

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

3/27/85

Date: 4-10-85

The Committee on FINANCE has had HB 92

"An Act relating to child and spousal support; 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 HB 92 (UD) 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robert P. Linder

John ...

...

...

Donald Johnson

Pat ...

...

...

...

...

...

Robert P. Linder

CHAIRMAN

Introduced: 1/18/85
Referred: Health, Education & Social
Services, Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 92

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 09.10 is amended by adding a new section to read:

10 Sec. 09.10.095. ACTIONS FOR ESTABLISHMENT OF PARENTAGE. A
11 person may bring an action to adjudicate parentage only if it is com-
12 menced before the child whose parentage is at issue reaches the age of
13 18.

14 * Sec. 2. AS 09.65.132 is amended to read:

15 Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
16 SUPPORT. (a) A judgment, court order, or order of the child support
17 enforcement agency (AS 47.23) providing for the support of a minor
18 child must [SHALL] contain an income withholding [ASSIGNMENT] order.

19 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
20 the obligor, the obligor's employer, future employer, and any person,
21 political subdivision, or department of the state to withhold [ASSIGN]
22 money due or to be due the obligor and pay the money to the [OBLIGEE
23 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
24 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
25 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
26 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
27 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
28 140].

29 (c) The agency, on behalf of an [AN] obligee or person or public

1 agency designated to receive support payments, may request an income
2 withholding [ASSIGNMENT] order to take effect by alleging in a sworn
3 statement that the obligor is in arrears in an amount at least equal
4 to the support payable for one month [HAS FAILED TO MAKE A SUPPORT
5 PAYMENT IN FULL WITHIN 45 DAYS OF THE DATE THE PAYMENT WAS DUE] and by
6 filing that statement with the court.

7 (d) If an application is [HAS BEEN] filed with the clerk of
8 court, the obligor must be served with notice, in the manner provided
9 by Rule 5 of the Rules of Civil Procedure, on [SHALL BE SENT BY CER-
10 TIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF
11 THE OBLIGOR. THE NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS
12 AFTER] the date on which the application is [WAS] filed. The notice
13 must [AND SHALL] inform the obligor that the income withholding order
14 [ASSIGNMENT] will take effect 15 days after the date on which the
15 notice was served [RECEIVED] unless the obligor requests a hearing
16 within 15 days after the notice was served [SENT]. If the obligor
17 requests a hearing, an income withholding order [ASSIGNMENT] may not
18 take effect until the conclusion of the hearing. The court shall hold
19 a hearing requested under this section within 15 days after the date
20 the obligor requests the hearing, to determine if there are any mis-
21 takes of fact which would make the withholding order improper or if
22 the amount to be withheld is incorrect. Notice of the withholding
23 decision must be sent to the obligor within 45 days after the notice
24 of proposed withholding. [IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE
25 BEFORE THE HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT.]

26 (e) The obligee or person or public agency that requested the
27 income withholding [ASSIGNMENT] order shall immediately send a copy of
28 the income withholding [ASSIGNMENT] order by certified mail to persons
29 who may owe money to an obligor. An income withholding [ASSIGNMENT]

1 order made under this section is binding upon a person, employer,
2 political subdivision, or department of the state immediately upon
3 receipt of a copy of the income withholding [ASSIGNMENT] order. The
4 employer must begin withholding the specified amount from the employ-
5 ee's wages no later than the first pay period that occurs 14 days
6 after the mailing date on the notice. The amount withheld must be
7 sent to the agency.

8 (f) An employer may not discharge, discipline, or refuse to
9 employ an obligor on the basis of an income withholding order [ASSIGN-
10 MENT] under this section. If an employer discharges, disciplines, or
11 refuses to employ an obligor because of an income withholding obliga-
12 tion, the court, after notice and hearing, may order reinstatement or
13 restitution to the obligor, or both. A person who violates this
14 subsection or a regulation adopted to implement it, is guilty of a
15 misdemeanor and, upon conviction, is punishable by a fine of not more
16 than \$1,000.

17 (g) An income withholding order [ASSIGNMENT] under this section
18 has priority over all other attachments, executions, garnishments, or
19 other legal process brought under state law against the same wages
20 [ASSIGNMENTS UNLESS OTHERWISE ORDERED BY THE COURT]. An income with-
21 holding order [ASSIGNMENT] is not limited to the wages of an obligor
22 but may include all money owed to the obligor not otherwise exempt by
23 law. Exemptions under AS 09.38 do not apply to income assignments
24 under this section[; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
25 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
26 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN
27 15 U.S.C. 1672].

28 (h) The amount withheld from the obligor's wages must be equal
29 to the current support obligation, up to the limits of 15 U.S.C. sec.

1 1673(b). If the current support payment does not equal the limits of
2 15 U.S.C. sec. 1673(b), an additional amount may be withheld toward
3 any arrearages. The combined total amount withheld for current sup-
4 port and arrearages may not exceed the limits of 15 U.S.C. sec.
5 1673(b).

6 (i) An obligor may petition the court to terminate the with-
7 holding of income upon good cause shown, such as the emancipation of a
8 child for whom support is paid, the lack of contact by the agency with
9 the obligee, or the timely payment history of an obligor for a three-
10 year period.

11 (j) The court may order an obligor to pay all court [COURTS]
12 costs involved in an income withholding [ASSIGNMENT] proceeding under
13 this section.

14 * Sec. 3. AS 25.20.050 is amended by adding a new subsection to read:

15 (e) An action to adjudicate parentage must be permitted to be
16 initiated until the child whose parentage is at issue reaches age 18.

17 * Sec. 4. AS 25 is amended by adding a new chapter to read:

18 Chapter 26. INTERSTATE INCOME WITHHOLDING ACT.

19 Sec. 25.26.010. PURPOSE. The purpose of this chapter is to
20 enhance the enforcement of support obligations (1) by providing a
21 quick and effective procedure for the withholding of income derived in
22 this jurisdiction to enforce support orders of other jurisdictions,
23 and (2) by requiring that income withholding, to enforce the support
24 orders of this jurisdiction, be sought in other jurisdictions. This
25 chapter must be construed liberally to effect that purpose.

26 Sec. 25.26.020. INITIATION OF INCOME WITHHOLDING AND COOPERATION
27 WITH OTHER JURISDICTIONS. On behalf of a client, or on application of
28 a resident obligee or obligor of a support order issued by this state,
29 or by an agency to whom the obligee has assigned support rights, the

1 Alaska child support enforcement agency shall request the agency of
2 another jurisdiction in which the obligor derives income to obtain an
3 income withholding order. The Alaska agency shall compile and trans-
4 mit to the agency of the other jurisdiction all documentation required
5 to enter a support order for this purpose. The Alaska agency also
6 shall transmit to the agency of the other jurisdiction a certified
7 copy of any subsequent modifications of the support order. If the
8 Alaska agency receives notice that the obligor is contesting income
9 withholding in another jurisdiction, it shall promptly notify the
10 individual obligee of the date, time, and place of the hearings and of
11 the obligee's right to attend.

12 Sec. 25.26.030. RESPONSIBILITIES FOR ENTERING A SUPPORT ORDER OF
13 ANOTHER JURISDICTION FOR PURPOSES OF INCOME WITHHOLDING. (a) Upon
14 receiving from an agency of another jurisdiction a support order of
15 another jurisdiction, along with the documentation specified in (b) of
16 this section, the Alaska agency shall file the documents with the
17 clerk of the court in which withholding is being sought. The clerk of
18 the court shall accept the documents filed. The acceptance consti-
19 tutes entry of the support order under this chapter.

20 (b) The following documentation is required for the entry of a
21 support order of another jurisdiction:

22 (1) a certified copy of the support order with all modi-
23 fications;

24 (2) a certified copy of an income withholding order, if
25 any, still in effect;

26 (3) a copy of the portion of the income withholding statute
27 of the jurisdiction which issued the support order, which states the
28 requirements for obtaining income withholding under the laws of that
29 jurisdiction;

1 (4) a sworn statement of the obligee or certified statement
2 of the agency of the arrearages and the assignment of support rights,
3 if any;

4 (5) a statement of

5 (A) the name, address, and social security number of
6 the obligor, if known;

7 (B) the name and address of the obligor's employer or
8 of any other source of income of the obligor derived in this
9 state against which income withholding is sought;

10 (C) the name and address of the agency or person to
11 whom support payments collected by income withholding must be
12 transmitted.

13 (c) If the documentation received by the agency under (a) of
14 this section does not conform to the requirements of (b) of this
15 section, the agency shall remedy any defect that it can without the
16 assistance of the requesting agency or person. If the agency is
17 unable to make such corrections, the requesting agency or person must
18 immediately be notified of the necessary additions or corrections. In
19 neither case may the documentation be returned. The agency shall file
20 with the court the documentation required by (a) and (b) of this
21 section even if it is not in the usual form required by the laws or
22 court rules of this state, so long as the substantive requirements of
23 this section are met.

24 (d) A support order entered under (a) of this section is en-
25 forceable by an income withholding order against income derived in
26 this state, in the manner and with the effect set out in AS 25.26.040
27 -- 25.26.100 and AS 09.65.132. Entry of the order does not confer
28 jurisdiction on the courts or agencies of this state for any purpose
29 other than income withholding.

1 Sec. 25.26.040. NOTICE. (a) On the date that a support order
2 is entered under AS 25.26.030, the agency shall serve upon the
3 obligor, in accordance with AS 09.65.132(d), notice of a proposed
4 income withholding. That notice must contain the same information
5 required by AS 09.65.132(d). The notice must also advise the obligor
6 that the income withholding was requested on the basis of a support
7 order of another jurisdiction.

8 (b) If the obligor seeks a hearing to contest the proposed
9 income withholding, the agency shall immediately notify the requesting
10 agency, the obligee, and the obligor, or an attorney for either, of
11 the date, time, and place of the hearing, and of the obligee's right
12 to attend the hearing.

13 Sec. 25.26.050. INCOME WITHHOLDING HEARING. (a) At a hearing
14 contesting proposed income withholding based on a support order en-
15 tered under AS 25.26.030, the entered order, accompanying sworn or
16 certified statement, and a certified copy of an income withholding
17 order, if any, still in effect, constitute prima facie proof, without
18 further proof or foundation, that (1) the support order is valid; (2)
19 the amount of current support payments and arrearages is as stated;
20 and (3) the obligee would be entitled to income withholding under the
21 laws of the jurisdiction that issued the support order.

22 (b) Once a prima facie case has been established, the obligor
23 may raise only the following, with the burden on the obligor to estab-
24 lish the defenses:

25 (1) that withholding is not proper because of a mistake of
26 fact that is not res judicata concerning such matters as an error in
27 the amount of current support owed or arrearage that had accrued;
28 mistaken identity of the obligor; or error in the amount of income to
29 be withheld;

1 (2) that the court or agency that issued the support order
2 entered under this chapter lacked personal jurisdiction over the
3 obligor;

4 (3) that the support order entered under this chapter was
5 obtained by fraud; or

6 (4) that the statute of limitations precludes enforcement
7 of all or part of the arrearages.

8 (c) If the obligor presents evidence that constitutes a full or
9 partial defense, the court shall, on the request of the obligee,
10 continue the case to permit further evidence relative to the defense
11 to be adduced by either party. However, if the obligor acknowledges
12 liability sufficient to entitle the obligee to income withholding, the
13 court shall require income withholding for the payment of the current
14 support obligation under the support order and of so much of any
15 arrearages as is not in dispute, while continuing the case with re-
16 spect to those matters still in dispute. The court shall determine
17 those matters still in dispute as soon as possible, and, if appropri-
18 ate, shall modify the withholding order to conform to that resolution.

19 (d) In addition to other procedural devices available to a
20 party, any party to the proceeding, or a guardian ad litem or other
21 representative of the child, may adduce testimony of witnesses in
22 another state, including the parties, and of any of the children, by
23 deposition, written discovery, photographic discovery such as vid-
24 eotaped depositions, or personal appearance before the court by tele-
25 phone or photographic means. The court, on its own motion, may direct
26 that the testimony of a person be taken in another state and may
27 prescribe the manner in which and the terms upon which the testimony
28 is to be taken.

29 (e) A court of this state may request the appropriate court or

1 agency of another state to hold a hearing to adduce evidence, to
2 permit a deposition to be taken to order a party to produce or give
3 evidence under other procedures of that state, and to forward to the
4 court of this state certified copies of the evidence adduced in com-
5 pliance with the request.

6 (f) Upon request of a court or agency of another state the
7 courts of this state, which are competent to hear support matters, may
8 order a person in this state to appear at a hearing or deposition
9 before the court to adduce evidence or to produce or give evidence
10 under other procedures available in this state. A certified copy of
11 the evidence adduced, such as a transcript or videotape, must be
12 forwarded by the clerk of the court to the requesting court or agency.

13 (g) A person within this state may voluntarily testify by state-
14 ment or affidavit in this state for use in a proceeding to obtain
15 income withholding outside this state.

16 Sec. 25.26.060. INCOME WITHHOLDING ORDER. If the obligor does
17 not request a hearing in the time provided, or if a hearing is held
18 and it is determined that the obligee has or is entitled to income
19 withholding under the local law of the jurisdiction that issued the
20 support order, the court shall issue an income withholding order under
21 AS 09.65.132. The agency shall notify the requesting agency or person
22 of the date upon which withholding will begin.

23 Sec. 25.26.070. NOTICE TO EMPLOYER AND OTHER PROVISIONS. The
24 provisions of AS 09.65.132 apply to income withholding based on a
25 support order of another jurisdiction entered under this chapter.

26 Sec. 25.26.080. DISTRIBUTION OF COLLECTED SUPPORT PAYMENTS. (a)
27 The income withholding order must direct payment to be made to the
28 agency. The agency shall transmit to the agency or person designated
29 in AS 25.26.030(b)(5)(C) payments received under an income withholding

1 order that is based on a support order of another jurisdiction entered
2 under this chapter.

