

Introduced: 2/16/76  
Referred: Health, Education  
and Social Services and  
Finance

1 IN THE SENATE

HCS SS

2 SENATE BILL NO. 659

ann (Fin.) (Rubs) BY CROFT

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child support enforcement."

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

8 \* Section 1. AS 47 is amended by adding a new chapter to read:

9 CHAPTER 23. CHILD SUPPORT ENFORCEMENT AGENCY.

10 Sec. 47.23.010. CREATION OF CHILD SUPPORT ENFORCEMENT AGENCY.

11 There is created in the Department of Health and Social Services the  
12 child support enforcement agency.

13 Sec. 47.23.020. DUTIES OF THE AGENCY. The agency shall

14 (1) administer and enforce child support orders of the  
15 superior courts of the state;

16 (2) administer and enforce the Uniform Reciprocal Enforcement  
17 of Support Act (AS 25.25).

18 Sec. 47.23.030. RIGHT OF STATE TO BRING ACTION. If during  
19 the continuance of an award for aid to families with dependent children  
20 the department finds that a person liable for the support of a recipient  
21 of assistance is or may be able to provide the necessary care and support  
22 of the recipient and the person liable for the care and support of the  
23 recipient fails or refuses to support and care for the recipient, the  
24 state has a cause of action for the assistance against the person liable  
25 for it. The action shall be brought by the agency in the name of the  
26 state against the person liable for the recovery of the amount of money  
27 paid to the recipient or the amount due the recipient from the defendant  
28 under a court order, together with costs and disbursements of the ac-  
29 tion. The amount recovered shall be disbursed as provided by regulation

1 of the department.

2 Sec. 47.23.040. DETERMINATION OF PATERNITY. The agency may  
3 initiate efforts to have the paternity of children born out of wedlock  
4 determined by the court on proper application by the mother. The agency  
5 shall appear on behalf of the child and the matter shall be brought by  
6 the agency in the name of the state on behalf of the minor child. The  
7 court may enter any appropriate filiation order.

8 Sec. 47.23.050. LEGAL ASSISTANCE. The Department of Law shall  
9 contract with the Department of Health and Social Services to provide  
10 needed legal services.

11 Sec. 47.23.060. ORDER OF SUPPORT. In a court proceeding where the  
12 support of a minor child is at issue, the court may order either or both  
13 parents to pay the amount necessary for the support, maintenance, nur-  
14 ture and education of the child. Upon a showing of good cause, the  
15 court may order the parents required to pay support to give reasonable  
16 security for payments. An order for prospective child support may be  
17 modified or revoked as the court considers necessary.

18 Sec. 47.23.070. ORDER TO ASSIGN WAGES FOR SUPPORT. (a) In a  
19 proceeding in which the court has ordered either or both parents to pay  
20 for the support of a minor child, the court may on its own motion or  
21 motion of a party or the agency, order either parent or both parents to  
22 assign to the agency or custodian of the child that portion of salary or  
23 wages of either parent due them currently and in the future sufficient  
24 to pay the amount ordered by the court for the support, maintenance,  
25 nurture and education of the minor child.

26 (b) The order of assignment is binding upon an employer upon  
27 service of a copy of the order upon the employer and until further order  
28 of the court. The employer may deduct \$1 for each payment made under  
29 the order.

1 (c) The assignment made under court order has priority as against  
2 an attachment, execution or other assignment unless otherwise ordered by  
3 the court.

4 (d) No employer may terminate an employee's employment because  
5 his wages are subject to an order under this section.

6 Sec. 47.23.080. ENFORCEMENT OF SUPPORT ORDERS. In a court  
7 order requiring payment of child support, the payments shall be made to  
8 the agency. The agency shall take all necessary action to enforce those  
9 child support orders, including:

10 (1) petitioning the court for orders to aid in the enforce-  
11 ment of child support; and

12 (2) appearing on behalf of the children and enforcing any  
13 child support order entered or seeking an appropriate modification of the  
14 order.

