

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

4/6/84

Date:

4-25-84

The Committee on FINANCE has had HB 668

"An Act relating to child support enforcement and the reporting of payment information on delinquent obligators to credit bureaus or lending institutions; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 668 (Finance) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

WILLO H. FRITZ

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. Furnace HB rec

[Signature]

CHAIRMAN

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 668 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child support enforcement; and
7 providing for an effective date."

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

9 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
10 finds that the effect on the general public of the failure of parents to
11 support their children is vast and far reaching. The harmful effects of
12 unpaid child support touch not only the poor but reach far beyond, dimin-
13 ishing the overall quality of life for all Alaskans. The purpose of the
14 amendments in this Act is to enhance the efforts of those persons who seek
15 to enforce the payment of child support obligations by noncustodial parents
16 having the duty of support.

17 (b) The legislature also finds that a disproportionately high per-
18 centage of lower-income, single-parent families are headed by women. The
19 difficulties in obtaining child support from noncustodial parents contrib-
20 utes significantly to the hardship of those families. The fact that the
21 general public bears the huge monetary cost of supporting families on
22 public assistance because of inadequate support from noncustodial parents
23 is only one of the most obvious effects of the problem of unpaid child
24 support. In addition, it is recognized that the failure of parents to
25 support their children is a major factor contributing to the broader social
26 problems of child abuse and delinquency. Even when families are able to
27 survive without public assistance, the hardship experienced by a family,
28 and particularly the children in that family, is usually substantial.

29 (c) The legislature also finds that the hardship experienced by

1 children in families who may rely on support from a noncustodial parent
2 should not be a necessary condition that must be endured by those families.
3 Statutory tools have been provided to enable the child support enforcement
4 agency to collect unpaid child support owed by a parent, including the
5 authority to order an employer to withhold and deliver part of an employ-
6 ee's earnings. This tool, however, is not usable against a self-employed
7 parent who owes child support. The legislature finds that if delinquency
8 in making child support payments could be reflected in a person's credit
9 history, an effective collection and deterrent tool would exist -- a tool
10 that would be effective against those self-employed parents who owe child
11 support.

12 (d) The legislature further finds that the amendments in this Act
13 will enhance efforts to enforce the requirement that parents pay the cost
14 of rearing their children and thereby enhance the quality of life for all
15 Alaskans.

16 * Sec. 2. AS 09.65.132(g) is amended to read:

17 (g) An income assignment under this section has priority over
18 all other attachments, executions, garnishments, or other assignments
19 unless otherwise ordered by the court. An income assignment is not
20 limited to the wages of an obligor but may include all money owed to
21 the obligor not otherwise exempt by law. Exemptions under AS 09.38 do
22 not apply to income assignments under this section; however, 50 per-
23 cent of the obligor's net disposable earnings [GROSS WAGES OF THE
24 OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS,] is exempt from execution
25 under this section. In this subsection, "net disposable earnings" has
26 the meaning given in 15 U.S.C. 1672.

27 * Sec. 3. AS 25.20.050(a) is amended to read:

28 (a) A child born out of wedlock is legitimated and considered
29 the heir of the putative parent when [FATHER WHO] (1) the putative

1 parent subsequently marries the undisputed parent [MOTHER] of the
2 child; (2) the putative parent acknowledges, in writing, being a
3 parent [PATERNITY] of the child; or (3) the putative parent is judged
4 [TO BE THE FATHER] by a superior court, upon sufficient evidence, to
5 be a parent of the child. Acceptable evidence includes, but is not
6 limited to, evidence that the putative parent's [ALLEGED FATHER'S]
7 conduct and bearing toward the child, either by word or act, indicates
8 that the child is the child of the putative parent [ALLEGED FATHER].
9 That conduct may be construed by the court to constitute evidence of
10 parentage. When [PATERNITY. EXTRINSIC EVIDENCE MAY BE USED BY THE
11 COURT TO SHOW INTENT WHEN] indefinite, ambiguous, or uncertain terms
12 are used, the court may use extrinsic evidence to show the putative
13 parent's intent.

