

Original sponsor: Farrell by Request

Offered: 4/14/71

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1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 294

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child and spouse neglect."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 11.35.010 is amended to read:

9 Sec. 11.35.010. DESERTION OR NONSUPPORT OF SPOUSE [WIFE] OR
 10 CHILD. (a) A person who is the parent or guardian of a child under
 11 the age of 16 years dependent upon him for care, education or support,
 12 and who deserts or abandons the child or ward, or wilfully fails,
 13 without lawful excuse, to furnish necessary food, care, clothing,
 14 shelter, medical attendance, education or support for the child or
 15 ward; or a person who, without lawful justification, wilfully abandons
 16 and leaves his spouse [WIFE] or refuses or neglects to provide his
 17 spouse [WIFE] with necessary food, clothing, shelter or medical
 18 attendance, is guilty of a misdemeanor, and upon conviction is punish-
 19 able by a fine of not more than \$500, or by imprisonment [IN A JAIL]
 20 for not more than 12 months, or by both. However, before the trial,
 21 with the consent of the defendant, or after conviction, instead of
 22 imposing the penalties prescribed, or in addition to those penalties,
 23 the court, having regard to the circumstances and the financial
 24 ability and earning capacity of the defendant, may make an order,
 25 subject to change by it from time to time as circumstances require,
 26 directing the defendant to pay a definite sum or a certain weekly sum
 27 during such time as the court may direct, into the court for the
 28 benefit of spouse [WIFE], or guardian or custodian of the minor child;
 29 and the court may release the defendant from custody or place him on

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1 probation during such time as the court directs, upon his entering into
2 an undertaking with one or more sufficient sureties who shall qualify
3 as bail upon arrest in a sum the court directs. The undertaking shall
4 be conditioned so that the defendant shall personally appear before
5 the court whenever ordered to do so and shall at all times comply
6 with the terms of the order or any modification which the court may
7 make, and shall provide that, should the conditions of the bond be
8 broken, the defendant and his sureties consent to entry of judgment
9 against them by the court in the amount specified in the undertaking.

10 (b) For the purposes of (a) of this section there is no failure
11 to provide care or medical attendance to a spouse or child who is
12 provided treatment solely by spiritual means through prayer in accor-
13 dance with the tenets and practices of a recognized church or religious
14 denomination by an accredited practitioner of the church or denomina-
15 tion. However, this provision does not apply to a spouse who is not
16 an adherent of or does not believe in the church or religious
17 denomination and who is unable to provide the care or medical atten-
18 dance for himself or herself.

19 * Sec. 2. AS 11.35.040 is amended to read:

20 Sec. 11.35.040. APPLICATION OF MONEY RECOVERED. In case of a
21 judgment against the defendant and his sureties as set out in sec. 20
22 of this chapter and its enforcement by execution, the sum recovered
23 may be paid, in whole or in part, and at the times and in the
24 amounts the court orders, to the spouse [WIFE] or to the guardian or
25 custodian of the minor child for support.

26 * Sec. 3. AS 11.35.050 is amended to read:

27 Sec. 11.35.050. COMPLAINT AND TRIAL. Complaint for violation
28 of sec. 10 of this chapter may be made by the deserted spouse [WIFE],
29 or on his or her behalf, or on behalf of the minor child, by anyone

1 having personal cognizance of the facts, before a judge or magistrate.
2 If the defendant is not present in the judicial district where the
3 deserted spouse [WIFE] or child is, the complaint may be made by the
4 prosecuting attorney in that judicial district, in the nature of an
5 information before the superior court of the judicial district where
6 the deserted spouse or child resides [WIFE OR CHILDREN RESIDE]. The
7 proceedings for the trial of the defendant shall be the same as for a
8 misdemeanor, except as otherwise provided in this section.

9 * Sec. 4. AS 11.35.070 is amended to read:

10 Sec. 11.35.070. EVIDENCE OF ABANDONMENT OR NONSUPPORT. Proof
11 of the abandonment or nonsupport of a spouse [WIFE] or the desertion
12 of a child or ward, or the omission to furnish necessary food,
13 clothing, shelter or medical attendance for the child or ward is
14 prima facie evidence that the abandonment or nonsupport or omission
15 to furnish necessary food, clothing, shelter or medical attendance is
16 willful. No other evidence is required to prove marriage or parenthood
17 than is required in a civil case.

18 * Sec. 5. AS 11.35.090 is amended to read:

19 Sec. 11.35.090. EFFECT OF DIVORCE AND ALIMONY ON CHILD SUPPORT.
20 Section 10 of this chapter is applicable to the maintenance and support
21 of a child whether the parents of the child are married or divorced
22 and regardless of a decree made in a divorce action regarding alimony
23 or the support of the spouse [WIFE] or child.

24 * Sec. 6. AS 47.10.080(c)(2) is amended to read:

25 (2) order the minor released to his parents, guardian, or
26 some other suitable person, and, in appropriate cases, order the
27 parents, guardian, or other person to provide medical or other care
28 and treatment; if the court releases the minor, it shall direct the
29 department to supervise the care and treatment given to the minor;

1 the department's supervision may not extend past the date the minor
2 reaches majority [BECOMES 19 YEARS OF AGE], except that the department
3 may petition the court for continued supervision for an additional
4 one-year period for minors who have not responded to treatment; or

5 * Sec. 7. AS 47.10.080 is amended by adding a new subsection to read:

6 (k) In making its order under (c) of this section, the court
7 shall consider the fact, if it is a fact, that the minor was being
8 provided treatment by spiritual means through prayer in accordance
9 with the tenets and practices of a recognized church or religious
10 denomination by an accredited practitioner of the church or denomina-
11 tion.

12 * Sec. 8. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.085. DEPENDENT MINOR; RELIGIOUS TREATMENT. In a case
14 in which the minor's status as a dependent minor is sought to be based
15 on his need for medical care, the court may, upon consideration of the
16 health of the minor and the fact, if it is a fact, that the minor is
17 being provided treatment by spiritual means through prayer in accor-
18 dance with the tenets and practices of a recognized church or religious
19 denomination by an accredited practitioner of the church or denomina-
20 tion, dismiss the proceedings and thereby close the matter. This may
21 be done, in the interests of justice and religious freedom, on the
22 court's own motion or upon the application of a party to the proceed-
23 ings, at any stage of the proceedings after information is given to
24 the court under sec. 20(a) of this chapter.