

Introduced: 2/11/77  
Referred: Health, Education and  
Social Services and Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 HCS CS SENATE BILL NO. 148 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST 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 25.25.010(6) is amended to read:

10 (6) "duty of support" includes a duty of support imposed or  
11 imposable by law, or by a court order, decree or judgment, whether  
12 interlocutory or final, whether incidental to a proceeding for divorce,  
13 legal separation, separate maintenance or otherwise, and includes the  
14 duty to pay arrearages of support past due and unpaid;

15 \* Sec. 2. AS 25.25.010 is amended by adding new paragraphs to read:

16 (9) "foreign support order" means any support order defined  
17 in (10) of this section issued by a court of competent jurisdiction in  
18 another state;

19 (10) "support order" means any judgment, decree, or order  
20 of support in favor of an obligee whether temporary or final, or sub-  
21 ject to modification, revocation, or remission, regardless of the kind  
22 of action or proceeding in which it is entered.

23 \* Sec. 3. AS 25.25.050 is amended to read:

24 Sec. 25.25.050. RELIEF FROM EXTRADITION. Any obligor contem-  
25 plated by sec. 40 of this chapter, who submits to the jurisdiction of  
26 the court of this or such other state and complies with the court's  
27 order of support, is relieved of extradition for desertion or non-  
28 support entered in the courts of this state during the period of such  
29 compliance.

1 \* Sec. 4. AS 25.25.130 is repealed and re-enacted to read:

2       Sec. 25.25.130. COSTS AND FEES. The supreme court may provide  
3 by rule that a court of this state, when the state is acting as an  
4 initiating state, may not require payment of either a filing fee or  
5 other costs from the obligee but may request the court of the responding  
6 state to collect fees and costs from the obligor. The supreme court  
7 may also provide by rule that a court of this state, when the state is  
8 acting as a responding state, may not require payment of a filing fee  
9 or other costs from the obligee, but may direct that all fees and  
10 costs requested by the court in the initiating state and those incurred  
11 in this state when acting as a responding state (including fees for  
12 filing of pleadings, service of process, seizure of property, stenogra-  
13 phic or duplication service, or other service supplied to the obligee)  
14 be paid in whole or in part by the obligor. These costs or fees do  
15 not have priority over amounts due to the obligee.

16 \* Sec. 5. AS 25.25.140 is amended to read:

17       Sec. 25.25.140. JURISDICTION BY ARREST. When the court of this  
18 state, acting either as an initiating or responding state, has reason  
19 to believe that the defendant may flee the jurisdiction, it may (1) as  
20 an initiating state, request in its certificate that the court of the  
21 responding state obtain the body of the defendant by appropriate  
22 process if that is permissible under the law of the responding state;  
23 or (2) as a responding state, obtain the body of the defendant by  
24 appropriate process. If the court of this state, acting as a responding  
25 state, obtains the body of the defendant, it may then release him upon  
26 his own recognizance or upon his giving a bond in an amount set by the  
27 court to assure his appearance at the hearing.

28 \* Sec. 6. AS 25.25.150 is amended to read:

29       Sec. 25.25.150. STATE INFORMATION AND LOCATOR AGENCY. The child

1 support enforcement agency [DEPARTMENT OF HEALTH AND SOCIAL SERVICES]  
2 is designated as the state information and locator agency for all  
3 matters concerning the enforcement of support obligations under AS  
4 47.23 and under this chapter, and it is its duty to:

5 (1) compile a list of the courts and their addresses in  
6 this state having jurisdiction under this chapter and transmit it to  
7 the state information agency of every other state which has adopted  
8 this or a substantially similar statute;

9 (2) maintain a register of such lists received from other  
10 states [AND TRANSMIT COPIES OF THEM AS SOON AS POSSIBLE AFTER RECEIPT  
11 TO EVERY COURT IN THIS STATE HAVING JURISDICTION UNDER THIS CHAPTER];