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15 (d) The results of a blood test, tissue-type test, protein
16 comparison, or other scientifically accepted procedure shall be admit-
17 ted and weighed in conjunction with other evidence in determining the
18 statistical probability that the putative parent is a legal parent of
19 the child in question. However, a scientifically accepted procedure
20 that establishes a probability of parentage at 95 percent or higher
21 creates a presumption of parentage that may be rebutted only by clear
22 and convincing evidence.

23 * Sec. 5. AS 25.25.250 is amended to read:

24 Sec. 25.25.250. EFFECT OF PARTICIPATION IN PROCEEDING. Par-
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26 court jurisdiction over [OF] any of the parties to that proceeding [IN
27 IT] in any other proceeding. The superior court may not adjudicate
28 custody, visitation, or property rights in proceedings under this
29 chapter.

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3 child, including a custodial parent, owes a duty to that child to
4 ensure that child support is paid by a noncustodial parent who is
5 obligated to pay it. An agreement to waive past or future child
6 support, made between an obligor and a person who is entitled to
7 receive support on behalf of an obligee, is not enforceable unless

8 (1) the agreement is put in writing at the time the agree-
9 ment is made; and

10 (2) the agreement is signed at the time it is made by both
11 the obligor and the person acting for the obligee.

12 (b) When the right to receive child support has been assigned to
13 a governmental entity, an agreement under (a) of this section that has
14 not been adopted as an administrative order of the agency is not
15 effective during a period when the obligee is receiving public assis-
16 tance under AS 47.25.310 - 47.25.420.

17 (c) In a separation, dissolution, or divorce proceeding, a court
18 may not accept a waiver of support by a custodial parent without proof
19 that the custodial parent can support the needs of the child adequate-
20 ly.

21 * Sec. 7. AS 47.23.080(c) is amended to read:

22 (c) The determination or enforcement of a duty of support is
23 unaffected by any interference by the custodian of the child with
24 rights of custody or visitation granted by a court. When the agency
25 appears on behalf of a child in an action seeking to establish or
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27 property rights in the same action.

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1 the commissioner of revenue, may subpoena persons, books, records, and
2 documents to determine the extent and location of assets of any obli-
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4 established either by court or administrative order.

5 * Sec. 9. AS 47.23 is amended by adding new sections to read:

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7 court order ordering a noncustodial parent obligor to make periodic
8 child support payments to the custodian of a child is a judgment that
9 becomes vested when each payment becomes due and unpaid. The cus-
10 todian of the child, or the agency on behalf of that person, may take
11 legal action under AS 47.23.226 to establish a judgment for child
12 support payments ordered by a court of this state that are delinquent.

13 Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. To commence an
14 action to collect the payment due, the custodian of a child, or the
15 agency on behalf of that person, shall file with the court (1) a
16 petition requesting establishment of a judgment; (2) an affidavit that
17 states that one or more payments of child support are 30 or more days
18 past due and that specifies the amounts past due and the dates they
19 became past due; and (3) notice of the obligor's right to respond.
20 Service on the obligor shall be in the manner provided by the rules of
21 civil procedure for service of summons in a civil action. The child's
22 custodian, or the agency on behalf of the custodian, shall file with
23 the court proof of service of the petition, affidavit, and notice.
24 The obligor shall respond no later than 15 days after service by
25 filing an affidavit with the court. If the obligor's affidavit states
26 that the obligor has paid any of the amounts claimed to be delinquent,
27 describes in detail the method of payment or offers any other defense
28 to the petition, then the obligor is entitled to a hearing. After the
29 hearing, if any, the court shall enter a judgment for the amount of

1 money owed. If the obligor does not file an affidavit under this
2 section, the court shall enter a default judgment against the obligor.

3 Sec. 47.23.227. NATURE OF REMEDIES. AS 47.23.225 and 47.23.226
4 provide remedies in addition to and not as a substitute for any other
5 remedies available to the parties.

6 Sec. 47.23.228. COURT COSTS. The court may order an obligor to
7 pay all court costs involved in a proceeding resulting in a court
8 order described in AS 47.23.225, and in a proceeding under AS 47.23.-
9 226.

