

H B

167

February 17, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making amendments in the Alaska Child Support Enforcement Act (AS 47.23). The bill would make technical amendments in the law for the purpose of clarification. The bill also would enhance the ability of the Child Support Enforcement Agency to enforce child support obligations in the state.

The bill would allow the agency to seek an order for the payment of child support based upon the non-custodial parent's ability to pay without limitation as to the amount of public assistance provided to the minor child. The difference between the support collected and the amount of the public assistance grant will be paid to the obligee. This change may permit the agency to collect enough support to remove the minor child from the public assistance rolls.

The bill would amend the authority of the agency to administratively order the delivery of earnings of an obligor to make the order effective for as long as a support debt exists. This change will free the agency from the burden of refiling the withhold and deliver order against earnings for each pay day of the obligor.

The bill would also exempt 50 percent of the earnings of an obligor from a withhold and deliver order. Existing law allows the seizure of all of an obligor's earnings to satisfy a support debt. The proposed amendment would protect enough of the earnings of the obligor to provide for that person's subsistence while also providing a contribution to the support obligation.

Sincerely,

JSH

Jay S. Hammond
Governor

Child Support Enforcement Admendment

The Agency shall provide to the obligor upon his request the address of the obligee under the following conditions:

- 1) The obligor is current in child support payments
 - 2) There is a court order granting the obligor visitation rights
- The address of the obligee shall not be provided to the obligor if the agency knows of any court order forbidding contact between the obligee and obligor.

MEMORANDUM

State of Alaska

TO File

DATE March 3, 1981

FILE NO:

TELEPHONE NO:

FROM: Dan Kopeland
Director

SUBJECT: HB 167 "An Act relating to the
Enforcement of Child Support"

This bill makes a number of legal terms clarification which will help all parties. Other states have adopted measures similar to those proposed in this bill with great benefit to all parties. From our perspective the changes, clarifications and improvements most noteable would be the following:

1. A change in the consumer price index of 20% or more could be used by either party to support a change in circumstances when modifying an existing order.
2. The absolute mandate to charge fees for service provided by the agency would be changed to allow the agency the discretion to charge reasonable fees if needed. Those individuals who could not afford to pay a fee would still receive the services for free.
3. The agency could proceed to establish a child support order for an AFDC recipient obligee for the full amount of the obligors ability to pay rather than limiting the order to the amount of AFDC granted to the obligee.
4. When the agency attaches an obligors wages, 50% of the income would be exempt from attachment.
5. The agency would not be required to reserve withhold and deliver attachments every 30 days to people that have already been formally notified of the unpaid obligation.

All of the points discussed will aid the agency in its effort to collect child support. Collection of child support on a regular basis has the direct effect of reducing the possibility that the single parent family will want financial assistance in the form of AFDC and Medicaid. No part of this bill requires the obligors to do anything that they have not already promised that they would do in the first place.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5
JUNEAU, ALASKA 99811

January 23, 1981

The Honorable Jalmer Kerttulla
President, Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Subject: Status of Child Support Agency Fee Development

Dear Mr. Kerttulla:

Since 1975 the Federal Government has provided 75% of the funds to operate each state's child support enforcement program. This federal funding was unlimited as long as the state provided the matching 25% and all program activities were directly related to child support enforcement. The funding covered both the Aid to Families with Dependent Children (AFDC) and non-AFDC child support cases. However, on March 31, 1980 the federal funding for the non-AFDC caseload terminated and reinstatement of this funding did not appear possible in FY 82.

When this problem was brought to the attention of the legislature by the department and concerned obligees, immediate action was taken. The Budget Free Conference Committee added \$300,900 to the Child Support Enforcement Agency (CSEA) FY 82 budget to specifically fund staff to handle the non-AFDC caseload. The committee also added the following intent language to the budget:

"The Department of Revenue will establish a sliding scale collection fee schedule for the non-AFDC caseload based upon an individual's economic ability to pay. The amount of the General Fund appropriation is to be reduced by the amount of those non-AFDC case collection fee receipts."

In June of 1980, Congress unexpectedly passed legislation which reinstated the federal funding for the non-AFDC caseload. As a result of this legislation, all of the additional \$300,900 will be returned to the General Fund at the end of the fiscal year. In my letter of October 13, 1980 to each member of the legislature, the funding situation was explained in detail.

Even though all the additional funds provided will be returned to the General Fund, the Department has proceeded to implement the intent language. In reviewing the intent language the question is raised as to which party, the obligor, as the absent parent, or the obligee, as the child's custodial parent, should pay the fees. The Alaska Statute address this issue directly by stating that the obligee may be assessed a fee. AS 47.23.100 states in part:

"If the agency determines that the obligor is financially able to pay, costs shall be assessed according to regulations adopted by the department."