3 (b) A support order entered under AS 25.26.030 does not nullify,
4 and is not nullified by, a support order made by a court of this state
5 under any other law, or a support order made by a court of any other
6 state. Amounts collected by withholding of income must be credited
7 against the amounts accruing or accrued for any period under a support
8 order issued by either this state or another state.

9 Sec. 25.26.090. CHANGES IN ORIGINAL ORDER. The agency, upon
10 receiving a certified copy of an amendment or modification to a sup-
11 port order entered under AS 25.26.030, shall initiate, as though the
12 order were a support order of this state, necessary procedures to
13 amend or modify the income withholding order of this state which was
14 based upon the entered support order. The court shall amend or modify
15 the income withholding order to conform to the modified support order.

16 Sec. 25.26.100. CHANGES IN JURISDICTION. If the agency deter-
17 mines that the obligor has obtained employment in another state or has
18 a new or additional source of income in another state, it shall
19 promptly notify the agency that requested the income withholding of
20 the changes, and shall forward to that agency all information it has
21 or can obtain with respect to the obligor's new address and the name
22 and address of the obligor's new employer or other source of income.
23 The agency shall include with the notice a certified copy of the
24 income withholding order in effect in this state.

25 Sec. 25.26.110. VOLUNTARY INCOME WITHHOLDING. A person who is
26 the obligor on a support order of another jurisdiction may obtain
27 voluntary income withholding by filing with the agency a request for
28 the withholding and a certified copy of the support order of the other
29 jurisdiction. The court shall issue an income withholding order under

1 AS 09.65.132. Payment must be made to the agency.

2 Sec. 25.26.120. CHOICE OF LAW. (a) The law of this state
3 applies in all actions and proceedings concerning the issuance, en-
4 forcement, and duration of income withholding orders issued by a court
5 of this state, based upon a support order of another jurisdiction
6 entered under AS 25.26.030, except as provided in (b) of this section.

7 (b) The law of the jurisdiction that issued the support order
8 governs the following:

9 (1) the interpretation of the support order entered under
10 AS 25.26.030, including amount, form of payment, and the duration of
11 support;

12 (2) the amount of support arrearages necessary to require
13 the issuance of an income withholding order.

14 Sec. 25.26.130. ADDITIONAL REMEDIES. The remedy provided in
15 this chapter is in addition to, and not in substitution for, any other
16 remedy otherwise available to enforce a support order of another
17 jurisdiction. Relief under this chapter may not be denied, delayed,
18 or otherwise affected because of the availability of other remedies,
19 nor may relief under any other statute be delayed or denied because of
20 the availability of the remedy in this chapter.

21 Sec. 25.26.200. DEFINITIONS. In this chapter,

22 (1) "agency" means the child support enforcement agency of
23 the Alaska Department of Revenue (AS 47.23) and, when the context
24 requires, means either a court or an administrative unit of another
25 jurisdiction with functions similar to those described in this chap-
26 ter, including the issuance and enforcement of support orders;

27 (2) "child" means a person, whether above or below the age
28 of majority, with respect to whom a support order exists;

29 (3) "court" means the superior court of this state and,

1 when the context requires, means either a court or an agency of another
2 jurisdiction with functions similar to those described in this
3 chapter, including the issuance and enforcement of support orders;

4 (4) "employer" means a payor of income;

5 (5) "income" means all money owed to an obligor, including
6 wages, that is not otherwise exempt by law;

7 (6) "income derived in this jurisdiction" means income, the
8 payor of which is subject to the jurisdiction of this state for the
9 purpose of imposing and enforcing income withholding under AS 09.-
10 65.132;

11 (7) "jurisdiction" means a state or political subdivision,
12 territory, or possession of the United States, the District of
13 Columbia, and the Commonwealth of Puerto Rico;

14 (8) "obligee" means a person or entity entitled to receive
15 support under an order of support; the term includes an agency of
16 another jurisdiction to which a person has assigned his or her right
17 of support;

18 (9) "obligor" means a person required to make payments
19 under the terms of a support order for a child, spouse, or former
20 spouse;

21 (10) "support order" means an order, decree, or judgment
22 for the support, or for the payment of arrearages on the support, of a
23 child, spouse, or former spouse, issued by a court or agency of another
24 jurisdiction, whether interlocutory or final, whether prospectively
25 or retroactively modifiable, and whether incidental to a proceeding
26 for divorce, judicial or legal separation, separate maintenance,
27 paternity, guardianship, civil protection, or other proceeding.

28 * Sec. 5. AS 47.23.020(a) is amended to read:

29 (a) The agency shall

- 1 (1) obtain, enforce, and administer child support orders of
2 the superior courts of the state;
- 3 (2) adopt regulations to carry out the purpose of this
4 chapter, including regulations that [WHICH] establish
- 5 (A) schedules for determining the amount an obligor is
6 liable to contribute toward the support of an obligee under this
7 chapter and under 42 U.S.C. 651 -- 665 (Title IV-D, Social Secu-
8 rity Act);
- 9 (B) procedures for hearings conducted under AS 47.23.-
10 170; and
- 11 (C) subject to AS 47.23.025 and to federal law, a
12 uniform schedule of penalties and a rate of interest on arrear-
13 ages of support that must [SHALL] be charged the obligor upon
14 notice if child support payments are 10 or more days overdue or
15 if payment is made by a check backed by insufficient funds;
- 16 (3) administer and enforce the Uniform Reciprocal Enforce-
17 ment of Support Act (AS 25.25);
- 18 (4) establish, enforce, and administer child support obli-
19 gations administratively in accordance with this chapter;
- 20 (5) administer the state plan required under 42 U.S.C. 651
21 -- 665 (Title IV-D, Social Security Act) as amended;
- 22 (6) disburse child support payments collected by the agency
23 to the obligee together with interest charged under (2)(C) of this
24 subsection; [AND]
- 25 (7) deposit penalties charged under (2)(C) of this sub-
26 section in the general fund;
- 27 (8) administer and enforce the Interstate Income Withhold-
28 ing Act (AS 25.26);
- 29 (9) enforce and administer spousal support orders only if a

1 spousal support obligation has been established with respect to the
2 spouse and if the support obligation established with respect to the
3 child of that spouse is also being administered; and

4 (10) obtain medical support orders as part of a child sup-
5 port order if health care coverage is available to the obligor at a
6 reasonable cost.

7 * Sec. 6. AS 47.23.025 is amended to read:

8 Sec. 47.23.025. RATES OF PENALTY AND INTEREST. A penalty im-
9 posed under AS 47.23.020(a)(2)(C) must be 6 percent [MAY NOT BE AT A
10 RATE THAT EXCEEDS THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES
11 UNDER AS 43.05.225]. The rate of interest imposed under AS 47.23.-
12 020(a)(2)(C) must [SHALL] equal the rate imposed under AS 43.05.225 or
13 a lesser rate that is the maximum rate of interest permitted to be
14 imposed under federal law.

15 * Sec. 7. AS 47.23.045 is amended to read:

16 Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency
17 may appear in an action seeking an award of support on [IN] behalf of
18 a child owed a duty of support, or to enforce a spousal support order
19 if a spousal support obligation has been established and if the sup-
20 port obligation, established with respect to a child of that spouse,
21 is also being administered, and may also appear in an action seeking
22 modification of a support order, decree or judgment already entered.
23 Action under this section may be undertaken upon application of an
24 obligee, or at the agency's own discretion if the obligor is liable to
25 the state under AS 47.23.120(a) or (b).

26 * Sec. 8. AS 47.23.060(c) is amended to read:

27 (c) In a court proceeding where the support of a minor child is
28 at issue, the court may order either or both parents to pay the amount
29 necessary for support, maintenance, nurture, and education of the

1 child. The court shall issue a medical support order as part of a
2 child support order if health care coverage is available to the
3 obligor at a reasonable cost. Upon a showing of good cause the court
4 may order the parents required to pay support to give reasonable
5 security for payments. An order for prospective child support may be
6 modified or revoked as the court considers necessary.

7 * Sec. 9. AS 47.23.150(a) is amended to read:

8 (a) Action to enforce a support order administratively under
9 AS 47.23.230 -- 47.23.270 is initiated by the agency serving a notice
10 on the obligor of the obligor's liability under the support order.
11 [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
12 TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
13 RESTRICTED DELIVERY ONLY TO THE PERSON TO WHOM THE NOTICE IS DIRECTED
14 OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT
15 PERSON'S RESTRICTED DELIVERY MAIL.]

16 * Section 10. AS 47.23.226 is amended to read:

17 Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. To commence an
18 action to collect the payment due, the custodian of a child, or the
19 agency on behalf of that person, shall file with the court (1) a
20 petition requesting establishment of a judgment; (2) an affidavit that
21 states that one or more payments of child support are 30 or more days
22 past due and that specifies the amounts past due and the dates they
23 became past due; and (3) notice of the obligor's right to respond.
24 Service on the obligor must [SHALL] be in the manner provided in
25 AS 47.23.265 [BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF SUMMONS
26 IN A CIVIL ACTION]. The child's custodian, or the agency on behalf of
27 the custodian, shall file with the court proof of service of the
28 petition, affidavit, and notice. The obligor shall respond no later
29 than 15 days after service by filing an affidavit with the court. If

1 the obligor's affidavit states that the obligor has paid any of the
2 amounts claimed to be delinquent, describes in detail the method of
3 payment or offers any other defense to the petition, then the obligor
4 is entitled to a hearing. After the hearing, if any, the court shall
5 enter a judgment for the amount of money owed. If the obligor does
6 not file an affidavit under this section, the court shall enter a
7 default judgment against the obligor.

8 * Sec. 11. AS 47.23.250(i) is amended to read:

9 (i) Exemptions under AS 09.38 do not apply to proceedings to
10 enforce the payment of child support under AS 47.23.230 -- 47.23.270;
11 however, 50 percent of the obligor's net disposable earnings is exempt
12 from execution under AS 47.23.230 -- 47.23.253 [47.23.270]. In this
13 subsection, "net disposable earnings" has the meaning given in 15
14 U.S.C. 1672.

15 * Sec. 12. AS 47.23.255 is amended to read:

16 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a) The
17 agency shall pay the obligee all money recovered by the agency under
18 an income withholding [ASSIGNMENT] order except for costs that are
19 recovered from the obligor.

20 (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
21 MENT] order contained in a decision of the agency that has not been
22 set aside by the superior court under AS 47.23.220 must [SHALL] be
23 enforced under the procedure established in AS 09.65.132.

24 * Sec. 13. AS 47.23.260 is amended to read:

25 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
26 ORDER OR LIEN. If any person, political subdivision, or department of
27 the state (1) fails to make an answer to an order to withhold and
28 deliver within the time prescribed in AS 47.23.250; (2) fails or
29 refuses to deliver property in accordance with an order issued under

1 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
2 real property subject to a lien filed under AS 47.23.230 to or for the
3 benefit of the obligor or any other person; (4) fails or refuses to
4 surrender upon demand property attached; (5) fails or refuses to honor
5 an assignment of wages or an income withholding [ASSIGNMENT] order
6 under AS 09.65.132 presented by the agency, the person, political
7 subdivision, or department of the state is liable to the agency in an
8 amount equal to 100 percent of the amount constituting the basis of
9 the lien, order to withhold and deliver, attachment, or withholding
10 [ASSIGNMENT] of wages or income, together with costs, interest, and
11 reasonable attorney fees.

12 * Sec. 14. AS 47.23.265(a) is amended to read:

13 (a) Except as otherwise provided under this chapter, when a
14 notice, paper, or other document is required by this chapter to be
15 given or served upon a person by the agency, the notice, paper, or
16 other document may be served as required by Rule 5, Alaska Rules of
17 Civil Procedure [SENT BY REGISTERED OR CERTIFIED MAIL TO THE LAST
18 KNOWN ADDRESS OF THAT PERSON]. [SERVICE BY MAIL UNDER THIS CHAPTER IS
19 EFFECTED WHEN THE NOTICE, PAPER, OR OTHER DOCUMENT IS PROPERLY AD-
20 DRESSED REGISTERED OR CERTIFIED, AND MAILED.]

21 * Sec. 15. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CSHB 92 JUD
 Title: An Act relating to child
 - support enforcement
 Sponsor: Governor
 Requestor: Governor
 Date of Request: 4-2-85

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 85	FY 86	FY 87	FY 88	FY 89	FY 90
<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>	*(69.6)	(69.6)	(69.6)	(69.6)	(69.6)	(69.6)

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:

not applicable

* Due to the immediate effective date of the bill, the FY 85 fiscal impact is unknown at this time. However, in no event will it exceed the 69.6 figure shown above.

ANALYSIS: See attached.

Prepared By: Holli Ilene Ploog
 Division: Child Support Enforcement

Phone: 276-3441
 Date: 4-2-85

Approved by Commissioner: Forum M. Wells
 Agency: Revenue

Date: 4/4/85

Distribution (by Agency preparing fiscal note):

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

Child Support Enforcement

Analysis:

This bill is required for Alaska to be in compliance with federal legislation (HR 4325---Child Support Enforcement Amendments of 1984). Audit sanctions could result from failure to establish corresponding state legislation. The total federal grant for Public Assistance could be reduced up to 5%.

Revenue Reduction:

AS 47.23.025 (Rates of Penalty and Interest)

The proposed legislation eliminates the rate imposed as penalty to obligors for late and missed payments which currently is 12%.

Computation Basis:

The estimated \$69.6 annual reduction in revenues is based on the average loss of \$5.8 per month in penalties using actual unpaid obligations for a sample period from October through December, 1984. Penalties are imposed for missed or late payments and are one time assessments.

Note: The satisfaction of penalty does not occur until all current obligations, arrearages, and accrued interest have been paid. Therefore, we are unable to determine when or if the division will actually collect the penalties assessed. In fact, collections in FY 84 were only \$186.56 and FY 85 to date collections are only \$535.86. (These figures are not in thousands of dollars.)