10 * Sec. 10. AS 47.23.250(i) is amended to read:

11 (i) Exemptions under AS 09.38 do not apply to proceedings to en-
12 force the payment of child support under AS 47.23.230 - 47.23.270;
13 however, 50 percent of the obligor's net disposable earnings [GROSS
14 WAGES OF THE OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS,] is exempt
15 from execution under AS 47.23.230 - 47.23.270. In this subsection,
16 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

17 * Sec. 11. AS 47.23 is amended by adding a new section to read:

18 Sec. 47.23.265. SERVICE; NOTIFICATION OF CHANGE OF ADDRESS. (a)
19 Except as otherwise provided under this chapter, when a notice, paper,
20 or other document is required by this chapter to be given or served
21 upon a person by the agency, the notice, paper, or other document may
22 be sent by registered or certified mail to the last known address of
23 that person. Service by mail under this chapter is effected when the
24 notice, paper, or other document is properly addressed, registered or
25 certified, and mailed.

26 (b) A person required by court order to make child support
27 payments through the agency shall keep the agency informed of the
28 person's current address.

29 * Sec. 12. AS 47.23 is amended by adding a new section to read:

1 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING
2 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
3 lending institutions of any kind information about delinquent child
4 support owed by obligors. The information so provided must consist
5 solely of the payment history of the obligor for a period not to
6 exceed 10 years before the date the information is provided.

7 (b) Upon an obligor's payment of delinquent child support, the
8 agency shall immediately notify all credit bureaus and lending insti-
9 tutions that were furnished information about the obligor under (a) of
10 this section that the obligor is no longer delinquent.

11 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).
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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 4/13/84

REQUEST

Bill/Resolution No: CS HB 668 ^(FIN)
 Title: An Act relating to child support enforcement
 Sponsor: Judiciary Committee
 Requestor: House Finance
 Date of Request: 4/9/84

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program of Subprogram(s) Affected: Child Support Enforcement Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Dan R Copeland
 Division: Child Support Enforcement

Phone: 276-3441
 Date: 4/11/84

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 4/13/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CSHB 668 (FIN)
 Title: An Act relating to child support enforcement
 Sponsor: Governor
 Requestor: Senate HESS
 Date of Request: 4/28/84

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program of Subprogram(s) Affected: Child Support Enforcement Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
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SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached.

Prepared By: Dan R Copeland
 Division: Child Support Enforcement

Phone: 276-3441

Date: 5/1/84

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 5/1/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
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Child Support Enforcement

Analysis of CSHB 668(FIN):

This bill will enhance the ability of all interested parties to enforce the duty of support upon all non-custodial parents by expanding current collection statutes while also adding new amendments. The changes will expedite some of the enforcement procedures and eliminate parts of the potential delay from unnecessary litigation.

Substantial delays often take place when the non-custodial parent claims that payment has been waived verbally or counter claims dealing with custody, visitation or property rights are presented in delinquency court hearings. This bill will create a situation such that when the Child Support Division makes an appearance in the superior courts, counter claims for custody, visitation or property rights may not be adjudicated, and any waivers of support would be required in writing. In these waiver situations, the court would be required to satisfy itself that the custodial parent could adequately support the needs of the child.

The scientific parentage testing procedures are now developed to a point that they are reliable past any reasonable doubt. This bill would require the courts to accept test results of this nature when proof of parentage was in excess of 95 percent. This presumption of parentage could be rebutted only by clear and convincing evidence.

In many instances the Child Support Division must operate without complete information about the non-custodial parent or face significant delays in obtaining the information. This bill would provide subpoena powers to the Division under strict control through the Commissioner of Revenue. Use of the subpoena powers would require a 45 day delinquency on an existing child support order.

The current statute exemption standards for wage or earning attachments deal with a percentage of gross income or \$100 a week. This causes frequent delays from the employer's payroll department. The bill would change the exemption to 50% of net wages as defined by statute, and this would reduce the time it takes to get the wage collection.

The current Civil Rules of Court require the parties in a child support order to inform the Child Support Division in writing of any change of address and provides for service of process by U.S. mail. This bill simply reduces this to statute language.