Consideration has also been given to charging fees to the obligor. In this regard, our initial review indicated clearly that charging the obligor a fee, in most cases, would simply deprive the children of some part of those funds which are currently being collected because of the detrimental effect the fee had on overall collections.

Based on their experiences prior to the creation of the Child Support Enforcement Agency, the Alaska Court System has advised against charging the obligor a fee for services. The Court system dealt with charging the obligor for a number of years. Initially they did not provide for a charge, this was followed by a change to charging the obligor and then they changed back to not charging either party. Prior to March 1, 1965, a 3% collection fee was deducted from the money sent to the obligee on cases where the State of Alaska provided reciprocal action. After that, from March 1, 1965 to June 30, 1974 a 3% collection fee was added to the required payment from the obligor. On July 1, 1974 the courts abolished all fees to either party. The fees were dropped for the following reasons:

1. The 3% level was too low to make the fee administratively effective.
2. Collecting the fee from the obligor had a strong tendency to discourage payment altogether.
3. Collecting the fee from either party had a tendency to encourage people to not use the system at first. In most cases the people returned to the system because of subsequent collection problems. The cases were then far more difficult to handle and required substantial work to collect all of the information for the periods the system was not used.
4. In view of the generally high payment delinquency, it was determined that all money collected should be used to provide the needed support of the children.

As an additional preparatory step in establishing a sliding scale fee schedule, in July 1980 the agency completed a study of the thirty states in the nation which charge a fee of any type for child support services. The two main conclusions which resulted from doing this study are as follows:

1. When a fee is collected in sufficient amount to have any significant financial impact on the agency, the fee acts as a deterrent to the non-AFDC client seeking services.
2. When the ability to pay determinations are made with a formal screening process, that process itself takes substantial effort. For example, the necessity to update the ability to pay determination periodically throughout the eighteen year emancipation period would be very time consuming.

The directors of each state's child support program hold an annual meeting to discuss national legislation and exchange views on various issues such as Alaska's fee program. In the September 1980 meeting, the two conclusions developed in the Fee study and the court system's experiences were analyzed further. The other directors concurred with the conclusions we had reached.

Proposed regulations as required by AS 47.23.100 were then prepared for public hearing. The regulations were drafted to make administration of the program as simple as possible. However, the requirement to initially determine and periodically review the obligees ability to pay the fee will require four full time positions. These positions would either have to come from our present enforcement staff or would need to be authorized as additional positions if the current staff assignments are to remain unchanged. The fee program is projected to collect \$321,600 annually and the direct personnel cost will be \$102,330 annually. It is impossible to measure the effect of the reduction in collection effort if the four positions were taken from current staff.

Public hearings on the proposed regulations were conducted in December, 1980, in Anchorage, Fairbanks, Juneau and teleconferenced to Sitka. Comments were received from obligors, obligees, interested individuals and organizations. The following organizations provided both written and oral comment; Alaska Legal Services, Aiding Women from Abuse and Rape Emergencies, Advocates for Child Support, Alaska Commission of the Status of Women, Women in Crisis, Coalition

for Economic Justice, National Organization for Women, Federally Employed Women, Radical Women's Group, Women's Resource Center, Valley Women's Group, Fairbanks Child Protection Task Force, and the Alaska Court System.

All of the testimony either generally opposed the imposition of a fee on either party or made salient points about the operation or funding of the agency. In the operational area it was pointed out that the agency should not attempt to replace the Courts in deciding ability to pay, parental responsibility, or the amount of money due from the obligor. It was also stated that when the obligee approaches the agency, they are not requesting a service, but are filing a complaint of noncompliance with an established court order. With regard to the general funding of the agency several people pointed out that the state is only required to fund 25% of the agency's costs and these costs to the state were reduced even further by one half of the AFDC collections. The apparent abundance in the state Treasury and the state's limited funding requirement made most people suggest a change in the law to delete the imposition of fees on either party.

In regard to the issue of funding, it should be noted that the state's 25% funding requirement for the CSEA FY 82 budget is \$655,300 of General Fund matching funds. The projection for the collection of AFDC by the agency for FY 82 is \$1,250,000. This will return \$625,000 directly to the General Fund. In addition to this, our projection is that we will collect \$75,000 in program receipts which all go into the General Fund. Thus, at this level of collection, even without the fee program, CSEA will actually produce receipts in excess of the state's appropriation and will return to the General Fund in FY 1982 700 more than the amount required to operate the program.

In conclusion, the primary testimony from all parties was in opposition to the fee program. The following were the main points of objection:

1. The terminated federal funding which created the agency's financial need for the fee program has been reinstated.
2. Administering a fee schedule will either take people away from the current enforcement effort and thereby reduce the current collection potential or will require additional staff.
3. All money collected should be used for the child, not to pay the state which is already receiving more funds from the collection efforts than the general fund appropriation.