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 92 (and)
 Title: "An Act relating to child
 and sponsal support;..."
 Sponsor: House Rules/Governor
 Requestor: Governor's Ofc./OMB
 Date of Request: 1/18/85

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Government
 BRU, Program or Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary This bill is a housekeeping measure that is intended to streamline existing child support laws. The bill brings Alaska's child support statutes into conformance with PL 98-378, and it simplifies interstate child support enforcement actions. Because of this simplification, it is expected that interstate transactions will increase. Any impact caused by this increase should, however, be offset by the efficiencies that will be realized through streamlining the state's existing child support statutes. Consequently there will not be a fiscal impact for the Department of Law.

Prepared By: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Date: 1/22/85

Approved by Commissioner: Norman C. Gorsuch Date: 1/22/85
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

7/1/84

1092

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 92 (Final)
 Title: An Act relating to child and spousal support
 Sponsor: Rules, by request
 Requestor: Revenue
 Date of Request: 1/18/85

FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: Assistance Payments, AFDC Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

HB 92 has a potential cost-avoidance impact upon Aid to Families with Dependent Children (AFDC) utilization and expenditures. If enacted, it should result in some single parent families being supported sufficiently to eliminate their need to apply for AFDC. It should also slightly increase the numbers of current AFDC recipient families leaving the AFDC rolls. Finally, enactment helps to ensure compliance with federal program requirements, thereby avoiding federal

Prepared By: John R. Taber, Director Phone: 465-3347
 Division: Public Assistance Date: _____

Approved by Commissioner: John R. Taber Date: 1/30/85 JCC
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

ANALYSIS CONT.

fiscal penalties, which would be taken against the 50% federal AFDC funding. However, no data exists by which the total potential amount of cost-avoidance might be estimated.

OK
2/27

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

LETTER OF INTENT FOR CSHB 92 (JUD)

It is the intent of the House Judiciary Committee, in amending AS 09.65.132(h) in sec. 1 of CSHB 92 (JUD), that either party in an income withholding proceeding may be ordered by the court to pay all court costs and that payment of attorney's fees will continue to fall under Civil Rule 82, Alaska Rules of Civil Procedure.

It is the further intent of the Committee that the term "alimony", as used in a number of other states, is included in the meaning of the term "spousal support".

It is also the recommendation of the Committee that the Revisor of Statutes consider placing all of the statutes relating to child and spousal support, presently found in Titles 9 and 47, in Title 35 of the Alaska Statutes, Marital and Domestic Relations.

A handwritten signature in black ink, appearing to read "Mike Miller".

Mike Miller, Chair

Summary by Area of Improvement

CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

SUMMARY

The legislation's key provisions make critical improvements to State and local programs in four major areas:

- o Child support enforcement services must be available equally to welfare and non-welfare families;
- o State Child Support Enforcement programs must use proven enforcement techniques;
- o Federal financing of State program operations and the focus of Federal auditing are tied more closely to program effectiveness and efficiency; and
- o There is a strengthened and focused effort to improve enforcement where the custodial parent and children live in one State, and the parent obligated for support lives in another.

The many provisions of the Amendments are categorized below into these cross-cutting themes, so that the same provision may be referenced more than once.

I. EQUAL ENFORCEMENT SERVICES FOR WELFARE AND NON-WELFARE FAMILIES

A State's child support enforcement services--establishing paternity, locating absent parents, establishing and enforcing support orders--must be available to all families who apply for them. The new legislation enhances equal treatment through:

Wage Withholding

- o Effective October 1, 1985, States must provide for wage withholding when the amount due is equal to one month's support; less if State law permits or absent parent requests; applies to current support and arrearages;
- o Order is issued automatically upon default; the employer and absent parent must be notified, there is no return to court;
- o After October 1, 1985, all support orders initiated by the State include provision for wage withholding;
- o At it's option, the State may apply withholding from sources of income other than wages.

Offset of State and Federal Income Tax Refunds

- o For both welfare and non-welfare families, the State must offset State income tax refunds for overdue child support, in appropriate cases;

- o The State can request offset of Federal income tax refunds payable in 1986 through 1990 for non-welfare families; due process requirements and joint return protections included.

Program Improvement Incentives

- o Incentive payments are made to States based on cost-effective program operation and collections made on behalf of both welfare and non-welfare families.

Other Enhancements

- o Families who leave the welfare rolls must be transferred automatically to non-welfare status for continuation of support enforcement services, with no application or fee required;
- o State enforcement agencies must collect child support on behalf of children receiving foster care;
- o States must collect spousal support when it is also collecting support for the child with whom the former spouse is living;
- o States can use the Federal Parent Locator Service for non-welfare families before exhausting State and local locate sources;
- o States must regularly publicize the availability of enforcement services;
- o Annual notice of support collected for welfare families.

II. STATE AGENCIES MUST USE PROVEN ENFORCEMENT TECHNIQUES

Wage/Income Withholding

- o Results in regular and full payment of both current and overdue support.

Expedited Legal Processes

- o States must use administrative or expedited judicial process for establishing and enforcing support orders, and can use them for establishing paternity.

State and Federal Income Tax Refund Offsets

- o States must offset State income tax refunds for welfare and non-welfare families. Monies collected on behalf of welfare families go toward reimbursing AFDC payments; non-welfare collections go to family;
- o States can request offset of Federal income tax refunds for both welfare and non-welfare families; monies similarly disbursed as under State tax offset.

Liens

- o States must be able to impose liens against real and personal property, where appropriate.

Security or bonds

- o States must be able to require, where there is a pattern of non-payment, or late payment, bonds or security to be deposited with the court from which support payments can be taken where appropriate.

Reports to Credit Bureaus

- o Upon request from a credit bureau, and after notice to the absent parent, the child support agency must report on overdue support amounts over \$1,000, and can report lesser amounts.

Statute of Limitations

- o States must be able to establish paternity until a child's 18th birthday.

III. IMPROVED PROGRAM PERFORMANCE

Federal Financial Participation (FFP)

- o Encourages greater reliance on performance-based incentives by reducing FFP for State administrative costs by 2% starting in FY 1988 (to 68% of costs) and by another 2% in FY 1990 and after (66%).

Incentive Payment Structure

- o Replaces the old fixed rate of 12% of collections for welfare families, effective FY 1986;
- o Pays a minimum of 6% of collections for both welfare and non-welfare families, with additional payments on a sliding scale up to 10% of collections based on the respective ratios of welfare and non-welfare collections to total administrative costs;
- o States must share incentive payments with local child support enforcement programs, where they have participated in the costs of the program;
- o Each State's incentive payments for non-AFDC collections are limited to 100% of the AFDC collection incentive for FY 1986 and 1987, 105% for FY 1988, 110% for FY 1989, and 115% for FY 1990 and after;
- o In calculating incentive payments for FY 1985, the \$50 disregard of child support income (required by Deficit Reduction Act of 1984) will be included.

Program Audit Requirements

- o Replaces annual audit with requirement for audit at least once every three years; audits are comprehensive and performance-based;

- o Replaces current penalty (5% of Federal AFDC funds) with graduated penalties and provides for suspension of penalties based on corrective action plans.

Other

- o Present 90% Federal matching funds are explicitly made available for the development and installation of automated systems to improve required procedures; 90% matching newly extended to computer hardware purchased;
- o Governors must appoint broad-based Commissions on Child Support, with certain exceptions;
- o States are to formulate guidelines for child support awards for judges and other officials who make support determinations;
- o At their option, States may monitor support payments at the request of either parent;
- o The Federal Parent Locator Service and Internal Revenue Service must, upon request, disclose social security numbers to State enforcement agencies.
- o Revised reporting requirements for annual report to the Congress.

IV. IMPROVED ENFORCEMENT OF INTERSTATE CASES

Proven enforcement techniques

- o State must have procedures for interstate enforcement of wage withholding, regardless of where the custodial parent and child and the absent parent live;
- o Expedited legal processes and other techniques are applicable to interstate as well as intrastate cases.

Incentive Payments

- o Interstate collections will be credited to both the initiating and the responding State for calculating incentives.

Federal Income Tax Refund offset on behalf of non-welfare families

Demonstration Grants

- o Legislation authorizes \$7 million in FY 1985, \$12 million in FY 1986 and \$15 million in FY 1987 for special demonstration projects testing innovative methods of interstate enforcement and collection;
- o Demonstration authority including waivers of program requirements extended to child support program.

Program audit focus on program performance, including interstate cooperation

V. OTHER PROVISIONS OF THE AMENDMENTS

Fees

- o States must charge non-AFDC families an application fee of not more than \$25; fee can be charged to the custodial or absent parent, or be paid by the State based on individual's ability to pay;
- o States may charge, in welfare and non-welfare cases, a late-payment fee to the obligated parent of between 3 and 6 % of the arrearages;

Wisconsin Child Support Initiative

Medicaid Benefits

- o Until FY 1989, families that become ineligible for AFDC due to collection of child support, will retain Medicaid benefits for 4 months.

Medical Support

- o States must include medical support as part of child support orders when private health insurance is available to the non-custodial parent at reasonable cost.

COMPONENT DESCRIPTION	FY85 ATH	FY85 SUP	ADJ BASE	REQUEST	GOVERNOR	GOV.AMD.	HOUSE	SENATE	C. C.	BILLS	LEG.REC.
CHILD SUPPORT ENFORCEMENT	3931.9		4047.5	4611.6	4611.6	4611.6	4361.8				
DATA & WORD PROCESSING	875.2		906.6	906.6	906.6	906.6	805.7				
** TOTAL	4807.1		4954.1	5518.2	5518.2	5518.2	5167.5				
** CHANGE VERSUS FY85 ATH				14.7%	14.7%	14.7%	7.4%	-100.0%	-100.0%		
OBJECT DESCRIPTION											
PERS. SERV.	2999.1		3202.5	3229.0	3229.0	3229.0	2999.0				
TRAVEL	84.5		84.5	95.9	95.9	95.9	95.9				
CONTRACTUAL	1651.7		1632.2	2144.6	2144.6	2144.6	2025.7				
COMMODITIES	34.9		34.9	48.7	48.7	48.7	46.9				
EQUIPMENT	36.9										
LANDS/BLDGS											
GRANTS, CLMS											
FUNDING SUMMARY											
FED. RECEIPT	3212.0		3311.3	3855.1	3855.1	3855.1	3613.1				
G. F. MATCH	1398.6		1440.8	1461.1	1461.1	1461.1	1357.9				
PGM RECEIPTS	196.5		202.0	202.0	202.0	202.0	196.5				
POSITIONS											
FULL TIME	93.0		93.0	94.0	94.0	94.0	93.0				
STAFF MONTHS	1116.0		1116.0	1128.0	1128.0	1128.0	1116.0				

AGENCY: DEPARTMENT OF REVENUE
 CATEGORY: GENERAL GOVERNMENT

PROGRAM: CHILD SUPPORT ENFORCEMENT
 SUB-PROGRAM: CHILD SUPPORT ENFORCEMENT

FISCAL YEAR 1986

EXPENDITURES & FUNDING	(01) FY84 ACT	(02) FY85 ATH	(03) FY85 RP	(04) FY85 SUP	(05) ADJ BASE	(06) REQUEST	(07) GOVERNOR	(08) GOV.AMD.	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.	2485.4	2939.6			3092.1	3118.6	3118.6	3118.6	2910.2				
02 TRAVEL	39.8	84.5			84.5	95.9	95.9	95.9	95.9				
03 CONTRACTUAL	1402.8	839.1			839.1	1351.5	1351.5	1351.5	1311.9				
04 COMMODITIES	22.9	31.8			31.8	45.6	45.6	45.6	43.8				
05 EQUIPMENT	151.2	36.9											
06 LANDS/BLDGS													
07 GRANTS, CLMS													
08 MISC.													
** TOTAL EXPEND	4102.1	3931.9			4047.5	4611.6	4611.6	4611.6	4361.8				
09 I-A TRANSFER	746.6	346.6			341.1	354.6	354.6	354.6	354.6				
1002 FED RCPTS	2734.8	2609.4			2687.2	3231.0	3231.0	3231.0	3059.6				
1003 G/F MATCH	1094.9	1140.5			1173.4	1193.7	1193.7	1193.7	1120.7				
1028 PGH RCPTS	272.4	182.0			186.9	186.9	186.9	186.9	181.5				
15 FULL TIME	83.0	92.0			91.0	92.0	92.0	92.0	91.0				
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS	996.0	1104.0			1092.0	1104.0	1104.0	1104.0	1092.0				

NEW POSITIONS...

TITLE	LOCATION	TYP	C	O	S	T	F	U	N	D	I	N	G	REQ	GV	HS	SN	CC	FN
1 CLERK TYPIST III	ANCHORAGE	F	01	PERS.	SERV.	26.5	1002	FED	RCPTS	18.6	1	1	0	0	0	0	0	1	
				POS'N	COST	26.5	1003	G/F	MATCH	7.9									
** NEW POSITION TOTALS			**	TOTAL	COST	26.5					1	1	0	0	0	0	0		

NEW POSITION FOOTNOTES...

1 THIS POSITION WAS REQUESTED IN FY85 THROUGH AN RP.

AGENCY: DEPARTMENT OF REVENUE
 CATEGORY: GENERAL GOVERNMENT

PROGRAM: CHILD SUPPORT ENFORCEMENT
 SUB-PROGRAM: CHILD SUPPORT ENFORCEMENT

OBJECT GROUP

VARIATION

***** HOUSE ANALYSIS *****

HOUSE ANALYSIS

OBJECT GROUP	VARIATION		DESCRIPTION: HOUSE (\$4,361.8) VERSUS GOV.AMD. (\$4,611.6)
01 PERS. SERV.	-208.4	-6.7%	DELETE SALARY INCREASE <\$52.1 GF>, <\$122.3 FF>, <\$5.4 PGM RCPTS>; DISALLOW NEW POSITION <\$7.9 GF>, <\$18.6 FF>; DISALLOW RECLASSIFICATIONS <\$3.2 GF>, <\$7.5 FF>; ADJUST VACANCY TO 4% \$2.6 GF, \$6.0 FF.
03 CONTRACTUAL	-39.6	-2.9%	DELETE INFLATION <\$11.9 GF>, <\$27.7 FF>.
04 COMMODITIES	-1.8	-3.9%	DELETE INFLATION <\$0.5 GF>, <\$1.3 FF>.
** TOTALS	-249.8	-5.4%	

NO NEW POSITIONS AUTHORIZED.

