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STATE OF ALASKA THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	3/6/85	1:30 pm
" "	3/8/85	1:30 pm
" "	3/15/85	1:30 pm
" "	3/21/85	1:30 pm
" "	3/26/85	1:30 pm

COMMITTEE REPORT
HOUSE

(7)

FURTHER FINANCE

2/18/85

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 92

"An Act relating to child and spousal support; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 92 (JUD) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John Taylor (10-cc)
POD & 1/18/85 - Note

CHAIRMAN

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.

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:

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

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

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

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

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

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

*Sec. 466 of PL 98-378
mandates each state
must permit the establishment
of parentage at any time
before child's 18th
birthday*

*PL 98-378 requires
income withholding--
collections be deposited &
distributed by a public
agency designated by state
withholding must occur
without amendment of
support order, must
comply with Consumer
Credit Reporting Act (15 U.S.C. 1673b),
must occur when support
overdue one month,
obligation must have
priority over other legal
liabilities. Amount withheld
must be current support
and arrears, requires
notice and opportunity
to contest action for
withholding, must
inform debtor after
notice sent whether
when withholders will
again, must give
employer notice of amount
to be withheld, subject employer
to fine for discharging/ignoring to hire/
disciplining employees, employer liable
for amount not withheld, effort for
employer minimal*

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 *and* 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 *and* 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 *See section 1* (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 *must have withholding* Chapter 26. INTERSTATE INCOME WITHHOLDING ACT.

19 *for interstate cases -* Sec. 25.26.010. PURPOSE. The purpose of this chapter is to
20 *this chapter modelled* enhance the enforcement of support obligations (1) by providing a
21 *after ABA legislation* 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 excludes 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 PL 98-375* Sec. 5. AS 47.23.020(a) is amended to read:

29 ^{must enforce} (a) The agency shall

^{Approved Support}
^{when child support administered,}
HB 92 ^{not obtain medical support order}
^{where reasonable costs, must enforce}
^{withholding interstate}

- 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 *PL 98-378:* Sec. 47.23.025. RATES OF PENALTY AND INTEREST. A penalty im-
9 *may impose* posed under AS 47.23.020(a)(2)(C) must be 6 percent [MAY NOT BE AT A
10 *penalty, not to* RATE THAT EXCEEDS THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES
11 *exceed* 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 *Am'd PL 98-378* 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 *Am'd PL 98-378* (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

support

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 *corrects oversight in* (a) Action to enforce a support order administratively under
9 *ch. 144* AS 47.23.230 -- 47.23.270 is initiated by the agency serving a notice
10 *SLA 1984* on the obligor of the obligor's liability under the support order.
11 *when* [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
12 *AS 47.23.265* TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
13 *which acts* RESTRICTED DELIVERY ONLY TO THE PERSON TO WHOM THE NOTICE IS DIRECTED
14 *out general notice* OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT
15 *provisions* PERSON'S RESTRICTED DELIVERY MAIL.]
16 *of all of*

16 * Section 10. AS 47.23.226 is amended to read:
17 *notice changes not* Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. *Collectory Child* To commence an
18 *PL 96-378* ~~action to collect the payment due~~, the custodian of a child, or the *collective program*
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 *repealed by PL 98-378* (i) Exemptions under AS 09.38 do not apply to proceedings to
10 *sections* enforce the payment of child support under AS 47.23.230 -- 47.23.270;
11 *exempt* however, 50 percent of the obligor's net disposable earnings is exempt
12 *diminishes* from execution under AS 47.23.230 -- 47.23.253 [47.23.270]. In this
13 *withholding* subsection, "net disposable earnings" has the meaning given in 15
14 *will now be* U.S.C. 1673(b) U.S.C. 1672.

15 * Sec. 12. AS 47.23.255 is amended to read:
16 *Simply changes* Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a) The
17 *language of* agency shall pay the obligee all money recovered by the agency under
18 *assignment* an income withholding [ASSIGNMENT] order except for costs that are
19 *to withholding* recovered from the obligor.
20 *other* (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
21 *legal drafting* MENT] order contained in a decision of the agency that has not been
22 *changes* set aside by the superior court under AS 47.23.220 must [SHALL] be
23 *shall format* enforced under the procedure established in AS 09.65.132.

24 * Sec. 13. AS 47.23.260 is amended to read:
25 *also simpler* Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
26 *language* ORDER OR LIEN. If any person, political subdivision, or department of
27 *changes* 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 *notice* (a) Except as otherwise provided under this chapter, when a
14 *changes not* notice, paper, or other document is required by this chapter to be
15 *PL 98-378* 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
THE LEGISLATURE

POUCHET STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1985

SUBJECT: The effect of CSHB 92(Jud) on Civil Rule 77

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for an analysis of the effect of section 1 of CSHB 92(Jud) on Civil Rule 77.

The portion of section 1 in question is the 15-day time period allowed for a response to notice of an application for an income withholding order set out in AS 09.65.132(d). Civil Rule 77 provides that a response is required within 10 days of the notice.

The time conflict is not significant to your bill since the bill language in question is unchanged from that adopted in 1981 and found in section 1 of Chapter 96, SLA 1981. The necessary Rule 77 change was passed at that time in section 12 of Chapter 96. The change is incorporated into Civil Rule 77 by an editor's note to the rule.

GWE:csh
c3/058

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 enforce
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 A
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 to
26 refuse 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.
24
25
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29

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.

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

25 (c) If support payments are in arrears in an amount at least
26 equal to support payable for one month, the agency, on behalf of an
27 [AN] obligee or person or public agency designated to receive support
28 payments, shall [MAY] request an income withholding [ASSIGNMENT] order
29 against the obligor to take effect by filing a sworn statement with

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

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

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

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

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

1 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN 15
2 U.S.C. 1672].

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

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

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

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

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

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

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

26 (1) [Repealed

27 (2)] for the payment by either or both parties of an amount
28 of money or goods, in gross or installments that may include cost-of-
29 living adjustments, as may be just and proper for the parties

1 contribute toward the nurture and education of their children, and the
2 court may order the parties to arrange with their employers for an
3 automatic payroll deduction each month or each pay period, if the
4 period is other than monthly, of the amount of the installment; if the
5 employer agrees, the installment shall be forwarded by the employer to
6 the clerk of the superior court which entered the judgment or to the
7 court trustee, and the amount of the installment is exempt from execu-
8 tion;

9 (2) [(3)] for the recovery by one party from the other of
10 an amount of money for maintenance, in gross or in installments, as
11 may be just and necessary without regard to which of the parties is in
12 fault;

13 (3) [(4)] for the delivery to either party of that party's
14 personal property in the possession or control of the other party at
15 the time of giving the judgment;

16 [(5) Repealed]

17 (4) [(6)] for the division between the parties of their
18 property, whether joint or separate, acquired only during coverture,
19 in the manner as may be just, and without regard to which of the
20 parties is in fault; however, the court, in making the division, may
21 invade the property of either spouse acquired before marriage when the
22 balancing of the equities between the parties requires it; and to
23 accomplish this end the judgment may require that one or both of the
24 parties assign, deliver, or convey any of their real or personal
25 property to the other party;

26 (5) [(7)] to change the name of one of the parties.

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

28 (a) The agency shall

29 (1) seek enforcement of [OBTAIN, ENFORCE, AND ADMINISTER]

1 child support orders of the superior courts of the state in other
2 jurisdictions and shall obtain, enforce, and administer the orders in
3 this state;

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

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

10 (B) procedures for hearings conducted under AS 47.23.-
11 170; and

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

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

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

21 (5) administer the state plan required under 42 U.S.C.
22 651 - 665 (Title IV-D, Social Security Act) as amended;

23 (6) disburse child support payments collected by the agency
24 to the obligee together with interest charged under (2)(C) of this
25 subsection; [AM.]

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

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

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

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

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

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

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

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

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

29 Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency

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

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

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

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

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

25 (b) An employer of an obligor or a labor union of which an
26 obligor is a member that knowingly violates this section is liable for
27 a civil penalty of not more than \$1,000.

