

Introduced: 4/21/77
Referred: Judiciary

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

1 IN THE HOUSE

2 CS HOUSE BILL NO. 490

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making corrective amendments in the Alaska
7 Statutes as recommended by the revisor of statutes."

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

9 * Section 1. AS 04.15.090 is repealed.

10 * Sec. 2. AS 05.15.030(a) is amended to read:

11 (a) At the time of filing application the applicant shall notify
12 the city or borough nearest to the location of the proposed activity of
13 the application. A [DURING THE 15-DAY PERIOD A] local government unit
14 may protest the conduct of the activity in its jurisdiction by resolu-
15 tion stating the reasons for the protest filed with the department.
16 Protests are limited to the lack of qualifications prescribed by this
17 chapter.

18 * Sec. 3. AS 08.08.220 is repealed.

19 * Sec. 4. AS 08.54.144(c) is amended to read:

20 (c) Master guides, registered guides, class-A assistant guides or
21 assistant guides are exempted from the license requirements for trans-
22 porters under this chapter but shall comply with the reporting provi-
23 sions as prescribed in sec. 146 of this chapter [AS 02.05.170(f)].

24 * Sec. 5. AS 08.80.295(a) is amended to read:

25 (a) Except as limited by (b) and (c) of this section, with the
26 consent of the purchaser, the pharmacist may substitute a drug product
27 with the same generic name in the same strength, quantity, dose and
28 dosage form as the prescribed drug which is, in the pharmacist's pro-
29 fessional opinion, therapeutically equivalent and meets the standards of

1 (g) [(f)] of this section. Upon substitution the pharmacist shall noti-
2 fy the purchaser and the person who prescribed the drug of the substitu-
3 tion and of the drug substituted.

4 * Sec. 6. AS 09.16.020(1) is amended to read:

5 (1) their relative degrees of fault shall be the basis for
6 allocation [NOT BE CONSIDERED];

7 * Sec. 7. AS 10.20.710(a)(2) is repealed.

8 * Sec. 8. AS 13.26.030 is amended to read:

9 Sec. 13.26.030. STATUS OF GUARDIAN OF MINOR; GENERAL. A person
10 becomes a guardian of a minor by acceptance of a testamentary appoint-
11 ment or upon appointment by the court. The guardianship status con-
12 tinues until terminated, without regard to the location from time to
13 time of the guardian and minor ward. Guardianship powers may be dele-
14 gated in accordance with sec. 20 of this chapter.

15 * Sec. 9. AS 14.12.170 is amended to read:

16 Sec. 14.12.170. DISTRICTS. For purposes of secs. 150 - 180 of
17 this chapter, regional educational attendance areas shall be considered
18 districts.

19 * Sec. 10. AS 14.40.695 is amended to read:

20 Sec. 14.40.695. ADMINISTRATION. The Alaska Commission on Post-
21 secondary Education shall administer the state's participation in the
22 Western Regional Higher Education Compact. The executive officer of the
23 commission is the certifying officer for purposes of the state's partici-
24 ipation in the compact in accordance with the policies of the Alaska
25 WICHE Commission established under secs. 660 - 690 of this chapter.

26 * Sec. 11. AS 14.40.909(b)(4) is amended to read:

27 (4) administer the provisions of secs. 751 - 845 of this
28 chapter [AS 14.40.751 - 14.40.806] (student financial aid program:
29 scholarship loan, [AND] tuition grant and memorial scholarship loan

1 programs [PROGRAM]), and serve as the student financial aid committee;

2 * Sec. 12. AS 16.10.320 is amended to read:

3 Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan
4 may not exceed \$100,000. A loan may not run longer than 15 years or
5 bear interest exceeding seven per cent, and it shall be secured by a
6 first lien and appropriate security agreements, except that a lien in
7 favor of the state is not required for loans guaranteed fully by the
8 federal government under the Federal Ship Financing Act of 1972 (46
9 U.S.C. secs. 1271-1279b; 86 Stat. 909), as amended [, AND LOANS GRANTED
10 UNDER SEC. 310(a)(1)(B) OF THIS CHAPTER MAY BE SECURED BY OTHER ACCEPT-
11 ABLE COLLATERAL AS DETERMINED APPROPRIATE BY THE DEPARTMENT, INCLUDING
12 BUT NOT LIMITED TO A PLEDGE OF ASSESSMENTS FROM FISHERMEN TO FINANCE THE
13 ESTABLISHMENT OF HATCHERIES UNDER SECS. 400 - 470 OF THIS CHAPTER]. In
14 the case of a security agreement given to secure a loan made under secs.
15 300 - 370 of this chapter and covering a vessel documented under the
16 laws of the United States and so long as the Ship Mortgage Act of 1920
17 (46 U.S.C. secs. 911-984; 41 Stat. 1000), as amended, and the Shipping
18 Act of 1916 (46 U.S.C. secs. 801-842; 39 Stat. 728), as amended, remain
19 ambiguous with respect to whether or not a state or state agency quali-
20 fies as a citizen of the United States for purposes of those Acts, the
21 first lien requirement of this section may be satisfied by the recorda-
22 tion and endorsement of a first preferred ship mortgage under the Ship
23 Mortgage Act of 1920, and by perfection of a security interest under the
24 Uniform Commercial Code -- Secured Transactions (AS 45.05.690 - 45.05.-
25 794), if the approval of the Secretary of Commerce is obtained under 46
26 U.S.C. sec. 839 for the transfer to the department of the interest in a
27 vessel documented under the laws of the United States. In the case of a
28 security agreement given to secure a loan made under secs. 300 - 370 of
29 this chapter and covering a vessel documented under the laws of the

