

**CS FOR SENATE BILL NO. 302(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE STATE AFFAIRS COMMITTEE

**Offered: 3/29/94
Referred: JUD, FIN**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment, modification, and enforcement of support
2 orders and the determination of parentage in situations involving more than one
3 state; amending Alaska Rule of Administration 9; amending Alaska Rules of Civil
4 Procedure 79 and 82; and providing for an effective date."

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

6 * Section 1. AS 25.25 is amended by adding new sections to read:

7 **ARTICLE 1. GENERAL PROVISIONS.**

8 **Sec. 25.25.101. DEFINITIONS.** In this chapter,

9 (1) "child" means an individual, whether over or under the age of
10 majority, who is or is alleged to be owed a duty of support by the individual's parent
11 or who is or is alleged to be the beneficiary of a support order directed to the parent;

12 (2) "child support order" means a support order for a child, including
13 a child who has attained the age of majority under the law of the issuing state;

14 (3) "duty of support" means an obligation imposed or imposable by law

1 to provide support for a child, spouse, or former spouse, including an unsatisfied
2 obligation to provide support;

3 (4) "home state" means the state in which a child lived with a parent
4 or a person acting as parent for at least six consecutive months immediately preceding
5 the time of filing of a complaint or comparable pleading for support and, if a child is
6 less than six months old, the state in which the child lived from birth with a parent or
7 person acting as a parent; a period of temporary absence of a parent or person acting
8 as a parent is counted as part of the six-month or other period;

9 (5) "income" includes earnings or other periodic entitlements to money
10 from any source and any other property subject to withholding for support under the
11 law of this state;

12 (6) "income withholding order" means an order or other legal process
13 directed to an obligor, an obligor's employer, an obligor's future employer, or another
14 person, political subdivision, or department of the state, under AS 25.27 to withhold
15 support from the income of the obligor under AS 25.27;

16 (7) "initiating state" means a state in which a proceeding under this
17 chapter or a law substantially similar to this chapter, the former provisions of this
18 chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform
19 Reciprocal Enforcement of Support Act is filed for forwarding to a responding state;

20 (8) "initiating tribunal" means the authorized tribunal in an initiating
21 state;

22 (9) "issuing state" means the state in which a tribunal issues a support
23 order or renders a judgment determining parentage;

24 (10) "issuing tribunal" means the tribunal that issues a support order
25 or renders a judgment determining parentage;

26 (11) "law" includes decisional and statutory law and rules and
27 regulations having the force of law;

28 (12) "obligee" means

29 (A) an individual to whom a duty of support is or is alleged to
30 be owed or in whose favor a support order has been issued or a judgment
31 determining parentage has been rendered;

1 (B) a state or political subdivision to which the rights under a
2 duty of support or support order have been assigned or that has independent
3 claims based on financial assistance provided to an individual obligee; or
4 (C) an individual seeking a judgment determining parentage of
5 the individual's child;
6 (13) "obligor" means an individual or the estate of a decedent who
7 (A) owes or is alleged to owe a duty of support;
8 (B) is alleged but has not been adjudicated to be a parent of a
9 child; or
10 (C) is liable under a support order;
11 (14) "register" means to file a support order or judgment determining
12 parentage with the superior court;
13 (15) "registering court" means the superior court in which a support
14 order or judgment determining parentage is registered;
15 (16) "responding state" means a state to which a proceeding is
16 forwarded under this chapter or a law substantially similar to this chapter, the former
17 provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act, or the
18 Revised Uniform Reciprocal Enforcement of Support Act;
19 (17) "responding tribunal" means the authorized tribunal in a
20 responding state;
21 (18) "spousal support order" means a support order for a spouse or
22 former spouse of the obligor;
23 (19) "state" means a state of the United States, the District of
24 Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession
25 subject to the jurisdiction of the United States; the term "state" includes a foreign
26 jurisdiction that has established procedures for issuance and enforcement of support
27 orders that are substantially similar to the procedures under this chapter;
28 (20) "support enforcement agency" means a public official or agency
29 authorized to seek
30 (A) enforcement of support orders or laws relating to the duty
31 of support;

- 1 (B) establishment or modification of child support orders;
2 (C) determination of parentage; or
3 (D) the location of obligors or their assets;

4 (21) "support order" means a judgment, decree, or order, whether
5 temporary, final, or subject to modification, for the benefit of a child, a spouse, or a
6 former spouse, that provides for monetary support, health care, arrearages, or
7 reimbursement, and may include related costs and fees, interest, income withholding,
8 attorney fees, and other relief;

9 (22) "tribunal" means a court, administrative agency, or quasi-judicial
10 entity authorized to establish, enforce, or modify support orders or to determine
11 parentage.

12 Sec. 25.25.102. TRIBUNALS OF THIS STATE. The superior court and the
13 child support enforcement agency are the tribunals of this state.

14 Sec. 25.25.103. REMEDIES CUMULATIVE. Remedies provided by this
15 chapter are cumulative and do not affect the availability of remedies under other law.