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

29 (a) Action to enforce a support order administratively under

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

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

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

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

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

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

8 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a)
9 The agency shall pay to the obligee all money recovered by the agency
10 from the obligor under an income withholding [ASSIGNMENT] order except
11 for court costs and money assigned to the agency under AS 47.23.120 -
12 47.23.130 [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

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

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

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

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

Sec. 47.23.278. PAYMENTS NOT DISBURSED. Support payments collected and held by the agency for seven years without disbursal shall be returned to the obligor.

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

A M E N D M E N T

Offered in the HOUSE

By Taylor

TO: CSHB 92(Jud)

Page 1, line 14, after "order.", insert:

"An income withholding order under this section may not be enforced unless the obligor had (actual) notice of the order when it was made or an application for the order was served on the obligor in the manner provided for service of a summons under Rule 4, Alaska Rules of Civil Procedure."

Edwards
3/25/85 ✓

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.

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

25 (c) If support payments are in arrears in an amount at least
26 equal to support payable for one month, the agency, on behalf of an
27 [AN] obligee or person or public agency designated to receive support
28 payments, shall [MAY] request an income withholding [ASSIGNMENT] order
29 against the obligor to take effect by filing a sworn statement with

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

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

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

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

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

3 (h) The court may order payment of [AN OBLIGOR TO PAY] all court
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5 [ASSIGNMENT] proceeding under this section.

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

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

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

22 * Sec. 3. AS 47.23.020(a) is amended to read:

23 (a) The agency shall

24 (1) seek enforcement of [OBTAIN, ENFORCE, AND ADMINISTER]
25 child support orders of the superior courts of the state in other
26 jurisdictions and shall obtain, enforce, and administer the orders in
27 this state;

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

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

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17 651 - 665 (Title IV-D, Social Security Act) as amended;

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

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

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

29 (9) obtain a medical support order as part of a child

1 support order if health care coverage is available to the obligor at a
2 reasonable cost.

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5 The agency may act, under the laws of this state, upon requests from
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11 states shall be made by application containing the information that
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20 The rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal
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2 Action under this section may be undertaken upon application of an
3 obligee, or at the agency's own discretion if the obligor is liable to
4 the state under AS 47.23.120(a) or (b).

5 * Sec. 7. AS 47.23.060(c) is amended to read:

6 (c) In a court proceeding where the support of a minor child is
7 at issue, the court may order either or both parents to pay the amount
8 necessary for support, maintenance, nurture, and education of the
9 child. The court shall issue a medical support order as part of a
10 child support order if health care coverage is available to the obli-
11 gor at a reasonable cost. Upon a showing of good cause the court may
12 order the parents required to pay support to give reasonable security
13 for payments. An order for prospective child support may be modified
14 or revoked as the court considers necessary.

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

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

20 (b) An employer of an obligor or a labor union of which an
21 obligor is a member that knowingly violates this section is liable for
22 a civil penalty of not more than \$1,000.

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

24 (a) Action to enforce a support order administratively under
25 AS 47.23.230 - 47.23.270 is initiated by the agency serving a notice
26 on the obligor of the obligor's liability under the support order.
27 [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
28 TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
29 RESTRICTED DELIVERY ONLY TO THE PERSON TO WHOM THE NOTICE IS DIRECTED

OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT PERSON'S RESTRICTED DELIVERY MAIL.]

* Sec. 10. AS 47.23.226 is amended to read:

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

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

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

1 earnings" has the meaning given in 15 U.S.C. 1672.

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

3 Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a)
4 The agency shall pay to the obligee all money recovered by the agency
5 from the obligor under an income withholding [ASSIGNMENT] order except
6 for court costs and money assigned to the agency under AS 47.23.120 -
7 47.23.130 [THAT ARE RECOVERED FROM THE OBLIGOR].

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

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

13 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
14 ORDER OR LIEN. If any person, political subdivision, or department of
15 the state (1) fails to make an answer to an order to withhold and
16 deliver within the time prescribed in AS 47.23.250; (2) fails or
17 refuses to deliver property in accordance with an order issued under
18 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
19 real property subject to a lien filed under AS 47.23.230 to or for the
20 benefit of the obligor or any other person; (4) fails or refuses to
21 surrender upon demand property attached; (5) fails or refuses to honor
22 an assignment of wages or an income withholding [ASSIGNMENT] order
23 under AS 09.65.132 presented by the agency, the person, political
24 subdivision, or department of the state is liable to the agency in an
25 amount equal to 100 percent of the amount constituting the basis of
26 the lien, order to withhold and deliver, attachment, or withholding
27 [ASSIGNMENT] of wages or income, together with costs, interest, and
28 reasonable attorney fees.

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

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

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

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

14 * Sec. 16. This Act takes effect October 1, 1985.
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A M E N D M E N T

Offered in the HOUSE

By Clocksin

TO: CSHB 92 (HESS)

Page 1, line 29, delete:

"[TO TAKE EFFECT]" and insert "to take effect"

Page 2, line 7, after "obligor", insert:

"by the agency"

Page 2, line 25, after "commence.", insert:

"It is not a legal defense under this section that ^{less than one} ~~partial payment of~~
~~monthly payment is owed if the payment was made after~~
~~an amount owed at the time notice was served under this section, has~~
since been paid."

Page 2, line 29, delete:

"and" and insert "1"

Page 3, line 7, delete:

"47.23.270" and insert "AS 09.65.132, and an explanation of the effect-
of the statutes"

Page 3, line 7, after "notice", insert:

"of withholding"

Page 3, line 16, delete:

"fine" and insert "civil penalty"

Page 3, line 19, delete:

"pages" and insert "money"

Page 3, lines 28 - 29, delete:

"the plainciff's court [ALL COURTS] costs and reasonable attorney fees" and insert "all court costs"

Page 4, line 9, after "payment", insert:

"to the agency"

Page 4, lines 11 - 14, delete:

"If in receipt of more than one income withholding order regarding one obligor, the employer shall honor the orders by paying each in full in the sequence of its receipt to the extent permitted under 15 U.S.C. 1673(b)."

Page 4, line 20, delete:

"An obligor may petition" and insert "A petition by the obligor to"

Page 4, lines 21 - 23, delete:

", if all support payments are current, upon good cause shown, such as the emancipation of a child for whom support is paid, or the lack of contract by the agency with the obligee"

Insert: "may be granted upon good cause shown. Good cause includes the emancipation of a child for whom support is owed, the lack of contact by the agency with the obligee, or a written agreement by the parties ^{which is} approved by the agency"

Page 4, line 24, through page 5, line 28, delete all material.

Renumb remaining bill sections accordingly

~~Page 7, line 6, after "administered", insert~~
~~"even if not sought by the obligee"~~

Page 7, lines 7 - 8, delete:

"or spousal"

Page 8, line 17, delete "or spousal"

Page 8, after line 21, insert a new bill section to read:

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

Sec. 47.23.075. EMPLOYMENT INFORMATION. (a) The employer of an obligor or a labor union of which an obligor is a member shall provide to the agency information requested regarding the obligor's employment, wages or salary, and location.

(b) An employer of an obligor or a labor union of which an obligor is a member that violates this section is liable for a civil penalty of not more than \$1,000."

Page 8, lines 22 - 28, delete all material

Renumber succeeding sections accordingly

Page 10, lines 4 - 5, delete:

"50 percent of the obligor's net disposable earnings is exempt from execution under AS 47.23.230 - 47.23.253 [47.23.270]" and insert "[50 PERCENT OF THE OBLIGOR'S] net disposable earnings are [IS] exempt from execution as provided in 15 U.S.C. 1673(b) [UNDER AS 47.23.230 - 47.23.270]"

Page 10, lines 10 - 12, delete all material and insert:

"The agency shall pay to the obligee all money recovered by the agency from an obligor under an income withholding [ASSIGNMENT] order except for court costs and money assigned to the agency under AS 47.23.120 - 47.23.130 [THAT ARE RECOVERED FROM THE OBLIGOR]"

Page 11, lines 19 - 20, delete:

"immediately in accordance with AS 01.10.070(c)" and insert "October 1, 1985"

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CSHB 92 HESS
 Title: An Act relating to child support enforcement
 Sponsor: Governor
 Requestor: Governor
 Date of Request: 1-17-85

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: 2-25-85

Approved by Commissioner: Milt Tucker Acting
 Agency: Dept. of Revenue

Date: 3-1-85

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.)

