

SENATE CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 52 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/22/92
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES ULMER, B.Davis, Gruenberg

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 unmarried [MINOR]
7 children of the marriage under the age of 19 whose interests may be affected shall attend.
8 Counsel for the parties may attend all such conferences.

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

10 (a) During the pendency of the action; a spouse may, upon application and in appropriate
11 circumstances, be awarded expenses, including
12 (1) attorney fees and costs that reasonably approximate the actual fees and costs
13 required to prosecute or defend the action; in applying this paragraph, the court shall take
14 appropriate steps to ensure that the award of attorney fees does not contribute to an unnecessary

1 escalation in the litigation;

2 (2) reasonable spousal maintenance, including medical expenses; and

3 (3) reasonable support for minor children in the care of the spouse and
4 reasonable support for unmarried 18-year-old children of the marriage who are actively
5 pursuing a high school diploma or an equivalent level of technical or vocational training
6 and living as dependents with the spouse or designee of the spouse, if there is a legal
7 obligation of the other spouse to provide support.

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

9 (a) Subject to AS 25.20.110, any time after judgment the court, upon the motion of either
10 party, may set aside, alter, or modify so much of the judgment as may provide for alimony, for
11 the appointment of trustees for the care and custody of the minor children or for their nurture and
12 education, for the care, nurture, and education of unmarried 18-year-old children of the
13 marriage while they are actively pursuing a high school diploma or an equivalent level of
14 technical or vocational training and living as dependents with a parent, guardian, or
15 designee of the parent or guardian, or for the maintenance of either party to the action.

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

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

20 (1) incompatibility of temperament has caused the irremediable breakdown of the
21 marriage;

22 (2) if there are unmarried [MINOR] children of the marriage under the age of
23 19 or the wife is pregnant, and the spouses have agreed on which spouse or third party is to be
24 awarded custody of each minor child of the marriage and the extent of visitation, including
25 visitation by grandparents and other persons if in the child's best interests, and support to be
26 provided on the children's behalf, whether the payments are to be made through the child support
27 enforcement agency and the tax consequences of that agreement;

28 (3) the spouses have agreed as to the distribution of all jointly owned real and
29 personal property, including retirement benefits, and the payment of spousal maintenance, if any,
30 and the tax consequences resulting from these payments; the agreement must be fair and just and
31 take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic

1 effect of dissolution is fairly allocated; and

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

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

5 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition must state
6 in detail the terms of the agreement between the spouses concerning the custody of children,
7 child support, visitation, spousal maintenance and tax consequences, if any, and fair and just
8 division of property, including retirement benefits. Agreements on spousal maintenance and
9 property division must fairly allocate the economic effect of dissolution and take into
10 consideration the factors listed in AS 25.24.160(a)(2) and (4). In addition, the petition must state

11 (1) the respective occupations of the petitioners;

12 (2) the income, assets, and liabilities of the respective petitioners at the time of
13 filing the petition;

14 (3) the date and place of the marriage;

15 (4) the name, date of birth, and current **marital, educational, and** custodial status
16 of each [MINOR] child born of the marriage or adopted by the petitioners **who is under the age**
17 **of 19**;

18 (5) whether the wife is pregnant;

19 (6) whether either petitioner requires medical care or treatment;

20 (7) whether a domestic violence complaint has been filed during the marriage by
21 a member of the household;

22 (8) whether either petitioner has received the advice of legal counsel regarding
23 a divorce or dissolution;

24 (9) other facts and circumstances that the petitioners believe should be considered;

25 (10) that the petition constitutes the entire agreement between the petitioners; and

26 (11) any other relief sought by the petitioners.