16 * Sec. 2. AS 25.25 is amended by adding new sections to read:

17 ARTICLE 2. JURISDICTION.

18 Sec. 25.25.201. BASES FOR JURISDICTION OVER NONRESIDENT. In
19 a proceeding to establish, enforce, or modify a support order or to determine parentage,
20 a tribunal of this state may exercise personal jurisdiction over a nonresident individual
21 or the individual's guardian or conservator if

22 (1) the individual is personally served with a citation, summons, or
23 notice within this state; however, in a case based on service under this paragraph, a
24 tribunal may dismiss the case for improper venue;

25 (2) the individual submits to the jurisdiction of this state by consent,
26 by entering a general appearance, or by filing a responsive document having the effect
27 of waiving any contest to personal jurisdiction;

28 (3) the individual resided with the child in this state;

29 (4) the individual resided in this state and provided prenatal expenses
30 or support for the child;

31 (5) the child resides in this state as a result of the acts or directives of

1 the individual;

2 (6) the individual engaged in sexual intercourse in this state and the
3 child may have been conceived by that act of intercourse;

4 (7) the individual acknowledged parentage in a writing deposited with
5 the Bureau of Vital Statistics under AS 25.20.050; or

6 (8) there is another basis consistent with the constitutions of this state
7 and the United States for the exercise of personal jurisdiction.

8 Sec. 25.25.202. PROCEDURE WHEN EXERCISING JURISDICTION OVER
9 NONRESIDENT. A tribunal of this state exercising personal jurisdiction over a
10 nonresident under AS 25.25.201 may apply AS 25.25.316 to receive evidence from
11 another state and AS 25.25.318 to obtain discovery through a tribunal of another state.
12 In all other respects, AS 25.25.301 - 25.25.701 do not apply and the tribunal shall
13 apply the procedural and substantive law of this state, including the rules on choice of
14 law other than those established by this chapter.

15 Sec. 25.25.203. INITIATING AND RESPONDING TRIBUNAL OF THIS
16 STATE. Under this chapter, a tribunal of this state may serve as an initiating tribunal
17 to forward proceedings to another state and as a responding tribunal for proceedings
18 initiated in another state.

19 Sec. 25.25.204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

20 (a) A tribunal of this state may exercise jurisdiction to establish a support order if the
21 complaint or comparable pleading is filed after a complaint or comparable pleading is
22 filed in another state only if

23 (1) the complaint or comparable pleading in this state is filed before
24 the expiration of the time allowed in the other state for filing a responsive pleading
25 challenging the exercise of jurisdiction by the other state;

26 (2) the contesting party timely challenges the exercise of jurisdiction
27 in the other state; and

28 (3) if relevant, this state is the home state of the child.

29 (b) A tribunal of this state may not exercise jurisdiction to establish a support
30 order if the complaint or comparable pleading is filed before a complaint or
31 comparable pleading is filed in another state if

1 (1) the complaint or comparable pleading in the other state is filed
2 before the expiration of the time allowed in this state for filing a responsive pleading
3 challenging the exercise of jurisdiction by this state;

4 (2) the contesting party timely challenges the exercise of jurisdiction
5 in this state; and

6 (3) if relevant, the other state is the home state of the child.

7 Sec. 25.25.205. CONTINUING, EXCLUSIVE JURISDICTION. (a) A
8 tribunal of this state issuing a support order consistent with the law of this state has
9 continuing, exclusive jurisdiction over a child support order

10 (1) as long as this state remains the residence of the obligor, the
11 individual obligee, or the child for whose benefit the support order is issued; or

12 (2) until each individual party has filed written consent with the tribunal
13 of this state for a tribunal of another state to modify the order and assume continuing,
14 exclusive jurisdiction.

15 (b) A tribunal of this state issuing a child support order consistent with the law
16 of this state may not exercise its continuing jurisdiction to modify the order if the
17 order has been modified by a tribunal of another state under a law substantially similar
18 to this chapter.

19 (c) If a child support order of this state is modified by a tribunal of another
20 state under a law substantially similar to this chapter, a tribunal of this state loses its
21 continuing, exclusive jurisdiction with regard to prospective enforcement of the order
22 issued in this state and may only

23 (1) enforce the order that was modified as to amounts accruing before
24 the modification;

25 (2) enforce nonmodifiable aspects of that order; and

26 (3) provide other appropriate relief for violations of that order that
27 occurred before the effective date of the modification.

28 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction
29 of a tribunal of another state that has issued a child support order under a law
30 substantially similar to this chapter.

31 (e) A temporary support order issued ex parte or pending resolution of a

1 jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing
2 tribunal.

3 (f) A tribunal of this state issuing a support order consistent with the law of
4 this state has continuing, exclusive jurisdiction over a spousal support order throughout
5 the existence of the support obligation. A tribunal of this state may not modify a
6 spousal support order issued by a tribunal of another state having continuing, exclusive
7 jurisdiction over that order under the law of that state.

8 Sec. 25.25.206. ENFORCEMENT AND MODIFICATION OF SUPPORT
9 ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION. (a) A tribunal
10 of this state may serve as an initiating tribunal to request a tribunal of another state to
11 enforce or modify a support order issued in that state.

12 (b) A tribunal of this state having continuing, exclusive jurisdiction over a
13 support order may act as a responding tribunal to enforce or modify the order. If a
14 party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides
15 in the issuing state, in subsequent proceedings the tribunal may apply AS 25.25.316
16 to receive evidence from another state and AS 25.25.318 to obtain discovery through
17 a tribunal of another state.

18 (c) A tribunal of this state that lacks continuing, exclusive jurisdiction over a
19 spousal support order may not serve as a responding tribunal to modify a spousal
20 support order of another state.

