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COMMITTEE REPORT  
SENATE

FURTHER:

5/3/84

Date May 7, 1984

Mr. President

The Committee on HOUSE considered CSHE 863(Fin)

child support enforcement; etc.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

\_\_\_\_\_

\_\_\_\_\_

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MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_

Chairman \_\_\_\_\_

Chairman recommendation \_\_\_\_\_

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 4/13/84

REQUEST

Bill/Resolution No: CS HB 668 (JUD)  
 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
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

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)

## 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.

MEMORANDUM

April 19, 1984

To: House Finance Committee  
Representative Al Adams, Chairman

From: Karla L. Forsythe *Karla L. Forsythe*  
General Counsel

Subject: CSHB 668, relating to child support enforcement

The Alaska Court System requests your consideration of amendments to several sections of CSHB 668. I have discussed these amendments with Dan Copeland, Director of the Child Support Enforcement Division, and I am providing him with a copy of this memorandum. It is my understanding that neither the Department of Revenue nor the Child Support Enforcement Division objects to the changes proposed below.

Section 2 and Section 10

These sections contain identical language intended to resolve an inconsistency between federal and state law as to amounts which can be garnished from an obligor. The court system supports this amendment, but suggests re-drafting the proposed language to state:

"Fifty percent of the obligor's net disposable earnings is exempt from execution,"

rather than the language currently proposed, which reads:

"...under this section, the agency may not attach more than fifty percent of the obligor's net disposable earnings..."  
(page 2, lines 23 and 24, and page 6, lines 20 and 21).

Child support obligees as well as the enforcement agency can attach an obligor's earnings. The same restriction on the attachable amount should apply no matter who is initiating the attachment.

Section 9

The effect of this section as written is to change court procedures, particularly Civil Rule 4 relating to service of process, although this change is not reflected in the bill's title.

The Department of Revenue appears to base this section on the case of Young v. Williams, 538 P.2d 201 (1978), which it cites in its fiscal note. This case contains language suggesting that unpaid child support payments become a judgment. However, the

court discussed this issue only to determine when the statute of limitations commenced. The proposed bill inappropriately relies on this language to create a procedure for enforcement of judgments which is at variance with court rules.

The court system suggests re-drafting section 9 to comport with court rules, by using the following language:

\* \* \*

Section 47.23.225. SUPPORT PAYMENT OBLIGATIONS AS JUDGMENT.

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.

Section 47.23.226. ACTION TO COLLECT CHILD SUPPORT.

To commence an action to collect the payment due, the custodian of a child, or the agency on behalf of that person, shall file with the court (1) a petition requesting establishment of a judgment (2) an affidavit that states that one or more payments of child support are 30 or more days past due and that specifies the amounts past due and the dates they became past due; and (3) notice of the obligor's right to respond. Service on the obligor shall be in the manner provided for service of summons in a civil action. The child's custodian, or the agency on behalf of the custodian, shall file with the court proof of service of the petition, affidavit and notice. The obligor shall respond no later than 15 days after service. The obligor shall respond by filing an affidavit with the court. If the obligor's affidavit states that the obligor has paid any of the amounts claimed to be delinquent, describes in detail the method of payment or offers any other defense to the petition, then the obligor is entitled to a hearing. After the hearing, if any, the court shall enter a judgment for the amount of money owed. If the obligor does not file an affidavit, the court shall enter a default judgment against the obligor.

*As a result of the proposed amendments to the custodian of a child's obligation to pay child support payments, the court shall enter a judgment for the amount of money owed. If the obligor does not file an affidavit, the court shall enter a default judgment against the obligor.*

\* \* \*

Proposed Sections 47.23.227 and .228 would remain the same.

Section 11

This section also has the effect of changing the rules of court. In order to clarify that this section applies only to proceedings before the agency and not to proceedings before the court, the following change to page 6, lines 27 - 29 and page 30, line 1 is suggested:

Section 47.23.265. SERVICE; NOTIFICATION OF CHANGE OF ADDRESS. (a) Unless otherwise provided in this chapter,

~~By court order~~ 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...