15 Sec. 47.23.090. REDUCING ARREARS TO JUDGMENT. (a) Each child  
16 support payment is due and owing at the time scheduled for its payment  
17 in any court order. If payment has not been made within 10 days of  
18 the date payment is due, then execution may issue for that and all out-  
19 standing unpaid sums. Execution shall issue on order of the court. The  
20 order may be obtained by ex parte motion and this motion shall be sup-  
21 ported by affidavit of the child support obligee or the attorney for  
22 the obligee that payment has not been made. The affidavit shall contain

- 23 (1) the pertinent provisions of the order or judgment;  
24 (2) the total of sums falling due;  
25 (3) the total amounts paid;  
26 (4) the total principal owing;  
27 (5) a statement that the moving party is the person to whom  
28 the order directed payment;  
29 (6) if interest is claimed, the declaration should also allege

1 the date of maturity of each installment on which interest is claimed  
2 and the total amount of interest due.

3 (b) If application is made by an assignee, the affidavit must  
4 allege the filing of the assignment in the superior court and the date  
5 of service of the assignment or notice of the assignment on the judgment  
6 debtor.

7 (c) If the obligor has legal defenses to the money claimed, he  
8 may raise those defenses in a motion to quash the execution. If the  
9 obligor has legal defenses such as payment, accord and satisfaction or  
10 custody of the children, execution shall be quashed. If for any other  
11 reason the court determines that execution would work a manifest in-  
12 justice on the obligor, execution may be quashed.

13 (d) The agency may enforce support orders through execution on  
14 behalf of children.

15 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
16 provide aid to any person due child support under the laws of this state.  
17 If the obligee is indigent or otherwise unable to pay for these services,  
18 the agency shall act without charge to the obligee. If the agency de-  
19 termines that the obligee is financially able to pay, actual costs shall  
20 be assessed according to regulations adopted by the department and be  
21 paid into the general fund of the state.

22 Sec. 47.23.110. DEFINITIONS. In this chapter

- 23 (1) "agency" means the Child Support Enforcement Agency;  
24 (2) "department" means the Department of Health and Social  
25 Services.

26 \* Sec. 2. AS 25.25.080 is repealed and re-enacted to read:

27 Sec. 25.25.080. JURISDICTION AND ENFORCEMENT. (a) Jurisdiction  
28 for all proceedings under this chapter is in the superior court.

29 (b) All duties of support, including the duty to pay arrearages,

1 are enforceable by a proceeding under this chapter, including a proceed-  
2 ing for civil contempt. The defense that the parties are immune to suit  
3 because of their relationship as husband and wife or parent and child is  
4 not available to the obligor.

5 \* Sec. 3. AS 25.25 is amended by adding new sections to read:

6 Sec. 25.25.171. HEARING AND CONTINUANCES. If the obligee is not  
7 present at a hearing on the merits of the complaint and the obligor  
8 denies owing the duty of support alleged in the petition or offers evi-  
9 dence constituting a defense, the court, upon request of either party,  
10 shall continue the hearing to permit evidence relative to the duty to  
11 be adduced by either party by deposition or by appearing in person be-  
12 fore the court. The court may designate the judge of the initiating  
13 court as a person before whom a deposition may be taken.

14 Sec. 25.25.173. RULES OF EVIDENCE. In a hearing for the enforce-  
15 ment of this chapter, the court is governed by the rules of evidence  
16 applicable in a civil suit in superior court. If the action is based  
17 upon a support order issued by another court, a certified copy of the  
18 order shall be received as evidence of the duty of support, subject  
19 only to any defenses available to an obligor with respect to paternity  
20 or to a defendant in an action or a proceeding to enforce a foreign  
21 money judgment. Any such order may be modified by the courts of this  
22 state. The determination or enforcement of a duty of support owed to  
23 one obligee is unaffected by interference by another obligee with rights  
24 of custody or visitation granted by a court.

25 Sec. 25.25.175. IMMUNITY FROM CRIMINAL PROSECUTION. If at a  
26 hearing the obligor is called for examination as an adverse party and  
27 he declines to answer upon the ground that his testimony may tend to  
28 incriminate him, the court may require him to answer, in which event he  
29 is immune from criminal prosecution with respect to matters revealed by

1 his testimony, except for perjury committed in his testimony.

2       Sec. 25.25.177. PATERNITY. If the obligor asserts as a defense  
3 that he is not the father of the child for whom support is sought and  
4 the court finds that the defense is not frivolous, then if both of the  
5 parties are present at the hearing, or the court finds that the presence  
6 of either or both of the parties is not necessary, the court may adjudi-  
7 cate the paternity issue. Otherwise, the court may continue the action  
8 until the paternity issue has been adjudicated.  
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