

**HOUSE BILL NO. 458****IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY REPRESENTATIVE DAVIES****Introduced: 2/9/94****Referred: Labor & Commerce, Judiciary, Finance****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to certain licenses and applications for licenses for persons who  
2 are not in compliance with orders, judgments, or payment schedules for child  
3 support."

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

5 \* Section 1. AS 25.27 is amended by adding a new section to read:

6           Sec. 25.27.229. ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S  
7 OCCUPATIONAL LICENSE. (a) The district attorney shall maintain a list of  
8 obligors against whom a child support order or judgment has been rendered by, or  
9 registered in, a court of this state and who are not in compliance with that order or  
10 judgment. The district attorney shall submit a certified list with the names, social  
11 security numbers, and last known addresses of the obligors and the name, address, and  
12 telephone number of the district attorney who certified the list to the agency. The  
13 district attorney shall verify, under penalty of perjury, that the persons listed are  
14 subject to an order or judgment for the payment of support and that these persons are

1 not in compliance with the order or judgment. The district attorney shall submit to the  
2 agency an updated certified list on a monthly basis.

3 (b) The agency shall consolidate the certified lists received from the district  
4 attorneys and, within 30 calendar days of receipt, shall provide a copy of the  
5 consolidated list to each licensing entity. A licensing entity subject to this section  
6 shall implement procedures to accept and process the list provided by the agency under  
7 this section. Notwithstanding any other law to the contrary, a licensing entity may not  
8 issue or renew a license for a person on the list except as provided in this section.

9 (c) Promptly after receiving the certified consolidated list from the agency and  
10 before issuing or renewing a license, a licensing entity shall determine whether the  
11 applicant is on the most recent certified consolidated list provided by the agency. If  
12 the applicant is on the list, the licensing entity shall immediately serve notice under  
13 (e) of this section of the licensing entity's intent to withhold issuance or renewal of  
14 the license. The notice shall be made personally or by mail to the applicant's last  
15 known mailing address on file with the licensing entity.

16 (d) A licensing entity shall issue a temporary license valid for a period of 150  
17 days to an applicant whose name is on the certified list if the applicant is otherwise  
18 eligible for a license. The temporary license may not be extended. Only one  
19 temporary license may be issued during a regular license term and its validity shall  
20 coincide with the first 150 days of that license term. A license for the full or  
21 remainder of the license term may be issued or renewed only upon compliance with  
22 this section. If a license or application is denied under this section, funds paid by the  
23 applicant or licensee may not be refunded by the licensing entity.

24 (e) Notices for use under (c) of this section shall be developed by each  
25 licensing entity under guidelines provided by the agency and subject to approval by  
26 the agency. The notice must include the address and telephone number of the district  
27 attorney who submitted the name on the certified list and shall emphasize the necessity  
28 of obtaining a release from that district attorney's office as a condition for the issuance  
29 or renewal of a license. The notice must inform the applicant that the licensing entity  
30 shall issue a temporary license for 150 calendar days under (d) of this section if the  
31 applicant is otherwise eligible and that, upon expiration of that time period, the license

1 will be denied unless the licensing entity has received a release from the district  
2 attorney who submitted the name on the certified list. The notice must also inform the  
3 applicant that, if a license or application is denied under this section, funds paid by the  
4 applicant or licensee will not be refunded by the licensing entity. The agency shall  
5 also develop a form that the applicant may use to request a review by the district  
6 attorney. A copy of this form shall be included with each notice sent under this  
7 subsection.

8 (f) The Department of Law shall establish review procedures consistent with  
9 this section to allow an applicant to have the underlying arrearage and relevant  
10 defenses investigated, to provide an applicant information on the process of obtaining  
11 a modification of a support order, or to provide an applicant assistance in the  
12 establishment of a payment schedule on arrearages if the circumstances warrant.

13 (g) If the applicant wishes to challenge being included on the certified list, the  
14 applicant shall submit to the district attorney who certified the applicant's name a  
15 written request for review within 30 days after receiving the notice under (c) of this  
16 section by using the form developed under (e) of this section. The district attorney  
17 shall inform the applicant in writing of findings made upon completion of the review.  
18 The district attorney shall immediately send a release to the appropriate licensing entity  
19 and the applicant if any of the following conditions is met:

20 (1) the applicant is found to be in compliance or negotiates an  
21 agreement with the district attorney for a payment schedule on arrearages or  
22 reimbursement and is in compliance with the negotiated agreement; if the applicant  
23 fails to comply with an agreement negotiated under this paragraph, the district attorney  
24 shall send to the appropriate licensing entity a revocation of any release previously sent  
25 to the entity for that applicant;