GOV.AMD. ANALYSIS

OBJECT GROUP	VARIATION		DESCRIPTION: GOV.AMD. (\$4,611.6) VERSUS FY85 ATH (\$3,931.9)
01 PERS. SERV.	179.0	6.1%	PERSONAL SERVICES ADJUSTMENT \$122.3 FEDERAL FUNDS, \$52.1 GENERAL FUND MATCH AND \$5.4 PROGRAM RECEIPTS, TRANSFER FROM CSED-DATA PROCESSING TO ALLOW FULL-FUNDING OF POSITIONS \$19.5, TRANSFER ANALYST/PROGRAMMER POSITION TO CSED-DATA PROCESSING COMPONENT (\$46.8), NEW CLERK TYPIST FOR PROCESSING INTERSTATE URESA CASES \$18.6 FEDERAL FUNDS AND \$7.9 GENERAL FUND MATCH.
02 TRAVEL	11.4	13.5%	FEDERAL INTERSTATE CHILD SUPPORT PROJECT \$11.4 FEDERAL FUNDS.
03 CONTRACTUAL	512.4	61.1%	INFLATION \$29.0 FEDERAL FUNDS AND \$10.6 GENERAL FUND MATCH, FEDERAL INTERSTATE CHILD SUPPORT PROJECT \$472.8 FEDERAL FUNDS.
04 COMMODITIES	13.8	43.4%	INFLATION \$1.8, FEDERAL INTERSTATE CHILD SUPPORT PROJECT \$12.0 FEDERAL FUNDS.
05 EQUIPMENT	-36.9	-100.0%	ONE-TIME EQUIPMENT (\$36.9).
** TOTALS	679.7	17.3%	

POSITIONS AUTHORIZED

TITLE	LOCATION	TYPE	APP	S&B COSTS	FED.FUND	GEN.FUND	OTH.FUND
1 CLERK TYPIST III	ANCHORAGE	FULL	1	26.5	18.6	7.9	
** TOTALS			1	26.5	18.6	7.9	

NOTE: THE FY86 BUDGET REFLECTS A MAJOR INCREASE OF \$496.2 IN FEDERAL FUNDING FOR THE DIVISION. A GRANT APPLICATION HAS BEEN FILED WITH THE US DEPT. OF HEALTH AND HUMAN SERVICES FOR THE PURPOSE OF DEVELOPING A COMPUTERIZED INTERSTATE CHILD SUPPORT CLEARINGHOUSE. ALASKA WILL COOPERATE WITH OREGON, UTAH, IDAHO AND WASHINGTON ON THIS PROJECT. SPECIFIC FEDERAL FUNDS ARE AVAILABLE FOR THIS AND OTHER INNOVATIVE PROJECTS DESIGNED TO PROMOTE THE CONGRESSIONAL INTENT OF ENFORCING CHILD SUPPORT ON A NATIONWIDE BASIS. NO GENERAL FUND MATCH IS REQUIRED.

* * * * PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION * * * *

1984 LEGISLATION. HB 668 (CH144). ESTABLISHES/AMENDS CERTAIN PROCEDURES AND RULES TO BE USED BY THE DIVISION IN ENFORCING CHILD SUPPORT PAYMENTS.

AUDIT: A SPECIAL REPORT ON THE DEPARTMENT OF REVENUE, CHILD SUPPORT ENFORCEMENT DIVISION, MAY 31, 1984.
RECOMMENDATIONS: THE DIVISION SHOULD 1) CEASE STAFF EXPANSION AND REASSESS ITS STAFFING NEEDS, AND 2) DEVELOP PROCEDURES TO ENSURE ACCURATE ACCOUNTING AND REPORTING OF DIRECT PAY CREDITS.

AGENCY: DEPARTMENT OF HEALTH & SOCIAL SERVICES
 CATEGORY: SOCIAL SERVICES

PROGRAM: ASSISTANCE PAYMENTS
 SUB-PROGRAM: AFDC

FISCAL YEAR 1986

EXPENDITURES & FUNDING	(01) FY84 ACT	(02) FY85 ATH	(03) FY85 RP	(04) FY85 SUP	(05) ADJ BASE	(06) REQUEST	(07) GOVERNOR	(08) GOV.AMD.	(09) HOUSE	(10) SENATE	(11) C. C.	(12) BILLS	(13) LEG.REC.
01 PERS. SERV.													
02 TRAVEL													
03 CONTRACTUAL													
04 COMMODITIES													
05 EQUIPMENT													
06 LANDS/BLDGS													
07 GRANTS, CLMS	36516.3	38661.4			38661.4	44195.4	44195.4	48764.2	48764.2				
08 MISC.													
** TOTAL EXPEND	36516.3	38661.4			38661.4	44195.4	44195.4	48764.2	48764.2				
09 I-A TRANSFER	411.0	379.0			379.0	379.0	379.0	379.0	379.0				
1002 FED RCPTS	17016.9	19330.7			19330.7	20288.2	20288.2	22572.6	22572.6				
1003 G/F MATCH	19499.4	19330.7			19330.7	22097.7	22097.7	24382.1	24382.1				
1005 I/A RCPTS						1809.5	1809.5	1809.5	1809.5				
15 FULL TIME													
16 PART TIME													
17 TEMPORARY													
18 STAFF MONTHS													

5% =
 ~ \$2.5M

AGENCY: DEPARTMENT OF HEALTH & SOCIAL SERVICES
CATEGORY: SOCIAL SERVICES

PROGRAM: ASSISTANCE PAYMENTS
SUB-PROGRAM: AFDC

***** HOUSE ANALYSIS *****

GOVERNOR TO GOVERNOR AMENDED: INCREASE IN AFDC CASELOAD PROJECTIONS \$4568.8.

***** GOV.AMD. ANALYSIS *****

OBJECT GROUP	VARIATION		DESCRIPTION: GOV.AMD. (\$48,764.2) VERSUS FY85 ATH (\$38,661.4)
07 GRANTS, CLMS	10102.8	26.1%	INCREASE GRANTS BY 14.3%, \$5534.0, WHICH REPRESENTS AN ESTIMATED AVERAGE MONTHLY CASELOAD OF 6223, AN AVERAGE MONTHLY PAYMENT OF \$591.83, AND FY86 COST OF LIVING ADJUSTMENT OF 3%.
** TOTALS	10102.8	26.1%	

NOTE: AID TO FAMILIES WITH DEPENDENT CHILDREN (AS 47.25.310) IS A FORMULA PROGRAM. THE FY86 ESTIMATE FOR FULL FUNDING IS \$44195.4.

THE INCREASE IN INTERAGENCY RECEIPTS IS A BUDGETING CHANGE TO SHOW THE AMOUNT OF MONEY PAID FROM THE PERMANENT FUND DIVIDEND HOLD HARMLESS COMPONENT TO AFDC CLIENTS.

***** PROGRAM DESCRIPTION & PRIOR YEAR INFORMATION *****

FY85 INTENT: IF FUNDING FOR PROGRAM IS INSUFFICIENT TO MEET DEMAND, SERVICE AND ELIGIBILITY ARE NOT TO BE REDUCED OR ELIMINATED AND THE DEPARTMENT IS TO REQUEST SUPPLEMENTAL FUNDING.

AGENCY RESPONSE: BASED ON FY 85 FIRST QUARTER AFDC ACTUAL EXPENDITURES A CONDITION OF SERVICE DEMAND EXISTS WHICH SEVERELY JEOPARDIZES OUR ABILITY TO PROVIDE PROGRAM SERVICE WITH THE CURRENT FY 85 ASSISTANCE PAYMENTS BRU AUTHORIZATION. THE DIVISION HAS SUBMITTED A FY 85 SUPPLEMENTAL REQUEST, AND WILL CONTINUE TO THOROUGHLY EXAMINE THE FEASIBILITY OF SUPPLEMENTAL FUNDING BEFORE IMPLEMENTING ANY REDUCTION OR ELIMINATION OF SERVICE.

Offered: 3/27/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 92 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to child and spousal support; and
7 providing for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 09.65.132 is amended to read:
10 Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
11 SUPPORT. (a) A judgment, court order, or order of the child support
12 enforcement agency under AS 47.23 [(AS 47.23)] providing for the
13 support of a minor child must [SHALL] contain an income withholding
14 [ASSIGNMENT] order. An income withholding order under this section
15 may not be enforced unless the obligor had notice of the order when it
16 was made or an application for the order was served on the obligor in
17 the manner provided for service of a summons under Rule 4, Alaska
18 Rules of Civil Procedure.
19 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
20 the obligor, the obligor's employer, future employer, and any person,
21 political subdivision, or department of the state to withhold [ASSIGN]
22 money due or to be due the obligor and pay the money to the [OBLIGEE
23 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
24 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
25 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
26 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
27 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
28 140].
29 (c) If support payments are in arrears in an amount at least

1 equal to support payable for one month, the agency, on behalf of an
2 [AN] obligee or person or public agency designated to receive support
3 payments, shall [MAY] request an income withholding [ASSIGNMENT] order
4 against the obligor to take effect by filing a sworn statement with
5 the court that alleges [ALLEGING IN A SWORN STATEMENT] that the obli-
6 gor is in arrears in an amount at least equal to the support payable
7 for one month [HAS FAILED TO MAKE A SUPPORT PAYMENT IN FULL WITHIN 45
8 DAYS OF THE DATE THE PAYMENT WAS DUE AND BY FILING THAT STATEMENT WITH
9 THE COURT].

10 (d) If an application is [HAS BEEN] filed with the clerk of
11 court, notice shall be served upon the obligor by the agency in the
12 manner provided by Rule 5, Alaska Rules of Civil Procedure or any
13 other method permitted by law. The notice shall [BE SENT BY CERTIFIED
14 MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE
15 OBLIGOR. THE NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS AFTER
16 THE DATE ON WHICH THE APPLICATION WAS FILED AND SHALL] inform the
17 obligor that the income withholding order [ASSIGNMENT] will take
18 effect 15 days after the date on which the notice is served [WAS
19 RECEIVED] unless the obligor requests a hearing within the 15 days
20 after the notice is served [WAS SENT]. If the obligor requests a
21 hearing, an income withholding order [ASSIGNMENT] may not take effect
22 until the conclusion of the hearing. The court shall hold a hearing
23 requested under this section within 15 days after the date the obligor
24 requests the hearing, to determine if there are any mistakes of fact
25 that make the withholding order improper, if the amount to be withheld
26 is incorrect, or if there are any other legal defenses. The court
27 shall inform the obligor, either at the hearing or within 15 days
28 after the hearing, whether or not the withholding will occur and of
29 the date on which it is to commence. It is not a defense under this

1 section that less than one full month's payment is due if at least one
2 full month's payment was due on the date notice was served under this
3 section [. IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE BEFORE THE
4 HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT].

5 (e) The obligee or person or public agency that requested the
6 income withholding [ASSIGNMENT] order shall immediately send a copy of
7 the income withholding [ASSIGNMENT] order , a copy of AS 47.23.260 and
8 AS 09.65.132, and an explanation of the effect of the statutes by
9 certified mail to persons who may owe money to an obligor. An income
10 withholding [ASSIGNMENT] order made under this section is binding upon
11 a person, employer, political subdivision, or department of the state
12 immediately upon receipt of a copy of the income withholding [ASSIGN-
13 MENT] order. An employer shall begin withholding the specified amount
14 from the employee's wages 14 days after the mailing date on the notice
15 of withholding or on the first day of the next pay period, if earlier.
16 The amount withheld shall be sent to the agency.

17 (f) An employer may not discharge, discipline, or refuse to em-
18 ploy an obligor on the basis of an income withholding order issued
19 [ASSIGNMENT] under this section. If an employer discharges, disci-
20 plines, or refuses to employ an obligor because of an income withhold-
21 ing obligation, the court, after notice and hearing, may order rein-
22 statement or restitution to the obligor, or both. A person who vio-
23 lates this subsection or a regulation adopted to implement it, is
24 liable for a civil penalty of not more than \$1,000.

25 (g) An income withholding order [ASSIGNMENT] under this section
26 has priority over all other attachments, executions, garnishments, or
27 other legal process brought under state law against the same money
28 [ASSIGNMENTS] unless otherwise ordered by the court. An income with-
29 holding order [ASSIGNMENT] is not limited to the wages of an obligor

1 but may include all money owed to the obligor not otherwise exempt by
2 law. Exemptions under AS 09.38 do not apply to income assignments
3 under this section [; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
4 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
5 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN 15
6 U.S.C. 1672].

7 (h) The court may order payment of [AN OBLIGOR TO PAY] all court
8 [COURTS] costs that resulted from [INVOLVED IN] an income withholding
9 [ASSIGNMENT] proceeding under this section.

10 * Sec. 2. AS 09.65.132 is amended by adding new subsections to read:

11 (i) An employer shall, to the extent permitted under 15 U.S.C.
12 1673(b), withhold the current support obligation from an obligor's
13 wages. An employer shall withhold additional income, to the extent
14 permitted under 15 U.S.C. 1673(b), from an obligor's wages for any
15 support arrearage.

16 (j) An employer may combine into a single payment to the agency
17 amounts withheld from more than one obligor if the employer specifies
18 the portion of the payment attributable to each obligor.

19 (k) At the time an obligor terminates employment with an em-
20 ployer then in receipt of an unsatisfied income withholding order
21 regarding the obligor, the employer shall immediately inform the
22 agency of the obligor's name and last known address and the name and
23 address of all other known employers of the obligor.