The Supreme Court decision *Young vs. Williams* suggested that unpaid child support installments would become judgments in favor of the custodial parent upon delinquency. This bill would provide for this by statute language and allow for collecting these judgments with reduced court intervention. The non-custodial parent's rights to contest in court would be maintained.

One of the most difficult types of child support delinquency problems involves the self-employed. There are many legal enforcement techniques that may be used in this type of case, but the nature of the self-employed individual makes each of them expensive and subject to frequent delays. This bill provides payment information on delinquent payors to the credit bureaus and various lending institutions. This will create one of the most effective ways to deal with a particularly difficult part of the delinquent child support payor group.

This bill would greatly enhance the collection possibilities while reducing certain time and processing requirements. In addition to this improvement, a number of payors will choose to pay rather than fight the issue in court. The combination of this impact would be a more efficient process for handling delinquent support for all of Alaska's children.

Offered: 4/27/84
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 668 (Finance)
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17 (b) The legislature also finds that a disproportionately high per-
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8 order described in AS 47.23.225, and in a proceeding under AS 47.23.-
9 226.

10 * Sec. 10. AS 47.23.250(i) is amended to read:

11 (i) Exemptions under AS 09.38 do not apply to proceedings to en-
12 force the payment of child support under AS 47.23.230 - 47.23.270;
13 however, 50 percent of the obligor's net disposable earnings [GROSS
14 WAGES OF THE OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS,] is exempt
15 from execution under AS 47.23.230 - 47.23.270. In this subsection,
16 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

17 * Sec. 11. AS 47.23 is amended by adding a new section to read:

18 Sec. 47.23.265. SERVICE; NOTIFICATION OF CHANGE OF ADDRESS. (a)
19 Except as otherwise provided under this chapter, when a notice, paper,
20 or other document is required by this chapter to be given or served
21 upon a person by the agency, the notice, paper, or other document may
22 be sent by registered or certified mail to the last known address of
23 that person. Service by mail under this chapter is effected when the
24 notice, paper, or other document is properly addressed, registered or
25 certified, and mailed.

26 (b) A person required by court order to make child support
27 payments through the agency shall keep the agency informed of the
28 person's current address.

29 * Sec. 12. AS 47.23 is amended by adding a new section to read:

1 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING
2 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
3 lending institutions of any kind information about delinquent child
4 support owed by obligors. The information so provided must consist
5 solely of the payment history of the obligor for a period not to
6 exceed 10 years before the date the information is provided.
7 (b) Upon an obligor's payment of delinquent child support, the
8 agency shall immediately notify all credit bureaus and lending insti-
9 tutions that were furnished information about the obligor under (a) of
10 this section that the obligor is no longer delinquent.
11 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).

Child Support Enforcement

Analysis of CSHB 668(JUD):

This bill will enhance the ability of all interested parties to enforce the duty of support upon all non-custodial parents by expanding current collection statutes while also adding new amendments. The changes will expedite some of the enforcement procedures and eliminate parts of the potential delay from unnecessary litigation.

Substantial delays often take place when the non-custodial parent claims that payment has been waived verbally or counter claims dealing with custody, visitation or property rights are presented in delinquency court hearings. This bill will create a situation such that when the Child Support Division makes an appearance in the superior courts, counter claims for custody, visitation or property rights may not be adjudicated, and any waivers of support would be required in writing. In these waiver situations, the court would be required to satisfy itself that the custodial parent could adequately support the needs of the child.

The scientific parentage testing procedures are now developed to a point that they are reliable past any reasonable doubt. This bill would require the courts to accept test results of this nature when proof of parentage was in excess of 95 percent. This presumption of parentage could be rebutted only by clear and convincing evidence.

In many instances the Child Support Division must operate without complete information about the non-custodial parent or face significant delays in obtaining the information. This bill would provide subpoena powers to the Division under strict control through the Commissioner of Revenue. Use of the subpoena powers would require a 45 day delinquency on an existing child support order.

The current statute exemption standards for wage or earning attachments deal with a percentage of gross income or \$100 a week. This causes frequent delays from the employer's payroll department. The bill would change the exemption to 50% of net wages as defined by statute, and this would reduce the time it takes to get the wage collection.