4. AS 47.23.100 should be amended to eliminate the requirement to assess fees for child support services.

After our public hearings were concluded, we received several inquiries from individuals who were unable to come and testify either; (1) due to the extreme weather during the week of the hearings; (2) because the hearings were held during working hours and they could not get away from work in order to provide their testimony; or (3) because the majority of the obligees were not aware that the fee schedule was being considered. As a result of these inquiries, additional hearings are scheduled for March 2, 3, 4, 1981. These hearings will be conducted at 7:00 p.m. rather than 1:00 p.m., which will allow the working parents to attend. Also, all obligees who are currently receiving payments will be notified of the hearings to enable them to attend and express their concerns. The proposed effective date of the regulation has been extended to April 15, 1981.

Upon conclusion of this next group of hearings, careful consideration will be given to all the input we have received and a determination will be made as to whether to proceed with charging fees, and if so, who should pay the fees and how much should be charged.

Sincerely,

Thomas K. Williams
Commissioner

cc: Senator Don Bennett
Co-Chairman Senate Finance Committee

• Senator M. E. Dankworth
Co-Chairman Senate Finance Committee

5-4 1209
825
Mona Clark
P. O. Box 1429
Valdez, Alaska 99686

February 26, 1981

MAR 2 1981

Department of Revenue
Child Support Enforcement Agency
201 E. 9th Avenue, Suite 202
Anchorage, Alaska 99501

To Whom It May Concern:

I hereby urge that AS 47.23.100 be amended to eliminate the requirement to assess fees for child support.

This piece of legislation is unnecessary. The federal funding for AFDC which was terminated in March of 1980 has been reinstated; the state funding of the remaining 25% is also guaranteed.

Any fees that could be collected would certainly be used in the administering of a fee schedule in determining the obligee's ability to pay and in the continuous updating of the obligee's financial status, etc.

I also question whether the imposition of such an assessed fee would be discriminatory. An obligee should not be penalized for earning an adequate income!

Sincerely,

Mona Clark

Mona Clark

cc: Jalmer Kerttula, President, Alaska State Senate
Bette Lato, Representative, Alaska State Legislature

Beth if possible, let me know how this goes.

*Shanker.
Mona*

Feb 28, 1981

Betty Cate,

This letter concerns AS 47.23.100. Legislators must amend the law so that it doesn't add oppression upon custodial parents, the majority who are women, and so that it cannot be said that our state, so rich, must snatch food from babies.

If the law were not amended, many parents, hoping to make ends meet, would opt out of the program, even though in the long run this would probably be a costly mistake. Times are hard, especially for single female parents.

The question is, how greedy is our state, and how morally bankrupt are our legislators? Thank you for your effort to amend this law.

Elaine Vondraich
3513 Bruce Lane
Anch AK 99503

POSITION PAPER

ON

House Bill No. 167

3/5/81

yes

"An Act relating to the enforcement of child support"

Among numerous other changes, this bill would expand the Department of Revenue's authority to adjust child support payment amounts to keep pace with inflation, and to more fairly obtain an absent parent's money and property in order to satisfy an obligation to support.

This Department is aware that other states have adopted measures similar to those proposed in this bill, with strikingly effective results. We have no doubt that these changes would increase the effectiveness of Alaska's Child Support Enforcement Agency. From our perspective, improvements would be most noticeable in the following ways:

1. Court-ordered child support payment amounts in our Aid to Families with Dependent Children (AFDC) recipients' cases tend to be inadequate when the court order is new. With the effects of years of increases in living costs, they get more and more inadequate. Even if child support is being collected it is not likely to be in an amount sufficient to enable the children to go off of assistance and live in dignity and independence.

Section 3 of HB No. 167 would undoubtedly have two beneficial effects by promoting revision of ordered amounts to keep pace with the actual costs of raising children: (a) single-parent families now able to exist without public assistance payments will be less likely to come on the AFDC rolls if the cost of living would no longer erode the purchasing power of their child support payments; and (b) Those families now receiving AFDC assistance on whose behalf the Agency is collecting child support are more likely to reach a level of child support collections which will eventually exceed the AFDC qualifying income standards. They would therefore leave the AFDC program and be able to live independently.

2. Similarly, the expanded ability of the Child Support Enforcement Agency to establish and adjust child support obligations, with its expanded ability to more easily compel withholding and delivery of the absent parents' earnings, will have positive preventive and corrective effects. Efficiency in these areas help insure that modest-income single parent families will be less likely to need or want financial assistance of all types, including AFDC and Medicaid. Similarly, improving the capability of CSEA to collect substantial child support will be reflected by a decrease in the total amount of public funds paid to recipients, and by an increase in the number of families who are able to leave the assistance rolls.

POSITION PAPER/Department of Health & Social Services

The Department supports the passage of HB No. 167.