12 (3) locate obligors by utilizing all sources of information  
13 and records available in the state, and in other states as appropriate;  
14 these sources include telephone directories, real property records,  
15 personal property records, vital statistics records, police records,  
16 records of appropriate federal agencies, records of employers who are  
17 willing to cooperate, and official records of the state including  
18 records of the state Departments of Public Safety, Health and Social  
19 Services, Revenue, and Labor; if state agencies or departments have  
20 information or records concerning the obligor which are made confi-  
21 dential by state statute, and they are not prohibited from doing so by  
22 federal statute or regulation, those agencies or departments shall  
23 cooperate with the child support enforcement agency at its request by  
24 supplying at least (A) the last known address of the obligor and (B)  
25 the name and address of the last known employer of the obligor, if  
26 that information is in their possession; this information shall be  
27 kept confidential by the child support enforcement agency and may be  
28 used by the agency only for purposes of child support enforcement.

29 \* Sec. 7. AS 25.25.160 is amended to read:

1           Sec. 25.25.160. AGENCY [COURT] DUTY WHEN ALASKA RESPONDING  
2 STATE. When the child support enforcement agency [COURT] of this  
3 state, acting as a responding state, receives from the court or child  
4 support enforcement agency of an initiating state the copies mentioned  
5 in sec. 120 of this chapter, it shall (1) attempt to locate the obligor  
6 [DOCKET THE CAUSE], (2) if the obligor does not pay voluntarily,  
7 present the cause to the court to docket and to set a time and place  
8 for hearing, and [NOTIFY THE ATTORNEY GENERAL OF THE STATE,] (3) [SET  
9 A TIME AND PLACE FOR A HEARING, AND (4)] take such action as is neces-  
10 sary in accordance with the laws of this state to obtain jurisdiction.

11 \* Sec. 8. AS 25.25.170 is repealed and re-enacted to read:

12           Sec. 25.25.170. FURTHER DUTY OF RESPONDING STATE. (a) The  
13 child support enforcement agency on its own initiative shall use all  
14 means at its disposal to locate the obligor or his property, and, if  
15 because of inaccuracies in the complaint or otherwise the court  
16 cannot obtain jurisdiction, the agency shall inform the court of its  
17 actions and request the court to continue the case pending receipt of  
18 more accurate information or an amended complaint from the initiating  
19 state.

20           (b) If the obligor or his property is not found in this state  
21 and the child support enforcement agency discovers that the obligor or  
22 his property may be found in another state, it shall forward the  
23 documents received from the initiating state to the state information  
24 agency in the state in which the obligor is believed to be located.  
25 The agency shall inform the initiating state of its action immediately.

26 \* Sec. 9. AS 25.25.190 is amended to read:

27           Sec. 25.25.190. TRANSMITTING ORDERS TO INITIATING STATE. The  
28 child support enforcement agency [COURT] of this state, when acting as  
29 a responding state, shall cause to be transmitted to the court or child

1 support enforcement agency of the initiating state a copy of all  
2 orders of support or orders for reimbursement therefore.

3 \* Sec. 10. AS 25.25.200(2) is amended to read:

4 (2) require the defendant to make payments at specified  
5 intervals to the child support enforcement agency [CLERK OF THE COURT  
6 OR THE OBLIGEE] and to report personally to the agency [CLERK] at such  
7 times as may be considered necessary;

8 \* Sec. 11. AS 25.25.210 is amended to read:

9 Sec. 25.25.210. ADDITIONAL AGENCY [COURT] DUTIES WHEN ALASKA  
10 RESPONDING STATE. The child support enforcement agency [COURT] of  
11 this state, when acting as a responding state, has the following  
12 duties [WHICH MAY BE CARRIED OUT THROUGH THE CLERK OF THE COURT];

13 (1) upon the receipt of a payment made by the defendant  
14 under an order of the court or otherwise, to transmit the payment  
15 immediately to the court or child support enforcement agency of the  
16 initiating state, and

17 (2) upon request, to furnish to the court or child support  
18 enforcement agency of the initiating state a certified statement of  
19 all payments made by the defendant.