24 (l) A petition by the obligor to the court to terminate or
25 reduce the withholding of income may be granted upon good cause shown.

26 * Sec. 3. AS 25.24.160 is amended to read:

27 Sec. 25.24.160. JUDGMENT. In a judgment in an action for di-
28 vorce or action declaring a marriage void or at any time after judg-
29 ment, the court may provide

1 (1) [Repealed
2 (2)] for the payment by either or both parties of an amount
3 of money or goods, in gross or installments that may include cost-of-
4 living adjustments, as may be just and proper for the parties to
5 contribute toward the nurture and education of their children, and the
6 court may order the parties to arrange with their employers for an
7 automatic payroll deduction each month or each pay period, if the
8 period is other than monthly, of the amount of the installment; if the
9 employer agrees, the installment shall be forwarded by the employer to
10 the clerk of the superior court which entered the judgment or to the
11 court trustee, and the amount of the installment is exempt from execu-
12 tion;

13 (2) [(3)] for the recovery by one party from the other of
14 an amount of money for maintenance, in gross or in installments, as
15 may be just and necessary without regard to which of the parties is in
16 fault;

17 (3) [(4)] for the delivery to either party of that party's
18 personal property in the possession or control of the other party at
19 the time of giving the judgment;

20 [(5) Repealed]

21 (4) [(6)] for the division between the parties of their
22 property, whether joint or separate, acquired only during coverture,
23 in the manner as may be just, and without regard to which of the
24 parties is in fault; however, the court, in making the division, may
25 invade the property of either spouse acquired before marriage when the
26 balancing of the equities between the parties requires it; and to
27 accomplish this end the judgment may require that one or both of the
28 parties assign, deliver, or convey any of their real or personal
29 property to the other party;

1 (5) [(7)] to change the name of one of the parties.

2 * Sec. 4. AS 47.23.020(a) is amended to read:

3 (a) The agency shall

4 (1) seek enforcement of [OBTAIN, ENFORCE, AND ADMINISTER]
5 child support orders of the superior courts of the state in other
6 jurisdictions and shall obtain, enforce, and administer the orders in
7 this state;

8 (2) adopt regulations to carry out the purposes of this
9 chapter, including regulations that [WHICH] establish

10 (A) schedules for determining the amount an obligor is
11 liable to contribute toward the support of an obligee under this
12 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secur-
13 ity Act);

14 (B) procedures for hearings conducted under AS 47.23.-
15 170; and

16 (C) subject to AS 47.23.025 and to federal law, a
17 uniform [SCHEDULE OF PENALTIES AND A] rate of interest on arrear-
18 ages of support that shall be charged the obligor upon notice if
19 child support payments are 10 or more days overdue or if payment
20 is made by a check backed by insufficient funds;

21 (3) administer and enforce the Uniform Reciprocal Enforce-
22 ment of Support Act (AS 25.25);

23 (4) establish, enforce, and administer child support obli-
24 gations administratively in accordance with this chapter;

25 (5) administer the state plan required under 42 U.S.C.
26 651 - 665 (Title IV-D, Social Security Act) as amended;

27 (6) disburse child support payments collected by the agency
28 to the obligee together with interest charged under (2)(C) of this
29 subsection; [AND]

1 (7) establish and enforce through the superior courts of
2 the state child support orders from other jurisdictions pertaining to
3 obligors within the state; [DEPOSIT PENALTIES CHARGED UNDER (2)(C) OF
4 THIS SUBSECTION IN THE GENERAL FUND]

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

9 (9) obtain a medical support order as part of a child sup-
10 port order if health care coverage is available to the obligor at a
11 reasonable cost.

12 * Sec. 5. AS 47.23 is amended by adding a new section to read:

13 Sec. 47.23.022. ENFORCEMENT REQUESTS FROM OTHER STATES. (a)
14 The agency may act, under the laws of this state, upon requests from
15 similar state agencies in other states that operate child support
16 enforcement programs under 42 U.S.C. 651 - 665 (Title IV-D Social
17 Security Act) to establish and enforce against obligors within this
18 state support obligations determined in other states.

19 (b) Requests from child support enforcement agencies in other
20 states shall be made by application containing the information that
21 this state's agency requires and including written authorization from
22 the requesting state agency and the obligee for this state's agency to
23 initiate action necessary to establish, enforce, and collect the
24 support obligation on their behalf.

25 * Sec. 6. AS 47.23.025 is amended to read:

26 Sec. 47.23.025. RATES OF [PENALTY AND] INTEREST. [A PENALTY
27 IMPOSED UNDER AS 47.23.020(a)(2)(C) MAY NOT BE AT A RATE THAT EXCEEDS
28 THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES UNDER AS 43.05.225.]
29 The rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal

1 the rate imposed under AS 43.05.225 or a lesser rate that is the
2 maximum rate of interest permitted to be imposed under federal law.

3 * Sec. 7. AS 47.23.045 is amended to read:

4 Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency
5 may appear in an action seeking an award of support on [IN] behalf of
6 a child owed a duty of support, or to enforce a spousal support order
7 if a spousal support obligation has been established and if a support
8 obligation, established with respect to a child of that spouse, is
9 also being administered, and may also appear in an action seeking
10 modification of a support order, decree or judgment already entered.
11 Action under this section may be undertaken upon application of an
12 obligee, or at the agency's own discretion if the obligor is liable to
13 the state under AS 47.23.120(a) or (b).

14 * Sec. 8. AS 47.23.060(c) is amended to read:

15 (c) In a court proceeding where the support of a minor child is
16 at issue, the court may order either or both parents to pay the amount
17 necessary for support, maintenance, nurture, and education of the
18 child. The court shall issue a medical support order as part of a
19 child support order if health care coverage is available to the obli-
20 gor at a reasonable cost. Upon a showing of good cause the court may
21 order the parents required to pay support to give reasonable security
22 for payments. An order for prospective child support may be modified
23 or revoked as the court considers necessary.

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

25 Sec. 47.23.075. EMPLOYMENT INFORMATION. (a) An employer of an
26 obligor or a labor union of which an obligor is a member shall provide
27 to the agency information requested regarding the obligor's employ-
28 ment, wages or salary, and location.

29 (b) An employer of an obligor or a labor union of which an

1 obligor is a member that knowingly violates this section is liable for
2 a civil penalty of not more than \$1,000.

3 * Sec. 10. AS 47.23.150(a) is amended to read:

4 (a) Action to enforce a support order administratively under
5 AS 47.23.230 - 47.23.270 is initiated by the agency serving a notice
6 on the obligor of the obligor's liability under the support order.
7 [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
8 TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
9 RESTRICTED DELIVERY ONLY TO THE PERSON TO WHOM THE NOTICE IS DIRECTED
10 OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT
11 PERSON'S RESTRICTED DELIVERY MAIL.]

12 * Sec. 11. AS 47.23.226 is amended to read:

13 Sec. 47.23.226. COLLECTION OF [ACTION TO COLLECT] CHILD SUPPORT.
14 To [COMMENCE AN ACTION TO] collect the payment due, the custodian of a
15 child, or the agency on behalf of that person, shall file with the
16 court (1) a motion [PETITION] requesting establishment of a judgment;
17 (2) an affidavit that states that one or more payments of child sup-
18 port are 30 or more days past due and that specifies the amounts past
19 due and the dates they became past due; and (3) notice of the ob-
20 ligor's right to respond. Service on the obligor shall be in the
21 manner provided in AS 47.23.265 [BY THE RULE OF CIVIL PROCEDURE FOR
22 SERVICE OF SUMMONS IN A CIVIL ACTION]. The child's custodian, or the
23 agency on behalf of the custodian, shall file with the court proof of
24 service of the petition, affidavit, and notice. The obligor shall
25 respond no later than 15 days after service by filing an affidavit
26 with the court. If the obligor's affidavit states that the obligor
27 has paid any of the amounts claimed to be delinquent, describes in
28 detail the method of payment or offers any other defense to the peti-
29 tion, then the obligor is entitled to a hearing. After the hearing,

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

4 * Sec. 12. AS 47.23.250(i) is amended to read:

5 (i) Exemptions under AS 09.38 do not apply to proceedings to
6 enforce the payment of child support under AS 47.23.230 - 47.23.270;
7 however, [50 PERCENT OF THE OBLIGOR'S] net disposable earnings are
8 [IS] exempt from execution as provided in 15 U.S.C. 1673(b) [UNDER
9 AS 47.23.230 - 47.23.270]. In this subsection, "net disposable earn-
10 ings" has the meaning given in 15 U.S.C. 1672.

11 * Sec. 13. AS 47.23.255 is amended to read:

12 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a)
13 The agency shall pay to the obligee all money recovered by the agency
14 from the obligor under an income withholding [ASSIGNMENT] order except
15 for court costs and money assigned to the agency under AS 47.23.120 -
16 47.23.130 [THAT ARE RECOVERED FROM THE OBLIGOR].

17 (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
18 MENT] order contained in a decision of the agency that has not been
19 set aside by the superior court under AS 47.23.220 shall be enforced
20 under the procedure established in AS 09.65.132.

21 * Sec. 14. AS 47.23.260 is amended to read:

22 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
23 ORDER OR LIEN. If any person, political subdivision, or department of
24 the state (1) fails to make an answer to an order to withhold and
25 deliver within the time prescribed in AS 47.23.250; (2) fails or
26 refuses to deliver property in accordance with an order issued under
27 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
28 real property subject to a lien filed under AS 47.23.230 to or for the
29 benefit of the obligor or any other person; (4) fails or refuses to

1 surrender upon demand property attached; (5) fails or refuses to honor
2 an assignment of wages or an income withholding [ASSIGNMENT] order
3 under AS 09.65.132 presented by the agency, the person, political
4 subdivision, or department of the state is liable to the agency in an
5 amount equal to 100 percent of the amount constituting the basis of
6 the lien, order to withhold and deliver, attachment, or withholding
7 [ASSIGNMENT] of wages or income, together with costs, interest, and
8 reasonable attorney fees.

9 * Sec. 15. AS 47.23.265(a) is amended to read:

10 (a) Except as otherwise provided under this chapter, when a
11 notice, paper, or other document is required by this chapter to be
12 given or served upon a person by the agency, the notice, paper, or
13 other document may be served as required by Rule 5, Alaska Rules of
14 Civil Procedure or any other method permitted by law [SENT BY REGIS-
15 TERED OR CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THAT PERSON.
16 SERVICE BY MAIL UNDER THIS CHAPTER IS EFFECTED WHEN THE NOTICE, PAPER,
17 OR OTHER DOCUMENT IS PROPERLY ADDRESSED REGISTERED OR CERTIFIED, AND
18 MAILED].

19 * Sec. 16. AS 47.23 is amended by adding a new section to read:

20 Sec. 47.23.278. PAYMENTS NOT DISBURSED. Support payments col-
21 lected and held by the agency for seven years without disbursal shall
22 be returned to the obligor.

23 * Sec. 17. This Act takes effect October 1, 1985.

Offered: 2/18/85
Referred: Judiciary and Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 92 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to child and spousal support; and
8 providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 09.65.132 is amended to read:
11 Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
12 SUPPORT. (a) A judgment, court order, or order of the child support
13 enforcement agency under AS 47.23 [(AS 47.23)] providing for the
14 support of a minor child must [SHALL] contain an income withholding
15 [ASSIGNMENT] order.
16 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
17 the obligor, the obligor's employer, future employer, and any person,
18 political subdivision, or department of the state to withhold [ASSIGN]
19 money due or to be due the obligor and pay the money to the [OBLIGEE
20 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
21 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
22 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
23 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
24 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
25 140].
26 (c) If support payments are in arrears in an amount at least
27 equal to support payable for one month, the agency, on behalf of an
28 [AN] obligee or person or public agency designated to receive support
29 payments, shall [MAY] request an income withholding [ASSIGNMENT] order
against the obligor [TO TAKE EFFECT] by filing a sworn statement with

1 the court that alleges [ALLEGING IN A SWORN STATEMENT] that the
2 obligor is in arrears in an amount at least equal to the support
3 payable for one month [HAS FAILED TO MAKE A SUPPORT PAYMENT IN FULL
4 WITHIN 45 DAYS OF THE DATE THE PAYMENT WAS DUE AND BY FILING THAT
5 STATEMENT WITH THE COURT].

6 (d) If an application is [HAS BEEN] filed with the clerk of
7 court, notice shall be served upon the obligor in the manner provided
8 by Rule 5, Alaska Rules of Civil Procedure or any other method permit-
9 ted by law. The notice shall [BE SENT BY CERTIFIED MAIL, RETURN
10 RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE OBLIGOR. THE
11 NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS AFTER THE DATE ON
12 WHICH THE APPLICATION WAS FILED AND SHALL] inform the obligor that the
13 income withholding order [ASSIGNMENT] will take effect 15 days after
14 the date on which the notice is served [WAS RECEIVED] unless the
15 obligor requests a hearing within the 15 days after the notice is
16 served [WAS SENT]. If the obligor requests a hearing, an income
17 withholding order [ASSIGNMENT] may not take effect until the conclu-
18 sion of the hearing. The court shall hold a hearing requested under
19 this section within 15 days after the date the obligor requests the
20 hearing, to determine if there are any mistakes of fact that make the
21 withholding order improper, if the amount to be withheld is incorrect,
22 or if there are any other legal defenses. The court shall inform the
23 obligor, either at the hearing or within 15 days after the hearing,
24 whether or not the withholding will occur and of the date on which it
25 is to commence. [IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE BEFORE
26 THE HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT.]

27 (e) The obligee or person or public agency that requested the
28 income withholding [ASSIGNMENT] order shall immediately send a copy of
29 the income withholding [ASSIGNMENT] order and a copy of AS 47.23.260

1 and 47.23.270 by certified mail to persons who may owe money to an
2 obligor. An income withholding [ASSIGNMENT] order made under this
3 section is binding upon a person, employer, political subdivision, or
4 department of the state immediately upon receipt of a copy of the
5 income withholding [ASSIGNMENT] order. An employer shall begin with-
6 holding the specified amount from the employee's wages 14 days after
7 the mailing date on the notice or on the first day of the next pay
8 period, if earlier. The amount withheld shall be sent to the agency.

