

Offered: 5/6/86
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR SENATE BILL NO. 370 (Judiciary) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to aid to families with dependent
7 children and to child support and enforcement; and
8 providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 47.23.020(a) is amended to read:
11 (a) The agency shall
12 (1) seek enforcement of child support orders of the superi-
13 or courts of the state in other jurisdictions and shall obtain, en-
14 force, and administer the orders in this state;
15 (2) adopt regulations to carry out the purposes of this
16 chapter, including regulations that establish
17 (A) schedules for determining the amount an obligor is
18 liable to contribute toward the support of an obligee under this
19 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secu-
20 rity Act);
21 (B) procedures for hearings conducted under AS 47.23.-
22 170; and
23 (C) subject to AS 47.23.025 and to federal law, a
24 uniform rate of interest on arrearages of support that shall be
25 charged the obligor upon notice if child support payments are 10
26 or more days overdue or if payment is made by a check backed by
27 insufficient funds;
28 (3) administer and enforce the Uniform Reciprocal Enforce-
29 ment of Support Act (AS 25.25);

1 (4) establish, enforce, and administer child support obli-
2 gations administratively in accordance with this chapter;

3 (5) administer the state plan required under 42 U.S.C.
4 651 - 665 (Title IV-D, Social Security Act) as amended;

5 (6) disburse [CHILD] support payments collected by the
6 agency to the obligee, together with interest charged under (2)(C) of
7 this subsection;

8 (7) establish and enforce through the superior courts of
9 the state child support orders from other jurisdictions pertaining to
10 obligors within the state;

11 (8) enforce and administer spousal support orders if a
12 spousal support obligation has been established with respect to the
13 spouse and if the support obligation established with respect to the
14 child of that spouse is also being administered; and

15 (9) obtain a medical support order as part of a child
16 support order if health care coverage is available to the obligor at a
17 reasonable cost.

18 * Sec. 2. AS 47.23.062(a) is amended to read:

19 (a) A judgment, court order, or order of the child support
20 enforcement agency under this chapter providing for [THE] support [OF
21 A MINOR CHILD] must contain an income withholding order. An income
22 withholding order under this section may not be enforced unless the
23 obligor had notice of the order when it was made or an application for
24 the order was served on the obligor in the manner provided for service
25 of a summons under Rule 4, Alaska Rules of Civil Procedure.

26 * Sec. 3. AS 47.23.062(b) is amended to read:

27 (b) An income withholding order must direct the obligor, the
28 obligor's employer, future employer, and any person, political subdi-
29 vision, or department of the state to withhold money due or to be due

1 the obligor and pay the money to the agency, in an amount determined
2 under (i) [(h)] of this section.

3 * Sec. 4. AS 47.23.062(g) is amended to read:

4 (g) An income withholding order under this section has priority
5 over all other attachments, executions, garnishments, or other legal
6 process brought under state law against the same money unless other-
7 wise ordered by the court. An income withholding order is not limited
8 to the wages of an obligor but may include all money owed to the
9 obligor not otherwise exempt by law. Exemptions under AS 09.38 do not
10 apply to income withholdings [ASSIGNMENTS] under this section.

11 * Sec. 5. AS 47.23.062(1) is amended to read:

12 (1) A petition by the obligor to the court to terminate or
13 reduce the withholding of income may be granted upon good cause shown.
14 Payment of arrears alone does not constitute good cause.

15 * Sec. 6. AS 47.23.170(e) is amended to read:

16 (e) The hearing officer shall consider the following in making a
17 determination under (d) of this section:

18 (1) the needs of the alleged obligee, disregarding the
19 income or assets of the custodian of the alleged obligee;

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

22 (3) the intent of the legislature that children be support-
23 ed as much as possible by their natural parents;

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

25 * Sec. 7. AS 47.23.225 is amended to read:

26 Sec. 47.23.225. SUPPORT PAYMENT OBLIGATIONS AS JUDGMENTS. A
27 support [COURT] order ordering a noncustodial parent obligor to make
28 periodic [CHILD] support payments to the custodian of a child is a
29 judgment that becomes vested when each payment becomes due and unpaid.

1 The custodian of the child, or the agency on behalf of that person,
2 may take legal action under AS 47.23.226 to establish a judgment for
3 [CHILD] support payments ordered by a court of this state that are
4 delinquent.

5 * Sec. 8. AS 47.23.226 is amended to read:

6 Sec. 47.23.226. COLLECTION OF [CHILD] SUPPORT. To collect the
7 payment due, the custodian of a child, or the agency on behalf of that
8 person, shall file with the court (1) a motion requesting establish-
9 ment of a judgment; (2) an affidavit that states that one or more
10 payments of [CHILD] support are 30 or more days past due and that
11 specifies the amounts past due and the dates they became past due; and
12 (3) notice of the obligor's right to respond. Service on the obligor
13 must [SHALL] be in the manner provided in AS 47.23.265. The child's
14 custodian, or the agency on behalf of the custodian, shall file with
15 the court proof of service of the petition, affidavit, and notice.
16 The obligor shall respond no later than 15 days after service by
17 filing an affidavit with the court. If the obligor's affidavit states
18 that the obligor has paid any of the amounts claimed to be delinquent,
19 describes in detail the method of payment or offers any other defense
20 to the petition, then the obligor is entitled to a hearing. After the
21 hearing, if any, the court shall enter a judgment for the amount of
22 money owed. If the obligor does not file an affidavit under this
23 section, the court shall enter a default judgment against the obligor.

24 * Sec. 9. AS 47.23.265(b) is amended to read:

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

28 * Sec. 10. AS 47.23.273 is amended to read:

29 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING

1 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
2 lending institutions of any kind information about delinquent [CHILD]
3 support owed by obligors. The information [SO] provided must consist
4 solely of the payment history of the obligor for a period not to
5 exceed 10 years before the date the information is provided.

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

10 * Sec. 11. AS 47.23.900(3) is amended to read:

11 (3) "duty of support" includes a duty of [CHILD] support
12 imposed or imposable by law, by a court order, decree or judgment, or
13 by a finding or decision rendered under this chapter whether inter-
14 locutory or final, whether incidental to a proceeding for divorce,
15 legal separation, separate maintenance, or otherwise, and includes the
16 duty to pay arrearages of support past due and unpaid together with
17 penalties and interest on arrearages imposed under AS 47.23.020(a)-
18 (2)(C);

19 * Sec. 12. AS 47.23.900(7) is amended to read:

20 (7) "support order" means any judgment, decree, or order of
21 [CHILD] support in favor of an obligee whether temporary or final, or
22 subject to modification, revocation, or remission, regardless of the
23 kind of action or proceeding in which it is entered.

24 * Sec. 13. AS 47.25 is amended by adding a new section to read:

25 Sec. 47.25.345. ASSIGNMENT OF SUPPORT RIGHTS. An applicant for
26 or recipient of assistance under AS 47.25.310 - 47.25.420 is con-
27 sidered to have assigned to the state, through the child support en-
28 forcement agency, all rights to accrued and continuing support that
29 the applicant and other persons for whom assistance is sought may have

1 from all sources. The assignment takes effect upon a determination
2 that the applicant is eligible for assistance under AS 47.25.310 -
3 47.25.420. Except with respect to the amount of any unpaid support
4 obligation accrued under the assignment, the assignment terminates
5 when the applicant ceases to receive assistance.

6 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

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