

SENATE CS FOR HOUSE BILL NO. 513(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/31/04
Referred: Finance

Sponsor(s): REPRESENTATIVES KOTT, Coghill, Harris, Hawker, McGuire, Rokeberg, Anderson, Lynn, Dahlstrom

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 **either (1)** are not in substantial compliance with a support order,
13 or **(2) whose names are required to be placed on the list under (q)(2)** [PAYMENT
14 SCHEDULE NEGOTIATED UNDER (f)(1)] of this section. The agency may not

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

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

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

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

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

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

1 THAT LICENSEE;]

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **(1)** [,] under (a) of this section, certifies subsequent to the issuance of a

1 release that the licensee is once again not in substantial compliance with a support
2 order ; or

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

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

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

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

21 (q) If a licensee fails to be in substantial compliance with a payment schedule
22 negotiated under this section but paid the monthly obligation under the payment
23 schedule for at least two years immediately after the schedule was negotiated, the
24 agency shall

25 (1) revoke the release previously granted to the licensee under this
26 section and notify the department and licensee that the release has been revoked; the
27 licensee may not challenge the revocation of this release; upon receiving the agency's
28 notice under this paragraph, the department may not suspend the licensee's driver's
29 license or refuse to issue or renew a driver's license for the licensee unless the
30 department subsequently receives a new notice to do so from the agency under (c) of
31 this section;

1 (2) initiate new proceedings against the licensee under this section by
 2 placing the licensee's name on the list compiled under (a) of this section after
 3 following the procedures required under (a) of this section;

4 (3) follow the procedures of this section with respect to the licensee as
 5 if it were the first time that the licensee's name had been placed on the list compiled
 6 under (a) of this section, except that the agency may either negotiate a new payment
 7 schedule under (f)(1) of this section or seek to enforce the previously negotiated
 8 payment schedule.

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

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

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

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

20 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

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

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

30 **REVISOR OF STATUTES AND REGULATIONS ATTORNEY INSTRUCTIONS.**

31 (a) The revisor of statutes is instructed to change the term "child support enforcement

1 agency" to "child support services agency" throughout the Alaska Statutes when to do so
2 would be consistent with sec. 1 of this Act.

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

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

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

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