POSITION PAPER

HOUSE BILL No. 92

For "An act relating to child and spousal support; and providing for an effective date."

House Bill No. 92 provides for a series of changes in the statutes governing the operations of the Child Support Enforcement Division (CSED) of the Department of Revenue. Most of these changes are required by the federal Child Support Enforcement Amendments of 1984.

The Department of Health and Social Services supports any reasonable, cost-effective measures which would improve the ability of CSED to establish and collect child support obligations. The funds it collects, on behalf of children receiving assistance under our Aid to Families with Dependent Children Program (AFDC), are partially retained by the state as an offset to AFDC expenditures. Successful collections on behalf of AFDC recipients do result in families leaving the AFDC rolls. Just as importantly, we believe prompt and successful collection efforts on behalf of children who are not receiving AFDC is often instrumental in keeping the family from needing to apply for assistance. We view CSED's success as an essential element in restraining the rapid growth in AFDC expenditures.

An amendment in federal law included in the Child Support Enforcement Amendments of 1984 makes the passage of HB No. 92 of vital interest to our Department. This amendment provides that, should a state's child support enforcement activities be found to be substantially out of compliance with federal requirements and performance standards, the fiscal penalty to the state will be taken as a percentage decrease in the state's AFDC 50 percent federal matching funds. With this amendment comes a clearly-stated congressional intent not merely to threaten such penalties, but to actually enforce them.

RECOMMENDATION

Since passage of HB No. 92 is necessary to ensure CSED's compliance and failure to pass this legislation may pose an actual threat to AFDC federal funding of a magnitude that may even require supplemental state funding, we urge you to enact this bill substantially as written.

Recommended by: John R. Taber
John R. Taber, Director
Division of Public Assistance

Date: 1/28/85

Approved by: John R. Pugh
John R. Pugh, Commissioner
Department of Health & Social
Services

Date: 1/30/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 92
 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)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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 *JRT* Phone: 465-3347
 Division: Public Assistance Date: _____

Approved by Commissioner: John R. Poy 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.

MEMORANDUM

TO: HOUSE HESS COMMITTEE MEMBERS
FROM: NANCY BENNETT, COMMITTEE STAFF
RE: CS FOR HB 92 (HESS) - CHANGES IN THE BILL
DATE: FEBRUARY 13, 1985

SECTION 1 and 3 were deleted from the original bill because the committee determined that existing state law already provides remedies for paternity determination better than what was proposed in HB 92.

SECTION 4 was deleted because the subcommittee decided to pursue a different route in providing for interstate income withholding of support payments (see section 4) rather than adoption of a Model Law.

Page 1, lines 25-29 and page 2 lines 1-3: The language was rewritten to be more concise and readable. "May" on page 1, line 28 was changed to "shall" to comply with PL 98-378 which requires income withholding orders.

Page 2, line 22: The language "or if there are any other legal defenses" was added to the sentence as a finding of the court hearing.

Page 2, lines 22-25: This amendment was suggested by Judge Carlson, to make the law comply with the reality of court operations.

Page 3, lines 14-16: Removed language which provided for a misdemeanor for an employer who violates the section.

Page 3, line 29: Added "and reasonable attorney fees" to what the court may order in addition to court costs.

Page 4, line 20: Added "reduce" to grant more discretion to the court in adjusting orders.

Page 4, lines 21-23: Language re-written to comply with federal law. It provides that payments can be terminated or reduced if all arrears are paid but language allowing termination upon a good payment history was deleted since it was determined out of compliance with federal regulations.

Page 4, lines 26-29: Language was added to allow the agency to proceed with interstate support obligations.

Page 5, line 10: Deleted language relating to penalties since the committee determined, upon testimony by the agency director, that penalties are administratively difficult to determine and rarely collected.

Page 5, lines 23-25: Deleted previous language concerning penalties and added language allowing the agency to work interstate support obligations through the courts of the state.

Page 6, line 3: Added "spousal" to the provision for medical support order since many orders are combined for child and spousal support.

Page 6, line 5-17: Added a new section to the bill to apply all state laws relating to support enforcement to interstate obligations the agency may receive.

Page 6, lines 19-21: Deleted all language related to penalties.

Page 7, line 12: Added "or spousal".

Page 7, line 18-23: Added language to this section to guarantee non-discrimination on the basis of receipt of public assistance.

Page 8, lines 5-8: Judge Carlson suggested language to make clear the intent of the section. Also changed "petition" (line 8) to "motion".

Page 9, line 7: Added "attorney fees" to be consistent with language in other sections of the bill.

Page 10, line 5: Added language concerning notice to make the section consistent with other parts of the bill amending notice provisions.

Page 10, lines 11-13: Added a new section to the bill providing that undistributed payments may be returned to the obligor after seven years.

SECTIONAL ANALYSIS

CSHB 92 (HESS) AN ACT RELATING TO CHILD AND SPOUSAL SUPPORT; EFD.

- SEC 1-2 PL 98-378 requires income withholding. Collections are to be deposited and distributed by a public agency designated by the state. Withholding must occur without amendment of support order, must comply with Consumer Credit Reporting Act [15USC 1673(b)], must occur when support is overdue in an amount equal to one month's support. Support obligation must have priority over other legal processes, the amount withheld must be current support and arrears. Notice is required as well as an opportunity to contest action for mistakes of fact. Within 45 days, the obligor must be informed if and when withholding will begin. Employer must have notice of the amount to be withheld, must be subject to fine for discharging, refusing to hire and disciplining employee and will be held liable for amount not withheld. The law is to make the employer effort as minimal as possible.
- Sec 3 PL 98-378 requires enforcement of spousal support orders when a child support order is being enforced. Agency must also obtain medical support order when costs are reasonable. Agency must enforce interstate obligations.
- Sec 4 New section of law designed to provide that all child support laws of Alaska are applicable to requests from other jurisdictions. Requests must be accompanied by information needed by the agency, on forms which they specify.
- Sec 5 Deleted all language in this section and section 3 relating to penalties in the statute. Developing the amount of penalties is a large administrative problem and penalties are seldom collected.
- Sec 6 Language complies with the requirement that spousal support obligations must be administered if a child support obligation is administered by the agency.
- Sec 7 Language complies with the requirement that a medical support order must accompany a child support order if the cost is reasonable.
- Sec 8 Language provides that the agency must provide services without discrimination on the basis of receipt of public

assistance.

- Sec 9 Language corrects oversight in Ch. 144, SLA 84 when AS 47.23.265 was enacted, which sets out general notice provisions in all of AS 47.23.
- Sec 10 Clean up language suggested by Judge Carlson (lines 5-8). Other provisions change general notice requirements in compliance with section 9.
- Sec 11 PL 98-378 requires that withholding orders are subject to 15 USC 1673 (b), Consumer Credit Reporting Act.
- Sec 12 Language changes consistent with other sections, and allows the agency to retain costs of attorney fees.
- Sec 13 Language changes consistent with other sections.
- Sec 14 Notice changes consistent with section 9.
- Sec 15 New section which allows undistributed support payments to be returned to obligor.
- Sec 16 Immediate effective date.



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

FOUCH V
JUNEAU, AK 99811
465-3759

ACCEPTED 2/14/84

Proposed amendmer.t

Sec. 25.24.160 Judgment.

change as follows:

(2) for the payment by either or both parties of an amount of money or goods, in gross or installments, as may be just and proper for the parties to contribute toward the nurture and education of their children, such an order may include an automatic cost-of-living increase, and the court may order the parties to arrange with their employers for an automatic payroll deduction each month or each pay period, if the period is other than monthly, of the amount of the installment; if the employer agrees, the installment shall be forwarded by the employer to the clerk of the superior court which entered the judgment or to the court trustee, and the amount of the installment is exempt from execution.