20 \* Sec. 12. AS 25.25.220 is amended to read:

21 Sec. 25.25.220. ADDITIONAL AGENCY [COURT] DUTY WHEN ALASKA  
22 INITIATING STATE. The child support enforcement agency [COURT] of  
23 this state, when acting as an initiating state, has the duty [, WHICH  
24 MAY BE CARRIED OUT THROUGH THE CLERK OF THE COURT,] to receive and  
25 disburse [IMMEDIATELY] all payments made by the defendant or trans-  
26 mitted by the court or child support enforcement agency of the respond-  
27 ing state.

28 \* Sec. 13. AS 25.25 is amended by adding new sections to read:

29 Sec. 25.25.252. PROCEEDINGS NOT TO BE STAYED. Except as provided

1 in sec. 258(c) of this chapter, a court of this state, when the state  
2 is a responding state, may not stay the proceeding or refuse a hearing  
3 under this chapter because of any pending or prior action or proceeding  
4 for divorce, separation, annulment, dissolution, habeas corpus, adoption,  
5 or custody in this or any other state. The court shall hold a hearing  
6 and may issue a support order pendente lite. In the interest of a  
7 speedy resolution of the support issue, it may require the obligor to  
8 post a bond for the prompt prosecution of the pending proceeding. If  
9 the other action or proceeding is concluded before the hearing in the  
10 instant proceeding and the judgment in the other proceeding provides  
11 for the support demanded in the complaint being heard, the court must  
12 conform its support order to the amount allowed in the other action or  
13 proceeding. After the court has conformed its support order to the  
14 amount in the other action, it may not stay enforcement of its support  
15 order because of the retention of jurisdiction for enforcement purposes  
16 by the court in the other action or proceeding.

17 Sec. 25.25.254. REGISTRATION OF FOREIGN SUPPORT ORDERS. (a) If  
18 the duty of support is based on a support order of a court of competent  
19 jurisdiction in another state, the obligee may register that foreign  
20 support order in the superior court in the manner, with the effect,  
21 and for the purposes provided in secs. 254 - 258 of this chapter.

22 (b) The clerk of the court shall maintain a registry of foreign  
23 support orders in which he shall file the foreign support orders  
24 registered with the court.

25 (c) An obligee seeking to register a foreign support order in  
26 the superior court shall transmit to the clerk of the court (1) three  
27 certified copies of the order with all modifications of it, (2) one  
28 copy of the reciprocal enforcement of support act of the state in  
29 which the order was made, and (3) a statement, verified and signed by

1 the obligee, showing the last known mailing address of the obligor,  
2 the amount of support remaining unpaid, a description and the location  
3 of any property of the obligor available upon execution, and a list of  
4 the states in which the order is registered. Upon receipt of these  
5 documents, the clerk of the court, shall file them in the registry of  
6 foreign support orders. The filing constitutes registration under  
7 this section. If prohibited by a rule of the Alaska Supreme Court,  
8 under sec. 130 of the chapter, no filing fee or payment of other costs  
9 may be required of the obligee.

10 (d) Promptly upon registration, the clerk of the court shall  
11 send by certified or registered mail to the obligor at the address  
12 given, a notice of the registration with a copy of the registered  
13 support order and the mailing address of the obligee. He shall also  
14 docket the case and notify the child support enforcement agency of his  
15 action. The agency shall proceed to enforce the order.

16 Sec. 25.25.256. AGENCY TO REPRESENT OBLIGEE. Upon request of  
17 the obligee, the child support enforcement agency shall represent the  
18 obligee in proceedings to register a foreign support order in this  
19 state.