Recommended by:

Rod Betit

Rod Betit, Director
Division of Public Assistance

Date:

2-28-81

Approved by:

Helen D. Beirne

Helen D. Beirne
Commissioner

Date:

2-28-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 167

Title An Act relating to the enforcement of child support

Requested by Rules, by Request Date 2/27/81

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Social & Economic Assistance for the general population

BRU, Program, or Subprogram(s) Affected Assistance payments, AFDC

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The Department believes that passage of HB No. 167 may well result in an eventual small reduction in the rate of growth of AFDC expenditures. However, the amount of any such reduction would be contingent upon so many factors that its actual amount cannot be estimated.

IV. DATE

2/27/81

PREPARED BY

AGENCY

PHONE

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval

Date 2/27/81

MEMORANDUM

State of Alaska

TO File

DATE March 3, 1981

FILE NO

TELEPHONE NO

FROM Dan Copeland
Director

SUBJECT House Bill 167

The following is a detailed commentary on HB 167.

Section: 1 AS 25.25.010(1)

Adding new language to AS 25.25.010(1) will allow the agency to enter into reciprocal agreements with foreign countries that have a similar Uniform Reciprocal Enforcement of Support Act. This would include such countries as Federal Republic of Germany (West Germany), Great Britain, Canada, and other commonwealth countries. This would allow the agency to obtain a child support order when the absent parent is located or resides in a foreign country.

Section: 2 AS 47.23.020(2)(A)

The additions and deletions to AS 47.23.020(2)(A) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "obligee".

Section: 3 AS 47.23.060

Adding a new subsection to AS 47.23.060 will make it easier to modify an existing child support order. Allowing a change of 20% or more to be used as evidence of a change of circumstance relieves both parties and the court system of some of the clerical burdens in requesting a modification. Allowing the change to be used in this manner does not lead either party to believe that the increase or decrease they are seeking will be automatic.

Section: 4 AS 47.23.100

The additions and deletions to AS 47.23.100 will correct the current language to allow the Department of Revenue the discretion as to whether or not the agency should charge fees. The current language does not allow the department to make this decision. The agency is now required to determine each obligee's ability to pay and then assess costs or fees accordingly. The statute change will allow the agency to charge fees when funding or other requirements dictate it, but will not require the agency to maintain fee regulations unless those regulations are to be utilized.

Section: 5 AS 47.23.110(4)

The additions and deletions to AS 47.23.110(4) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "custodial parent".

Section: 6 AS 47.23.110 (7), (8) and (9)

Adding new sections AS 47.23.110 (7), (8) and (9) will provide a definition for the "consumer price index", "interest" and "disposable earnings".

Section: 7 AS 47.23.130

The additions and deletions to AS 47.23.130 will allow the agency to establish child support orders based upon an obligor's full ability to pay rather than limiting the order to the public assistance issued. Making regular collections for orders established based on an obligor's full ability to pay will in some cases take the obligee off of the AFDC rolls. Any collections over the assistance granted will be given to the obligee for the care of the child.

Section: 8 AS 47.23.150

Adding a new subsection AS 47.23.150(C) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 9 AS 47.23.160(b)

The additions and deletions to AS 47.23.160(b) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child", "obligee" and "custodian".

Section: 10 AS 47.23.160(C)

Adding a new subsection AS 47.23.160(c) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 11 AS 47.23.170(e)

The additions and deletions to AS 47.23.170(e) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "minor child" and "obligee".

Section: 12 AS 47.23.170(F)

The additions and deletions to AS 47.23.170(F) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "finding" and "filing".

Section: 13 AS 47.23.190(a)

The deletions to AS 47.23.190(a) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "obligee" / "custodian".

Page 3
File/HB 167
March 3, 1981

Section: 14 AS 47.23.190(c)

The deletions to AS 47.23.190(c) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "obligee" and "custodian".

Section: 15 AS 47.23.255

Adding a section to AS 47.23 will make an order to withhold and deliver more efficient by requiring less repetitive paperwork. This subsection will allow a third party to continue holding 50% of wages or earnings as it becomes due to the delinquent obligor until the total arrearage stated in the notice of the delinquent obligor's liability has been satisfied. Prior to issuing a withhold and deliver attachment the obligor is formally notified of the delinquency and is given 30 days to make arrangements with the agency to satisfy the delinquency. The agency and the third party will only have to serve and receive the order to withhold and deliver once in those cases where the obligor has not made the payments as required by court order.

Adding a new section will also allow the agency to attach any tax refunds or any other distributions made by the state to delinquent obligors up to the amount of arrearage stated in the order to withhold and deliver.

MEMORANDUM

State of Alaska

TO: File

DATE: March 3, 1981

FILE NO:

TELEPHONE NO:

FROM: Dan R. Copeland
Director

SUBJECT: SB/181 "An Act Relating to the Enforcement of Child Support and Changing Rule 56 of the Alaska Rules of Civil Procedure".