King v. King, Sup. Ct. Op. No. 650 (File No. 1235), 477 P.2d 356 (1970).

The "clean hands" doctrine serves no purpose in a setting where the court is asked to modify its own custody award as specifically allowed by the statute. King v. King, Sup. Ct. Op. No. 650 (File No. 1235), 477 P.2d 356 (1970).

Courts will recognize and enforce custody decrees of a sister state without reexamination of their merits, regardless of change of conditions, when there is mis-

conduct or malfeasance on the part of the parent seeking such reexamination, by invoking the doctrine of "clean hands." This misconduct generally consists of defiantly leaving a sister state, usually the marital domicile, with the minor to avoid its jurisdiction and for the purpose of seeking redetermination of the issue in a more favorable forum. King v. King, Sup. Ct. Op. No. 650 (File No. 1235), 477 P.2d 356 (1970).

Collateral references. — Consent of natural parents as essential to adoption where parents are divorced, 47 ALR2d 824.

Court's power as to custody and visitation of children in marriage annulment proceedings, 63 ALR2d 1008.

Mental health of contesting parent as factor in award of child custody, 74 ALR2d 1073.

Power of court which denied divorce, legal separation or annulment, to award custody or make provisions for support of child, 7 ALR3d 1096.

Withholding or denying visitation rights for failure to make alimony or support payments, 51 ALR3d 520.

Right, in child custody proceedings, to cross-examine investigating officer whose report is used by court in its decision, 59 ALR3d 1337.

Effect in subsequent proceedings, of paternity findings or implications in divorce or annulment decree or in support or custody made incident thereto, 78 ALR3d 846.

Grandparents' visitation rights, 90 ALR3d 222.

Rights and remedies of parents inter se with respect to the names of their children, 92 ALR3d 1091.

Admissibility of social worker's expert testimony on custody issue, 1 ALR4th 837.

Visitation rights of persons other than natural parents or grandparents, 1 ALR4th 1270.

Parent's physical disability or handicap as factor in custody award or proceedings, 3 ALR4th 1044.

Initial award or denial of child custody to homosexual or lesbian parent, 6 ALR4th 1297.

Race as factor in custody award or proceedings, 10 ALR4th 796.

Desire of child as to geographical location of residence or domicile as factor in awarding custody or terminating parental rights, 10 ALR4th 827.

Right of incarcerated mother to retain custody of infant in penal institution, 14 ALR4th 748.

Propriety of awarding joint custody of children, 17 ALR4th 1013.

Propriety of awarding custody of child to parent residing or intending to reside in foreign country, 20 ALR4th 677.

Sec. 25.24.160. Judgment. In a judgment in an action for divorce or action declaring a marriage void or at any time after judgment, the court may provide

(1) *[Repealed, § 2 ch 160 SLA 1968.]*

(2) for the payment by either or both parties of an amount of money or goods, in gross or installments, as may be just and proper for the parties to contribute toward the nurture and education of their children; and the court may order the parties to arrange with their employers for an automatic payroll deduction each month or each pay period, if the period is other than monthly, of the amount of the installment; if the employer agrees, the installment shall be forwarded by the employer to the clerk of the superior court which entered the judgment

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or to the court trustee, and the amount of the installment is exempt from execution;

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

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

(5) [Repealed, § 5 ch 251 SLA 1976.]

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

(7) to change the name of one of the parties. (§ 12.14 ch 101 SLA 1962; am § 1 ch 84 SLA 1966; am §§ 2 — 6 ch 160 SLA 1968; am §§ 72, 73 ch 127 SLA 1974; am § 5 ch 251 SLA 1976)

Revisor's notes. — Formerly AS 09.55.210. Renumbered in 1983.

NOTES TO DECISIONS

- I. General Consideration.
- II. Child Support.
- III. Alimony.
- IV. Division of Property.
 - A. In General.
 - B. What Constitutes Property.

I. GENERAL CONSIDERATION.

This section and AS 09.55.220 (now AS 25.24.170) are predicated upon the court's jurisdiction of the parties and the subject matter. *Weber v. Weber*, 10 Alaska 214 (1942).

And jurisdiction of defendant's person is necessary for money judgment for alimony. — Where the plaintiff was a resident of Connecticut and the defendant a resident of Alaska, constructive service of summons being made on the defendant in Alaska, the court of the forum had jurisdiction of the marital status but did not have jurisdiction of the person of the defendant which is essential for the entry of a money judgment for alimony. *Thornhill v. Huston*, 13 Alaska 150 (1951).

Quoted in *Balchen v. Balchen*, Sup. Ct. Op. No. 1469 (File No. 3178), 566 P.2d 1324 (1977); *Allen v. Allen*, Sup. Ct. Op.

No. 2514 (File No. 6006), 645 P.2d 774 (1982).

Cited in *Otton v. Zaborac*, Sup. Ct. Op. No. 1072 (File No. 2050), 525 P.2d 537 (1974); *Guterman v. First Nat'l Bank*, Sup. Ct. Op. No. 1876 (File No. 3996), 597 P.2d 969 (1979).

II. CHILD SUPPORT.

The trial court is given broad discretion in fashioning suitable visitation rights and support obligations. *Curgus v. Curgus*, Sup. Ct. Op. No. 943 (File No. 1837), 514 P.2d 647 (1973).

Continuation of educational support beyond age of majority. — A reasonable construction of this section allows for the continuation of educational support of children beyond the age of majority. *Hinchey v. Hinchey*, Sup. Ct. Op. No. 2312 (File No. 3528), 625 P.2d 297 (1981).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

February 5, 1985

The Honorable Max Gruenberg
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 92 Child and Spousal
Support

Dear Representative Gruenberg:

During the House HESS committee meeting on January 30, 1985, you asked me to look into the constitutional issue of due process in relation to the use of regular mail as a means of affording notice to obligors in child support enforcement actions. 1/ Your question was predicated on the Child Support Enforcement Division's proposal that the agency be allowed to use regular mail to notify an obligor of enforcement actions.

The seminal United States Supreme Court case concerning notice continues to be Mullane v. Central Hanover Bank and Trust Co., 399 U.S. 306, 314, 315 (1950) which provides that:

An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. ... The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected, ... or, where conditions do not reasonably permit such notice, that the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes.

1/ My focus is limited to the case where a child support amount has been established and the obligor had notice and an opportunity to be heard in the establishment proceeding.

The Honorable Max Gruenberg
Alaska State Legislature
Re: HB 92 Child and Spousal Support

February 5, 1985
Page 2

The Alaska Supreme Court has relied upon this standard in its own decisions regarding procedural due process requirements. 2/ In Balchen v. Balchen 566 P.2d 1324, 1327 (Alaska 1977) the Alaska Supreme Court found that the formal complaint-summons service requirements of Civil Rule 4 are inappropriate in proceedings which seek to enforce terms of a prior divorce decree relating to child support payments, for, unlike most judgments, divorce decrees can be modified at anytime. The appropriate procedure to be followed in such cases is set forth in the Civil Rule 5. 3/

Civil Rule 5 provides in part:

(b) Service -- How Made. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing....

2/ In State v. Bowers Office Products, Inc. 621 P.2d 11, 13 (Alaska 1980) the court found that the use of regular mail was adequate service to notify potential bidders of a bid amendment.

In Wickersham v. State Commercial Fisheries Entry Commission, 680 P.2d 1135, 1145, 1147 (Alaska 1984) the Alaska Supreme Court found that the Commission's efforts to notify potential applicants for limited entry permits through bulk mailing and media advertisements were constitutionally adequate, even if the materials sent by the Commission never actually reached the potential applicants.

3/ In Balchen three years had elapsed between the divorce decree and the modification hearing.