20 Sec. 25.25.258. EFFECT OF REGISTRATION; ENFORCEMENT PROCEDURES.

21 (a) Upon registration, the foreign support order shall be treated in  
22 the same manner as a support order issued by the superior court. It  
23 has the same effect and is subject to the same procedures, defenses,  
24 and proceedings for re-opening, vacating, or staying as a support  
25 order of this state and may be enforced and satisfied in like manner.

26 (b) The obligor has 30 days after the mailing of notice of the  
27 registration in which to petition the court to vacate the registration  
28 or for other relief.

29 (c) At a hearing to enforce the registered support order, the

1 obligor may present only matters that would be available to him as  
2 defenses in an action to enforce a foreign money judgment. If he  
3 shows to the court that an appeal from the order is pending or will be  
4 taken or that a stay of execution has been granted, the court shall  
5 stay enforcement of the order until the appeal is concluded, the time  
6 for appeal has expired, or the order is vacated or otherwise modified,  
7 upon satisfactory proof that the obligor has furnished security for  
8 payment of the support ordered as required by the state in which the  
9 support order was issued. If he shows to the court any relevant  
10 ground upon which enforcement of a support order of this state may be  
11 stayed, the court shall stay enforcement of the order for an appropriate  
12 period if the obligor furnishes the same security for payment of the  
13 support ordered that is required for a support order of this state.

14 \* Sec. 14. AS 47.23 is amended by adding a new section to read:

15 Sec. 47.23.025. RIGHT OF AGENCY TO BRING ACTION. The child  
16 support enforcement agency may bring an action on behalf of the state  
17 to enforce child support under AS 47.25.402.

18 \* Sec. 15. AS 47.23.040 is amended to read:

19 Sec. 47.23.040. DETERMINATION OF PATERNITY. The agency may  
20 initiate efforts to have the paternity of children born out of wedlock  
21 determined by the court only on proper [VOLUNTARY] application by the  
22 mother or other legal custodian. The agency shall appear on behalf of  
23 the mother or legal custodian. The court may enter any appropriate  
24 filiation order.

25 \* Sec. 16. AS 47.23.060(a) is amended to read:

26 (a) In issuing an order of support the [AN ORDER OF SUPPORT  
27 ESTABLISHES A RELATIONSHIP BY WHICH THE CUSTODIAN OF THE CHILD IS THE  
28 ADMINISTRATOR FOR THE PURPOSES OF ADMINISTERING CHILD SUPPORT ON  
29 BEHALF OF THE CHILD. THE] court shall carefully consider the need for

1 support, the ability of both parents to meet such support obligations,  
2 the extent to which the parents supported the child before divorce,  
3 and the economic ability of the parents to pay after separation and  
4 divorce. The court shall also consider the effect on the support  
5 obligation of a change in custodian. The need of the child for support  
6 shall be considered regardless of the sex of the parent awarded  
7 custody of the child.

8 \* Sec. 17. AS 47.23.060(b) is repealed.

9 \* Sec. 18. AS 47.23.070(b) is amended to read:

10 (b) The order of assignment is binding upon an employer upon  
11 service of a copy of the order upon the employer and until further  
12 order of the court. The employer may, for each payment made under the  
13 order, deduct one dollar from other wages or salary owed to the  
14 employee [\$1 FOR EACH PAYMENT MADE UNDER THE ORDER].

15 \* Sec. 19. AS 47.23.080 is amended to read:

16 Sec. 47.23.080. ENFORCEMENT OF SUPPORT ORDERS. In a court order  
17 requiring payment of child support, absent a showing of good cause,  
18 the court shall order the payments made to the agency. The [HOWEVER,  
19 THE] court may [SHALL] accept reasonable agreements as to method of  
20 payment. The agency shall take all necessary action to enforce those  
21 child support orders, including (1) petitioning the court for orders  
22 to aid in the enforcement of child support; and (2) appearing on  
23 behalf of the custodian and enforcing any child support order entered.  
24 The determination or enforcement of a duty of support is unaffected  
25 [MAY, IN THE DISCRETION OF THE COURT, BE AFFECTED] by any [BAD FAITH]  
26 interference by the custodian of the child with rights of custody or  
27 [AND] visitation granted by a court.