The current Civil Rules of Court require the parties in a child support order to inform the Child Support Division in writing of any change of address and provides for service of process by U.S. mail. This bill simply reduces this to statute language.

The Supreme Court decision *Young vs. Williams* suggested that unpaid child support installments would become judgments in favor of the custodial parent upon delinquency. This bill would provide for this by statute language and allow for collecting these judgments with reduced court intervention. The non-custodial parent's rights to contest in court would be maintained.

One of the most difficult types of child support delinquency problems involves the self-employed. There are many legal enforcement techniques that may be used in this type of case, but the nature of the self-employed individual makes each of them expensive and subject to frequent delays. This bill provides payment information on delinquent payors to the credit bureaus and various lending institutions. This will create one of the most effective ways to deal with a particularly difficult part of the delinquent child support payor group.

This bill would greatly enhance the collection possibilities while reducing certain time and processing requirements. In addition to this improvement, a number of payors will choose to pay rather than fight the issue in court. The combination of this impact would be a more efficient process for handling delinquent support for all of Alaska's children.

MEMORANDUM

State of Alaska

TO: House Finance Committee
Representative Al Adams, Chair

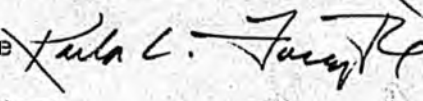
DATE: April 25, 1984

FILE NO:

TELEPHONE NO:

FROM: Dan R Copeland 
Director
Child Support Enforcement Division

SUBJECT: CSHB 668

Karla L. Forsythe 
General Counsel
Alaska Court System

After joint discussion between CSED and the Alaska Court System, both agencies request that the committee consider the following amendments to the bill, which supplement the changes suggested by Ms. Forsythe in her April 19 memorandum.

The changes to sections 2 & 10 in Ms. Forsythe's memo are to be accepted as is.

The change to Section 9 is to be as follows:

Section 47.23.225. SUPPORT PAYMENT OBLIGATIONS AS JUDGMENT.

A court order ordering a noncustodial parent obligor to make periodic child support payments to the custodian of the child is a judgment which becomes vested when each payment becomes due and unpaid. The custodian of the child, or the agency on behalf of that person, may take legal action under AS 47.23.226 to establish a judgment on child support payments ordered by a court of this state which are delinquent.

Note: The first sentence in this section is added to the language proposed by Ms. Forsythe.

The change to Section 11 is to be as follows:

Section 47.23.265. SERVICE: NOTIFICATION OF CHANGE OF ADDRESS

(a) Unless otherwise provided in this chapter, when a notice, paper or other document is required by this chapter to be given or served upon a person by the agency, the notice, paper or other document may be sent by registered or certified mail to the last known address of that person . . .

NOTE: This language deletes the words "or court rule:", which Ms. Forsythe had originally suggested.

Thank you for your consideration of these additional changes.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 1984

The Honorable Joe Hayes
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hayes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child support enforcement. This bill authorizes the Department of Revenue's child support enforcement agency, organized as a division within the department, to release to credit bureaus or lending institutions payment history information concerning persons who are delinquent in their court-ordered child support payments.

Existing statutes provide the authority to order an employer to withhold and deliver part of a delinquent employee's earnings. This tool is obviously not effective against a self-employed parent who owes child support. The new tool provided in sec. 2 of the bill is both a deterrent and a collection tool against those who are self-employed. The knowledge that delinquency in paying child support could be reflected in a person's credit history should serve as a deterrent to becoming delinquent and as a powerful incentive to those who are delinquent to bring their child support payments current.

The language of new AS 47.23.273(a) will ensure that the information provided by the division to credit bureaus and lending institutions will be only payment history information, without any reference to the personal characteristics or the reputation of the obligor. New AS 47.23.273(b) provides for immediate notification to credit bureaus and lending institutions when an obligor ceases to be delinquent in his payments.

As proposed, new AS 47.23.273 is in compliance with the Fair Credit Reporting Act, 15 U.S.C. sec. 1681. Under that Act, specific information regarding transactions or experiences between the division and an individual may be released without requiring that the division be considered a "consumer reporting agency."