The Honorable Max Gruenberg
Alaska State Legislature
Re: HB 92 Child and Spousal Support

February 5, 1985
Page 3

It is the contention of the Child Support Enforcement Division that as in other continuing civil litigation the obligor bears responsibility for keeping the agency or the court informed of his or her current address. ^{4/} In the child support cases in question an obligor has participated, or had the opportunity to participate, in a prior judicial proceeding regarding his or her child support obligation. The court has continuing jurisdiction of the child support matter. To require the agency to meet the requirements of Civil Rule 4, as if each enforcement proceeding were a new action appears unduly onerous and would interfere unnecessarily with the enforcement process.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: *Elizabeth L. Shaw*
Elizabeth L. Shaw
Assistant Attorney General

ELS:bap

4/ AS 47.23.265(b) provides:

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

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

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.

Sectional Summary. Relates to PL 98-378
★ - effective earlier than 10/1/85

Child Support Enforcement Amendments of 1984

Section 1 Bill title.



Section 2 Would amend section 451 of the Social Security Act to clarify that assistance in obtaining support must be available to all children for whom such assistance is requested.

*Equal Treatment
eff. with
 enactment*

Section 3 Would amend section 454 of the Social Security Act to require States to have laws in effect October 1, 1985 requiring procedures for:

*eff date
applies to all
mandatory
practices*

provisions

- o automatic wage withholding in the case of all IV-D child support payments delinquent in an amount equal to one month's support obligation, or upon request by the absent parent, or any time earlier which the State may choose. Withholding must be paid through public or publicly-accountable entities with accurate recordkeeping and monitoring. Advance notice must be given to the absent parent. If contested, State has 45 days from the advance notice to inform absent parent if withholding will occur and (if so) when. The amount to be withheld could include a fee to cover employer costs, at State option. Employer may waive the fee. Provisions must be made for withholding in interstate cases and terminating withholdings in all cases. At the States' option, income other than wages may be subject to withholding.
- o expedited processes, either through the judicial or administrative system for the establishment and enforcement of support obligations. States may include establishment of paternity in these processes.
- o offsetting State tax refunds to collect overdue support for AFDC and non-AFDC cases, except in appropriate cases.
- o imposing liens against real and personal property for amounts of overdue support, except in appropriate cases.
- o authorizing the court to require a security, bond, or other guarantee to secure support obligations from absent parents with a pattern of overdue support, except in appropriate cases.
- o permitting the establishment of paternity for both AFDC and non-AFDC children until their 18th birthdays.
- o making information available to the consumer credit agencies upon request if amounts of overdue support are in excess of \$1000, except in appropriate cases. States may recover costs of this activity from the credit agencies.
- o all support orders issued or modified after October 1, 1985 to include a provision for wage withholding.
- o Secretary may grant States exemption from the eight requirements above if such State demonstrates that the use of such procedure(s) would not increase the effectiveness or efficiency of the State child support program.

Rule 5. Service and Filing of Pleadings and Other Papers.

(a) **Service—When Required.** Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

In an action begun by seizure of property, whether through arrest, attachment, garnishment or similar process, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) **Service—How Made.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service, execution and return based on a copy of any paper transmitted by telegraph or radio may be made by the person to whom directed with the same effect as if such copy were the original. In such case the original shall be filed in the court from which it was issued.

(c) **Service—Numerous Defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) **Filing.**

(1) Except as provided in (2) of this paragraph, all papers after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter.

(2) Unless filing is ordered by the court on motion of a party or on its own motion, the following may not be filed unless and until they are used in the proceedings:

- (i) notices of taking depositions;
- (ii) interrogatories and requests for admissions and answers thereto;
- (iii) requests for production and responses thereto;
- (iv) subpoenas, including subpoenas duces tecum;
- (v) offers of judgment;
- (vi) proof of service of any of the above;
- (vii) copies of correspondence between counsel.

(e) **Filing With the Court Defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court at the court location where the case is filed unless otherwise directed by the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(f) **Proof of Service.** Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof is prescribed in these rules, must show

the day and manner of service and may be by written acknowledgement of service, by certificate of an attorney, by affidavit of the person who served the papers, or by any other proof satisfactory to the court. Proof of service must be made promptly and in any event before action is to be taken on the paper served by the court or the parties. Failure to make the proof of service required by this subdivision does not affect the validity of service; and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to the substantial rights of any party.

(g) Service After Final Judgment.

(1) Notwithstanding the provisions of paragraph (b) of this rule requiring service upon an attorney, a party who has been represented by an attorney in an action or proceeding shall himself be served in accordance with the provisions of paragraph (b) with a motion or other request for relief filed in the action or proceeding where a period of one year has elapsed since the filing of any paper or the issuance of any process in the action or proceeding, and

(i) The final judgment or decree has been entered and the time for filing an appeal has expired or

(ii) If an appeal has been taken, the final judgment or decree upon remand has been entered or the mandate has been issued affirming the judgment or decree, and

(iii) The party's attorney has not filed a notice of continued representation under Rule 81(d)(2).

(2) If a party is served under circumstances described in Section (1) of this paragraph, or if a party appeared in his or her own behalf in the prior action or proceeding, the paper served shall include notice to the party of his right to file written opposition or response, the time within which such opposition or response must be filed, and the place where it must be filed. (Amended by Supreme Court Order 258 effective November 15, 1976; by Supreme Court Order 354 effective April 1, 1979; by Supreme Court Order 372 effective August 15, 1979; by Supreme Court Order 375 effective August 15, 1979; by Supreme Court Order 410 effective May 15, 1980; by Supreme Court Order 471 effective June 1, 1981; and by Supreme Court Order 522 effective October 1, 1982)

320(b).⁷ Thus, while we recognize that strict or absolute necessity is not required, something more than mere convenience must be shown before an occupant of tidelands is entitled to an easement under the provisions of that statute.

[3] Applying the foregoing rule to the instant case, we hold that the trial judge was clearly mistaken in finding that there was a substantial basis for the City engineer's conclusion that the alleged easement was reasonably necessary for appellees' use and enjoyment of their property. The record was devoid of such evidence. At most, the easement was shown to be a matter of added convenience.

Our search of the record fails to disclose evidence sufficient to support appellees' contention that the access available from Water Street would not provide them with a reasonable mode of ingress and egress sufficient to allow them full use and enjoyment of their property. The fact that such access may be less convenient, or that it is not a method of access commonly used by them or their predecessors in interest, does not mean that it is unavailable or that it is not a reasonable mode of access.

The judgment of the superior court is reversed. This matter is remanded for entry of judgment in favor of appellant, such judgment to include an award for costs and reasonable attorney's fees. Our resolution of this case makes it unnecessary for us to decide the other issues presented by the appeal or by appellees' cross appeal.

REVERSED and REMANDED for entry of judgment in favor of appellant.



7. We do not imply that the term "reasonably necessary" should be defined in this manner for the purpose of determining portions of unoccupied tidelands reasonably necessary to an occupant's use and enjoyment of occupied

Alphonse P. BALCHEN, Appellant.

v.

Majorie A. BALCHEN, Appellee.

No. 3178.

Supreme Court of Alaska.

Aug. 5, 1977.

The Superior Court, Third Judicial District, James K. Singleton, J., denied former husband's motion to set aside 1975 judgment entered in favor of former wife on her motion for judgment on back child support to which she was entitled under 1975 divorce decree, and former husband appeared. The Supreme Court, Rabinowitz, held that: (1) facts that former husband rather than his attorney, was served with copy of motion for judgment on back child support and that court's permission had not been obtained prior to serving former husband did not render judgment void; despite fact that service of motion was procedurally defective in that it contained no notice of hearing date and failed to advise former husband of right to file opposition to motion, procedural defects did not furnish sufficient grounds for vacation of judgment since defects were neither jurisdictional nor did they rise to the level of a due process violation.

Affirmed in part and modified in part.

1. Judgment \Rightarrow 15, 349

A judgment rendered without jurisdiction is void and is thus vulnerable to attack pursuant to rule governing motion to set aside judgment. Rules of Civil Procedure rule 60(b).