This bill makes a number of legal terms clarifications which will help all parties. Other states have adopted measures similar to those proposed in this bill with great benefit to all parties. From our perspective the changes, clarifications and improvements most notable would be the following:

1. Child Support payments could be modified through normal judicial means, based upon a change of 20% in the consumer price index.
2. Arrearage from non payment of child support could be reduced to judgement via a simplified process by changing Rule 56 of the Alaska Rules of Civil Procedure.
3. The absolute mandate to charge fees for service provided by the agency would be changed to allow the agency the discretion to charge reasonable fees if needed. Those individuals who could not afford to pay a fee would still receive the services for free.
4. The agency could proceed to establish a child support order for an AFDC recipient obligee for the full amount of the obligor's ability to pay rather than limiting the order to the amount of AFDC granted the obligee.
5. The agency could file a child support order obtained through administrative means with the superior court. The normal appeal process would be available, but if appeals were not filed, the court may issue an order confirming the administrative decision.
6. The agency would not be required to re-serve withhold and deliver attachments every thirty days to people who have already been formally notified of the unpaid obligation.

All of the points discussed will aid the agency in its' effort to collect child support. Collection of child support on a regular basis has the direct effect of reducing the possibility that the single parent family will want financial assistance in the form of AFDC and medicaid. No part of this bill requires the obligors to do anything that they have not already promised that they would do in the first place.

3/25

Introduced: 2/17/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the enforcement of child support."

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

8 * Section 1. AS 25.25.010(1) is amended to read:

9 (1) "state" includes the State of Alaska and a state, terri-
10 tory, or possession of the United States and the District of Columbia,
11 and a foreign country in which this or a substantially similar recipro-
12 cal law has been enacted;

13 * Sec. 2. AS 47.23.020(2)(A) is amended to read:

14 (A) schedu' is for determining the amount an obligor is
15 liable to contribute toward the support of a minor child (AN
16 OBLIGEE) under this chapter and under Title IV-D, Social Security
17 Act;

18 * Sec. 3. AS 47.23.060 is amended by adding a new subsection to read:

19 (d) In any proceeding to modify the duty of support, a change of
20 20 percent or more in the consumer price index which occurs after the
21 establishment of or modification of a judicial or administrative sup-
22 port order is evidence of a change of circumstances.

23 * Sec. 4. AS 47.23.100 is amended to read:

24 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
25 provide aid to any person due child support under the laws of this
26 state upon application. If the obligee is indigent or otherwise unable
27 to pay for these services, the agency shall act without charge to the
28 obligee. The agency may impose fees for services provided under this
29 chapter, which [IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINAN-

1 CIALY ABLE TO PAY, COSTS] shall be assessed according to regulations
2 adopted by the department and [BE] paid into the fund established in
3 AS 47.23.030.

4 * Sec. 5. AS 47.23.110(4) is amended to read:

5 (4) "obligee" means the custodial parent or person who has
6 physical custody and responsibility for the minor child [A PERSON] to
7 whom a duty of support is owed;

8 * Sec. 6. AS 47.23.110 is amended by adding new paragraphs to read

9 (7) "consumer price index" means the All Urban Consumer
10 Price Index as compiled by the United States Department of Labor,
11 Bureau of Labor Statistics, for Anchorage, Alaska or, if the obligor
12 and obligee live in the same judicial district, the index for a muni-
13 cipality within that judicial district, if the United States Department
14 of Labor compiles an index;

15 (8) "earnings" (A) means compensation paid or payable for
16 personal services, whether denominated as wages, salary, commission,
17 bonus, or other similar description and includes the gain derived from
18 the investment of capital, from labor, or from a combination of in-
19 vestment and labor; and (B) does not include profit gained from the
20 sale or conversion of a capital asset;

21 (9) "disposable earnings" means that part of the earnings of
22 an individual which remains after the deduction from those earnings of
23 any amount required by law to be withheld.

24 * Sec. 7. AS 47.23.130 is repealed and reenacted to read:

25 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
26 able to the state under AS 47.23.120(a) or (b), the state is subrogated
27 to the rights of the obligee to:

28 (1) bring an action in the superior court seeking an order
29 of support or modifying an existing order of support;

1 (2) proceed under AS 47.23.160 -- 47.23.270 to establish or
2 modify a duty of support; or

3 (j) enforce by execution, in accordance with AS 47.23.230 --
4 47.23.270, or otherwise, a support order entered in favor of the obli-
5 gee.

6 (b) To establish, ~~modify~~ or enforce an order of support, based
7 upon the subrogation of the state, the agency is not limited to the
8 amount of assistance being granted to the minor child.

9 (c) The recovery of any amount for which the obligor is liable
10 which exceeds the total assistance granted under AS 47.25.310 -- 47.25.-
11 420 shall be paid to the obligee.