1 United States, the first lien requirement of this section may also be
2 satisfied by use of a trust deed and bond issue under it, if the trustee
3 is a citizen of the United States and obtains a first preferred ship
4 mortgage on the vessel under the Ship Mortgage Act of 1920, and the
5 approval of the Secretary of Commerce is obtained under 46 U.S.C. secs.
6 839 and 961 for the transfer of the bond or bonds to the department if
7 the trustee is not a trustee approved by the Secretary of Commerce under
8 46 U.S.C. secs. 808, 835 and 961. Loans [EXCEPT FOR LOANS GRANTED UNDER
9 SEC. 310(a)(1)(B) OF THIS CHAPTER, LOANS] may not exceed 75 per cent of
10 the appraised value of the collateral used to secure the loan.

11 * Section 13. AS 15.25.050 is amended to read:

12 Sec. 15.25.050. REQUIREMENT OF FILING FEE. (a) Except as pro-
13 vided in (b) of this section, at [AT] the time the declaration is filed,
14 each candidate shall pay a filing fee to the lieutenant governor. The
15 filing fee for candidates for office of governor, lieutenant governor,
16 United States senator, and United States representative is \$100. The
17 filing fee for candidates for office of state senator and state repre-
18 sentative is \$30.

19 (b) In place of a filing fee, an indigent candidate may file a
20 petition to be placed on the primary ballot for the party and office of
21 his choice and signed by not less than the number of qualified voters
22 prescribed by secs. 160 or 170 of this chapter, as appropriate.

23 * Sec. 14. AS 15.60.010 is amended by adding a new paragraph to read:

24 (25) "indigent candidate" means a person who, at the time of
25 filing for office, does not have sufficient assets, credit or other means
26 to provide for payment of filing fees without depriving the candidate
27 or his dependents of food, clothing, or shelter and who has not disposed
28 of any assets with the intent or for the purpose of filing as a candidate
29 for the primary election without paying a filing fee.

1 * Sec. 15. AS 18.50.280 is amended to read:

2 Sec. 18.50.280. COURT REPORTS OF DIVORCE, DISSOLUTION AND ANNUL-
3 MENT. (a) For each dissolution, divorce and annulment of marriage
4 granted by a court in the state the clerk of the court shall prepare and
5 file a certificate of divorce or annulment with the bureau, on forms
6 prescribed and furnished by the bureau. The plaintiff shall furnish the
7 court with the information necessary to complete the certificate, and
8 the furnishing of this information is prerequisite to the issuance of a
9 decree.

10 (b) Before the 11th day of each month the clerk of the court shall
11 forward to the bureau the certificate of each dissolution, divorce
12 and annulment granted during the preceding calendar month and the related
13 reports required by regulation issued under this chapter.

14 * Sec. 16. AS 20.15.050 is amended to read:

15 Sec. 20.15.050. PERSONS AS TO WHOM CONSENT [AND NOTICE] NOT RE-
16 QUIRED. (a) Consent to adoption is not required of

17 (1) a parent who has abandoned a child without affording
18 means of identification, or who has abandoned a child as determined
19 under AS 47.10.080(c)(3)(B);

20 (2) a parent of a child in the custody of another, if the
21 parent for a period of at least one year has failed significantly without
22 justifiable cause, including but not limited to indigency,

23 (A) to communicate meaningfully with the child, or

24 (B) to provide for the care and support of the child as
25 required by law or judicial decree;

26 (3) the father of a minor if the father's consent is not
27 required by sec. 40(a)(2) of this chapter;

28 (4) a parent who has relinquished his right to consent under
29 sec. 180 of this chapter;

1 (5) a parent whose parental rights have been terminated by
2 order of the court under sec. 180 of this chapter;

3 (6) a parent judicially declared incompetent or mentally de-
4 fective if the court dispenses with the parent's consent;

5 (7) any parent of the person to be adopted, if the person is
6 19 or more years of age, and the court dispenses with the consent of the
7 parent;

8 (8) any guardian or custodian specified in sec. 40(a)(3) or
9 (4) of this chapter who has failed to respond in writing to a request
10 for consent for a period of 60 days or who, after examination of his
11 written reasons for withholding consent, is found by the court to be
12 withholding his consent unreasonably; or

13 (9) the spouse of the person to be adopted, if the require-
14 ment of consent to the adoption is waived by the court by reason of pro-
15 longed unexplained absence, unavailability, incapacity, or circumstances
16 constituting an unreasonable withholding of consent.

