

Introduced: 1/9/89
Referred: Judiciary and Finance

6-0233A

1 IN THE SENATE

BY UEHLING

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SENATE BILL NO. 54

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to child support; amending Rule
7 90.3, Alaska Rules of Civil Procedure; and providing
8 for an effective date."

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

10 * Section 1. AS 23.05 is amended by adding a new section to read:

11 Sec. 23.05.125. COOPERATION WITH FEDERAL GOVERNMENT. On request
12 of an agency of the federal government that administers a program
13 designed to locate absent parents for the purpose of enforcing their
14 child support obligations, the department shall provide, with respect
15 to a named individual specified by the requesting agency, the follow-
16 ing information if it is in the department's records:

17 (1) the individual's most recent address;

18 (2) the individual's wages for the period specified in the
19 agency's request; and

20 (3) the address of the individual's most recent employer.

21 * Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

22 (k) On request of an agency of the federal government that
23 administers a program designed to locate absent parents for the pur-
24 pose of enforcing their child support obligations, the department
25 shall provide, with respect to a named individual specified by the
26 requesting agency, the information listed in (c)(1) - (4) of this
27 section and

28 (1) the wage rate of the individual, if employed; and

29 (2) the address of the individual's most recent employer.

1 * Sec. 3. AS 25.24.140(a) is amended to read:

2 (a) During the pendency of the action, the court may provide by
3 order

4 (1) that one spouse pay an amount of money as may be neces-
5 sary to enable the other spouse to prosecute or defend the action;

6 (2) for the care, custody, and maintenance of the minor
7 children of the marriage during the pendency of the action; an award
8 of temporary child support under this paragraph must comply with
9 AS 25.24.320;

10 (3) for the freedom of one spouse from the control of the
11 other spouse during the pendency of the action;

12 * Sec. 4. AS 25.24.160(a) is amended to read:

13 (a) In a judgment in an action for divorce or action declaring a
14 marriage void or at any time after judgment, the court may provide

15 (1) for the payment by either or both parties of an amount
16 of money or goods, in gross or installments that may include cost-
17 of-living adjustments, as may be just and proper for the parties to
18 contribute toward the nurture and education of their children, and the
19 court may order the parties to arrange with their employers for an
20 automatic payroll deduction each month or each pay period, if the
21 period is other than monthly, of the amount of the installment; if the
22 employer agrees, the installment shall be forwarded by the employer to
23 the clerk of the superior court which entered the judgment or to the
24 court trustee, and the amount of the installment is exempt from exe-
25 cution; an award of child support under this paragraph must comply
26 with AS 25.24.320;

27 (2) for the recovery by one party from the other of an
28 amount of money for maintenance, in gross or in installments, as may
29 be just and necessary without regard to which of the parties is in

1 fault;

2 (3) for the delivery to either party of that party's per-
3 sonal property in the possession or control of the other party at the
4 time of giving the judgment;

5 (4) for the division between the parties of their property,
6 whether joint or separate, acquired only during coverture, in the
7 manner as may be just, and without regard to which of the parties is
8 in fault; however, the court, in making the division, may invade the
9 property of either spouse acquired before marriage when the balancing
10 of the equities between the parties requires it; and to accomplish
11 this end the judgment may require that one or both of the parties
12 assign, deliver, or convey any of their real or personal property to
13 the other party;

14 (5) for a [TO] change in [THE] name of one of the parties.

15 * Sec. 5. AS 25.24.230(a) is amended to read:

16 (a) If the petition is brought by one or both spouses under
17 AS 25.24.200(a), the court may grant the spouses a final decree of
18 dissolution and shall provide the other relief as provided in this
19 section if the court, upon consideration of the information contained
20 in the petition and the testimony of the spouse or spouses at the
21 hearing, finds that

22 (1) the spouses understand fully the nature and conse-
23 quences of their action;

24 (2) the agreements between the spouses concerning child
25 custody, child support, visitation, spousal support and tax conse-
26 quences, if any, division of property, and allocation of obligations
27 are not grossly unfair, unjust, or inequitable and are in the best
28 interests of the children of the marriage, if any; the court may not
29 approve the agreement between the spouses pertaining to child support

1 if the agreement does not specify an amount of child support that
2 would be awarded by a court under AS 25.24.320 unless the court makes
3 a written finding that the application of AS 25.24.320 would be unjust
4 or inappropriate in that particular case, as determined under the
5 criteria established by rules required under AS 25.24.320; and

6 (3) the conditions in AS 25.24.200(a) have been met.

7 * Sec. 6. AS 25.24 is amended by adding a new section to read:

8 Sec. 25.24.320. GUIDELINES FOR CHILD SUPPORT AWARDS. (a) The
9 supreme court shall adopt rules to be used by courts to determine the
10 amount of child support that should be awarded under AS 25.24.140,
11 25.24.160, 25.24.230, and AS 47.23.060. The supreme court shall
12 review the rules at least once every four years to ensure that their
13 application results in the determination of appropriate child support
14 award amounts.

15 (b) The child support enforcement agency and a hearing officer
16 who determines an award of child support under AS 47.23 shall follow
17 the guidelines established for court awards of child support under (a)
18 of this section.

19 (c) There is a rebuttable presumption in a judicial or adminis-
20 trative proceeding for the award of child support that the amount of
21 the award that would result from the application of the guidelines in
22 the rules adopted under (a) of this section is the correct amount of
23 child support to be awarded. A court, hearing officer, or agency that
24 awards an amount of child support that is different from that which
25 would result from the application of the guidelines shall make a
26 written finding that the application of the guidelines would be unjust
27 or inappropriate in that particular case, as determined under criteria
28 which the supreme court shall establish in the rules.