9 (f) An employer may not discharge, discipline, or refuse to em-
10 ploy an obligor on the basis of an income withholding order issued
11 [ASSIGNMENT] under this section. If an employer discharges, disci-
12 plines, or refuses to employ an obligor because of an income withhold-
13 ing obligation, the court, after notice and hearing, may order rein-
14 statement or restitution to the obligor, or both. A person who vio-
15 lates this subsection or a regulation adopted to implement it, is
16 liable for a fine of not more than \$1,000.

17 (g) An income withholding order [ASSIGNMENT] under this section
18 has priority over all other attachments, executions, garnishments, or
19 other legal process brought under state law against the same wages
20 [ASSIGNMENTS] unless otherwise ordered by the court. An income with-
21 holding order [ASSIGNMENT] is not limited to the wages of an obligor
22 but may include all money owed to the obligor not otherwise exempt by
23 law. Exemptions under AS 09.38 do not apply to income assignments
24 under this section[; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
25 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
26 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN 15
27 U.S.C. 1672].

28 (h) The court may order an obligor to pay the plaintiff's court
29 [ALL COURTS] costs and reasonable attorney fees which resulted from

1 [INVOLVED IN] an income withholding [ASSIGNMENT] proceeding under this
2 section.

3 * Sec. 2. AS 09.65.132 is amended by adding new subsections to read:

4 (i) An employer shall, to the extent permitted under 15 U.S.C.
5 1673(b), withhold the current support obligation from an obligor's
6 wages. An employer shall withhold additional income, to the extent
7 permitted under 15 U.S.C. 1673(b), from an obligor's wages for any
8 support arrearage.

9 (j) An employer may combine into a single payment amounts with-
10 held from more than one obligor if the employer specifies the portion
11 of the payment attributable to each obligor. If in receipt of more
12 than one income withholding order regarding one obligor, the employer
13 shall honor the orders by paying each in full in the sequence of its
14 receipt to the extent permitted under 15 U.S.C. 1673(b).

15 (k) At the time an obligor terminates employment with an em-
16 ployer then in receipt of an unsatisfied income withholding order
17 regarding the obligor, the employer shall immediately inform the
18 agency of the obligor's name and last known address and the name and
19 address of all other known employers of the obligor.

20 (l) An obligor may petition the court to terminate or reduce the
21 withholding of income, if all support payments are current, upon good
22 cause shown, such as the emancipation of a child for whom support is
23 paid, or the lack of contact by the agency with the obligee.

24 * Sec. 3. AS 25.24.160 is amended to read:

25 Sec. 25.24.160. JUDGMENT. In a judgment in an action for di-
26 vorce or action declaring a marriage void or at any time after judg-
27 ment, the court may provide

28 (1) [Repealed

29 (2)] for the payment by either or both parties of an amount

1 of money or goods, in gross or installments that may include automatic
2 cost-of-living increases, as may be just and proper for the parties to
3 contribute toward the nurture and education of their children, and the
4 court may order the parties to arrange with their employers for an
5 automatic payroll deduction each month or each pay period, if the
6 period is other than monthly, of the amount of the installment; if the
7 employer agrees, the installment shall be forwarded by the employer to
8 the clerk of the superior court which entered the judgment or to the
9 court trustee, and the amount of the installment is exempt from
10 execution;

11 (2) [(3)] for the recovery by one party from the other of
12 an amount of money for maintenance, in gross or in installments, as
13 may be just and necessary without regard to which of the parties is in
14 fault;

15 (3) [(4)] for the delivery to either party of that party's
16 personal property in the possession or control of the other party at
17 the time of giving the judgment;

18 [(5) Repealed]

19 (4) [(6)] for the division between the parties of their
20 property, whether joint or separate, acquired only during coverture,
21 in the manner as may be just, and without regard to which of the
22 parties is in fault; however, the court, in making the division, may
23 invade the property of either spouse acquired before marriage when the
24 balancing of the equities between the parties requires it; and to
25 accomplish this end the judgment may require that one or both of the
26 parties assign, deliver, or convey any of their real or personal
27 property to the other party;

28 (5) [(7)] to change the name of one of the parties.

29 * Sec. 4. AS 47.23.020(a) is amended to read:

1 (a) The agency shall

2 (1) seek enforcement of [OBTAIN, ENFORCE, AND ADMINISTER]
3 child support orders of the superior courts of the state in other
4 jurisdictions and shall obtain, enforce, and administer the orders in
5 this state;

6 (2) adopt regulations to carry out the purposes of this
7 chapter, including regulations that [WHICH] establish

8 (A) schedules for determining the amount an obligor is
9 liable to contribute toward the support of an obligee under this
10 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secur-
11 ity Act);

12 (B) procedures for hearings conducted under AS 47.23.-
13 170; and

14 (C) subject to AS 47.23.025 and to federal law, a
15 uniform [SCHEDULE OF PENALTIES AND A] rate of interest on arrear-
16 ages of support that shall be charged the obligor upon notice if
17 child support payments are 10 or more days overdue or if payment
18 is made by a check backed by insufficient funds;

19 (3) administer and enforce the Uniform Reciprocal Enforce-
20 ment of Support Act (AS 25.25);

21 (4) establish, enforce, and administer child support obli-
22 gations administratively in accordance with this chapter;

23 (5) administer the state plan required under 42 U.S.C.
24 651 - 665 (Title IV-D, Social Security Act) as amended;

25 (6) disburse child support payments collected by the agency
26 to the obligee together with interest charged under (2)(C) of this
27 subsection; [AND]

28 (7) establish and enforce through the superior courts of
29 the state child support orders from other jurisdictions pertaining to

1 obligors within the state; [DEPOSIT PENALTIES CHARGED UNDER (2)(C) OF
2 THIS SUBSECTION IN THE GENERAL FUND]

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

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

10 * Sec. 5. AS 47.23 is amended by adding a new section to read:

11 Sec. 47.23.022. ENFORCEMENT REQUESTS FROM OTHER STATES. (a)
12 The agency may act, under the laws of this state, upon requests from
13 similar state agencies in other states that operate child support
14 enforcement programs under 42 U.S.C. 651 - 665 (Title IV-D Social
15 Security Act) to establish and enforce against obligors within this
16 state support obligations determined in other states.

17 (b) Requests from child support enforcement agencies in other
18 states shall be made by application containing the information that
19 this state's agency requires and including written authorization from
20 the requesting state agency and the obligee for this state's agency to
21 initiate action necessary to establish, enforce, and collect the
22 support obligation on their behalf.

23 * Sec. 6. AS 47.23.025 is amended to read:

24 Sec. 47.23.025. RATES OF [PENALTY AND] INTEREST. [A PENALTY
25 IMPOSED UNDER AS 47.23.020(a)(2)(C) MAY NOT BE AT A RATE THAT EXCEEDS
26 THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES UNDER AS 43.05.225.]
27 The rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal
28 the rate imposed under AS 43.05.225 or a lesser rate that is the
29 maximum rate of interest permitted to be imposed under federal law.

1 * Sec. 7. AS 47.23.045 is amended to read:

2 Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency
3 may appear in an action seeking an award of support on [IN] behalf of
4 a child owed a duty of support, or to enforce a spousal support order
5 if a spousal support obligation has been established and if a support
6 obligation, established with respect to a child of that spouse, is
7 also being administered, and may also appear in an action seeking
8 modification of a support order, decree or judgment already entered.
9 Action under this section may be undertaken upon application of an
10 obligee, or at the agency's own discretion if the obligor is liable to
11 the state under AS 47.23.120(a) or (b).

12 * Sec. 8. AS 47.23.060(c) is amended to read:

13 (c) In a court proceeding where the support of a minor child is
14 at issue, the court may order either or both parents to pay the amount
15 necessary for support, maintenance, nurture, and education of the
16 child. The court shall issue a medical support order as part of a
17 child or spousal support order if health care coverage is available to
18 the obligor at a reasonable cost. Upon a showing of good cause the
19 court may order the parents required to pay support to give reasonable
20 security for payments. An order for prospective child support may be
21 modified or revoked as the court considers necessary.

22 * Sec. 9. AS 47.23.100 is amended to read:

23 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
24 provide aid upon application to any person due child support under the
25 laws of this state regardless of whether assistance is received under
26 AS 47.25.310 - 47.25.410 [UPON APPLICATION] The agency may not
27 impose a fee for services provided under AS 47.23.010 - 47.23.280
28 unless required by federal law.

29 * Sec. 10. AS 47.23.150(a) is amended to read:

1 (a) Action to enforce a support order administratively under
2 AS 47.23.230 - 47.23.270 is initiated by the agency serving a notice
3 on the obligor of the obligor's liability under the support order.
4 [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
5 TERED, 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 THAT
8 PERSON'S RESTRICTED DELIVERY MAIL.]

9 * Sec. 11. AS 47.23.226 is amended to read:

10 Sec. 47.23.226. COLLECTION OF [ACTION TO COLLECT] CHILD SUPPORT.
11 To [COMMENCE AN ACTION TO] collect the payment due, the custodian of a
12 child, or the agency on behalf of that person, shall file with the
13 court (1) a motion [PETITION] requesting establishment of a judgment;
14 (2) an affidavit that states that one or more payments of child sup-
15 port are 30 or more days past due and that specifies the amounts past
16 due and the dates they became past due; and (3) notice of the ob-
17 ligor's right to respond. Service on the obligor shall be in the
18 manner provided in AS 47.23.265 [BY THE RULE OF CIVIL PROCEDURE FOR
19 SERVICE OF SUMMONS IN A CIVIL ACTION]. The child's custodian, or the
20 agency on behalf of the custodian, shall file with the court proof of
21 service of the petition, affidavit, and notice. The obligor shall
22 respond no later than 15 days after service by filing an affidavit
23 with the court. If the obligor's affidavit states that the obligor
24 has paid any of the amounts claimed to be delinquent, describes in
25 detail the method of payment or offers any other defense to the peti-
26 tion, then the obligor is entitled to a hearing. After the hearing,
27 if any, the court shall enter a judgment for the amount of money owed.
28 If the obligor does not file an affidavit under this section, the
29 court shall enter a default judgment against the obligor.

1 * Sec. 12. AS 47.23.250(i) is amended to read:

2 (i) Exemptions under AS 09.38 do not apply to proceedings to
3 enforce the payment of child support under AS 47.23.230 - 47.23.270;
4 however, 50 percent of the obligor's net disposable earnings is exempt
5 from execution under AS 47.23.230 - 47.23.253 [47.23.270]. In this
6 subsection, "net disposable earnings" has the meaning given in 15
7 U.S.C. 1672.

8 * Sec. 13. AS 47.23.255 is amended to read:

9 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a)
10 The agency shall pay the obligee all money recovered by the agency
11 under an income withholding [ASSIGNMENT] order except for costs and
12 attorney fees that are recovered from the obligor.

13 (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
14 MENT] order contained in a decision of the agency that has not been
15 set aside by the superior court under AS 47.23.220 shall be enforced
16 under the procedure established in AS 09.65.132.

17 * Sec. 14. AS 47.23.260 is amended to read:

18 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
19 ORDER OR LIEN. If any person, political subdivision, or department of
20 the state (1) fails to make an answer to an order to withhold and
21 deliver within the time prescribed in AS 47.23.250; (2) fails or
22 refuses to deliver property in accordance with an order issued under
23 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
24 real property subject to a lien filed under AS 47.23.230 to or for the
25 benefit of the obligor or any other person; (4) fails or refuses to
26 surrender upon demand property attached; (5) fails or refuses to honor
27 an assignment of wages or an income withholding [ASSIGNMENT] order
28 under AS 09.65.132 presented by the agency, the person, political
29 subdivision, or department of the state is liable to the agency in an

1 amount equal to 100 percent of the amount constituting the basis of
2 the lien, order to withhold and deliver, attachment, or withholding
3 [ASSIGNMENT] of wages or income, together with costs, interest, and
4 reasonable attorney fees.

5 * Sec. 15. AS 47.23.265(a) is amended to read:

6 (a) Except as otherwise provided under this chapter, when a
7 notice, paper, or other document is required by this chapter to be
8 given or served upon a person by the agency, the notice, paper, or
9 other document may be served as required by Rule 5, Alaska Rules of
10 Civil Procedure or any other method permitted by law [SENT BY REGIS-
11 TERED OR CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THAT PERSON.
12 SERVICE BY MAIL UNDER THIS CHAPTER IS EFFECTED WHEN THE NOTICE, PAPER,
13 OR OTHER DOCUMENT IS PROPERLY ADDRESSED REGISTERED OR CERTIFIED, AND
14 MAILED].

15 * Sec. 16. AS 47.23 is amended by adding a new section to read:

16 Sec. 47.23.278. PAYMENTS NOT DISBURSED. Support payments col-
17 lected and held by the agency for seven years without disbursal shall
18 be returned to the obligor.

19 * Sec. 17. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

Introduced: 1/18/85
Referred: Health, Education & Social
Services, Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 92

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 09.10 is amended by adding a new section to read:

10 Sec. 09.10.095. ACTIONS FOR ESTABLISHMENT OF PARENTAGE. A
11 person may bring an action to adjudicate parentage only if it is com-
12 menced before the child whose parentage is at issue reaches the age of
13 18.

14 * Sec. 2. AS 09.65.132 is amended to read:

15 Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
16 SUPPORT. (a) A judgment, court order, or order of the child support
17 enforcement agency (AS 47.23) providing for the support of a minor
18 child must [SHALL] contain an income withholding [ASSIGNMENT] order.

19 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
20 the obligor, the obligor's employer, future employer, and any person,
21 political subdivision, or department of the state to withhold [ASSIGN]
22 money due or to be due the obligor and pay the money to the [OBLIGEE
23 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
24 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
25 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
26 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
27 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
28 140].