21 Sec. 25.25.207. RECOGNITION OF CHILD SUPPORT ORDERS. (a) If a
22 proceeding is brought under this chapter, and one or more child support orders have
23 been issued in this or another state with regard to an obligor and a child, a tribunal of
24 this state shall apply the following criteria in determining which order to recognize for
25 purposes of continuing, exclusive jurisdiction:

26 (1) if only one tribunal has issued a child support order, the order of
27 that tribunal shall be recognized;

28 (2) if two or more tribunals have issued child support orders for the
29 same obligor and child, and only one of the tribunals would have continuing, exclusive
30 jurisdiction under this chapter, the order of that tribunal shall be recognized;

31 (3) if two or more tribunals have issued child support orders for the

1 same obligor and child, and more than one of the tribunals would have continuing,
2 exclusive jurisdiction under this chapter, an order issued by a tribunal in the current
3 home state of the child shall be recognized but, if an order has not been issued in the
4 current home state of the child, the order most recently issued must be recognized;

5 (4) if two or more tribunals have issued child support orders for the
6 same obligor and child, and none of the tribunals would have continuing, exclusive
7 jurisdiction under this chapter, the tribunal of this state may issue a child support order
8 that shall be recognized.

9 (b) The tribunal that has issued an order recognized under (a) of this section
10 is the tribunal having continuing, exclusive jurisdiction.

11 Sec. 25.25.208. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR
12 MORE OBLIGEES. In responding to multiple registrations or complaints for
13 enforcement of two or more child support orders in effect at the same time with regard
14 to the same obligor and different individual obligees, when at least one of the orders
15 was issued by a tribunal of another state, a tribunal of this state shall enforce those
16 orders in the same manner as if the multiple orders had been issued by a tribunal of
17 this state.

18 Sec. 25.25.209. CREDIT FOR PAYMENTS. Amounts collected and credited
19 for a particular period under a support order issued by a tribunal of another state shall
20 be credited against the amounts accruing or accrued for the same period under a
21 support order issued by the tribunal of this state.

22 * Sec. 3. AS 25.25 is amended by adding new sections to read:

23 ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION.

24 Sec. 25.25.301. PROCEEDINGS UNDER THIS CHAPTER. (a) Except as
25 otherwise provided in this chapter, AS 25.25.301 - 25.25.319 apply to all proceedings
26 under this chapter.

27 (b) This chapter provides for the following proceedings:

28 (1) establishment of an order for child support or spousal support under
29 AS 25.25.401;

30 (2) enforcement of a support order and income withholding order of
31 another state without registration under AS 25.25.501 - 25.25.502;

1 (3) registration of an order for child support or spousal support of
2 another state for enforcement under AS 25.25.601 - 25.25.612;

3 (4) modification of an order for child support or spousal support issued
4 by a tribunal of this state under AS 25.25.203 - 25.25.206;

5 (5) registration of an order for child support of another state for
6 modification under AS 25.25.601 - 25.25.612;

7 (6) determination of parentage under AS 25.25.701; and

8 (7) assertion of jurisdiction over nonresidents under AS 25.25.201 -
9 25.25.202.

10 (c) An individual or a support enforcement agency may commence a
11 proceeding authorized under this chapter by filing a complaint or a comparable
12 pleading in an initiating tribunal for forwarding to a responding tribunal or by filing
13 a complaint or a comparable pleading directly in a tribunal of another state that has
14 or can obtain personal jurisdiction over the respondent.

15 Sec. 25.25.302. ACTION BY MINOR PARENT. A minor parent, or a
16 guardian or other legal representative of a minor parent, may maintain a proceeding
17 on behalf of or for the benefit of the minor's child.

18 Sec. 25.25.303. APPLICATION OF LAW OF THIS STATE. Except as
19 otherwise provided by this chapter, a responding tribunal of this state shall

20 (1) apply the procedural and substantive law, including the rules on
21 choice of law, generally applicable to similar proceedings originating in this state and
22 may exercise all powers and provide all remedies available in those proceedings; and

23 (2) determine the duty of support and the amount payable under the law
24 and support guidelines of this state.

25 Sec. 25.25.304. DUTIES OF INITIATING TRIBUNAL. Upon the filing of
26 a complaint or comparable pleading authorized by this chapter, an initiating tribunal
27 of this state shall forward three copies of the complaint or comparable pleading and
28 its accompanying documents

29 (1) to the responding tribunal or appropriate support enforcement
30 agency in the responding state; or

31 (2) if the identity of the responding tribunal is unknown, to the state

1 information agency of the responding state with a request that they be forwarded to the
2 appropriate tribunal and that receipt be acknowledged.

3 Sec. 25.25.305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

4 (a) When a responding tribunal of this state receives a complaint or comparable
5 pleading from an initiating tribunal or directly under AS 25.25.301(c), it shall cause
6 the complaint or pleading to be filed and notify the petitioner by first class mail where
7 and when it was filed.