29 * Sec. 7. AS 47.23.020(a) is amended to read:

1 (a) The agency shall

2 (1) seek enforcement of child support orders of the super-
3 ior courts of the state in other jurisdictions and shall obtain,
4 enforce, and administer the orders in this state;

5 (2) adopt regulations to carry out the purposes of this
6 chapter, including regulations that establish

7 (A) schedules for determining the amount an obligor is
8 liable to contribute toward the support of an obligee under this
9 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social
10 Security Act); the schedules adopted under this paragraph may not
11 conflict with the guidelines adopted by the supreme court under
12 AS 25.24.320;

13 (B) procedures for hearings conducted under AS 47.23.-
14 170; and

15 (C) subject to AS 47.23.025 and to federal law, a
16 uniform rate of interest on arrearages of support that shall be
17 charged the obligor upon notice if child support payments are 10
18 or more days overdue or if payment is made by a check backed by
19 insufficient funds; however, an obligor may not be charged inter-
20 est on late payment of a child support obligation, other than a
21 payment on arrearages, if the obligor is

22 (i) employed and income is being withheld from
23 the obligor's wages under an income withholding order;

24 (ii) receiving unemployment compensation and child
25 support obligations are being withheld from the obligor's
26 unemployment payments under AS 23.20.401; or

27 (iii) receiving compensation for disabilities under
28 AS 23.30 and child support obligations are being withheld
29 from the obligor's compensation payments;

1 (3) administer and enforce the Uniform Reciprocal Enforce-
2 ment of Support Act (AS 25.25);

3 (4) establish, enforce, and administer child support obli-
4 gations administratively under this chapter;

5 (5) administer the state plan required under 42 U.S.C.
6 651 - 665 (Title IV-D, Social Security Act) as amended;

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

10 (7) establish and enforce administratively under this
11 chapter, or through the superior courts of the state, child support
12 orders from other jurisdictions pertaining to obligors within the
13 state;

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

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

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

22 Sec. 47.23.047. REVIEW OF CHILD SUPPORT OBLIGATIONS. (a) The
23 agency shall develop a plan for review of all child support awards
24 enforced by the agency. The plan must provide that

25 (1) by October 13, 1990, the agency shall, at the request
26 of either parent subject to a child support order or duty of support,
27 and may on its own initiative, review a child support order or duty of
28 support being enforced by the agency and adjust the duty of support,
29 or seek adjustment of the order under AS 25.24.170, in accordance with

1 the guidelines established under AS 25.24.320;

2 (2) by October 13, 1993, the agency shall review a child
3 support order or duty of support being enforced by the agency not
4 later than 36 months after the establishment of the order or duty of
5 support or the most recent review, and shall adjust the duty of sup-
6 port, or seek adjustment of the order under AS 25.24.170, in accor-
7 dance with the guidelines established under AS 25.24.320 unless

8 (A) in the case of an order with respect to an indi-
9 vidual whose rights are transferred to the state by subrogation
10 under AS 47.23.130, the agency determines, under applicable
11 federal regulations, that review would not be in the best inter-
12 ests of the child and neither parent has requested review; and

13 (B) in the case of an order or duty of support being
14 enforced under this chapter that is not described in (A) of this
15 paragraph, neither parent has requested review.

16 (b) The agency shall notify each parent subject to a child sup-
17 port order or duty of support that is being enforced under this chap-
18 ter of

19 (1) a review of the order or duty of support at least 30
20 days before the beginning of the review process;

21 (2) the right of each parent to request review of an order
22 or duty of support under (a) of this section; and

23 (3) a proposed adjustment, or determination that there
24 should be no change, in the child support award amount, after which
25 the parent shall have at least 30 days to initiate proceedings to
26 challenge the adjustment or determination under AS 47.23.210.

27 * Sec. 9. AS 47.23.060 is amended by adding a new subsection to read:

28 (e) An award of child support under this section must comply
29 with AS 25.24.320.

1 * Sec. 10. AS 47.23.210(a) is amended to read:

2 (a) Judicial review by the superior court of an agency decision
3 establishing, [OR] modifying, refusing to modify, or refusing to seek
4 modification of a duty of support or amounts of support due may be
5 obtained by filing a notice of appeal in accordance with the applica-
6 ble rules of court governing appeals in civil matters. A notice of
7 appeal shall be filed within 30 days of the decision.

8 * Sec. 11. AS 25.24.320(c), enacted by sec. 6 of this Act, has the
9 effect of amending Rule 90.3, Alaska Rules of Civil Procedure, by estab-
10 lishing a rebuttable presumption related to child support award guidelines
11 and by requiring a written finding that the guidelines are unjust or
12 inappropriate in a particular case if the court departs from the guidelines
13 under criteria established in the rules.

14 * Sec. 12. The supreme court shall adopt the rules required by AS 25.-
15 24.320, added by sec. 6 of this Act, in a timely manner so that the rules
16 take effect on October 13, 1989.

17 * Sec. 13. Except for sections 1 - 2, and 12 of this Act, this Act
18 takes effect October 13, 1989.

19 * Sec. 14. Sections 1 - 2 of this Act take effect January 1, 1990.

20 * Sec. 15. Section 12 of this Act takes effect immediately under
21 AS 01.10.070(c).