28 \* Sec. 20. AS 47.23.090 is amended to read:

29 Sec. 47.23.090. REDUCING ARREARS TO JUDGMENT. The agency [, ON

1 BEHALF OF THE PERSON AWARDED SUPPORT FOR THE BENEFIT OF THE CHILD,]  
2 may enforce support orders through execution. If the agency seeks  
3 execution to enforce a support order, it may apply [APPLIES] to the  
4 court for an order reducing the outstanding arrears to judgment in  
5 accordance with the Rules of Civil Procedure. At the hearing the  
6 obligor may present evidence:

7 (1) that the arrears are not owed;

8 (2) that he or she does not have the ability [IS UNABLE] to  
9 pay; or

10 (3) that the court should consider modifying future [CUSTODY  
11 OR] support payments if that is in the interest of justice [BEST  
12 INTERESTS OF THE CHILD].

13 \* Sec. 21. AS 47.23.100 is amended to read:

14 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
15 provide aid to any person due child support under the laws of this  
16 state. If the obligee is indigent or otherwise unable to pay for  
17 these services, the agency shall act without charge to the obligee.  
18 If the agency determines that the obligee is financially able to pay,  
19 costs shall be assessed according to regulations adopted by the depart-  
20 ment and be paid into the fund established in sec. 30 of this chapter  
21 [AS 47.23.035].

22 \* Sec. 22. AS 47.23 is amended by adding a new section to read:

23 Sec. 47.23.105. IMMUNITY FROM CRIMINAL PROSECUTION. If at a  
24 hearing the obligor is called for examination as an adverse party and  
25 he declines to answer upon the ground that his testimony may incrimi-  
26 nate him, the court may require him to answer. If he answers after  
27 being required to do so by the court, he is immune from criminal  
28 prosecution or any other penalty with respect to matters revealed by  
29 his testimony or any information directly or indirectly derived from

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

2 \* Sec. 23. AS 47.23.110 is amended by adding new paragraphs to read:

3 (3) "duty of support" includes a duty of child support  
4 imposed or imposable by law, or by a court order, decree or judgment,  
5 whether interlocutory or final, whether incidental to a proceeding for  
6 divorce, legal separation, separate maintenance, or otherwise, and  
7 includes the duty to pay arrearages of support past due and unpaid;

8 (4) "obligee" means a person to whom a duty of support is  
9 owed;

10 (5) "obligor" means a person owing a duty of support;

11 (6) "support order" means any judgment, decree, or order of  
12 child support in favor of an obligee whether temporary or final, or  
13 subject to modification, revocation, or remission, regardless of the  
14 kind of action or proceeding in which it is entered.

15 \* Sec. 24. AS 47.25 is amended by adding a new section to read:

16 Sec. 47.25.402. ACTION AGAINST PERSON LIABLE FOR CARE OF THE  
17 RECIPIENT. If, during the continuance of an allowance for aid to  
18 families with dependent children, the department finds that a person  
19 liable for the support of the recipient of assistance is or may be  
20 able to provide the necessary care and support of the recipient and  
21 the person liable for the care and support of the recipient fails or  
22 refuses to support and care for the recipient, and the department de-  
23 termines that it is in the best interests of the child to bring a  
24 cause of action for the assistance against the person liable, the  
25 state has a cause of action for the assistance against the person  
26 liable. The action shall be brought in the name of the state against  
27 the person liable for the recovery of the amount of money, with interest  
28 from the date of judgment or from the date payments were due if required  
29 by a prior court order, paid to the recipient together with the costs

1 and disbursements of the action.

2 \* Sec. 25. This Act takes effect July 1, 1977.  
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