8 (b) A responding tribunal of this state, to the extent otherwise specifically
9 authorized by law, may do one or more of the following:

10 (1) issue or enforce a support order, modify a child support order, or
11 render a judgment to determine parentage;

12 (2) order an obligor to comply with a support order, specifying the
13 amount and the manner of compliance;

14 (3) order income withholding;

15 (4) determine the amount of any arrearages, and specify a method of
16 payment;

17 (5) enforce orders by civil or criminal contempt, or both;

18 (6) set aside property for satisfaction of the support order;

19 (7) place liens and order execution on the obligor's property;

20 (8) order an obligor to keep the tribunal informed of the obligor's
21 current residential address, telephone number, employer, address of employment, and
22 telephone number at the place of employment;

23 (9) issue a bench warrant for an obligor who has failed after proper
24 notice to appear at a hearing ordered by the tribunal and enter the bench warrant in
25 any local and state computer systems for criminal warrants;

26 (10) order the obligor to seek appropriate employment by specified
27 methods;

28 (11) award reasonable attorney fees and other fees and costs; and

29 (12) grant any other available remedy.

30 (c) A responding tribunal of this state shall include in a support order issued
31 under this chapter, or in the documents accompanying the order, the calculations on

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which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 25.25.306. INAPPROPRIATE TRIBUNAL. If a complaint or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the complaint or pleading, and accompanying documents, to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the complaint or pleading was sent.

Sec. 25.25.307. DUTIES OF CHILD SUPPORT ENFORCEMENT AGENCY.

(a) The child support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(b) In providing services under this chapter to the petitioner, the child support enforcement agency shall, as appropriate

(1) take the steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) send written notice from an initiating, responding, or registering tribunal to the petitioner by first class mail within two days of receipt, exclusive of Saturdays, Sundays, and legal holidays;

(5) send a copy of a written communication from the respondent or the respondent's attorney to the petitioner by first class mail within two days of receipt, exclusive of Saturdays, Sundays, and legal holidays; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

1 (c) This chapter does not create or negate a relationship of attorney and client
2 or other fiduciary relationship between the child support enforcement agency or the
3 attorney for the agency and the individual being assisted by the agency.

4 Sec. 25.25.308. DUTY OF ATTORNEY GENERAL. If the attorney general
5 determines that the child support enforcement agency is neglecting or refusing to
6 provide services to an individual, the attorney general may order the agency to perform
7 its duties under this chapter or may provide those services directly to the individual.

8 Sec. 25.25.309. PRIVATE COUNSEL. An individual may employ private
9 counsel to represent the individual in proceedings authorized by this chapter.

10 Sec. 25.25.310. STATE INFORMATION AND LOCATOR AGENCY. The
11 child support enforcement agency is the state information agency under this chapter,
12 and it shall

13 (1) compile and maintain a current list, including addresses, of the
14 courts in this state that have jurisdiction under this chapter and the appropriate agency
15 offices in this state and transmit a copy to the state information agency of every other
16 state;

17 (2) maintain a register of tribunals and support enforcement agencies
18 received from other states;

19 (3) forward to the appropriate tribunal in the place in this state in which
20 the individual obligee or the obligor resides, or in which the obligor's property is
21 believed to be located, all documents concerning a proceeding under this chapter
22 received from an initiating tribunal or the state information agency of the initiating
23 state; and

24 (4) obtain information concerning the location of the obligor and the
25 obligor's property within this state that is not exempt from execution by such means
26 as postal verification and federal or state locator services, examination of telephone
27 directories, requests for the obligor's address from employers, and examination of
28 governmental records, including, to the extent not prohibited by other law, those
29 relating to real property, vital statistics, law enforcement, taxation, motor vehicles,
30 driver's licenses, and social security.

31 Sec. 25.25.311. PLEADINGS AND ACCOMPANYING DOCUMENTS. (a)

1 A petitioner seeking to establish or modify a support order or to determine parentage
2 in a proceeding under this chapter shall verify the complaint or comparable pleading.
3 Unless otherwise ordered under AS 25.25.312, or otherwise prohibited by law, the
4 complaint or comparable pleading or accompanying documents must provide, so far
5 as is known, the name, residential address, and social security numbers of the obligor
6 and the obligee, and the name, sex, residential address, social security number, and
7 date of birth of each child for whom support is sought. The complaint or comparable
8 pleading must be accompanied by a certified copy of any support order in effect. The
9 complaint or comparable pleading may include other information that may assist in
10 locating or identifying the respondent.

11 (b) The complaint or comparable pleading must specify the relief sought. The
12 complaint or comparable pleading and accompanying documents must conform
13 substantially with the requirements imposed by the forms mandated by federal law for
14 use in cases filed by a support enforcement agency.

15 Sec. 25.25.312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL
16 CIRCUMSTANCES. Upon a finding by a court, which may be made ex parte, that
17 the health, safety, or liberty of a party or child would be unreasonably put at risk by
18 the disclosure of identifying information, or if an existing order so provides, a tribunal
19 shall order that the address of the child or party or other identifying information not
20 be disclosed in a pleading or other document filed in a proceeding under this chapter.

21 Sec. 25.25.313. COSTS AND FEES. (a) Notwithstanding any other provision
22 of law, including a rule of the Alaska Supreme Court, at the time a complaint or
23 comparable pleading is filed under this chapter, a tribunal may not require the
24 petitioner to pay a filing fee or other costs.

25 (b) The superior court shall order the payment of costs and reasonable attorney
26 fees, including filing fees that were waived under (a) of this section, by a party who
27 requests a hearing under this chapter if it determines that the hearing was requested
28 primarily for delay. In a proceeding under AS 25.25.601 - 25.25.612, a hearing is
29 presumed to have been requested primarily for delay if a registered support order is
30 confirmed or enforced without change; however, the party who requested the hearing
31 may present evidence to rebut this presumption.

