

HOUSE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ULMER, B.Davis

Introduced: 1/22/91

Referred: Health, Education and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to child support for children who are not minors and representation of
2 their interests during certain proceedings."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 25.24.060(c) is amended to read:

5 (c) Mediation shall be conducted informally as a conference or series of conferences.
6 The parties to the action and a court-appointed representative of any [MINOR] children of the
7 marriage shall attend. Counsel for the parties may attend all such conferences.

8 * **Sec. 2.** AS 25.24.140(a) is amended to read:

9 (a) During the pendency of the action, a spouse may, upon application and in appropriate
10 circumstances, be awarded expenses, including

11 (1) attorney fees and costs that reasonably approximate the actual fees and costs
12 required to prosecute or defend the action; in applying this paragraph, the court shall take
13 appropriate steps to ensure that the award of attorney fees does not contribute to an unnecessary
14 escalation in the litigation;

1 (2) reasonable spousal maintenance, including medical expenses; and
2 (3) reasonable support for [MINOR] children in the care of the spouse, if there
3 is a legal obligation of the other spouse to provide support.

4 * Sec. 3. AS 25.24.170(a) is amended to read:

5 (a) Subject to AS 25.20.110, any time after judgment the court, upon the motion of either
6 party, may set aside, alter, or modify so much of the judgment as may provide for alimony, for
7 the appointment of trustees for the care and custody of the minor children or for their nurture and
8 education, for the care, nurture, and education of other children of the marriage, or for the
9 maintenance of either party to the action.

10 * Sec. 4. AS 25.24.200(a) is amended to read:

11 (a) A husband and wife together may petition the superior court for the dissolution of
12 their marriage under AS 25.24.200 - 25.24.260 if the following conditions exist at the time of
13 filing the petition:

14 (1) incompatibility of temperament has caused the irremediable breakdown of the
15 marriage;

16 (2) if there are [MINOR] children of the marriage or the wife is pregnant, and the
17 spouses have agreed on which spouse or third party is to be awarded custody of each minor child
18 of the marriage and the extent of visitation, including visitation by grandparents and other persons
19 if in the child's best interests, and support to be provided on the children's behalf, whether the
20 payments are to be made through the child support enforcement agency and the tax consequences
21 of that agreement;

22 (3) the spouses have agreed as to the distribution of all jointly owned real and
23 personal property, including retirement benefits, and the payment of spousal maintenance, if any,
24 and the tax consequences resulting from these payments; the agreement must be fair and just and
25 take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic
26 effect of dissolution is fairly allocated; and

27 (4) the spouses have agreed as to the payment of all unpaid obligations incurred
28 by either or both of them, and as to payment of obligations incurred jointly in the future.

29 * Sec. 5. AS 25.24.210(e) is amended to read:

30 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition must state
31 in detail the terms of the agreement between the spouses concerning the custody of children,

1 child support, visitation, spousal maintenance and tax consequences, if any, and fair and just
2 division of property, including retirement benefits. Agreements on spousal maintenance and
3 property division must fairly allocate the economic effect of dissolution and take into
4 consideration the factors listed in AS 25.24.160(a)(2) and (4). In addition, the petition must state
5 (1) the respective occupations of the petitioners;
6 (2) the income, assets, and liabilities of the respective petitioners at the time of
7 filing the petition;
8 (3) the date and place of the marriage;
9 (4) the name, date of birth, and current custodial status of each [MINOR] child
10 born of the marriage or adopted by the petitioners;
11 (5) whether the wife is pregnant;
12 (6) whether either petitioner requires medical care or treatment;
13 (7) whether a domestic violence complaint has been filed during the marriage by
14 a member of the household;
15 (8) whether either petitioner has received the advice of legal counsel regarding a
16 divorce or dissolution;
17 (9) other facts and circumstances that the petitioners believe should be considered;
18 (10) that the petition constitutes the entire agreement between the petitioners; and
19 (11) any other relief sought by the petitioners.