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

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

30 (1) a representative of the **unmarried** [MINOR] children **who are under the age**
31 **of 19** objects to a term of an agreement between the spouses;

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

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

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

7 (a) In an action involving a question of the custody, support, or visitation of a child
8 [MINOR], the court may, upon the motion of a party to the action or upon its own motion,
9 appoint an attorney or the office of public advocacy to represent a minor with respect to the
10 custody, support, and visitation of the minor or in any other legal proceeding involving the
11 minor's welfare or to represent an unmarried 18-year-old child with respect to post-majority
12 support while the child is actively pursuing a high school diploma or an equivalent level of
13 technical or vocational training and living as a dependent with a parent or guardian or a
14 designee of the parent or guardian. When custody, support, or visitation is at issue in a
15 divorce, it is the responsibility of the parties or their counsel to notify the court that such a matter
16 is at issue. Upon notification, the court shall determine whether the minor or other child should
17 have legal representation or other services and shall make a finding on the record before trial.
18 If the parties are indigent or temporarily without funds, the court shall appoint the office of
19 public advocacy. The court shall notify the office of public advocacy if the office is required
20 to provide legal representation or other services. The court shall enter an order for costs, fees,
21 and disbursements in favor of the state and may further order that other services be provided for
22 the protection of the minor or other child.

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

24 (c) Instead of, or in addition to, appointment of an attorney under (a) of this section, the
25 court may, upon the motion of either party or upon its own motion, appoint an attorney or other
26 person or the office of public advocacy to provide guardian ad litem services to a child [MINOR]
27 in any legal proceedings involving the child's [MINOR'S] welfare. The court shall require a
28 guardian ad litem when, in the opinion of the court, representation of the child's [MINOR'S] best
29 interests, to be distinguished from preferences, would serve the welfare of the child [MINOR].
30 The court in its order appointing a guardian ad litem shall limit the duration of the appointment
31 of the guardian ad litem to the pendency of the legal proceedings affecting the child's

1 [MINOR'S] interests, and shall outline the guardian ad litem's responsibilities and limit the
2 authority to those matters related to the guardian's effective representation of the child's
3 [MINOR'S] best interests in the pending legal proceeding. The court shall make every
4 reasonable effort to appoint a guardian ad litem from among persons in the community where
5 the child's [MINOR'S] parents or the person having legal custody or guardianship of the child's
6 [MINOR'S] person reside. When custody, support, or visitation is at issue in a divorce, it is the
7 responsibility of the parties or their counsel to notify the court that such a matter is at issue.
8 Upon notification, the court shall determine if a child's [THE MINOR'S] best interests need
9 representation or if a [THE] minor or other child needs other services and shall make a finding
10 on the record before trial. If one or both of the parties is indigent or temporarily without funds
11 the court shall appoint the office of public advocacy. The court shall notify the office of public
12 advocacy if the office is required to provide guardian ad litem services. The court shall enter
13 an order for costs, fees, and disbursements in favor of the state and may further order that other
14 services be provided for the protection of a [THE] minor or other child.

15 * Sec. 9. AS 25.24 is amended by adding a new section to read:

16 Sec. 25.24.910. PAYMENT OF SUPPORT TO 18-YEAR-OLDS. When a court order
17 or judgment provides for child support to be paid for the care of an unmarried 18-year-old child
18 who is actively pursuing a high school diploma or an equivalent level of technical or vocational
19 training while living as a dependent with a parent, guardian, or designee of the parent or
20 guardian, the order or judgment may provide for the support to be paid directly to the child upon
21 terms and conditions considered appropriate by the court.

22 * Sec. 10. AS 25.27.060(a) is amended to read:

23 (a) Unless otherwise provided under AS 25.24.910 or AS 25.27.061, an [AN] order
24 of support establishes a relationship by which the custodian of the child is the administrator for
25 the purposes of administering child support on behalf of the child. The court shall carefully
26 consider the need for support, the ability of both parents to meet such support obligations, the
27 extent to which the parents supported the child before divorce, and the economic ability of the
28 parents to pay after separation and divorce. The court shall also consider the effect on the
29 support obligation of a change in custodian. The need of the child for support shall be
30 considered regardless of the sex of the parent awarded custody of the child.

31 * Sec. 11. AS 25.27 is amended by adding a new section to read:

1 Sec. 25.27.061. PAYMENT OF SUPPORT TO 18-YEAR-OLDS. A judgment, court
2 order, or order of the agency under this chapter that provides for child support to be paid for the
3 care of an unmarried 18-year-old child who is actively pursuing a high school diploma or an
4 equivalent level of technical or vocational training while living as a dependent with a parent,
5 guardian, or designee of the parent or guardian, may provide for the support to be paid directly
6 to the child upon terms and conditions considered appropriate by the court or agency.

7 * Sec. 12. 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. 13. 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.