12 * Sec. 8. AS 47.23.170 is amended by adding a new subsection to read:

13 (c) ~~Refusal~~ by the obligor to accept the notice is considered
14 service ~~as of~~ the time of the refusal.

15 * Sec. 9. AS 47.23.160(b) is amended to read:

16 (b) The notice and finding of financial responsibility served
17 under (a) of this section shall state

18 (1) the sum or periodic payments for which the alleged
19 obligor is found to be responsible, calculated by taking into consid-
20 eration the need of the ~~minor~~ child [ALLEGED OBLIGEE], the alleged
21 obligor's liability to the state under AS 47.23.130 if any, and his
22 duty of support under the law;

23 (2) the name of the alleged obligee and ~~the minor~~ child [HIS
24 CUSTODIAN];

25 (3) that the alleged obligor may appear and show cause in a
26 hearing held by the agency why the finding is incorrect, should not be
27 finally ordered, and should be modified or rescinded, because (A) no
28 duty of support is owed, or (B) the amount of support found to be owed
29 is incorrect;

1 (4) that if the person served with the notice and finding of
2 financial responsibility does not request a hearing within 30 days, the
3 property of the person will be subject to execution in accordance with
4 AS 47.23.230 -- 47.23.270 in the amounts stated in the finding without
5 further notice or hearing.

6 * ~~Sec. 10.~~ AS 47.23.160 is amended by adding a new subsection to read:

7 (c) ~~Refusal~~ by the obligor to accept the notice is considered
8 service as of the time of the refusal.

9 * Sec. 11. AS 47.23.170(e) is amended to read:

10 (e) The hearing officer shall consider the following in making
11 his determination under (d) of this section:

12 (1) the needs of the ~~minor child~~ [ALLEGED OBLIGEE], disre-
13 garding the income or assets [OF THE CUSTODIAN] of the alleged obligee;

14 (2) the amount of the alleged obligor's liability to the
15 state under AS 47.23.120 [AS 47.23.125] if any;

16 (3) the intent of the legislature that children be supported
17 as much as possible by their natural parents;

18 (4) the ability of the alleged obligor to pay.

19 * Sec. 12. AS 47.23.170(f) is amended to read:

20 (f) If the alleged obligor requesting the hearing fails to appear
21 at the hearing, the hearing officer shall enter a decision declaring
22 the property of the alleged obligor subject to execution in accordance
23 with AS 47.23.230 -- 47.23.270 in the amounts stated in the notice and
24 finding [FILING] of financial responsibility.

25 * Sec. 13. AS 47.23.190(a) is amended to read:

26 (a) Unless a support order has been entered, the obligor, or the
27 ~~obligee~~ [OR HIS CUSTODIAN], may petition the agency or its designee for
28 a modification of the finding or decision of responsibility previously
29 entered with regard to future periodic support payments.

1 * Sec. 14. AS 47.23.190(c) is amended to read:

2 (c) If a hearing is granted, the agency shall serve a notice of
3 hearing together with a copy of the petition and affidavits submitted
4 on the obligee (OR HIS CUSTODIAN) and the obligor personally or by
5 registered, certified, or insured mail, return receipt requested, for
6 restricted delivery only to the person to whom the notice is directed
7 or to the person authorized under federal regulation to receive his
8 restricted delivery mail.

9 * Sec. 15. AS 47.23 is amended by adding a new section to read:

10 ~~Sec. 47.23.255. EARNINGS EXEMPT FROM ORDER OR LIEN. (a) Not~~
11 ~~more than 50 percent of the disposable earnings of the obligor is~~
12 ~~exempt from an order to withhold and deliver under AS 47.23.250. The~~
13 ~~exempt part of the disposable earnings may be paid to the obligor even~~
14 ~~if the earnings are paid monthly, weekly, or at other intervals.~~

15 (b) A person, political subdivision, or department of the state
16 shall withhold the nonexempt part of the earnings of the obligor at
17 each succeeding interval of payment until the entire amount of the debt
18 stated in the order to withhold and deliver has been withheld.

19 (c) An order to withhold and deliver issued to the Department of
20 Revenue remains in effect throughout the calendar year in which it is
21 served. That order applies to any tax refund or other disbursements to
22 which the obligor is entitled even if the tax refund or disbursement is
23 issued more than 30 days after service of the order.
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MEMORANDUM

State of Alaska

TO: File

DATE: March 3, 1981

FILE NO:

TELEPHONE NO:

FROM: Dan Copeland
Director

SUBJECT: HB 167 vs SB 181 on all points
HB 167 vs HB 175 on the fee issue

The two bills are very similar in nature, both making identical technical changes to clarify legal terms. Each bill then goes on to deal with four common points, with HB 167 providing language which provides a better overall approach and technical applicability.

HB 167 includes a good clarification of an income exemption for the obligor. This point is critical as the obligor's gainfull employment as well as the reasons to stay that way are most important for continued collections.