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

Offered: 4/6/84
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 668 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to child support enforcement; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
10 finds that the effect on the general public of the failure of parents to
11 support their children is vast and far reaching. The harmful effects of
12 unpaid child support touch not only the poor but reach far beyond, dimin-
13 ishing the overall quality of life for all Alaskans. The purpose of the
14 amendments in this Act is to enhance the efforts of those persons who seek
15 to enforce the payment of child support obligations by noncustodial parents
16 having the duty of support.
17 (b) The legislature also finds that a disproportionately high per-
18 centage of lower-income, single-parent families are headed by women. The
19 difficulties in obtaining child support from noncustodial parents contrib-
20 utes significantly to the hardship of those families. The fact that the
21 general public bears the huge monetary cost of supporting families on
22 public assistance because of inadequate support from noncustodial parents
23 is only one of the most obvious effects of the problem of unpaid child
24 support. In addition, it is recognized that the failure of parents to
25 support their children is a major factor contributing to the broader social
26 problems of child abuse and delinquency. Even when families are able to
27 survive without public assistance, the hardship experienced by a family,
28 and particularly the children in that family, is usually substantial.
29 (c) The legislature also finds that the hardship experienced by

1 children in families who may rely on support from a noncustodial parent
2 should not be a necessary condition that must be endured by those families.
3 Statutory tools have been provided to enable the child support enforcement
4 agency to collect unpaid child support owed by a parent, including the
5 authority to order an employer to withhold and deliver part of an em-
6 ployee's earnings. This tool, however, is not usable against a self-
7 employed parent who owes child support. The legislature finds that if
8 delinquency in making child support payments could be reflected in a per-
9 son's credit history, an effective collection and deterrent tool would
10 exist -- a tool that would be effective against those self-employed parents
11 who owe child support.

12 (d) The legislature further finds that the amendments in this Act
13 will enhance efforts to enforce the requirement that parents pay the cost
14 of rearing their children and thereby enhance the quality of life for all
15 Alaskans.

16 * Sec. 2. AS 09.65.132(g) is amended to read:

17 (g) An income assignment under this section has priority over
18 all other attachments, executions, garnishments, or other assignments
19 unless otherwise ordered by the court. An income assignment is not
20 limited to the wages of an obligor but may include all money owed to
21 the obligor not otherwise exempt by law. Exemptions under AS 09.38 do
22 not apply to income assignments under this section; however, under
23 this section, the agency may not attach more than 50 percent of the
24 obligor's net disposable earnings. In this subsection, "net disposable
25 earnings" has the meaning given in 15 U.S.C. 1672 [50 PERCENT OF THE
26 GROSS WAGES OF THE OBLIGOR OR \$100 A WEEK, WHICHEVER IS LESS, IS
27 EXEMPT FROM EXECUTION UNDER THIS SECTION].

28 * Sec. 3. AS 25.20.050(a) is amended to read:

29 (a) A child born out of wedlock is legitimated and considered

1 the heir of the putative parent when [FATHER WHO] (1) the putative
2 parent subsequently marries the undisputed parent [MOTHER] of the
3 child; (2) the putative parent acknowledges, in writing, being a
4 parent [PATERNITY] of the child; or (3) the putative parent is judged
5 [TO BE THE FATHER] by a superior court, upon sufficient evidence, to
6 be a parent of the child. Acceptable evidence includes, but is not
7 limited to, evidence that the putative parent's [ALLEGED FATHER'S]
8 conduct and bearing toward the child, either by word or act, indicates
9 that the child is the child of the putative parent [ALLEGED FATHER].
10 That conduct may be construed by the court to constitute evidence of
11 parentage. When [PATERNITY. EXTRINSIC EVIDENCE MAY BE USED BY THE
12 COURT TO SHOW INTENT WHEN] indefinite, ambiguous, or uncertain terms
13 are used, the court may use extrinsic evidence to show the putative
14 parent's intent.