2. Divorce \Rightarrow 311

Formal complaint-summons service requirements of civil rule are inappropriate in proceedings which seek to enforce terms of a prior divorce decree relating to child support payments, for, unlike most judgments, divorce decrees can be modified at anytime, and thus superior court retains jurisdiction of the matter after the "final" judgment

or developed land. The definition which we use here applies to the claim of an easement across the tidelands occupied or developed by another.

has been entered; appropriate procedure to be followed in such cases is set forth in rule requiring service upon attorney unless service upon party himself is ordered by the court. Rules of Civil Procedure, rules 4, 5(b), 60(b)(4); Fed.Rules Civ.Proc. rules 4, 5, 28 U.S.C.A.

M. Ashley Dickerson and James Ottinger, M. Ashley Dickerson, Inc., Anchorage, for appellant.

Peter LaBate, Anchorage, for appellee.

Before BOOCHEVER, C. J., and RABINOWITZ and BURKE, JJ.

OPINION

RABINOWITZ, Justice.

This is an appeal from the superior court's denial of Alphonse Balchen's Civil Rule 60(b) motion to set aside a judgment. For reasons set forth below, we affirm the superior court's decision in part and modify it in part.

In July 1973, Marjorie Balchen filed a complaint for divorce. Later that month, Paul F. Robison, Esq. filed an appearance on behalf of Alphonse Balchen. Thereafter, pursuant to the two documents filed, the Appearance and Waiver and the Separation and Property Settlement Agreement, the superior court, in October 1973, entered findings of fact and conclusions of law, a decree of divorce, and a child support order. Under the terms of the decree, Marjorie was given custody of three of the parties' four minor children, and Alphonse was ordered to pay monthly child support in the amount of \$135.00 per child.

In July 1976, Marjorie filed a motion for judgment on back child support. In this motion Marjorie sought a total of \$1,250.00 in arrearages for the support of two of the parties' daughters. Alphonse did not reply or plead to the motion. On August 23, 1976, a judgment was entered in which it was decreed that Alphonse owed the sum of \$1,250.00 for back child support.¹ Three weeks later, Alphonse moved to set this judgment aside on two grounds. First, it was asserted that the judgment was void, because the superior court did not obtain jurisdiction over Alphonse since he was not served in accordance with either Civil Rule 4 or Civil Rule 5.² Second, it was contended

3. Divorce \Rightarrow 311

Where decree of divorce was entered in October, 1973 and former wife's motion to reduce support arrearages to judgment was filed in July, 1976, fact that former husband, rather than his attorney, was served with copy of wife's motion for judgment on back child support did not invalidate judgment in favor of wife on her motion, even though preferred procedure of obtaining superior court's permission prior to making service of motion on former husband rather than his attorney was not complied with. Rules of Civil Procedure, rule 5(b).

4. Divorce \Rightarrow 311

Despite fact that service of former wife's motion to reduce arrearage to judgment was procedurally defective in that it contained no notice of hearing date and additionally failed to advise former husband of right to file opposition to motion, procedural defects did not furnish sufficient grounds for vacation of judgment entered in favor of wife on her motion, in view of fact that defects were neither jurisdictional nor did they rise to level of due process violation and in view of absence of any showing of a meritorious defense. Rules of Civil Procedure, rule 60(b).

5. Appeal and Error \Rightarrow 982(2)

Except in very unusual case, Supreme Court will not reverse superior court's denial of motion to set aside judgment as an abuse of discretion where movant has made a showing of a meritorious defense. Rules of Civil Procedure, rule 60(b).

1. At this time a new child support order was entered by a master of the superior court. This order directed that all future support payments be made through the court trustee's office.

2. Civil Rule 60(b)(4) reads:
On motion and upon such terms as are just, the court may relieve a party or his legal

Appellant,

Appellee.

Alaska.

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that the superior court's judgment should be set aside because rendered through excusable neglect, mistake, or inadvertence.³ This latter basis for appellant's attack on the judgment was founded on his allegations that the judgment included future support for a minor child who had been emancipated. The superior court denied Alphonse's Civil Rule 60(b) motion and this appeal followed.

Appellant's primary contention on appeal is that the superior court lacked jurisdiction to enter the judgment for support arrearages because "service of appellee's motion to reduce alleged arrearages to judgment . . . failed to comply with [the appropriate] Rules of Civil Procedure."

[1] Alaska Civil Rule 5(b) provides that with respect to all pleadings and papers subsequent to the original complaint "the service shall be made upon the attorney unless service upon the party himself is ordered by the court." Alaska Civil Rule 4 sets forth the procedures whereby an original complaint is served, complete with a summons. Alphonse, rather than his attorney, was served with a copy of the motion. Thus the procedure used did not comply with Rule 5(b). Alphonse was not served with a summons. Therefore the procedure used did not comply with Rule 4. Alphonse contends that because there was lack of strict compliance with either Rule 4 or Rule 5(b) the superior court was without jurisdiction. A judgment rendered without jurisdiction is void and is thus vulnerable to attack pursuant to a Rule 60(b)(4) motion.⁴ Since this court has not addressed this precise issue before, we think it appropriate to examine relevant authority from other sources.

representative from a final judgment, order, or proceeding for the following reason—

(4) the judgment is void[.]

Civil Rule 4(a) provides:

Upon the filing of the complaint the clerk should forthwith issue a summons and deliver it for service to a peace officer or to a person specially appointed to serve it. Upon request of the plaintiff separate or additional summons shall issue against any defendants. Civil Rule 5(b) reads, in part:

Whenever under these rules service is required or permitted to be made upon a party

Writing on the parallel federal rules, Professors Wright and Miller state:

The requirement of service on the attorney is to be followed literally; service upon a party represented by an attorney does not comply with the rule. The theory underlying Rule 5(b) is that service of papers on the attorney rather than the party will expedite preparation of a case for prompt adjudication on the merits.

There are two basic exceptions to the rule that papers be served on the attorney. Under the first, service on a party is valid—indeed it is obligatory—if a party does not have an attorney or if his attorney has ceased to represent him.

The second exception permits service on the party at the express direction of the court.⁵ (footnotes omitted)

A case similar to the one at bar was presented in *Tilghman v. Tilghman*, 57 F.Supp. 417 (D.D.C.1944). In *Tilghman*, the wife moved to have the husband adjudged in contempt for failure to pay the alimony as awarded in their divorce decree. The husband, who was personally served with a copy of the motion outside the District of Columbia, attempted a special appearance to quash service. The district court first noted that the court had acquired jurisdiction over the person of the husband in the divorce proceeding and thus all motions with respect to that action were governed by Fed.R.Civ.P. 5, rather than Fed.R.Civ.P. 4. The court next addressed the issue of non-compliance with the terms of Rule 5(b), since the husband, rather than the hus-

represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court.

3. Civil Rule 60(b)(1) provides that a party may be relieved from a final judgment in cases of "mistake, inadvertence, surprise or excusable neglect."

4. 11 C. Wright & A. Miller, *Federal Practice and Procedure: Civil* § 2862, at 198-200 (1973).

5. 4 C. Wright & A. Miller, *Federal Practice and Procedure: Civil* § 1145, at 583-84 (1969).

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hand's attorney, had t served with the
motion. The court state.

It is true plaintiff did not obtain, in ad-
vance, an order of court for service upon
the party instead of the attorney, but I
cannot believe the Rules are to be con-
strued so narrowly as to make such fail-
ure a ground for invalidating the service
herein. Such construction would be con-
trary to their spirit and purpose which is
epitomized in Rule 1 Federal Rules of
Civil Procedure, wherein it is stated that
they should be construed to secure just,
speedy, and inexpensive determination of
every action.

