

1 IN THE SENATE

BY CROFT

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 659 am

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; and  
7 providing for an effective date."

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

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

10 CHAPTER 23. CHILD SUPPORT ENFORCEMENT AGENCY.

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

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

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

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

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

19 (3) administer and enforce the requirements of Part B of  
20 Public Law 93-647 as now or hereafter amended.

21 Sec. 47.23.030. RIGHT OF STATE TO BRING ACTION. If during the  
22 continuance of an award for aid to families with dependent children the  
23 department finds that a person liable for the support of a child re-  
24 ceiving assistance is or may be able to provide the necessary care and  
25 support of the child, the person liable for the care and support of the  
26 child fails or refuses to support and care for the child, and the  
27 division of social services has determined that it is in the best inter-  
28 est of the child to do so, the state has a cause of action for the  
29 assistance against the person liable for it. The action shall be

1 brought by the agency in the name of the state against the person  
2 liable for the support of the child. The amount to be recovered will be  
3 the amount of money paid to the child or the amount due the child from  
4 the defendant under a court order, together with costs and disbursements  
5 of the action; however, in no case will the amount to be recovered  
6 exceed what the obligor is able to pay. The amount recovered shall be  
7 disbursed as provided by regulation of the department.

8 Sec. 47.23.035. ESTABLISHMENT OF FUND. There is established in  
9 the state general fund a continuing, revolving, reserve account to  
10 receive collections and make the authorized disbursements of the  
11 agency.

12 Sec. 47.23.040. DETERMINATION OF PATERNITY. The agency may  
13 initiate efforts to have the paternity of children born out of wedlock  
14 determined by the court on proper application by the mother. The agency  
15 shall appear on behalf of the child and the matter shall be brought by  
16 the agency in the name of the state on behalf of the minor child. The  
17 court may enter any appropriate filiation order. If the children are  
18 receiving aid to families with dependent children, the action will be  
19 brought only if the division of social services has determined that it  
20 is in the best interest of the children to do so.

21 Sec. 47.23.050. LEGAL ASSISTANCE. The Department of Law shall  
22 contract with the Department of Health and Social Services to provide  
23 needed legal services.

24 Sec. 47.23.060. ORDER OF SUPPORT. In a court proceeding where the  
25 support of a minor child is at issue, the court may order either or both  
26 parents to pay the amount necessary for the support, maintenance, nur-  
27 ture and education of the child. Upon a showing of good cause, the  
28 court may order the parents required to pay support to give reasonable  
29 security for payments. An order for prospective child support may be

1 modified or revoked as the court considers necessary.

2 Sec. 47.23.070. ORDER TO ASSIGN WAGES FOR SUPPORT. (a) In a  
3 proceeding in which the court has ordered either or both parents to pay  
4 for the support of a minor child, the court may on its own motion or  
5 motion of a party or the agency, after notice and an opportunity for  
6 hearing, order either parent or both parents to assign to the agency or  
7 custodian of the child that portion of salary or wages of either parent  
8 due them currently and in the future sufficient to pay the amount  
9 ordered by the court for the support, maintenance, nurture and education  
10 of the minor child.

11 (b) The order of assignment is binding upon an employer upon  
12 service of a copy of the order upon the employer and until further order  
13 of the court. The employer may deduct \$1 for each payment made under  
14 the order.

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

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

20 Sec. 47.23.080. ENFORCEMENT OF SUPPORT ORDERS. In a court order  
21 requiring payment of child support, absent a showing of good cause to  
22 order otherwise, the payments shall be made to the agency. The agency  
23 shall take all necessary action to enforce those child support orders,  
24 including:

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

27 (2) appearing on behalf of the children and enforcing any  
28 child support order entered or seeking an appropriate modification of  
29 the order.

1           Sec. 47.23.090. REDUCING ARREARS TO JUDGMENT. (a) If the agency  
2 or other obligee seeks execution, they shall reduce the outstanding  
3 arrears to judgment by motion after notice in accordance with the Rules  
4 of Civil Procedure.

5           (b) The agency may enforce support orders through execution on  
6 behalf of children.

7           Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
8 provide aid to any person due child support under the laws of this  
9 state. If the obligee is indigent or otherwise unable to pay for these  
10 services, the agency shall act without charge to the obligee. If the  
11 agency determines that the obligee is financially able to pay, costs  
12 shall be assessed according to regulations adopted by the department and  
13 be paid into the fund established in AS 47.23.035.

14           Sec. 47.23.110. DEFINITIONS. In this chapter

15           (1) "agency" means the child support enforcement agency;

16           (2) "department" means the Department of Health and Social  
17 Services.

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

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

21           (b) All duties of support, including the duty to pay arrearages,  
22 are enforceable by a proceeding under this chapter, including a proceed-  
23 ing for civil contempt. The defense that the parties are immune to suit  
24 because of their relationship as husband and wife or parent and child is  
25 not available to the obligor.

26 \* Sec. 3. AS 25.25.100 is amended to read:

27           Sec. 25.25.100. OFFICIALS TO REPRESENT PLAINTIFF. The child  
28 support enforcement agency [ATTORNEY GENERAL, UPON THE REQUEST OF THE  
29 DEPARTMENT OF HEALTH AND WELFARE OR OF THE COURT,] shall represent the

1 plaintiff in a proceeding under this chapter.

2 \* Sec. 4. AS 25.25 is amended by adding new sections to read:

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

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

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

28 Sec. 25.25.177. PATERNITY. If the obligor asserts as a defense  
29 that he is not the father of the child for whom support is sought and

1 the court finds that the defense is not frivolous, then if both of the  
2 parties are present at the hearing, or the court finds that the presence  
3 of either or both of the parties is not necessary, the court may adjudi-  
4 cate the paternity issue. Otherwise, the court may continue the action  
5 until the paternity issue has been adjudicated.

6 \* Sec. 5. AS 09.55.210(5) is repealed.

7 \* Sec. 6. This Act takes effect July 1, 1976.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29