29 (c) The agency, on behalf of an [AN] obligee or person or public

1 agency designated to receive support payments, may request an income
2 withholding [ASSIGNMENT] order to take effect by alleging in a sworn
3 statement that the obligor is in arrears in an amount at least equal
4 to the support payable for one month [HAS FAILED TO MAKE A SUPPORT
5 PAYMENT IN FULL WITHIN 45 DAYS OF THE DATE THE PAYMENT WAS DUE] and by
6 filing that statement with the court.

7 (d) If an application is [HAS BEEN] filed with the clerk of
8 court, the obligor must be served with notice, in the manner provided
9 by Rule 5 of the Rules of Civil Procedure, on [SHALL BE SENT BY CER-
10 TIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF
11 THE OBLIGOR. THE NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS
12 AFTER] the date on which the application is [WAS] filed. The notice
13 must [AND SHALL] inform the obligor that the income withholding order
14 [ASSIGNMENT] will take effect 15 days after the date on which the
15 notice was served [RECEIVED] unless the obligor requests a hearing
16 within 15 days after the notice was served [SENT]. If the obligor
17 requests a hearing, an income withholding order [ASSIGNMENT] may not
18 take effect until the conclusion of the hearing. The court shall hold
19 a hearing requested under this section within 15 days after the date
20 the obligor requests the hearing, to determine if there are any mis-
21 takes of fact which would make the withholding order improper or if
22 the amount to be withheld is incorrect. Notice of the withholding
23 decision must be sent to the obligor within 45 days after the notice
24 of proposed withholding. [IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE
25 BEFORE THE HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT.]

26 (e) The obligee or person or public agency that requested the
27 income withholding [ASSIGNMENT] order shall immediately send a copy of
28 the income withholding [ASSIGNMENT] order by certified mail to persons
29 who may owe money to an obligor. An income withholding [ASSIGNMENT]

1 order made under this section is binding upon a person, employer,
2 political subdivision, or department of the state immediately upon
3 receipt of a copy of the income withholding [ASSIGNMENT] order. The
4 employer must begin withholding the specified amount from the employ-
5 ee's wages no later than the first pay period that occurs 14 days
6 after the mailing date on the notice. The amount withheld must be
7 sent to the agency.

8 (f) An employer may not discharge, discipline, or refuse to
9 employ an obligor on the basis of an income withholding order [ASSIGN-
10 MENT] under this section. If an employer discharges, disciplines, or
11 refuses to employ an obligor because of an income withholding obliga-
12 tion, the court, after notice and hearing, may order reinstatement or
13 restitution to the obligor, or both. A person who violates this
14 subsection or a regulation adopted to implement it, is guilty of a
15 misdemeanor and, upon conviction, is punishable by a fine of not more
16 than \$1,000.

17 (g) An income withholding order [ASSIGNMENT] under this section
18 has priority over all other attachments, executions, garnishments, or
19 other legal process brought under state law against the same wages
20 [ASSIGNMENTS UNLESS OTHERWISE ORDERED BY THE COURT]. An income with-
21 holding order [ASSIGNMENT] is not limited to the wages of an obligor
22 but may include all money owed to the obligor not otherwise exempt by
23 law. Exemptions under AS 09.38 do not apply to income assignments
24 under this section[; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
25 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
26 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN
27 15 U.S.C. 1672].

28 (h) The amount withheld from the obligor's wages must be equal
29 to the current support obligation, up to the limits of 15 U.S.C. s 1672.

1 1673(b). If the current support payment does not equal the limits of
2 15 U.S.C. sec. 1673(b), an additional amount may be withheld toward
3 any arrearages. The combined total amount withheld for current sup-
4 port and arrearages may not exceed the limits of 15 U.S.C. sec.
5 1673(b).

6 (i) An obligor may petition the court to terminate the with-
7 holding of income upon good cause shown, such as the emancipation of a
8 child for whom support is paid, the lack of contact by the agency with
9 the obligee, or the timely payment history of an obligor for a three-
10 year period.

11 (j) The court may order an obligor to pay all court [COURTS]
12 costs involved in an income withholding [ASSIGNMENT] proceeding under
13 this section.

14 * Sec. 3. AS 25.20.050 is amended by adding a new subsection to read:

15 (e) An action to adjudicate parentage must be permitted to be
16 initiated until the child whose parentage is at issue reaches age 18.

17 * Sec. 4. AS 25 is amended by adding a new chapter to read:

18 Chapter 26. INTERSTATE INCOME WITHHOLDING ACT.

19 Sec. 25.26.010. PURPOSE. The purpose of this chapter is to
20 enhance the enforcement of support obligations (1) by providing a
21 quick and effective procedure for the withholding of income derived in
22 this jurisdiction to enforce support orders of other jurisdictions,
23 and (2) by requiring that income withholding, to enforce the support
24 orders of this jurisdiction, be sought in other jurisdictions. This
25 chapter must be construed liberally to effect that purpose.

26 Sec. 25.26.020. INITIATION OF INCOME WITHHOLDING AND COOPERATION
27 WITH OTHER JURISDICTIONS. On behalf of a client, or on application of
28 a resident obligee or obligor of a support order issued by this state,
29 or by an agency to whom the obligee has assigned support rights, the

1 Alaska child support enforcement agency shall request the agency of
2 another jurisdiction in which the obligor derives income to obtain an
3 income withholding order. The Alaska agency shall compile and trans-
4 mit to the agency of the other jurisdiction all documentation required
5 to enter a support order for this purpose. The Alaska agency also
6 shall transmit to the agency of the other jurisdiction a certified
7 copy of any subsequent modifications of the support order. If the
8 Alaska agency receives notice that the obligor is contesting income
9 withholding in another jurisdiction, it shall promptly notify the
10 individual obligee of the date, time, and place of the hearings and of
11 the obligee's right to attend.

12 Sec. 25.26.030. RESPONSIBILITIES FOR ENTERING A SUPPORT ORDER OF
13 ANOTHER JURISDICTION FOR PURPOSES OF INCOME WITHHOLDING. (a) Upon
14 receiving from an agency of another jurisdiction a support order of
15 another jurisdiction, along with the documentation specified in (b) of
16 this section, the Alaska agency shall file the documents with the
17 clerk of the court in which withholding is being sought. The clerk of
18 the court shall accept the documents filed. The acceptance consti-
19 tutes entry of the support order under this chapter.

20 (b) The following documentation is required for the entry of a
21 support order of another jurisdiction:

22 (1) a certified copy of the support order with all modi-
23 fications;

24 (2) a certified copy of an income withholding order, if
25 any, still in effect;

26 (3) a copy of the portion of the income withholding statute
27 of the jurisdiction which issued the support order, which states the
28 requirements for obtaining income withholding under the laws of that
29 jurisdiction;

1 (4) a sworn statement of the obligee or certified statement
2 of the agency of the arrearages and the assignment of support rights,
3 if any;

4 (5) a statement of

5 (A) the name, address, and social security number of
6 the obligor, if known;

7 (B) the name and address of the obligor's employer or
8 of any other source of income of the obligor derived in this
9 state against which income withholding is sought;

10 (C) the name and address of the agency or person to
11 whom support payments collected by income withholding must be
12 transmitted.

13 (c) If the documentation received by the agency under (a) of
14 this section does not conform to the requirements of (b) of this
15 section, the agency shall remedy any defect that it can without the
16 assistance of the requesting agency or person. If the agency is
17 unable to make such corrections, the requesting agency or person must
18 immediately be notified of the necessary additions or corrections. In
19 neither case may the documentation be returned. The agency shall file
20 with the court the documentation required by (a) and (b) of this
21 section even if it is not in the usual form required by the laws or
22 court rules of this state, so long as the substantive requirements of
23 this section are met.

24 (d) A support order entered under (a) of this section is en-
25 forceable by an income withholding order against income derived in
26 this state, in the manner and with the effect set out in AS 25.26.040
27 -- 25.26.100 and AS 09.65.132. Entry of the order does not confer
28 jurisdiction on the courts or agencies of this state for any purpose
29 other than income withholding.

1 Sec. 25.26.040. NOTICE. (a) On the date that a support order
2 is entered under AS 25.26.030, the agency shall serve upon the
3 obligor, in accordance with AS 09.65.132(d), notice of a proposed
4 income withholding. That notice must contain the same information
5 required by AS 09.65.132(d). The notice must also advise the obligor
6 that the income withholding was requested on the basis of a support
7 order of another jurisdiction.

8 (b) If the obligor seeks a hearing to contest the proposed
9 income withholding, the agency shall immediately notify the requesting
10 agency, the obligee, and the obligor, or an attorney for either, of
11 the date, time, and place of the hearing, and of the obligee's right
12 to attend the hearing.

13 Sec. 25.26.050. INCOME WITHHOLDING HEARING. (a) At a hearing
14 contesting proposed income withholding based on a support order en-
15 tered under AS 25.26.030, the entered order, accompanying sworn or
16 certified statement, and a certified copy of an income withholding
17 order, if any, still in effect, constitute prima facie proof, without
18 further proof or foundation, that (1) the support order is valid; (2)
19 the amount of current support payments and arrearages is as stated;
20 and (3) the obligee would be entitled to income withholding under the
21 laws of the jurisdiction that issued the support order.

22 (b) Once a prima facie case has been established, the obligor
23 may raise only the following, with the burden on the obligor to estab-
24 lish the defenses:

25 (1) that withholding is not proper because of a mistake of
26 fact that is not res judicata concerning such matters as an error in
27 the amount of current support owed or arrearage that had accrued;
28 mistaken identity of the obligor; or error in the amount of income to
29 be withheld;

1 (2) that the court or agency that issued the support order
2 entered under this chapter lacked personal jurisdiction over the
3 obligor;

4 (3) that the support order entered under this chapter was
5 obtained by fraud; or

6 (4) that the statute of limitations precludes enforcement
7 of all or part of the arrearages.

8 (c) If the obligor presents evidence that constitutes a full or
9 partial defense, the court shall, on the request of the obligee,
10 continue the case to permit further evidence relative to the defense
11 to be adduced by either party. However, if the obligor acknowledges
12 liability sufficient to entitle the obligee to income withholding, the
13 court shall require income withholding for the payment of the current
14 support obligation under the support order and of so much of any
15 arrearages as is not in dispute, while continuing the case with re-
16 spect to those matters still in dispute. The court shall determine
17 those matters still in dispute as soon as possible, and, if appropri-
18 ate, shall modify the withholding order to conform to that resolution.

19 (d) In addition to other procedural devices available to a
20 party, any party to the proceeding, or a guardian ad litem or other
21 representative of the child, may adduce testimony of witnesses in
22 another state, including the parties, and of any of the children, by
23 deposition, written discovery, photographic discovery such as vid-
24 eotaped depositions, or personal appearance before the court by tele-
25 phone or photographic means. The court, on its own motion, may direct
26 that the testimony of a person be taken in another state and may
27 prescribe the manner in which and the terms upon which the testimony
28 is to be taken.

29 (e) A court of this state may request the appropriate court or

1 agency of another state to hold a hearing to adduce evidence, to
2 permit a deposition to be taken to order a party to produce or give
3 evidence under other procedures of that state, and to forward to the
4 court of this state certified copies of the evidence adduced in com-
5 pliance with the request.

6 (f) Upon request of a court or agency of another state the
7 courts of this state, which are competent to hear support matters, may
8 order a person in this state to appear at a hearing or deposition
9 before the court to adduce evidence or to produce or give evidence
10 under other procedures available in this state. A certified copy of
11 the evidence adduced, such as a transcript or videotape, must be
12 forwarded by the clerk of the court to the requesting court or agency.

13 (g) A person within this state may voluntarily testify by state-
14 ment or affidavit in this state for use in a proceeding to obtain
15 income withholding outside this state.

16 Sec. 25.26.060. INCOME WITHHOLDING ORDER. If the obligor does
17 not request a hearing in the time provided, or if a hearing is held
18 and it is determined that the obligee has or is entitled to income
19 withholding under the local law of the jurisdiction that issued the
20 support order, the court shall issue an income withholding order under
21 AS 09.65.132. The agency shall notify the requesting agency or person
22 of the date upon which withholding will begin.

23 Sec. 25.26.070. NOTICE TO EMPLOYER AND OTHER PROVISIONS. The
24 provisions of AS 09.65.132 apply to income withholding based on a
25 support order of another jurisdiction entered under this chapter.

26 Sec. 25.26.080. DISTRIBUTION OF COLLECTED SUPPORT PAYMENTS. (a)
27 The income withholding order must direct payment to be made to the
28 agency. The agency shall transmit to the agency or person designated
29 in AS 25.26.030(b)(5)(C) payments received under an income withholding

1 order that is based on a support order of another jurisdiction entered
2 under this chapter.

3 (b) A support order entered under AS 25.26.030 does not nullify,
4 and is not nullified by, a support order made by a court of this state
5 under any other law, or a support order made by a court of any other
6 state. Amounts collected by withholding of income must be credited
7 against the amounts accruing or accrued for any period under a support
8 order issued by either this state or another state.

9 Sec. 25.26.090. CHANGES IN ORIGINAL ORDER. The agency, upon
10 receiving a certified copy of an amendment or modification to a sup-
11 port order entered under AS 25.26.030, shall initiate, as though the
12 order were a support order of this state, necessary procedures to
13 amend or modify the income withholding order of this state which was
14 based upon the entered support order. The court shall amend or modify
15 the income withholding order to conform to the modified support order.

16 Sec. 25.26.100. CHANGES IN JURISDICTION. If the agency deter-
17 mines that the obligor has obtained employment in another state or has
18 a new or additional source of income in another state, it shall
19 promptly notify the agency that requested the income withholding of
20 the changes, and shall forward to that agency all information it has
21 or can obtain with respect to the obligor's new address and the name
22 and address of the obligor's new employer or other source of income.
23 The agency shall include with the notice a certified copy of the
24 income withholding order in effect in this state.