Indeed, it would seem to be desirable
practice, in motions of this character (and
I have heretofore so indicated), to serve
defendant personally under order of
court, rather than his attorney of record,
whenever there is likely to be a showing
that, with the passage of years after final
judgment, the attorney has lost contact
with his client.⁶

[2] We think the *Tilghman* analysis
sound. In our view, the formal complaint-
summons service requirements of Civil Rule
4 are inappropriate in proceedings which
seek to enforce the terms of a prior divorce
decree relating to child support payments.
Unlike most judgments, divorce decrees can
be modified at anytime; thus, the superior
court retains jurisdiction of the matter af-
ter the "final" judgment has been entered.⁷
We therefore hold that Civil Rule 5(b) pro-
vides the appropriate procedure to be fol-
lowed in such cases.

6. 57 F.Supp. at 418. See generally Annot., 42
A.L.R.2d 1115 (1955) and Annot., 15 A.L.R. 627
(1921).

7. AS 09.55.210 outlines the powers of the court
to rule "in an action for divorce or action de-
claring a marriage void or at any time after
judgment" with respect to property divisions
and support orders. AS 09.55.205 provides au-
thority for the court to enter orders concerning
custody and visitation "at the final hearing or
at any time thereafter during the minority" of
the child of the marriage.

8. We are of the view that the general procedur-
al questions raised by this appeal should be

[3] Thus we must determine whether
the failure to secure the court's permission
prior to serving the appellant personally
rendered the judgment void. In this case
we are presented with a situation which is
not atypical. As we noted previously, the
decree of divorce was entered in October
1973, and appellee's motion to reduce sup-
port arrearages to judgment was granted in
August 1976. The fact that attorneys often
do not continue to represent individuals af-
ter the entry of a divorce decree implies
that in order to ensure notice to the party
of the pending motion, it is more appropri-
ate to serve the party personally. This
situation is analogous to the first exception
to Civil Rule 5(b) discussed by Wright and
Miller. That is, service on the party rather
than the attorney is required when the at-
torney has ceased to represent the party or
when the party does not have an attorney.
Admittedly under Alaska's Rules of Civil
Procedure as presently constituted, the pre-
ferred procedure is to obtain the superior
court's permission prior to making service
of a motion on a party personally. Never-
theless, this minor non-compliance with Civ-
il Rule 5(b) does not require vacation of the
judgment in question.⁸

[4, 5] At oral argument counsel for ap-
pellant advanced an argument which dif-
fered from those contained in appellant's
brief. Appellant Alphonse now contends
that appellee's motion to reduce the arrear-
age to judgment was defective in that it
contained no notice of a hearing date⁹ and
additionally failed to advise him of the
right to file opposition to the motion. Al-
though we think there is merit in appel-

referred to the Supreme Court's Standing Ad-
visory Committee on Civil Rules. More par-
ticularly, we think there is merit in providing, in
matters such as enforcement procedures per-
taining to child support and custody, explicit
rules which would permit service, including
appropriate notice, on the party rather than
upon the attorney who represented the party at
proceedings leading up to the judgment or or-
der which is sought to be enforced.

9. On the basis of the record before us, we
conclude that no hearing was held on the mo-
tion.

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lant's contentions that service of the motion, without more, was procedurally defective, we have concluded that this procedural defect does not furnish sufficient grounds for vacation of the judgment pursuant to Civil Rule 60(b)(4) since the defect is neither jurisdictional nor does it rise to the level of a due process violation.¹⁰ Furthermore, given the particular setting of the case at bar, the procedural defect does not give rise to any other ground for relief specified in Civil Rule 60(b). We note that Alphonse has not contested the amount of support arrearage which the superior court found to be due. In the absence of any showing of a meritorious defense, we hold that the superior court did not err in denying appellant's Civil Rule 60(b) motion.¹¹

In his second specification of error, appellant asserts that the order for future child

support for both children "comprises a miscarriage of justice" because the facts before the court indicated that one of the children was no longer living with the mother. At oral argument counsel for appellee conceded that the order should be modified to require future support payments for only one minor child of the parties. Thus, on the basis of the concession by counsel for appellee, the superior court's order for future child support is to be modified accordingly.

Affirmed in part and modified in part.



10. This notice aspect of the general question will also be referred to the Standing Advisory Committee on Civil Rules. See note 8, *supra*.

11. In *Markland v. City of Fairbanks*, 513 P.2d 658 (Alaska 1973), we outlined the necessity that the Rule 60(b) movant establish a meritorious defense should the judgment be reopened.

Cf. Aguchak v. Montgomery Ward Co., Inc., 520 P.2d 1352, 1354 (Alaska 1974) (Rule 60(b)(4) motion). Except in very unusual cases, we will not reverse the superior court's denial of a Rule 60(b) motion as an abuse of discretion where the movant has not made a showing of a meritorious defense.

from:

REPORT BY THE U.S.

General Accounting Office

U.S. Child Support: Needed Efforts Underway To Increase Collections From Absent Parents

The Department of Health and Human Services' (HHS') Child Support Enforcement Program was created in 1975 to help collect support from absent parents. The program is overseen by HHS' Office of Child Support Enforcement and operated through state and local agencies.

At the Senate Budget Committee's request, GAO reviewed collection activities at five state child support offices and seven local offices. GAO found that

- absent parents paid about half the support owed, and about two-thirds of these parents' payments were delinquent by more than 30 days at least once during the study year;
- there were few standards governing collection activities, and the agencies were not acting promptly or at all to collect past due amounts; and
- the availability of collection services for families not in the Aid to Families with Dependent Children program varied.

Enacted in August 1984, the 1984 Child Support Enforcement Amendments could significantly enhance collections and correct the deficiencies GAO noted.



GAO/HRD-85-5
OCTOBER 30, 1984

SUMMARY OF CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984Section 1 - Contents

Section 2 - Purpose of the program.--Language is added to the statement of purpose assuring that services will be made available to non-AFDC families.

Section 3 - Improved child support enforcement through required state laws and procedures.--States are required to enact laws establishing the following procedures:

1. Mandatory wage withholding for all families (AFDC and non-AFDC) if support payments are delinquent in an amount equal to 1 month's support. States must also allow absent parents to request withholding at an earlier date.
2. Imposing liens against real and personal property for amounts of overdue support.
3. Withholding of state tax refunds payable to a parent of a child receiving services, if the parent is delinquent in support payments.
4. Making available information regarding the amount of overdue support owed by an absent parent, to any consumer credit bureau, upon request of such organization.
5. Requiring individuals who have demonstrated a pattern of delinquent payments to post a bond, or give some other guarantee to secure payment of overdue support.
6. Establishing expedited processes within the state judicial system or under administrative processes for obtaining and enforcing child support orders and, at the option of the state, for determining paternity.
7. Notifying each AFDC recipient at least once each year of the amount of child support collected on behalf of that recipient.
8. Permitting the establishment of paternity until a child's 18th birthday.
9. At the option of the state, providing that child support payments must be made through the agency that administers the state's income withholding system if either the custodial or noncustodial parent requests that they be made in this manner.

The Secretary of Health and Human Services may grant an exemption to a state from the required procedures, subject to later review, if the state can demonstrate that such procedures will not improve the efficiency and effectiveness of the state Child Support Enforcement program.

Service fees to non-AFDC families.--States will be required to charge an application fee for non-AFDC cases not to exceed \$25. The state may charge the fee against the custodial parent, pay the fee out of state funds, or recover the fee from the non-custodial parent.

In addition, states may charge absent parents a late payment fee equal to between 3 and 6 percent of the amount of overdue support. The state may not take any action which would have the effect of reducing the amount paid to the child and will collect the fee only after the full amount of the support has been paid to the child. The late payment fee provision is effective upon enactment.

The enforcement provisions are generally effective October 1, 1985.

Section 4 - Federal matching of administrative costs.--The federal matching share is gradually reduced from 70 percent to 68 percent in fiscal years 1988 and 1989, and 66 percent beginning in fiscal year 1990.

Section 5 - Federal incentive payments.--The current incentive formula which gives states 12 percent of their AFDC collections (paid for out of the federal share of the collections) is replaced with a new formula that will be equal to 6 percent of the state's AFDC collections and 6 percent of its non-AFDC collections. States may qualify for higher incentive payments, up to a maximum of 10 percent of collections, if their AFDC or non-AFDC collections exceed combined administrative costs for both AFDC and non-AFDC components of the program as shown below.

