

Offered: 4/27/84
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 668 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH 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. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
10 finds that the effect on the general public of the failure of parents to
11 support their children is vast and far reaching. The harmful effects of
12 unpaid child support touch not only the poor but reach far beyond, dimin-
13 ishing the overall quality of life for all Alaskans. The purpose of the
14 amendments in this Act is to enhance the efforts of those persons who seek
15 to enforce the payment of child support obligations by noncustodial parents
16 having the duty of support.

17 (b) The legislature also finds that a disproportionately high per-
18 centage of lower-income, single-parent families are headed by women. The
19 difficulties in obtaining child support from noncustodial parents contrib-
20 utes significantly to the hardship of those families. The fact that the
21 general public bears the huge monetary cost of supporting families on
22 public assistance because of inadequate support from noncustodial parents
23 is only one of the most obvious effects of the problem of unpaid child
24 support. In addition, it is recognized that the failure of parents to
25 support their children is a major factor contributing to the broader social
26 problems of child abuse and delinquency. Even when families are able to
27 survive without public assistance, the hardship experienced by a family,
28 and particularly the children in that family, is usually substantial.

29 (c) The legislature also finds that the hardship experienced by

1 children in families who may rely on support from a noncustodial parent
2 should not be a necessary condition that must be endured by those families.
3 Statutory tools have been provided to enable the child support enforcement
4 agency to collect unpaid child support owed by a parent, including the
5 authority to order an employer to withhold and deliver part of an employ-
6 ee's earnings. This tool, however, is not usable against a self-employed
7 parent who owes child support. The legislature finds that if delinquency
8 in making child support payments could be reflected in a person's credit
9 history, an effective collection and deterrent tool would exist -- a tool
10 that would be effective against those self-employed parents who owe child
11 support.

12 (d) The legislature further finds that the amendments in this Act
13 will enhance efforts to enforce the requirement that parents pay the cost
14 of rearing their children and thereby enhance the quality of life for all
15 Alaskans.

16 * Sec. 2. AS 09.65.132(g) is amended to read:

17 (g) An income assignment under this section has priority over
18 all other attachments, executions, garnishments, or other assignments
19 unless otherwise ordered by the court. An income assignment is not
20 limited to the wages of an obligor but may include all money owed to
21 the obligor not otherwise exempt by law. Exemptions under AS 09.38 do
22 not apply to income assignments under this section; however, 50 per-
23 cent of the obligor's net disposable earnings [GROSS WAGES OF THE
24 OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS,] is exempt from execution
25 under this section. In this subsection, "net disposable earnings" has
26 the meaning given in 15 U.S.C. 1672.

27 * Sec. 3. AS 25.20.050(a) is amended to read:

28 (a) A child born out of wedlock is legitimated and considered
29 the heir of the putative parent when [FATHER WHO] (1) the putative

1 parent subsequently marries the undisputed parent [MOTHER] of the
2 child; (2) the putative parent acknowledges, in writing, being a
3 parent [PATERNITY] of the child; or (3) the putative parent is judged
4 [TO BE THE FATHER] by a superior court, upon sufficient evidence, to
5 be a parent of the child. Acceptable evidence includes, but is not
6 limited to, evidence that the putative parent's [ALLEGED FATHER'S]
7 conduct and bearing toward the child, either by word or act, indicates
8 that the child is the child of the putative parent [ALLEGED FATHER].
9 That conduct may be construed by the court to constitute evidence of
10 parentage. When [PATERNITY. EXTRINSIC EVIDENCE MAY BE USED BY THE
11 COURT TO SHOW INTENT WHEN] indefinite, ambiguous, or uncertain terms
12 are used, the court may use extrinsic evidence to show the putative
13 parent's intent.

14 * Sec. 4. AS 25.20.050 is amended by adding a new subsection to read:

15 (d) The results of a blood test, tissue-type test, protein
16 comparison, or other scientifically accepted procedure shall be admit-
17 ted and weighed in conjunction with other evidence in determining the
18 statistical probability that the putative parent is a legal parent of
19 the child in question. However, a scientifically accepted procedure
20 that establishes a probability of parentage at 95 percent or higher
21 creates a presumption of parentage that may be rebutted only by clear
22 and convincing evidence.

23 * Sec. 5. AS 25.25.250 is amended to read:

24 Sec. 25.25.250. EFFECT OF PARTICIPATION IN PROCEEDING. Par-
25 ticipation in a proceeding under this chapter does not confer upon any
26 court jurisdiction over [OF] any of the parties to that proceeding [IN
27 IT] in any other proceeding. The superior court may not adjudicate
28 custody, visitation, or property rights in proceedings under this
29 chapter.

1 * Sec. 6. AS 47.23 is amended by adding a new section to read:

2 Sec. 47.23.065. WAIVER OF CHILD SUPPORT. (a) A custodian of a
3 child, including a custodial parent, owes a duty to that child to
4 ensure that child support is paid by a noncustodial parent who is
5 obligated to pay it. An agreement to waive past or future child
6 support, made between an obligor and a person who is entitled to
7 receive support on behalf of an obligee, is not enforceable unless

8 (1) the agreement is put in writing at the time the agree-
9 ment is made; and

10 (2) the agreement is signed at the time it is made by both
11 the obligor and the person acting for the obligee.