15 * Sec. 4. AS 25.20.050 is amended by adding a new subsection to read:

16 (d) The results of a blood test, tissue-type test, protein
17 comparison, or other scientifically accepted procedure shall be admit-
18 ted and weighed in conjunction with other evidence in determining the
19 statistical probability that the putative parent is a legal parent of
20 the child in question. However, a scientifically accepted procedure
21 that establishes a probability of parentage at 95 percent or higher
22 creates a presumption of parentage that may be rebutted only by clear
23 and convincing evidence.

24 * Sec. 5. AS 25.25.250 is amended to read:

25 Sec. 25.25.250. EFFECT OF PARTICIPATION IN PROCEEDING. Par-
26 ticipation in a proceeding under this chapter does not confer upon any
27 court jurisdiction over [OF] any of the parties to that proceeding [IN
28 IT] in any other proceeding. The superior court may not adjudicate
29 custody, visitation, or property rights in proceedings under this

1 chapter.

2 * Sec. 6. AS 47.23 is amended by adding a new section to read:

3 Sec. 47.23.065. WAIVER OF CHILD SUPPORT. (a) A custodian of a
4 child, including a custodial parent, owes a duty to that child to
5 ensure that child support is paid by a noncustodial parent who is
6 obligated to pay it. An agreement to waive past or future child
7 support, made between an obligor and a person who is entitled to
8 receive support on behalf of an obligee, is not enforceable unless

9 (1) the agreement is put in writing at the time the agree-
10 ment is made; and

11 (2) the agreement is signed at the time it is made by both
12 the obligor and the person acting for the obligee.

13 (b) When the right to receive child support has been assigned to
14 a governmental entity, an agreement under (a) of this section that has
15 not been adopted as an administrative order of the agency is not
16 effective during a period when the obligee is receiving public assis-
17 tance under AS 47.25.310 - 47.25.420.

18 (c) In a separation, dissolution, or divorce proceeding, a court
19 may not accept a waiver of support by a custodial parent without proof
20 that the custodial parent can support the needs of the child adequate-
21 ly.

22 * Sec. 7. AS 47.23.080(c) is amended to read:

23 (c) The determination or enforcement of a duty of support is
24 unaffected by any interference by the custodian of the child with
25 rights of custody or visitation granted by a court. When the agency
26 appears on behalf of a child in an action seeking to establish or
27 enforce support, the court may not adjudicate custody, visitation, or
28 property rights in the same action.

29 * Sec. 8. AS 47.23 is amended by adding a new section to read:

1 Sec. 47.23.085. SUBPOENAS. The agency, with the concurrence of
2 the commissioner of revenue, may subpoena persons, books, records, and
3 documents to determine the extent and location of assets of any obli-
4 gor who is more than 45 days in arrears in a child support obligation
5 established either by court or administrative order.

6 * Sec. 9. AS 47.23 is amended by adding new sections to read:

7 Sec. 47.23.225. SUPPORT PAYMENT OBLIGATIONS AS JUDGMENTS. A
8 court order ordering a noncustodial parent obligor to make periodic
9 child support payments to the custodian of a child establishes a
10 judgment in favor of the custodian when each payment becomes due. The
11 custodian of the child, or the agency on behalf of that person, may
12 take legal action under AS 47.23.226 to collect the judgment due. A
13 party seeking to execute on unpaid support payments may execute on the
14 total sum of unpaid support due, and is not limited to executing on
15 each unpaid payment separately.

16 Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. To commence an
17 action to collect the payment due, the custodian of a child, or the
18 agency on behalf of that person, shall serve on the obligor at the
19 obligor's last known address (1) an affidavit that states that one or
20 more payments of child support are 30 or more days past due and that
21 specifies the amounts past due and the dates they became due; and (2)
22 notice to the obligor of the obligor's right to respond. The child's
23 custodian, or the agency on behalf of the custodian, shall file with
24 the court a copy of the affidavit served on the obligor, and proof of
25 service of the affidavit and the notice of the obligor's right to
26 respond. The obligor shall respond no later than 10 days after re-
27 ceiving a hand-delivered notice and affidavit, or 15 days after the
28 date of mailing of a notice and affidavit. The obligor shall respond
29 by filing an affidavit with the court. If the obligor's affidavit

1 states that the obligor has paid any of the amounts claimed to be
2 delinquent, describes in detail the method of payment, and makes an
3 offer of proof of that payment, then the obligor is entitled to a
4 hearing limited to the issue of whether the obligor has made the
5 payments required by the court order. After the hearing, if any, the
6 court shall enter a judgment for the amount of money that is unpaid.
7 If the obligor does not file an affidavit or is not entitled to a
8 hearing, the judgment may be enforced as to the unpaid amount stated
9 in the affidavit in the same manner as any other judgment.