17 [(b) EXCEPT AS PROVIDED IN SEC. 100 OF THIS CHAPTER, NOTICE OF A
18 HEARING ON A PETITION FOR ADOPTION NEED NOT BE GIVEN TO A PERSON WHOSE
19 CONSENT IS NOT REQUIRED OR TO A PERSON WHOSE CONSENT OR RELINQUISHMENT
20 HAS BEEN FILED WITH THE PETITION.]

21 * Sec. 17. AS 28.35.020 is amended to read:

22 Sec. 28.35.020. CONVICTION IN LARCENY PROSECUTION. In a criminal
23 prosecution for larceny of a vehicle, as the term "vehicle" is defined
24 in sec. 260(7) [10] of this chapter, if the facts do not warrant a con-
25 viction of the defendant for larceny, he may, nevertheless, be convicted
26 of a violation of sec. 10 of this chapter if the facts warrant.

27 * Sec. 18. AS 28.35.160 is repealed.

28 * Sec. 19. AS 35.10.015(c) is amended to read:

29 (c) In this section, "public facilities" includes vessels owned

1 by the state and operated by the division of marine transportation of
2 the Department of Public Works as a part of the Alaska marine highway
3 system. All ferries owned or operated by the state shall be equipped
4 with elevators or other passenger lifting equipment, ramps, or other
5 facilities and devices to ensure that these vessels are accessible to
6 and usable by physically handicapped, aged or infirm passengers. In
7 this section [SUBSECTION], "accessible to and usable by" means that a
8 physically handicapped, aged or infirm passenger can board, disembark
9 and move between decks and about the public areas aboard a state ferry
10 with personal comfort and with safety to himself, other passengers and
11 members of the crew.

12 * Sec. 20. AS 38.05.066 is repealed.

13 * Sec. 21. AS 38.05.067(c)(4) is amended to read:

14 (4) August 4, 1964, and November 7, 1975 [A DATE SIX MONTHS
15 AFTER THE TERMINATION OF HOSTILITIES INVOLVING FORCES OF THE UNITED
16 STATES IN VIET NAM].

17 * Sec. 22. AS 39.35.340(d) is amended to read:

18 (d) The service credit granted under this section may not be
19 counted as [COUNT] years of service for the purpose of satisfying eligi-
20 bility for normal retirement or as eligibility for normal retirement
21 before reaching normal retirement age under this chapter.

22 * Sec. 23. AS 44.47.150(g) is amended to read:

23 (g) For the purposes of this section [CHAPTER], the term munici-
24 pality includes only first and second class cities incorporated under
25 the laws of the state.

26 * Sec. 24. AS 44.50.130(a) is amended to read:

27 (a) An application for a notary public commission shall include a
28 statement under oath that the applicant is [A CITIZEN OF THE UNITED
29 STATES AND] a resident of Alaska, as defined in sec. 20 of this chapter.

1 * Sec. 25. AS 45.50.390 is amended to read:

2 Sec. 45.50.390. ACTS CONSTITUTING GENERAL APPEARANCE. If a person
3 is proceeded against as provided in secs. 330 - 460 of this chapter, and
4 is served with process according to law, or if a nonresident is served
5 with process as provided in secs. 330 - 460 of this chapter, and if any
6 of these persons, or aiders and abettors named as defendants appear in
7 the proceeding by counsel or otherwise, or institute a special proceeding
8 attacking the proceedings, or make a motion in them, either special or
9 general, or if any of them appear to obtain the judgment of the court
10 solely upon the sufficiency of the service of the process upon them, or
11 upon any phase of the injunction proceedings, the special proceeding or
12 appearance, or motion, or appearance, as the case may be, is considered
13 as a general appearance even though the process may not have been suffi-
14 cient, and the parties and defendants who appear in the action, for any
15 reason or cause, are thereafter subject to the general orders and juris-
16 diction of the court for all purposes, and if any of the defendants or
17 persons appear in a court proceeding instituted to effectuate secs.
18 330 - 460 of this chapter solely for the purpose of challenging the
19 validity of service of process upon them they are considered as having
20 surrendered themselves and as having submitted to the general jurisdic-
21 tion of the court. This section shall not be construed as denying, and
22 no attempt shall be made at any time in any proceeding in connection
23 with the enforcement of secs. 300 - 460 of this chapter to restrain or
24 deny any of the defendants, resident or nonresident, copyright holders
25 or owners, or any person, or members of a defendant combination, entity,
26 pool, or monopoly of [OR] their rights or property without full and
27 complete due process of law.

28 * Sec. 26. AS 47.17.070(2) is amended to read:

29 (2) "child" means a person under the age of 18 [16];

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* Sec. 27. AS 47.23.090 is amended to read:

Sec. 47.23.090. REDUCING ARREARS TO JUDGMENT. The agency, on behalf of the person awarded support for the benefit of the child, may enforce support orders through execution after applying [. IF THE AGENCY APPLIES] to the court for an order reducing the outstanding arrears to judgment in accordance with the Rules of Civil Procedure. At the hearing the obligor may present evidence

- (1) that the arrears are not owed;
- (2) that he or she is unable to pay; or
- (3) that the court should consider modifying custody or support if that is in the best interests of the child.

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