12 (b) When the right to receive child support has been assigned to
13 a governmental entity, an agreement under (a) of this section that has
14 not been adopted as an administrative order of the agency is not
15 effective during a period when the obligee is receiving public assis-
16 tance under AS 47.25.310 - 47.25.420.

17 (c) In a separation, dissolution, or divorce proceeding, a court
18 may not accept a waiver of support by a custodial parent without proof
19 that the custodial parent can support the needs of the child adequate-
20 ly.

21 * Sec. 7. AS 47.23.080(c) is amended to read:

22 (c) The determination or enforcement of a duty of support is
23 unaffected by any interference by the custodian of the child with
24 rights of custody or visitation granted by a court. When the agency
25 appears on behalf of a child in an action seeking to establish or
26 enforce support, the court may not adjudicate custody, visitation, or
27 property rights in the same action.

28 * Sec. 8. AS 47.23 is amended by adding a new section to read:

29 Sec. 47.23.085. SUBPOENAS. The agency, with the concurrence of

1 the commissioner of revenue, may subpoena persons, books, records, and
2 documents to determine the extent and location of assets of any obli-
3 gor who is more than 45 days in arrears in a child support obligation
4 established either by court or administrative order.

5 * Sec. 9. AS 47.23 is amended by adding new sections to read:

6 Sec. 47.23.225. SUPPORT PAYMENT OBLIGATIONS AS JUDGMENTS. A
7 court order ordering a noncustodial parent obligor to make periodic
8 child support payments to the custodian of a child is a judgment that
9 becomes vested when each payment becomes due and unpaid. The cus-
10 todian of the child, or the agency on behalf of that person, may take
11 legal action under AS 47.23.226 to establish a judgment for child
12 support payments ordered by a court of this state that are delinquent.

13 Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. To commence an
14 action to collect the payment due, the custodian of a child, or the
15 agency on behalf of that person, shall file with the court (1) a
16 petition requesting establishment of a judgment; (2) an affidavit that
17 states that one or more payments of child support are 30 or more days
18 past due and that specifies the amounts past due and the dates they
19 became past due; and (3) notice of the obligor's right to respond.
20 Service on the obligor shall be in the manner provided by the rules of
21 civil procedure for service of summons in a civil action. The child's
22 custodian, or the agency on behalf of the custodian, shall file with
23 the court proof of service of the petition, affidavit, and notice.
24 The obligor shall respond no later than 15 days after service by
25 filing an affidavit with the court. If the obligor's affidavit states
26 that the obligor has paid any of the amounts claimed to be delinquent,
27 describes in detail the method of payment or offers any other defense
28 to the petition, then the obligor is entitled to a hearing. After the
29 hearing, if any, the court shall enter a judgment for the amount of

1 money owed. If the obligor does not file an affidavit under this
2 section, the court shall enter a default judgment against the obligor.

3 Sec. 47.23.227. NATURE OF REMEDIES. AS 47.23.225 and 47.23.226
4 provide remedies in addition to and not as a substitute for any other
5 remedies available to the parties.

6 Sec. 47.23.228. COURT COSTS. The court may order an obligor to
7 pay all court costs involved in a proceeding resulting in a court
8 order described in AS 47.23.225, and in a proceeding under AS 47.23.-
9 226.

10 * Sec. 10. AS 47.23.250(i) is amended to read:

11 (i) Exemptions under AS 09.38 do not apply to proceedings to en-
12 force the payment of child support under AS 47.23.230 - 47.23.270;
13 however, 50 percent of the obligor's net disposable earnings [GROSS
14 WAGES OF THE OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS,] is exempt
15 from execution under AS 47.23.230 - 47.23.270. In this subsection,
16 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

17 * Sec. 11. AS 47.23 is amended by adding a new section to read:

18 Sec. 47.23.265. SERVICE; NOTIFICATION OF CHANGE OF ADDRESS. (a)
19 Except as otherwise provided under this chapter, when a notice, paper,
20 or other document is required by this chapter to be given or served
21 upon a person by the agency, the notice, paper, or other document may
22 be sent by registered or certified mail to the last known address of
23 that person. Service by mail under this chapter is effected when the
24 notice, paper, or other document is properly addressed, registered or
25 certified, and mailed.

26 (b) A person required by court order to make child support
27 payments through the agency shall keep the agency informed of the
28 person's current address.

29 * Sec. 12. AS 47.23 is amended by adding a new section to read:

1 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING
2 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
3 lending institutions of any kind information about delinquent child
4 support owed by obligors. The information so provided must consist
5 solely of the payment history of the obligor for a period not to
6 exceed 10 years before the date the information is provided.

7 (b) Upon an obligor's payment of delinquent child support, the
8 agency shall immediately notify all credit bureaus and lending insti-
9 tutions that were furnished information about the obligor under (a) of
10 this section that the obligor is no longer delinquent.

11 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).