

Introduced: 2/17/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

8 * Section 1. AS 25.25.010(1) is amended to read:

9 (1) "state" includes the State of Alaska and a state, terri-
10 tory, or possession of the United States and the District of Columbia,
11 and a foreign country in which this or a substantially similar recip-
12 cal law has been enacted;

13 * Sec. 2. AS 47.23.020(2)(A) is amended to read:

14 (A) schedules for determining the amount an obligor is
15 liable to contribute toward the support of a minor child [AN
16 OBLIGEE] under this chapter and under Title IV-D, Social Security
17 Act;

18 * Sec. 3. AS 47.23.060 is amended by adding a new subsection to read:

19 (d) In any proceeding to modify the duty of support, a change of
20 20 percent or more in the consumer price index which occurs after the
21 establishment of or modification of a judicial or administrative sup-
22 port order is evidence of a change of circumstances.

23 * Sec. 4. AS 47.23.100 is amended to read:

24 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
25 provide aid to any person due child support under the laws of this
26 state upon application. If the obligee is indigent or otherwise unable
27 to pay for these services, the agency shall act without charge to the
28 obligee. The agency may impose fees for services provided under this
29 chapter, which [IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINAN-

1 CIALY ABLE TO PAY, COSTS] shall be assessed according to regulations
2 adopted by the department and [BE] paid into the fund established in
3 AS 47.23.030.

4 * Sec. 5. AS 47.23.110(4) is amended to read:

5 (4) "obligee" means the custodial parent or person who has
6 physical custody and responsibility for the minor child [A PERSON] to
7 whom a duty of support is owed;

8 * Sec. 6. AS 47.23.110 is amended by adding new paragraphs to read:

9 (7) "consumer price index" means the All Urban Consumer
10 Price Index as compiled by the United States Department of Labor,
11 Bureau of Labor Statistics, for Anchorage, Alaska or, if the obligor
12 and obligee live in the same judicial district, the index for a muni-
13 cipality within that judicial district, if the United States Department
14 of Labor compiles an index;

15 (8) "earnings" (A) means compensation paid or payable for
16 personal services, whether denominated as wages, salary, commission,
17 bonus, or other similar description and includes the gain derived from
18 the investment of capital, from labor, or from a combination of in-
19 vestment and labor; and (B) does not include profit gained from the
20 sale or conversion of a capital asset;

21 (9) "disposable earnings" means that part of the earnings of
22 an individual which remains after the deduction from those earnings of
23 any amount required by law to be withheld.

24 * Sec. 7. AS 47.23.130 is repealed and reenacted to read:

25 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
26 able to the state under AS 47.23.120(a) or (b), the state is subrogated
27 to the rights of the obligee to:

28 (1) bring an action in the superior court seeking an order
29 of support or modifying an existing order of support;

1 (2) proceed under AS 47.23.160 -- 47.23.270 to establish or
2 modify a duty of support; or

3 (3) enforce by execution, in accordance with AS 47.23.230 --
4 47.23.270, or otherwise, a support order entered in favor of the obli-
5 gee.

6 (b) To establish, modify or enforce an order of support, based
7 upon the subrogation of the state, the agency is not limited to the
8 amount of assistance being granted to the minor child.

9 (c) The recovery of any amount for which the obligor is liable
10 which exceeds the total assistance granted under AS 47.25.310 -- 47.25.-
11 420 shall be paid to the obligee.

12 * Sec. 8. AS 47.23.150 is amended by adding a new subsection to read:

13 (c) Refusal by the obligor to accept the notice is considered
14 service as of the time of the refusal.

15 * Sec. 9. AS 47.23.160(b) is amended to read:

16 (b) The notice and finding of financial responsibility served
17 under (a) of this section shall state

18 (1) the sum or periodic payments for which the alleged
19 obligor is found to be responsible, calculated by taking into consid-
20 eration the need of the minor child [ALLEGED OBLIGEE], the alleged
21 obligor's liability to the state under AS 47.23.130 if any, and his
22 duty of support under the law;

23 (2) the name of the alleged obligee and the minor child [HIS
24 CUSTODIAN];

25 (3) that the alleged obligor may appear and show cause in a
26 hearing held by the agency why the finding is incorrect, should not be
27 finally ordered, and should be modified or rescinded, because (A) no
28 duty of support is owed, or (B) the amount of support found to be owed
29 is incorrect;

1 (4) that if the person served with the notice and finding of
2 financial responsibility does not request a hearing within 30 days, the
3 property of the person will be subject to execution in accordance with
4 AS 47.23.230 -- 47.23.270 in the amounts stated in the finding without
5 further notice or hearing.

6 * Sec. 10. AS 47.23.160 is amended by adding a new subsection to read:

7 (c) Refusal by the obligor to accept the notice is considered
8 service as of the time of the refusal.

9 * Sec. 11. AS 47.23.170(e) is amended to read:

10 (e) The hearing officer shall consider the following in making
11 his determination under (d) of this section:

12 (1) the needs of the minor child [ALLEGED OBLIGEE], disre-
13 garding the income or assets [OF THE CUSTODIAN] of the alleged obligee;

14 (2) the amount of the alleged obligor's liability to the
15 state under AS 47.23.120 [AS 47.23.125] if any;

16 (3) the intent of the legislature that children be supported
17 as much as possible by their natural parents;

18 (4) the ability of the alleged obligor to pay.

19 * Sec. 12. AS 47.23.170(f) is amended to read:

20 (f) If the alleged obligor requesting the hearing fails to appear
21 at the hearing, the hearing officer shall enter a decision declaring
22 the property of the alleged obligor subject to execution in accordance
23 with AS 47.23.230 -- 47.23.270 in the amounts stated in the notice and
24 finding [FILING] of financial responsibility.

25 * Sec. 13. AS 47.23.190(a) is amended to read:

26 (a) Unless a support order has been entered, the obligor, or the
27 obligee [OR HIS CUSTODIAN], may petition the agency or its designee for
28 a modification of the finding or decision of responsibility previously
29 entered with regard to future periodic support payments.

1 * Sec. 14. AS 47.23.190(c) is amended to read:

2 (c) If a hearing is granted, the agency shall serve a notice of
3 hearing together with a copy of the petition and affidavits submitted
4 on the obligee [OR HIS CUSTODIAN] and the obligor personally or by
5 registered, certified, or insured mail, return receipt requested, for
6 restricted delivery only to the person to whom the notice is directed
7 or to the person authorized under federal regulation to receive his
8 restricted delivery mail.

9 * Sec. 15. AS 47.23 is amended by adding a new section to read:

10 Sec. 47.23.255. EARNINGS EXEMPT FROM ORDER OR LIEN. (a) Not
11 more than 50 percent of the disposable earnings of the obligor is
12 exempt from an order to withhold and deliver under AS 47.23.250. The
13 exempt part of the disposable earnings may be paid to the obligor even
14 if the earnings are paid monthly, weekly, or at other intervals.

15 (b) A person, political subdivision, or department of the state
16 shall withhold the nonexempt part of the earnings of the obligor at
17 each succeeding interval of payment until the entire amount of the debt
18 stated in the order to withhold and deliver has been withheld.

19 (c) An order to withhold and deliver issued to the Department of
20 Revenue remains in effect throughout the calendar year in which it is
21 served. That order applies to any tax refund or other disbursements to
22 which the obligor is entitled even if the tax refund or disbursement is
23 issued more than 30 days after service of the order.
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