1 Sec. 25.25.314. LIMITED IMMUNITY OF PETITIONER. (a) Participation
2 by a petitioner in a proceeding before a responding tribunal, whether in person, by
3 private attorney, or through services provided by the support enforcement agency, does
4 not confer personal jurisdiction over the petitioner in another proceeding.

5 (b) A petitioner is not amenable to service of civil process while physically
6 present in this state to participate in a proceeding under this chapter.

7 (c) The immunity granted by this section does not extend to civil litigation
8 based on acts unrelated to a proceeding under this chapter committed by a party while
9 present in this state to participate in the proceeding.

10 Sec. 25.25.315. NONPARENTAGE AS DEFENSE. A party whose parentage
11 of a child has been previously determined under law may not plead nonparentage as
12 a defense to a proceeding under this chapter.

13 Sec. 25.25.316. SPECIAL RULES OF EVIDENCE AND PROCEDURE. (a)
14 The physical presence of the petitioner in a responding tribunal of this state is not
15 required for the establishment, enforcement, or modification of a support order or the
16 rendition of a judgment determining parentage.

17 (b) A verified complaint or comparable pleading, affidavit, document
18 substantially complying with federally mandated forms, and a document incorporated
19 by reference in any of them, not excluded under the hearsay rule if given in person,
20 is admissible in evidence if given under oath by a party or witness residing in another
21 state.

22 (c) A copy of the record of child support payments certified as a true copy of
23 the original by the custodian of the record may be forwarded to a responding tribunal.
24 The copy is evidence of facts asserted in it and is admissible to show whether
25 payments were made.

26 (d) Copies of bills for testing for parentage, and for prenatal and postnatal
27 health care of the mother and child, furnished to the adverse party at least 10 days
28 before trial or other proceeding, are admissible in evidence to prove the amount of the
29 charges billed and that the charges were reasonable, necessary, and customary.

30 (e) Documentary evidence transmitted from another state to a tribunal of this
31 state by telephone, telecopier, or other means that do not provide an original writing

1 may not be excluded from evidence on an objection based on the means of
2 transmission.

3 (f) In a proceeding under this chapter, a tribunal of this state may permit a
4 party or witness residing in another state to be deposed or to testify by telephone,
5 audiovisual means, or other electronic means at a designated tribunal or other location
6 in that state. A tribunal of this state shall cooperate with tribunals of other states in
7 designating an appropriate location for the deposition or testimony.

8 (g) If a party called to testify at a civil hearing refuses to answer on the
9 ground that the testimony may be self-incriminating, the trier of fact may draw an
10 adverse inference from the refusal.

11 (h) A privilege against disclosure of communications between spouses does not
12 apply in a proceeding under this chapter.

13 (i) The defense of immunity based on the relationship of husband and wife or
14 parent and child does not apply in a proceeding under this chapter.

15 Sec. 25.25.317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal
16 of this state may communicate with a tribunal of another state in writing, or by
17 telephone or other means, to obtain information concerning the laws of that state, the
18 legal effect of a judgment, decree, or order of that tribunal, and the status of a
19 proceeding in the other state. A tribunal of this state may furnish similar information
20 by similar means to a tribunal of another state.

21 Sec. 25.25.318. ASSISTANCE WITH DISCOVERY. A tribunal of this state
22 may

23 (1) request a tribunal of another state to assist in obtaining discovery;

24 and

25 (2) upon request, compel a person over whom it has jurisdiction to
26 respond to a discovery order issued by a tribunal of another state.

27 Sec. 25.25.319. RECEIPT AND DISBURSEMENT OF PAYMENTS. The
28 child support enforcement agency of this state shall disburse promptly any amounts
29 received under a support order, as directed by the order. The agency shall furnish to
30 a requesting party or tribunal of another state a certified statement by the custodian of
31 the record of the amounts and dates of all payments received.

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ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER.

Sec. 25.25.401. COMPLAINT TO ESTABLISH SUPPORT ORDER. (a) If a child support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a child support order if

- (1) the individual seeking the order resides in another state; or
- (2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if

- (1) the respondent has signed a verified statement acknowledging parentage;
- (2) the respondent has been determined under law to be the parent; or
- (3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) If a spousal support order entitled to recognition under this chapter has not been issued, a responding superior court of this state may issue a spousal support order if

- (1) the individual seeking the order resides in another state; or
- (2) the support enforcement agency seeking the order is located in another state.

(d) If, after providing an obligor with notice and opportunity to be heard, an appropriate tribunal finds that the obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders under AS 25.25.305.

(e) Before issuing an order under (b) of this section, the child support enforcement agency shall adopt regulations for issuing such an order.

ARTICLE 5. DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION.

Sec. 25.25.501. RECOGNITION OF INCOME WITHHOLDING ORDER OF ANOTHER STATE. (a) An income withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under AS 25.27 without first filing a complaint or comparable pleading or registering

1 the order with the superior court of this state. Upon receipt of the order, the employer
2 shall

3 (1) treat an income withholding order issued in another state that
4 appears regular on its face as if it had been issued by a tribunal of this state;

5 (2) immediately provide a copy of the order to the obligor; and

6 (3) distribute the funds as directed in the withholding order.