The remainder of proposed Section 11 would not change.

Thank you for your consideration of these changes. The court system will be glad to provide any further information which you may require.

KLF:smh

cc: Robert Heath, Commissioner  
Department of Revenue

Dan Copeland, Director  
Child Support Enforcement Division

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

SECTIONAL ANALYSIS OF CSHP 668 (Finance) - AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

SECTION 1 FINDINGS AND PURPOSE

SECTION 2 AMENDS AS 09.65.132(g) INCOME ASSIGNMENT ORDER FOR CHILD SUPPORT. to allow 50% of the obligor's net disposable earnings to be exempt from assignment for child support.

SECTION 3 CHANGES LANGUAGE IN AS 25.20.050 Legitimation by subsequent marriage, acknowledgement in writing or adjudication from "alleged father" to "putative parent" and provides that the court may use extrinsic evidence in establishing paternity when it is ambiguous.

SECTION 4 ADDS A NEW SECTION TO LAW which provides that paternity will be established when a 95% probability is assured by blood test, tissue type test, protein comparison or other scientifically accepted procedure.

SECTION 5 ADDS NEW LANGUAGE providing that the Superior Court may not address other issue in child support proceedings initiated by the agency.

SECTION 6 ADDS A NEW SECTION TO CURRENT LAW addressing waiver of child support which provides that an agreement is not enforceable unless it is put into writing and signed by both parties when the agreement is made, and if the obligee is receiving AFDC, the agreement is not in effect unless adopted as an administrative order of the agency. In a separation, dissolution or divorce, the court may not accept a waiver unless the custodial parent can prove that the child's needs can be supported.

SECTION 7 ADDS NEW LANGUAGE TO CURRENT LAW which provides that the court may not consider other issues when the agency appears in court to enforce an order.

SECTION 8 ADDS A NEW SECTION ON SUBPOENAS which would allow the agency to subpoena persons, books, records and documents concerning the location of assets if a person is 45 days in arrears in child support.

SECTION 9 ADDS SEVERAL NEW SECTIONS TO LAW:

47.23.225 provides that a court order for child support is a judgement that becomes vested when each payment becomes due and is paid, and provides that the agency may take legal action to establish a judgement for a child.

47.23.226 provides the requirements for the custodian or agency to commence an action to collect a payment that is due which includes filing an affidavit documenting past due support with the obligor's right to respond.

47.23.227 provides that the previous sections are additional remedies available to the parties.

47.23.228 provides that the court may order an obligor to pay all costs involved in proceedings under 47.23.225 and 47.23.226.

- SECTION 10 AMENDS CURRENT LAW to be consistent with section 2.
- SECTION 11 ADDS A NEW SECTION TO LAW which provides that a notice, paper or other document required to be served by the agency may be sent by registered or certified mail, and that the person ordered to pay child support must keep the agency informed of the person's current address.
- SECTION 12 ADDS A NEW SECTION TO LAW which provides that the agency may provide information on arrears in child support to credit bureaus and lending agencies, and must notify those agencies when arrears have been paid.
- SECTION 13 Immediate effective date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date

**REQUEST**

Bill/Resolution No: GSHB 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
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
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400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
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700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

**FUNDING: (Thousands of Dollars)**

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

**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: 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  
 Impacted Agency(ies)

## Child Support Enforcement

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Senate HESS

May 7

Gre. Vic, Pappy, Rick

HB 6608 - Child Support Enforcement

Bruce Batilho - Revenue, Dept. Comm.

answers questions.

Sec 4 recognizes scientific tests that can prove paternity. HLA tissue typing test from UCLA - probability to 99% has been accepted in Ak. courts. Has been disputed in FBKS. Could only be rebutted by clear and convincing evidence, policy question rather than due process.

Sec 5 - many child support proceedings conducted by the state. Often other claims for property, etc. are filed, and state hasn't the authority to address other claims.

Sec 9 restatement of 1998 Supreme Court case - also recommended language from court system.

Sec 12 delinquent delinquents → credit info provided.

Sec 4 same degree of notice as civil rules.