SB 181 makes four additional changes which are not of great importance to the operation of the agency. The first change requires changing civil procedure rules and the second may require a rule change. This makes final passage into law more difficult. The agency does not feel the changes which can be accomplished by operational shifts are worth the increased difficulty in getting final approval. The third change is to cover a potential problem if the agency starts to have trouble registering foreign orders. The fourth is a title change in a section which is not critical in any way.

The current statute mandates the agency to charge reasonable fees to those that can afford to pay for the services. HB 175 takes the opposite approach and mandates providing the services to everyone regardless of conditions. HB 167 provides the Department of Revenue the discretion to charge fees to those that could afford it, if financial or other requirements mandated it.

My opinion as the State of Alaska, Child Support Director is that HB 167 rather than HB 175 or SB 181 would be of considerable benefit to the State of Alaska.

MEMORANDUM

State of Alaska

TO File

DATE March 3, 1981

FILE NO

TELEPHONE NO

FROM Dan R. Copeland
Director

SUBJECT Senate Bill 181

The following is a detailed commentary on SB 181.

Section: 1 AS 09.55.220 The new subsection to be added to AS 09.55.220 will be used in the effort to modify an existing child support order. Allowing the change in consumer price index to be used as prima facie evidence of a change in circumstances will cut the handling time required by the court system and reduce the contact required from both parties. Each side will have a better idea as to when a modification may be requested. The index will be used as one of the burdens of proof but can not be used to require automatic modifications. All child support orders and subsequent modifications are based upon two factors; ability of the obligor to pay and the needs of the child. This change appears to be aimed at automatic modification upon a 20% change in the index. Actually both parties may use the change to support an increase or decrease. Section 3 of HB 167 accomplishes much the same thing without clouding the issue.

Section: 2 AS 25.55.010(1) Adding new language to AS 25.55.010(1) will allow the agency to enter into reciprocal agreements with foreign countries that have a similar Uniform Reciprocal Enforcement of Support Act. This would include such countries as Federal Republic of Germany (West Germany), Great Britain, Canada, and other commonwealth countries. This would allow the agency to obtain child support order when the absent parent is located or resides in a foreign country.

Section: 3 AS 25.25.010(6) Adding new language to AS 25.25.010(6) will provide the obligor in UREDA cases with an incentive to make payments on a current basis. The overdue fee will be charged and subsequently collected or reduced to judgment. This additional charge will make the delinquent obligor, who in fact creates the need for the agency, pay for a portion of the agency cost.

Section: 4 AS 25.15.010(11) Adding new language to AS 25.25.010(11) will simply provide an explanation as to what interest means. This amendment should be changed to read "or at the rate established by the Department of Revenue (was the Department of Health and Social Service)

Section: 5 AS 25.25.250 Adding a new sub-section to AS 25.25.250 will allow the agency to register a support order from another state when the obligee is not a resident of Alaska and the obligor is a resident of

Alaska without opening the matter of custody and visitation. This will simplify obtaining an Alaska order by reducing handling, legal processing, and court time when the obligee has already obtained a child support order in another state. Some states do request the State of Alaska to register their orders under the current statute. No problems have been noted to date in this matter of reopening custody or visitation. This statute change would ensure that it stays this way.

Section: 6 AS 47.23.020(2)(A) The additions and deletions to AS 47.23.020(2)(A) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "obligee".

Section: 7 AS 47.23.020(2)(C) Adding new language to AS 47.23.020(C) requires the agency to notify the obligor as to when an overdue or insufficient funds fee is assessed.

Section: 8 AS 47.23.020(b) Adding a new subsection to AS 47.23.020 will clarify when notification is required in section 7 above. Notification in this case requires mailing by first class mail a copy of the appropriate documents to the last known address of the obligor available to the agency. All court orders currently require the obligor to notify the agency of any change in address.

Section: 9 AS 47.23.045 The additions and deletions to AS 47.23.045 corrects the existing title. Currently the title implies that this section deals with the determination of support obligations. The section actually deals with the agency right to intervene in support obligation cases.

Section: 10 AS 47.23.092 Adding a new section as 47.23.092 will allow the agency to obtain a judgment on court ordered support payments that are past due and unpaid by the obligor. This change will allow the agency to submit a certified statement of such arrearages to the Superior Court, and at the same time notify the obligor of the arrears and the agency's request for a judgment. If the obligor does not present a defense, the Superior Court may then reduce the arrearages to judgment and include any overdue charges and interest due. This would simplify the obtaining of judgment by reducing handling, legal processing and court time when the obligor has failed to comply with a court order. This is a change in the Alaska rules of Civil Procedure.

