec. 15, Constitution of the State of Alaska.

8 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
 9 read:

10 REVISOR OF STATUTE AND REGULATIONS ATTORNEY INSTRUCTIONS.

11 (a) The revisor of statutes is instructed to change the term "child support enforcement
 12 agency" to "child support services agency" throughout the Alaska Statutes when to do so
 13 would be consistent with sec. 1 of this Act.

14 (b) The regulations attorney is instructed to change the term "child support
 15 enforcement agency" to "child support services agency" throughout the Alaska Administrative
 16 Code when to do so would be consistent with sec. 1 of this Act.

17 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
 18 read:

19 CONDITIONAL EFFECT FOR RULE 90.5 AMENDMENTS. Sections 2 - 8 of this
 20 Act take effect only if sec. 10 of this Act receives the two-thirds majority vote of each house
 21 required by art. IV, sec. 15, Constitution of the State of Alaska.

22 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).