7 (b) An obligor may contest the validity or enforcement of an income
8 withholding order issued in another state in the same manner as if the order had been
9 issued by a tribunal of this state. AS 25.25.604 applies to the contest. The obligor
10 shall give notice of the contest to any support enforcement agency providing services
11 to the obligee and

12 (1) to the person or agency designated to receive payments in the
13 income withholding order; or

14 (2) if no person or agency is designated, to the obligee.

15 Sec. 25.25.502. ADMINISTRATIVE ENFORCEMENT OF ORDERS. (a) A
16 party seeking to enforce a support order or an income withholding order, or both,
17 issued by a tribunal of another state may send the documents required for registering
18 the order to the child support enforcement agency of this state.

19 (b) Upon receipt of the documents, the child support enforcement agency,
20 without initially seeking to register the order, shall consider and, if appropriate, use
21 any administrative procedure authorized by the law of this state to enforce a support
22 order or an income withholding order, or both. If the obligor does not contest
23 administrative enforcement, the order need not be registered. If the obligor contests
24 the validity or administrative enforcement of the order, the child support enforcement
25 agency shall register the order under this chapter.

26 ARTICLE 6. ENFORCEMENT AND MODIFICATION OF
27 SUPPORT ORDER AFTER REGISTRATION.

28 Sec. 25.25.601. REGISTRATION OF ORDER FOR ENFORCEMENT. A
29 support order or an income withholding order issued by a tribunal of another state may
30 be registered in this state for enforcement.

31 Sec. 25.25.602. PROCEDURE TO REGISTER ORDER FOR

1 ENFORCEMENT. (a) A support order or income withholding order of another state
2 may be registered in this state by sending the following documents and information
3 to a tribunal of this state:

- 4 (1) a letter of transmittal requesting registration and enforcement;
5 (2) two copies, including one certified copy, of orders to be registered,
6 including modification of an order;
7 (3) a sworn statement by the party seeking registration or a certified
8 statement by the custodian of the records showing the amount of arrearage;
9 (4) the name of the obligor and, if known:
10 (A) the obligor's address and social security number;
11 (B) the name and address of the obligor's employer and any
12 other source of income of the obligor; and
13 (C) a description and the location of property in this state of the
14 obligor not exempt from execution; and
15 (5) the name and address of the obligee and, if applicable, the agency
16 or person to whom support payments are to be remitted.

17 (b) On receipt of a request for registration, the tribunal shall file the order as
18 a foreign judgment, together with one copy of the documents and information,
19 regardless of their form.

20 (c) A complaint or comparable pleading seeking a remedy that must be
21 affirmatively sought under other law of this state may be filed at the same time as the
22 request for registration or later. The pleading must specify the grounds for the remedy
23 sought.

24 Sec. 25.25.603. EFFECT OF REGISTRATION FOR ENFORCEMENT. (a)
25 A support order or income withholding order issued in another state is registered when
26 the order is filed in a tribunal of this state.

27 (b) A registered order issued in another state is enforceable in the same
28 manner and is subject to the same procedures as an order issued by a tribunal of this
29 state.

30 (c) Except as otherwise provided in AS 25.25.601 - 25.25.612, a tribunal of
31 this state shall recognize and enforce, but may not modify, a registered order if the

1 issuing tribunal had jurisdiction.

2 Sec. 25.25.604. CHOICE OF LAW. (a) The law of the issuing state governs
3 the nature, extent, amount, and duration of current payments and other obligations of
4 support and the payment of arrearages under the order.

5 (b) In a proceeding for arrearages, the statute of limitation under the laws of
6 this state or of the issuing state, whichever is longer, applies.

7 Sec. 25.25.605. NOTICE OF REGISTRATION OF ORDER. (a) When a
8 support order or income withholding order issued in another state is registered, the
9 tribunal shall notify the nonregistering party. Notice shall be given by first class,
10 certified, or registered mail or by any means of personal service authorized by the law
11 of this state. The notice must be accompanied by a copy of the registered order and
12 the documents and relevant information accompanying the order.

13 (b) The notice must inform the nonregistering party

14 (1) that a registered order is enforceable as of the date of registration
15 in the same manner as an order issued by a tribunal of this state;

16 (2) that a hearing to contest the validity or enforcement of the
17 registered order must be requested within 20 days after the date of mailing or personal
18 service of the notice;

19 (3) that failure to contest the validity or enforcement of the registered
20 order in a timely manner will result in confirmation of the order and enforcement of
21 the order and the alleged arrearages and precludes further contest of that order with
22 respect to any matter that could have been asserted; and

23 (4) of the amount of alleged arrearages.

24 (c) Upon registration of an income withholding order for enforcement, the
25 tribunal shall notify the obligor's employer under AS 25.27.

26 Sec. 25.25.606. PROCEDURE TO CONTEST VALIDITY OR
27 ENFORCEMENT OF REGISTERED ORDER. (a) A nonregistering party seeking
28 to contest the validity or enforcement of a registered order in this state shall request
29 a hearing within 20 days after the date of mailing or personal service of notice of the
30 registration. The nonregistering party may seek to vacate the registration, to assert a
31 defense to an allegation of noncompliance with the registered order, or to contest the

1 remedies being sought or the amount of alleged arrearages under AS 25.25.607.

2 (b) If the nonregistering party fails to contest the validity or enforcement of
3 the registered order in a timely manner, the order is confirmed by operation of law.