25 Sec. 25.26.110. VOLUNTARY INCOME WITHHOLDING. A person who is
26 the obligor on a support order of another jurisdiction may obtain
27 voluntary income withholding by filing with the agency a request for
28 the withholding and a certified copy of the support order of the other
29 jurisdiction. The court shall issue an income withholding order under

1 AS 09.65.132. Payment must be made to the agency.

2 Sec. 25.26.120. CHOICE OF LAW. (a) The law of this state
3 applies in all actions and proceedings concerning the issuance, en-
4 forcement, and duration of income withholding orders issued by a court
5 of this state, based upon a support order of another jurisdiction
6 entered under AS 25.26.030, except as provided in (b) of this section.

7 (b) The law of the jurisdiction that issued the support order
8 governs the following:

9 (1) the interpretation of the support order entered under
10 AS 25.26.030, including amount, form of payment, and the duration of
11 support;

12 (2) the amount of support arrearages necessary to require
13 the issuance of an income withholding order.

14 Sec. 25.26.130. ADDITIONAL REMEDIES. The remedy provided in
15 this chapter is in addition to, and not in substitution for, any other
16 remedy otherwise available to enforce a support order of another
17 jurisdiction. Relief under this chapter may not be denied, delayed,
18 or otherwise affected because of the availability of other remedies,
19 nor may relief under any other statute be delayed or denied because of
20 the availability of the remedy in this chapter.

21 Sec. 25.26.140. DEFINITIONS. In this chapter,

22 (1) "agency" means the child support enforcement agency of
23 the Alaska Department of Revenue (AS 47.23) and, when the context
24 requires, means either a court or an administrative unit of another
25 jurisdiction with functions similar to those described in this chap-
26 ter, including the issuance and enforcement of support orders;

27 (2) "child" means a person, whether above or below the age
28 of majority, with respect to whom a support order exists;

29 (3) "court" means the superior court of this state and,

1 when the context requires, means either a court or an agency of another
2 jurisdiction with functions similar to those described in this
3 chapter, including the issuance and enforcement of support orders;

4 (4) "employer" means a payor of income;

5 (5) "income" means all money owed to an obligor, including
6 wages, that is not otherwise exempt by law;

7 (6) "income derived in this jurisdiction" means income, the
8 payor of which is subject to the jurisdiction of this state for the
9 purpose of imposing and enforcing income withholding under AS 09.-
10 65.132;

11 (7) "jurisdiction" means a state or political subdivision,
12 territory, or possession of the United States, the District of
13 Columbia, and the Commonwealth of Puerto Rico;

14 (8) "obligee" means a person or entity entitled to receive
15 support under an order of support; the term includes an agency of
16 another jurisdiction to which a person has assigned his or her right
17 of support;

18 (9) "obligor" means a person required to make payments
19 under the terms of a support order for a child, spouse, or former
20 spouse;

21 (10) "support order" means an order, decree, or judgment
22 for the support, or for the payment of arrearages on the support, of a
23 child, spouse, or former spouse, issued by a court or agency of another
24 jurisdiction, whether interlocutory or final, whether prospectively
25 or retroactively modifiable, and whether incidental to a proceeding
26 for divorce, judicial or legal separation, separate maintenance,
27 paternity, guardianship, civil protection, or other proceeding.

28 * Sec. 5. AS 47.23.020(a) is amended to read:

29 (a) The agency shall

1 when the context requires, means either a court or an agency of another
2 jurisdiction with functions similar to those described in this
3 chapter, including the issuance and enforcement of support orders;

4 (4) "employer" means a payor of income;

5 (5) "income" means all money owed to an obligor, including
6 wages, that is not otherwise exempt by law;

7 (6) "income derived in this jurisdiction" means income, the
8 payor of which is subject to the jurisdiction of this state for the
9 purpose of imposing and enforcing income withholding under AS 09.-
10 65.132;

11 (7) "jurisdiction" means a state or political subdivision,
12 territory, or possession of the United States, the District of
13 Columbia, and the Commonwealth of Puerto Rico;

14 (8) "obligee" means a person or entity entitled to receive
15 support under an order of support; the term includes an agency of
16 another jurisdiction to which a person has assigned his or her right
17 of support;

18 (9) "obligor" means a person required to make payments
19 under the terms of a support order for a child, spouse, or former
20 spouse;

21 (10) "support order" means an order, decree, or judgment
22 for the support, or for the payment of arrearages on the support, of a
23 child, spouse, or former spouse, issued by a court or agency of another
24 jurisdiction, whether interlocutory or final, whether prospectively
25 or retroactively modifiable, and whether incidental to a proceeding
26 for divorce, judicial or legal separation, separate maintenance,
27 paternity, guardianship, civil protection, or other proceeding.

28 * Sec. 5. AS 47.23.020(a) is amended to read:

29 (a) The agency shall

1 AS 09.65.132. Payment must be made to the agency.

2 Sec. 25.26.120. CHOICE OF LAW. (a) The law of this state
3 applies in all actions and proceedings concerning the issuance, en-
4 forcement, and duration of income withholding orders issued by a court
5 of this state, based upon a support order of another jurisdiction
6 entered under AS 25.26.030, except as provided in (b) of this section.

7 (b) The law of the jurisdiction that issued the support order
8 governs the following:

9 (1) the interpretation of the support order entered under
10 AS 25.26.030, including amount, form of payment, and the duration of
11 support;

12 (2) the amount of support arrearages necessary to require
13 the issuance of an income withholding order.

14 Sec. 25.26.130. ADDITIONAL REMEDIES. The remedy provided in
15 this chapter is in addition to, and not in substitution for, any other
16 remedy otherwise available to enforce a support order of another
17 jurisdiction. Relief under this chapter may not be denied, delayed,
18 or otherwise affected because of the availability of other remedies,
19 nor may relief under any other statute be delayed or denied because of
20 the availability of the remedy in this chapter.

21 Sec. 25.26.200. DEFINITIONS. In this chapter,

22 (1) "agency" means the child support enforcement agency of
23 the Alaska Department of Revenue (AS 47.23) and, when the context
24 requires, means either a court or an administrative unit of another
25 jurisdiction with functions similar to those described in this chap-
26 ter, including the issuance and enforcement of support orders;

27 (2) "child" means a person, whether above or below the age
28 of majority, with respect to whom a support order exists;

29 (3) "court" means the superior court of this state and,

- 1 (1) obtain, enforce, and administer child support orders of
2 the superior courts of the state;
- 3 (2) adopt regulations to carry out the purpose of this
4 chapter, including regulations that [WHICH] establish
- 5 (A) schedules for determining the amount an obligor is
6 liable to contribute toward the support of an obligee under this
7 chapter and under 42 U.S.C. 651 -- 665 (Title IV-D, Social Secu-
8 rity Act);
- 9 (B) procedures for hearings conducted under AS 47.23.-
10 170; and
- 11 (C) subject to AS 47.23.025 and to federal law, a
12 uniform schedule of penalties and a rate of interest on arrear-
13 ages of support that must [SHALL] be charged the obligor upon
14 notice if child support payments are 10 or more days overdue or
15 if payment is made by a check backed by insufficient funds;
- 16 (3) administer and enforce the Uniform Reciprocal Enforce-
17 ment of Support Act (AS 25.25);
- 18 (4) establish, enforce, and administer child support obli-
19 gations administratively in accordance with this chapter;
- 20 (5) administer the state plan required under 42 U.S.C. 651
21 -- 665 (Title IV-D, Social Security Act) as amended;
- 22 (6) disburse child support payments collected by the agency
23 to the obligee together with interest charged under (2)(C) of this
24 subsection; [AND]
- 25 (7) deposit penalties charged under (2)(C) of this sub-
26 section in the general fund;
- 27 (8) administer and enforce the Interstate Income Withhold-
28 ing Act (AS 25.26);
- 29 (9) enforce and administer spousal support orders only if a

1 spousal support obligation has been established with respect to the
2 spouse and if the support obligation established with respect to the
3 child of that spouse is also being administered; and

4 (10) obtain medical support orders as part of a child sup-
5 port order if health care coverage is available to the obligor at a
6 reasonable cost.

7 * Sec. 6. AS 47.23.025 is amended to read:

8 Sec. 47.23.025. RATES OF PENALTY AND INTEREST. A penalty im-
9 posed under AS 47.23.020(a)(2)(C) must be 6 percent [MAY NOT BE AT A
10 RATE THAT EXCEEDS THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES
11 UNDER AS 43.05.225]. The rate of interest imposed under AS 47.23.-
12 020(a)(2)(C) must [SHALL] equal the rate imposed under AS 43.05.225 or
13 a lesser rate that is the maximum rate of interest permitted to be
14 imposed under federal law.

15 * Sec. 7. AS 47.23.045 is amended to read:

16 Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency
17 may appear in an action seeking an award of support on [IN] behalf of
18 a child owed a duty of support, or to enforce a spousal support order
19 if a spousal support obligation has been established and if the sup-
20 port obligation, established with respect to a child of that spouse,
21 is also being administered, and may also appear in an action seeking
22 modification of a support order, decree or judgment already entered.
23 Action under this section may be undertaken upon application of an
24 obligee, or at the agency's own discretion if the obligor is liable to
25 the state under AS 47.23.120(a) or (b).

26 * Sec. 8. AS 47.23.060(c) is amended to read:

27 (c) In a court proceeding where the support of a minor child is
28 at issue, the court may order either or both parents to pay the amount
29 necessary for support, maintenance, nurture, and education of the

1 child. The court shall issue a medical support order as part of a
2 child support order if health care coverage is available to the
3 obligor at a reasonable cost. Upon a showing of good cause the court
4 may order the parents required to pay support to give reasonable
5 security for payments. An order for prospective child support may be
6 modified or revoked as the court considers necessary.

7 * Sec. 9. AS 47.23.150(a) is amended to read:

8 (a) Action to enforce a support order administratively under
9 AS 47.23.230 -- 47.23.270 is initiated by the agency serving a notice
10 on the obligor of the obligor's liability under the support order.
11 [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
12 TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
13 RESTRICTED DELIVERY ONLY TO THE PERSON TO WHOM THE NOTICE IS DIRECTED
14 OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT
15 PERSON'S RESTRICTED DELIVERY MAIL.]

16 * Section 10. AS 47.23.226 is amended to read:

17 Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. To commence an
18 action to collect the payment due, the custodian of a child, or the
19 agency on behalf of that person, shall file with the court (1) a
20 petition requesting establishment of a judgment; (2) an affidavit that
21 states that one or more payments of child support are 30 or more days
22 past due and that specifies the amounts past due and the dates they
23 became past due; and (3) notice of the obligor's right to respond.
24 Service on the obligor must [SHALL] be in the manner provided in
25 AS 47.23.265 [BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF SUMMONS
26 IN A CIVIL ACTION]. The child's custodian, or the agency on behalf of
27 the custodian, shall file with the court proof of service of the
28 petition, affidavit, and notice. The obligor shall respond no later
29 than 15 days after service by filing an affidavit with the court. If

1 the obligor's affidavit states that the obligor has paid any of the
2 amounts claimed to be delinquent, describes in detail the method of
3 payment or offers any other defense to the petition, then the obligor
4 is entitled to a hearing. After the hearing, if any, the court shall
5 enter a judgment for the amount of money owed. If the obligor does
6 not file an affidavit under this section, the court shall enter a
7 default judgment against the obligor.

8 * Sec. 11. AS 47.23.250(i) is amended to read:

9 (i) Exemptions under AS 09.38 do not apply to proceedings to
10 enforce the payment of child support under AS 47.23.230 -- 47.23.270;
11 however, 50 percent of the obligor's net disposable earnings is exempt
12 from execution under AS 47.23.230 -- 47.23.253 [47.23.270]. In this
13 subsection, "net disposable earnings" has the meaning given in 15
14 U.S.C. 1672.

15 * Sec. 12. AS 47.23.255 is amended to read:

16 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a) The
17 agency shall pay the obligee all money recovered by the agency under
18 an income withholding [ASSIGNMENT] order except for costs that are
19 recovered from the obligor.

20 (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
21 MENT] order contained in a decision of the agency that has not been
22 set aside by the superior court under AS 47.23.220 must [SHALL] be
23 enforced under the procedure established in AS 09.65.132.

24 * Sec. 13. AS 47.23.260 is amended to read:

25 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
26 ORDER OR LIEN. If any person, political subdivision, or department of
27 the state (1) fails to make an answer to an order to withhold and
28 deliver within the time prescribed in AS 47.23.250; (2) fails or
29 refuses to deliver property in accordance with an order issued under

1 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
2 real property subject to a lien filed under AS 47.23.230 to or for the
3 benefit of the obligor or any other person; (4) fails or refuses to
4 surrender upon demand property attached; (5) fails or refuses to honor
5 an assignment of wages or an income withholding [ASSIGNMENT] order
6 under AS 09.65.132 presented by the agency, the person, political
7 subdivision, or department of the state is liable to the agency in an
8 amount equal to 100 percent of the amount constituting the basis of
9 the lien, order to withhold and deliver, attachment, or withholding
10 [ASSIGNMENT] of wages or income, together with costs, interest, and
11 reasonable attorney fees.

12 * Sec. 14. AS 47.23.265(a) is amended to read:

13 (a) Except as otherwise provided under this chapter, when a
14 notice, paper, or other document is required by this chapter to be
15 given or served upon a person by the agency, the notice, paper, or
16 other document may be served as required by Rule 5, Alaska Rules of
17 Civil Procedure [SENT BY REGISTERED OR CERTIFIED MAIL TO THE LAST
18 KNOWN ADDRESS OF THAT PERSON]. [SERVICE BY MAIL UNDER THIS CHAPTER IS
19 EFFECTED WHEN THE NOTICE, PAPER, OR OTHER DOCUMENT IS PROPERLY AD-
20 DRESSED REGISTERED OR CERTIFIED, AND MAILED.]

21 * Sec. 15. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).