26 (2) the applicant has submitted a timely request for review to the  
27 district attorney, but the district attorney will be unable to complete the review and  
28 send notice of findings to the applicant in sufficient time for the applicant to file a  
29 timely request for judicial relief within the 150-day period during which the applicant's  
30 temporary license is valid; this paragraph applies only if the delay in completing the  
31 review process is not the result of the applicant's failure to act in a reasonable, timely,

1 and diligent manner upon receiving notice from the licensing entity that the applicant's  
2 name is on the list;

3 (3) the applicant has, within 30 days after receiving the district  
4 attorney's findings following a request for review under (2) of this section, filed and  
5 served a request for judicial relief under this section, but a resolution of that relief will  
6 not be made within the 150-day period of the temporary license; this paragraph applies  
7 only if the delay in completing the judicial relief process is not the result of the  
8 applicant's failure to act in a reasonable, timely, and diligent manner upon receiving  
9 the district attorney's notice of findings;

10 (4) the applicant has obtained a judicial finding of compliance.

11 (h) An applicant is required to act with diligence in responding to notices from  
12 the licensing entity and the district attorney with the recognition that the temporary  
13 license will lapse after 150 days and that the district attorney and, where appropriate,  
14 the court must have time to act within that period. An applicant's delay in acting,  
15 without good cause, that directly results in the inability of the district attorney to  
16 complete a review of the applicant's request or the court to hear the request for judicial  
17 relief within the 150-day period does not constitute the diligence required under this  
18 section that would justify the issuance of a release.

19 (i) Except as otherwise provided in this section, the district attorney may not  
20 issue a release if the applicant is not in compliance with the judgment or order for  
21 support or is not in compliance with an agreement negotiated under (g)(1) of this  
22 section. The district attorney shall notify the applicant in writing that the applicant  
23 may request any or all of the following: (1) judicial relief from the district attorney's  
24 decision not to issue a release or the district attorney's decision to revoke a release  
25 under (g)(1) of this section; (2) a judicial determination of compliance; (3) a  
26 modification of the support judgment or order. The notice must also contain the name  
27 and address of the court in which the applicant may file the request for relief and  
28 inform the applicant that the applicant's name shall remain on the certified list if the  
29 applicant does not request judicial relief within 30 days after receiving the notice. The  
30 applicant shall comply with all statutes and rules of court implementing this section.  
31 This section does not limit an applicant's authority under other law to file an order to

1 show cause or notice of motion to modify a judgment or order for support or to fix a  
2 payment schedule on arrearages accruing under a judgment or order for support or to  
3 obtain a court finding of compliance with a judgment or order for support.

4 (j) A request for judicial relief from the district attorney's decision must state  
5 the grounds or which relief is requested and the judicial action shall be limited to those  
6 stated grounds. The court shall hold an evidentiary hearing within 20 calendar days  
7 of the filing of the request for relief. The court's decision shall be limited to a  
8 determination of each of the following issues:

9 (1) whether there is a judgment, order for support, or payment schedule  
10 on arrearages or reimbursement;

11 (2) whether the petitioner is the obligor covered by the judgment or  
12 order for support; and

13 (3) whether the support obligor is or is not in compliance with  
14 judgment, order for support, or payment schedule.

15 (k) The request for judicial relief shall be served by the applicant upon the  
16 district attorney who submitted the applicant's name on the certified list within seven  
17 calendar days of the filing of the request.

18 (l) If the court finds that the obligor is in compliance with the judgment, order  
19 for support, or payment schedule, the district attorney shall immediately send a release  
20 under (g) of this section to the appropriate licensing entity and the applicant.

21 (m) The agency shall prescribe release forms for use by district attorneys.  
22 When the obligor is in compliance with a judgment, order for support, or payment  
23 schedule, the district attorney shall mail to the applicant and the appropriate licensing  
24 entity a release stating that the applicant is in compliance. The receipt of a release  
25 shall serve to notify the applicant and the licensing entity that, for the purposes of this  
26 section, the applicant is in compliance with the judgment, order for support, or  
27 payment schedule unless a district attorney, under (a) of this section, certifies  
28 subsequent to the issuance of a release that the applicant is once again not in  
29 compliance with a judgment, order for support, or payment schedule.

30 (n) The agency may enter into interagency agreements with the state agencies  
31 that have responsibility for the administration of licensing entities as necessary to

1 implement this section to the extent that it is cost effective to implement the  
2 interagency agreements. The agreements shall provide for the receipt by the other  
3 state agencies and licensing entities of federal funds to cover that portion of costs  
4 allowable in federal law and regulation and incurred by the state agencies and licensing  
5 entities in implementing this section.