4 (c) If a nonregistering party requests a hearing to contest the validity or
5 enforcement of the registered order, the tribunal shall schedule the matter for hearing
6 and give notice to the parties by first class mail of the date, time, and place of the
7 hearing.

8 Sec. 25.25.607. CONTEST OF REGISTRATION OR ENFORCEMENT. (a)
9 A party contesting the validity or enforcement of a registered order or seeking to
10 vacate the registration has the burden of proving one or more of the following
11 defenses:

12 (1) the issuing tribunal lacked personal jurisdiction over the contesting
13 party;

14 (2) the order was obtained by fraud;

15 (3) the order has been vacated, suspended, or modified by a later order;

16 (4) the issuing tribunal has stayed the order pending appeal;

17 (5) there is a defense under the law of this state to the remedy sought;

18 (6) full or partial payment has been made; or

19 (7) the statute of limitation under AS 25.25.604 precludes enforcement
20 of some or all of the arrearages.

21 (b) If a party presents evidence establishing a full or partial defense under (a)
22 of this section, the tribunal may stay enforcement of the registered order, continue the
23 proceeding to permit production of additional relevant evidence, and issue other
24 appropriate orders. An uncontested portion of the registered order may be enforced
25 by all remedies available under the law of this state.

26 (c) If the contesting party does not establish a defense under (a) of this section
27 to the validity or enforcement of the order, the tribunal shall issue an order confirming
28 the order.

29 Sec. 25.25.608. CONFIRMED ORDER. Confirmation of a registered order,
30 whether by operation of law or after notice and hearing, precludes further contest of
31 the order with respect to a matter that could have been asserted at the time of

1 registration.

2 Sec. 25.25.609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF
3 ANOTHER STATE FOR MODIFICATION. If a party or the child support
4 enforcement agency seeking to modify, or to modify and enforce, a child support order
5 issued in another state but not registered in this state, the party or agency shall register
6 that order in this state in the same manner provided in AS 25.25.601 - 25.25.604. A
7 complaint for modification may be filed at the same time as a request for registration,
8 or later. The pleading must specify the grounds for modification.

9 Sec. 25.25.610. EFFECT OF REGISTRATION FOR MODIFICATION. A
10 tribunal of this state may enforce a child support order of another state registered for
11 purposes of modification in the same manner as if the order had been issued by a
12 tribunal of this state, but the registered order may be modified only if the requirements
13 of AS 25.25.611 have been met.

14 Sec. 25.25.611. MODIFICATION OF CHILD SUPPORT ORDER OF
15 ANOTHER STATE. (a) After a child support order issued in another state has been
16 registered in this state, the tribunal of this state may modify that order only if, after
17 notice and hearing, it finds that

18 (1) the following requirements are met:

19 (A) the child, the individual obligee, and the obligor do not
20 reside in the issuing state;

21 (B) a petitioner who is not a resident of this state seeks
22 modification; and

23 (C) the respondent is subject to the personal jurisdiction of the
24 tribunal of this state; or

25 (2) an individual party or the child is subject to the personal jurisdiction
26 of the tribunal and all of the individual parties have filed a written consent in the
27 issuing tribunal providing that a tribunal of this state may modify the support order and
28 assume continuing, exclusive jurisdiction over the order.

29 (b) Modification of a registered child support order is subject to the same
30 requirements, procedures, and defenses that apply to the modification of an order
31 issued by a tribunal of this state and the order may be enforced and satisfied in the

1 same manner.

2 (c) A tribunal of this state may not modify any aspect of a child support order
3 that may not be modified under the law of the issuing state.

4 (d) On issuance of an order modifying a child support order issued in another
5 state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

6 (e) Within 30 days after issuance of a modified child support order, the party
7 obtaining the modification shall file a certified copy of the order with the issuing
8 tribunal that had continuing, exclusive jurisdiction over the earlier order and in each
9 tribunal in which the party knows that an earlier order has been registered.

10 Sec. 25.25.612. RECOGNITION OF ORDER MODIFIED IN ANOTHER
11 STATE. A tribunal of this state shall recognize a modification of its earlier child
12 support order by a tribunal of another state that assumed jurisdiction under a law
13 substantially similar to this chapter and, upon request, except as otherwise provided
14 in this chapter, shall

15 (1) enforce the order that was modified only as to amounts accruing
16 before the modification;

17 (2) enforce only nonmodifiable aspects of that order;

18 (3) provide other appropriate relief only for violations of that order that
19 occurred before the effective date of the modification; and

20 (4) recognize the modifying order of the other state, upon registration,
21 for the purpose of enforcement.

22 ARTICLE 7. DETERMINATION OF PARENTAGE.

23 Sec. 25.25.701. PROCEEDING TO DETERMINE PARENTAGE. (a) The
24 child support enforcement agency of this state may serve as an initiating tribunal and
25 the superior court of this state may serve as an initiating or responding tribunal in a
26 proceeding brought under this chapter or a law substantially similar to this chapter, the
27 former provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act,
28 or the Revised Uniform Reciprocal Enforcement of Support Act to determine whether
29 the petitioner is a parent of a particular child or to determine whether a respondent is
30 a parent of that child.

31 (b) In a proceeding to determine parentage, a responding court of this state

1 shall apply the procedural and substantive law of this state and the rules of this state
2 on choice of law.