10 Sec. 47.23.227. NATURE OF REMEDIES. AS 47.23.225 and 47.23.226
11 provide remedies in addition to and not as a substitute for any other
12 remedies available to the parties.

13 Sec. 47.23.228. COURT COSTS. The court may order an obligor to
14 pay all court costs involved in a proceeding resulting in a court
15 order described in AS 47.23.225, and in a proceeding under AS 47.23.-
16 226.

17 * Sec. 10. AS 47.23.250(i) is amended to read:

18 (i) Exemptions under AS 09.38 do not apply to proceedings to en-
19 force the payment of child support under AS 47.23.230 - 47.23.270;
20 however, under this section, the agency may not attach more than 50
21 percent of the obligor's net disposable earnings. In this subsection,
22 "net disposable earnings" has the meaning given in 15 U.S.C. 1672 [50
23 PERCENT OF THE GROSS WAGES OF THE OBLIGOR OR \$100 A WEEK, WHICHEVER IS
24 LESS, IS EXEMPT FROM EXECUTION UNDER AS 47.23.230 - 47.23.270].

25 * Sec. 11. AS 47.23 is amended by adding a new section to read:

26 Sec. 47.23.265. SERVICE; NOTIFICATION OF CHANGE OF ADDRESS. (a)
27 When a notice, paper, or other document is required by this chapter to
28 be given or served upon a person, the notice, paper, or other document
29 may be sent by registered or certified mail to the last known address

1 of that person. Service by mail under this chapter is effected when
2 the notice, paper, or other document is properly addressed, registered
3 or certified, and mailed.

4 (b) A person required by court order to make child support
5 payments through the agency shall keep the agency informed of the
6 person's current address.

7 * Sec. 12. AS 47.23 is amended by adding a new section to read:

8 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING
9 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
10 lending institutions of any kind information about delinquent child
11 support owed by obligors. The information so provided must consist
12 solely of the payment history of the obligor for a period not to
13 exceed 10 years before the date the information is provided.

14 (b) Upon an obligor's payment of delinquent child support, the
15 agency shall immediately notify all credit bureaus and lending insti-
16 tutions that were furnished information about the obligor under (a) of
17 this section that the obligor is no longer delinquent.

18 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).

Introduced: 2/13/84
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 668

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child support enforcement and the
7 reporting of payment information on delinquent
8 obligors to credit bureaus or lending institutions;
9 and providing for an effective date."

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

11 * Section 1. LEGISLATIVE INTENT. The legislature finds that the
12 hardship experienced by children in families who may rely on support from a
13 noncustodial parent should not be a necessary condition that must be
14 endured by those families. Statutory tools have been provided to enable
15 the child support enforcement agency to collect unpaid child support owed
16 by a parent, including the authority to order an employer to withhold and
17 deliver part of an employee's earnings. This tool, however, is not usable
18 against a self-employed parent who owes child support. The legislature
19 finds that if delinquency in making child support payments could be
20 reflected in a person's credit history, an effective collection and
21 deterrent tool would exist -- a tool that would be effective against those
22 self-employed parents who owe child support.

23 * Sec. 2. AS 47.23 is amended by adding a new section to read:

24 Sec. 47.23.273. REPORTING OF PAYMENT INFORMATION CONCERNING
25 DELINQUENT OBLIGORS. (a) The agency may provide to credit bureaus or
26 lending institutions of any kind information about delinquent child
27 support owed by obligors. The information so provided must consist
28 solely of the payment history of the obligor for a period not to
29 exceed 10 years before the date the information is provided.