6 (o) Notwithstanding any other provision of law, the licensing entities subject  
7 to this section may levy a surcharge on a fee collected to cover the costs of  
8 implementing and administering this section.

9 (p) The process described in (g) of this section is the sole administrative  
10 remedy for contesting the issuance to the applicant of a temporary license or the denial  
11 of a license under this section. The procedures specified in AS 44.62.330 - 44.62.630  
12 (Administrative Procedure Act) do not apply to the denial or failure to issue or renew  
13 a license under this section.

14 (q) The agency, licensing entities, and Department of Law, as appropriate,  
15 shall adopt regulations necessary to implement this section.

16 (r) The court system shall develop the forms necessary to implement this  
17 section, except as provided in (e) and (m) of this section.

18 (s) The release or other use of information received by a licensing entity under  
19 this section, except as authorized in this section, is punishable as a misdemeanor.

20 (t) In this section,

21 (1) "applicant" means a person applying for issuance or renewal of a  
22 license;

23 (2) "compliance with a judgment, order for support, or payment  
24 schedule" means that, as set out in a judgment or order for child or family support or  
25 a negotiated payment schedule under (g) of this section, the obligor is no more than  
26 30 calendar days in arrears in making payments in full for current support, in making  
27 periodic payments on a support arrearage, or in making periodic payments for  
28 reimbursement for public assistance, or the obligor has obtained a judicial finding that  
29 equitable estoppel precludes enforcement of the judgment, order, or payment schedule;

30 (3) "license" means a license, certificate, permit, registration, or other  
31 authorization that may be acquired from a state agency to perform an occupation,

1 including the following:

2 (A) license relating to boxing or wrestling under AS 05.10;

3 (B) authorization to perform an occupation regulated under

4 AS 08;

5 (C) teacher certificate under AS 14.20;

6 (D) commercial fishing license under AS 16.05.480;

7 (E) vessel license under AS 16.05.490 or 16.05.530;

8 (F) entry permit or interim use permit under AS 16.43;

9 (G) authorization under AS 18.08 to perform emergency

10 medical services;

11 (H) asbestos worker certification under AS 18.31;

12 (I) boiler operator's license under AS 18.60.395;

13 (J) certificate of fitness under AS 18.62;

14 (K) hazardous painting certification under AS 18.63;

15 (L) security guard license under AS 18.65.400 - 18.65.490;

16 (M) license relating to insurance under AS 21.27;

17 (N) employment agency permit under AS 23.15.330 - 23.15.520;

18 (O) drivers' license or endorsement to operate a commercial

19 motor vehicle or school bus under AS 28.15;

20 (P) business license under AS 43.70;

21 (Q) registration as a broker-dealer, agent, or investment adviser

22 under AS 45.55.030;

23 (R) certification as a pesticide applicator under AS 46.03.320;

24 (S) certification as a storage tank worker or contractor under

25 AS 46.03.375;

26 (T) certification as a water and wastewater works operator under

27 AS 46.30; and

28 (U) license to operate a facility under AS 47.35;

29 (4) "licensee" means a person holding a license or applying to renew

30 a license;

31 (5) "licensing entity" means the state agency that issues or renews a

1 license; in the case of a license issued or renewed by the Department of Commerce  
2 and Economic Development after an applicant's qualifications are determined by  
3 another agency, "licensing entity" means the department.

4 \* Sec. 2. REPORT. (a) In furtherance of the public policy of increasing child support  
5 enforcement and collections, on or before November 1, 1996, the child support enforcement  
6 agency shall make a report to the legislature and the governor based on data collected by the  
7 licensing entities and the district attorneys in a format prescribed by the agency. The report  
8 must contain

9 (1) the number of delinquent obligors certified by district attorneys under  
10 AS 25.27.229;

11 (2) the number of support obligors who also were applicants or licensees  
12 subject to AS 25.27.229;

13 (3) the number of new licenses and renewals that were delayed and temporary  
14 licenses issued subject to AS 25.27.229 and the number of new licenses and renewals granted  
15 following receipt by licensing entities of releases under AS 25.27.229 by May 1, 1996; and

16 (4) the costs incurred in the implementation and enforcement of AS 25.27.229.

17 (b) A licensing entity receiving an inquiry from the agency under (a) of this section  
18 shall cooperate with the agency. When queried as to the licensed status of an applicant who  
19 has had a license denied under AS 25.27.229 or has been granted a temporary license under  
20 AS 25.27.229, the licensing entity shall respond only that the license was denied or the  
21 temporary license was issued.