3 ARTICLE 8. INTERSTATE RENDITION.

4 Sec. 25.25.801. GROUNDS FOR RENDITION. (a) The governor or a
5 designee of the governor may

6 (1) demand that the governor of another state surrender an individual
7 found in the other state who is charged criminally in this state with having failed to
8 provide for the support of an obligee; or

9 (2) on the demand by the governor of another state, surrender an
10 individual found in this state who is charged criminally in the other state with having
11 failed to provide for the support of an obligee.

12 (b) A provision for extradition of individuals not inconsistent with this chapter
13 applies to the demand even if the individual whose surrender is demanded was not in
14 the demanding state when the crime was allegedly committed and has not fled from
15 that state.

16 Sec. 25.25.802. CONDITIONS OF RENDITION. (a) Before making demand
17 that the governor of another state surrender an individual charged criminally in this
18 state with having failed to provide for the support of an obligee, the governor of this
19 state or the designee of the governor may require a prosecutor of this state to
20 demonstrate that the obligee had initiated proceedings for support under this chapter
21 at least 60 days previously or that the proceeding would be of no avail.

22 (b) If, under this chapter or a law substantially similar to this chapter, the
23 former provisions of this chapter, the Uniform Reciprocal Enforcement of Support Act,
24 or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of
25 another state makes a demand that the governor of this state surrender an individual
26 charged criminally in that state with having failed to provide for the support of a child
27 or other individual to whom a duty of support is owed, the governor or a designee of
28 the governor may require a prosecutor to investigate the demand and report whether
29 a proceeding for support has been initiated or would be effective. If it appears that a
30 proceeding would be effective but has not been initiated, the governor or designee may
31 delay honoring the demand for a reasonable time to permit the initiation of a

1 proceeding.

2 (c) If a proceeding for support has been initiated and the individual whose
3 rendition is demanded prevails, the governor or the designee of the governor may
4 decline to honor the demand. If the petitioner prevails and the individual whose
5 rendition is demanded is subject to a support order, the governor or designee may
6 decline to honor the demand if the individual is complying with the support order.

7 ARTICLE 9. MISCELLANEOUS PROVISIONS.

8 Sec. 25.25.901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

9 This chapter shall be applied and construed to effectuate its general purpose to make
10 uniform the law with respect to the subject of this chapter among states enacting it.

11 Sec. 25.25.902. SEVERABILITY CLAUSE. Under AS 01.10.030, if a
12 provision of this chapter or its application to a person or circumstance is held invalid,
13 the invalidity does not affect other provisions or applications of this chapter that can
14 be given effect without the invalid provision or application.

15 Sec. 25.25.903. SHORT TITLE. This chapter may be cited as the Uniform
16 Interstate Family Support Act.

17 * Sec. 4. AS 25.27.020(a) is amended to read:

18 (a) The agency shall

19 (1) seek enforcement of child support orders of the superior courts of
20 the state in other jurisdictions and shall obtain, enforce, and administer the orders in
21 this state;

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

24 (A) schedules for determining the amount an obligor is liable
25 to contribute toward the support of an obligee under this chapter and under 42
26 U.S.C. 651 - 669 (Title IV-D, Social Security Act);

27 (B) procedures for hearings conducted under AS 25.27.170; and

28 (C) subject to AS 25.27.025 and to federal law, a uniform rate
29 of interest on arrearages of support that shall be charged the obligor upon
30 notice if child support payments are 10 or more days overdue or if payment is
31 made by a check backed by insufficient funds; however, an obligor may not be

1 charged interest on late payment of a child support obligation, other than a
2 payment on arrearages, if the obligor is

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

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

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

11 (3) administer and enforce AS 25.25 (Uniform Interstate Family
12 [RECIPROCAL ENFORCEMENT OF] Support Act);

13 (4) establish, enforce, and administer child support obligations
14 administratively under this chapter;

15 (5) administer the state plan required under 42 U.S.C. 651 - 669 (Title
16 IV-D, Social Security Act) as amended;

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

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

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

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

27 * Sec. 5. AS 25.25.010, 25.25.020, 25.25.030, 25.25.040, 25.25.050, 25.25.060, 25.25.070,
28 25.25.080, 25.25.090, 25.25.100, 25.25.110, 25.25.120, 25.25.130, 25.25.140, 25.25.150,
29 25.25.160, 25.25.170, 25.25.171, 25.25.173, 25.25.175, 25.25.180, 25.25.190, 25.25.200,
30 25.25.210, 25.25.220, 25.25.230, 25.25.240, 25.25.250, 25.25.252, 25.25.254, 25.25.256,
31 25.25.258, 25.25.260, and 25.25.270 are repealed.

1 * Sec. 6. AS 25.25.313(a), added by sec. 3 of this Act, has the effect of amending Alaska
2 Rule of Administration 9, by requiring the waiver of filing fees and other costs under certain
3 circumstances.

4 * Sec. 7. AS 25.25.313(b), added by sec. 3 of this Act, has the effect of amending Alaska
5 Rules of Civil Procedure 79 and 82, by requiring the court to award costs and attorney fees
6 under certain circumstances.

7 * Sec. 8. AS 25.25.313(a) and 25.25.313(b), respectively, added by sec. 3 of this Act, take
8 effect January 1, 1995, only if secs. 6 and 7 of this Act, respectively, receive the two-thirds
9 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

10 * Sec. 9. This Act takes effect January 1, 1995.