Section: 11 AS 47.23.100 The additions and deletions to AS 23.100 will correct the current language to allow the Department of Revenue the discretion as to whether or not the agency should charge fees. The current language does not allow the department to make this decision. The agency is now required to determine each obligee's ability to pay and then assess costs or fees accordingly. The statute change will allow the agency to charge fees when funding or other requirements dictate it, but will not require the agency to maintain fee regulations unless those regulations are to be utilized.

V

Section: 12 AS 47.23.110(3) Adding new language to AS 46.23.110(3) will provide the obligor with an incentive to make payments on a current basis. The overdue fee will be charged and subsequently collected or reduced to judgment. This additional charge will make the delinquent obligor, who in fact creates the need for the agency, pay for a portion of the agency cost.

Section: 13 AS 47.23.110(4) The additions and deletions to AS 47.23.110(4) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "custodial parent".

Section: 14 AS 47.23.110(7) Adding new language to AS 47.23.110(7) will simply provide an explanation as to what interest means. This amendment should be changed to read "or at the rate established by the Department of Revenue".

Section: 15 AS 47.23.130 The additions and deletions to AS 47.23.130 will allow the agency to establish child support orders based upon an obligor's full ability to pay rather than limiting the order to the public assistance issued. Making regular collections for orders established based on an obligor's full ability to pay will in some cases take the obligee off of the AFDC roles. Any collections over the assistance granted will be given to the obligee for the care of the child.

Section 7 of HB 167 accomplishes the same thing but with more direct language which clearly explains the entire process.

Section: 16 AS 47.23.150 Adding a new subsection AS 47.23.150(C) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 17 AS 47.23.160(b) The additions and deletions to AS 47.23.160(b) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child", "obligee" and "custodian".

Section: 18 AS 47.23.160(c) Adding a new subsection AS 47.23.160(c) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 19 AS 47.23.170(e) The additions and deletions to AS 47.23.170(e) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "minor child" and "obligee".

Section 20 AS 47.23.170(f) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "finding" and "fillin".

Section 21 AS 47.23.182

Adding a new section AS 47.23.182 will allow the agency to file all administratively established child support obligations with the Superior Court. The Superior Court will review the determination and allow the obligor a thirty day appeal period. Upon completion of the review and the appeal period, the Superior Court may issue a court order confirming the entire process and making the order enforceable through either the courts or administrative means. This may be a change in the Alaska Rules of Civil Procedures.

Section 22: AS 47.23.190(a)

The deletions to AS 47.23.190(a) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "obligee" and "custodian".

Section 23: AS 47.23.190(c)

The deletions to AS 47.23.190(c) will correct the existing language. There will be no change in the meaning of the section, only a clarification of the use of the terms "obligee" and "custodian".

Section 24: AS 47.23.250

Rewriting AS 47.23.250 will make an order to withhold and deliver more efficient by requiring less repetitive paperwork. This new section will allow a third party to continue holding fifty percent of wages or earnings as it becomes due to the delinquent obligor, until the total arrearages stated in the notice of the delinquent obligor liability has been satisfied. Prior to issuing a withhold and deliver attachment, the obligor is formally notified of the delinquency and is given thirty days to make arrangements with the agency to satisfy the delinquency. The agency and the third party will only have to serve and receive the order to withhold and deliver once in those cases where the obligor has not made payments as required by court order.

Rewriting the section will also allow the agency to attach any tax refunds or any other distributions made by the state to delinquent obligors, up to the amount of arrearage stated in the order to withhold and deliver. Section 15 of House Bill 167 accomplishes the same thing, but more direct language, which clearly explains the entire process. Several terms are also defined in House Bill 167 which further explain the working process of withhold and deliver attachments.

Section 25: AS 47.23.092

This section simply points out that his act has the effect of changing Civil Procedure rules. This will require a larger majority in each house of the legislature for the act to become a potential law available for the Governor's signature.

3/15/81

Alan Copeland ~~that~~ child support Eng. Ag.

Eng collects on AFDC person + refunds 50/50 to Fed - State

Keeps people off A + DC rules

i.e. welfare case gov. pays collection expenses.

non-welfare case will pay fee over them.

7000 cases. has "support order b/court" for ea. one.
What % call, vs Total collectible?

2500 welfare cases

5000 non " " "

10,000 cases - no support order

Priority now is collection.

4 enforcement teams @ 12-1500 cases / team.

FEE - Shall vs. May?

If Fed force a fee, shall State refuse + pick up bill for this? (Chr. says yes)

1.5 m he figures in fee expense, plus penalties
to 2. m Fed funds in '82

75% of \$ from Fed as if fee imposed he would get them

What %?

1M owed to us. :

38% collected of no obj. - current!

10-15% on arrears (2.5 m total arrears)

3/5 Teleconf. 7-9 P.M. ^{MS 167, 175} "Child Support Enforcement Agency"

live monthly call is on -

Jan - 14th Shender - drastic change needed etc!

Soldotna - Mida Strauman

all appeal to fees
most criticize agency severely