20 * Sec. 6. AS 25.24.230(d) is amended to read:

21 (d) The court shall dismiss a petition or continue action on a petition filed under
22 AS 25.24.200 - 25.24.260 before findings are made if

23 (1) a representative of the minor children objects to a term of an agreement
24 between the spouses or a representative of a child who is not a minor objects to a term
25 providing or failing to provide post-majority support for the child;

26 (2) either of the spouses withdraws from an agreement required under
27 AS 25.24.200(a); or

28 (3) the petition alleges that the conditions in AS 25.24.200(b) exist, but the
29 whereabouts of the absent spouse becomes known to the other spouse or the court before findings
30 are made.

31 * Sec. 7. AS 25.24.310(a) is amended to read:

1 (a) In an action involving a question of the custody, support, or visitation of a child
2 [MINOR], the court may, upon the motion of a party to the action or upon its own motion, e
3 appoint an attorney or the office of public advocacy to represent a minor with respect to the
4 custody, support, and visitation of the minor or in any other legal proceeding involving the
5 minor's welfare or to represent a child who is not a minor with respect to post-majority
6 support. When custody, support, or visitation is at issue in a divorce, it is the responsibility of
7 the parties or their counsel to notify the court that such a matter is at issue. Upon notification,
8 the court shall determine whether the minor or other child should have legal representation or
9 other services and shall make a finding on the record before trial. If the parties are indigent or
10 temporarily without funds, the court shall appoint the office of public advocacy. The court shall
11 notify the office of public advocacy if the office is required to provide legal representation or
12 other services. The court shall enter an order for costs, fees, and disbursements in favor of the
13 state and may further order that other services be provided for the protection of the minor or
14 other child.

15 * Sec. 8. AS 25.24.310(c) is amended to read:

16 (c) Instead of, or in addition to, appointment of an attorney under (a) of this section, the
17 court may, upon the motion of either party or upon its own motion, appoint an attorney or other d
18 person or the office of public advocacy to provide guardian ad litem services to a child [MINOR]
19 in any legal proceedings involving the child's [MINOR'S] welfare. The court shall require a
20 guardian ad litem when, in the opinion of the court, representation of the child's [MINOR'S] best
21 interests, to be distinguished from preferences, would serve the welfare of the child [MINOR].
22 The court in its order appointing a guardian ad litem shall limit the duration of the appointment
23 of the guardian ad litem to the pendency of the legal proceedings affecting the child's
24 [MINOR'S] interests, and shall outline the guardian ad litem's responsibilities and limit the
25 authority to those matters related to the guardian's effective representation of the child's
26 [MINOR'S] best interests in the pending legal proceeding. The court shall make every
27 reasonable effort to appoint a guardian ad litem from among persons in the community where
28 the child's [MINOR'S] parents or the person having legal custody or guardianship of the child's
29 [MINOR'S] person reside. When custody, support, or visitation is at issue in a divorce, it is the
30 responsibility of the parties or their counsel to notify the court that such a matter is at issue.
31 Upon notification, the court shall determine if the child's [MINOR'S] best interests need d

1 representation or if the minor or other child needs other services and shall make a finding on
2 the record before trial. If one or both of the parties is indigent or temporarily without funds the
3 court shall appoint the office of public advocacy. The court shall notify the office of public
4 advocacy if the office is required to provide guardian ad litem services. The court shall enter
5 an order for costs, fees, and disbursements in favor of the state and may further order that other
6 services be provided for the protection of the child [MINOR].

7 * Sec. 9. AS 25.27.070(a) is amended to read:

8 (a) In a proceeding in which the court has ordered either or both parents to pay for the
9 support of a [MINOR] child, the court may, on its own motion or motion of a party or the
10 agency on behalf of a party, after notice and an opportunity for hearing, order either parent or
11 both parents to assign to the custodian of the child that portion of salary or wages of either parent
12 due them currently and in the future sufficient to pay the amount ordered by the court for the
13 support, maintenance, nurture, and education of the [MINOR] child.

14 * Sec. 10. AS 25.27.130(b) is amended to read:

15 (b) To establish or enforce an order of support, based on the subrogation of the state, the
16 agency is not limited to the amount of assistance being granted to the [MINOR] child.