<u>AFDC incentive payment</u>		<u>Non-AFDC incentive payment</u>	
<u>Ratio of AFDC collections to combined AFDC/non-AFDC administrative costs</u>	<u>Incentive equal to this percent of AFDC collections</u>	<u>Ratio of non-AFDC collections to combined AFDC/non-AFDC administrative costs</u>	<u>Incentive equal to this percent of non-AFDC collections</u>
less than 1.4 : 1	6.0	less than 1.4 : 1	6.0
1.4 : 1	6.5	1.4 : 1	6.5
1.6 : 1	7.0	1.6 : 1	7.0
1.8 : 1	7.5	1.8 : 1	7.5
2.0 : 1	8.0	2.0 : 1	8.0
2.2 : 1	8.5	2.2 : 1	8.5
2.4 : 1	9.0	2.4 : 1	9.0
2.6 : 1	9.5	2.6 : 1	9.5
2.8 : 1	10.0	2.8 : 1	10.0

The total dollar amount of incentives paid for non-AFDC families may not exceed the amount of the state's incentive payment for AFDC collections for fiscal years 1986 and 1987. Thereafter the incentive paid for non-AFDC collections will be capped at an amount equal to 105 percent of the incentive for AFDC collections in fiscal year 1988, 110 percent in fiscal year 1989, and 115 percent beginning in fiscal year 1990. For fiscal year 1985, the amount of the AFDC incentive will be calculated on the basis of AFDC collections without regard to the provision added by the Deficit Reduction Act of 1984 that requires that the first \$50 collected on behalf of an AFDC family in any month must be paid to the family without reducing the amount of the AFDC payment to the family.

States may exclude the laboratory costs of determining paternity from combined administrative costs for purposes of computing incentive payments.

States are required to pass through to local jurisdictions that participate in the cost of the program an appropriate share of the incentive payments, as determined by the state, taking into account program effectiveness and efficiency. Amounts collected in interstate cases will be credited, for purposes of computing the incentive payments, to both the initiating and responding states.

As part of the new funding formula, "hold harmless" protection is provided for fiscal years 1986 and 1987 which assures the states that for those years they will receive the higher of the amounts due them under the new incentive and federal match provisions, or no less than 80 percent of what they would have received in fiscal year 1985 under prior law.

The provision is effective beginning with fiscal year 1986 (Oct. 1, 1985).

Section 6 - Federal matching for automated management systems used in income withholding and other procedures.--The 90-percent federal matching rate currently available to states to establish an automatic data processing and information retrieval system may be used to develop and improve income withholding and other required procedures. The 90-percent matching is also available to pay for the acquisition of computer hardware.

The provision is effective October 1, 1984.

Section 7 - Continuing support enforcement for AFDC recipients whose benefits are terminated.--States must provide that families whose eligibility for AFDC is terminated will be automatically transferred from AFDC to non-AFDC status without requiring application services or payment of a fee.

The provision is effective October 1, 1984.

Section 8 - Special project grants to promote improvement in interstate enforcement.--The Secretary is authorized to make demonstration grants to states which propose to undertake new or innovative methods of support collection in interstate cases.

Section 9 - Periodic review of state programs; modifications of penalty.--The director of the federal Office of Child Support Enforcement is required to conduct audits at least every 3 years to determine whether the standards and requirements prescribed by law and regulations have been met. Under the penalty provisions, a state's AFDC matching funds must be reduced by an amount equal to at least 1 but no more than 2 percent for the first failure to comply substantially with the standards and requirements, at least 2 but no more than 3 percent for the second failure, and at least 3 but no more than 5 percent for the third and any subsequent consecutive failures.

Annual audits are required unless a state is in substantial compliance. If a state is not in substantial compliance, the penalty may be suspended only if the state is actively pursuing a corrective action plan, approved by the Secretary, which can be expected to bring the state into substantial compliance on a specific and reasonable timetable. If at the end of the corrective action period substantial compliance has been achieved, no penalties would be due. If substantial compliance has not been achieved, penalties would begin at the end of the corrective

action period if the state has implemented the corrective action plan. A state which is not in full compliance may be determined to be in substantial compliance only if the Secretary determines that any noncompliance is of a technical nature which does not adversely affect the performance of the Child Support Enforcement program.

The provision is effective beginning in fiscal year 1984.

Section 10 - Extension of sec. 1115 demonstration authority to the child support system.--The sec. 1115 demonstration authority is expanded to include the Child Support Enforcement program under specified conditions.

The provision is effective upon enactment.

Section 11 - Child support enforcement for certain children in foster care.--State child support agencies are required to undertake child support collections on behalf of children receiving foster care maintenance payments under title IV-E of the Social Security Act, if an assignment of rights to support to the state has been secured by the foster care agency. In addition, foster care agencies are required to secure an assignment to the state or any rights to support on behalf of a child receiving foster care maintenance payments under the title IV-E foster care program.

The provision is effective October 1, 1984.

Section 12 - Collecting spousal support.--Child support enforcement services must include the enforcement of spousal support, but only if a support obligation has been established with respect to the spouse, the child and spouse are living in the same household, and child support is being collected along with spousal support.

The provision is effective October 1, 1985.

Section 13 - Modifying annual report content.--The information requirements of the Secretary's annual report on Child Support Enforcement program activities are expanded to include the following data.

1. The total number of cases in which a support obligation has been established in the past year and the total amount of obligations;

2. The total number of cases in which a support obligation has been established and the total amount of obligations;

3. Cases described in (1) in which support was collected during a fiscal year and the total amount; and

4. Cases described in (2) in which support was collected during a fiscal year and the total amount.

Additionally, the annual report must include information on the child support cases filed and the collections made in each state on behalf of children residing in another state or cases against parents residing in another state. The annual report must also detail how much in administrative costs is spent in each functional expenditure category (including paternity). This information is to be separately stated for current and for past AFDC and non-AFDC cases.

The provision is effective beginning for the report issued for fiscal year 1986.

Section 14 - Requirement to publicize the availability of child support services.--States must frequently publicize, through public service announcements, the availability of child support enforcement services, together with information as to the application fee for services and a telephone number or postal address to be used to obtain additional information.

The provision is effective October 1, 1985.

Section 15 - State Commissions on Child Support.--The governor of each state is required to appoint a state Commission on Child Support. The commission must include representation from all aspects of the child support system, including custodial and non-custodial parents, the IV-D agency, the judiciary, the governor, the legislature, child welfare and social services agencies, and others.

Each state commission is to examine the functioning of the state child support system with regard to securing support and parental involvement for both AFDC and non-AFDC children, including but not limited to such specific problems as: (1) visitation, (2) establishment of appropriate objective standards for support, (3) enforcement of interstate obligations, and (4) additional federal and state legislation needed to obtain support for all children.

The commission shall submit to the governor, and make available to the public, reports on their findings and recommendations no later than October 1, 1985. Costs of operating the commissions will not be eligible for federal matching.

The Secretary may waive the requirement for a commission at the request of a state if he determines that the state has had such a commission or council within the last 5 years or is making satisfactory progress toward fully effective child support enforcement.

Section 16 - Requirement to include medical support as part of any child support order.--The Secretary is required to issue regulations to require state agencies to petition to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. The regulations must also provide for improved information exchange between the state IV-D agencies and the Medicaid agencies with respect to the availability of health insurance coverage.

Section 17 - Availability of federal parent locator services to state agencies.--The present requirement that the states exhaust all state child support locator resources before they request the assistance of the federal Parent Locator Service is repealed.

The provision is effective upon enactment.

Section 18 - Guidelines for determining support obligations.--Each state must develop guidelines to be considered in determining support obligations.

The provision is effective October 1, 1987.

Section 19 - Availability of social security numbers for purposes of child support enforcement.--The absent parent's social security number may be disclosed to child support agencies both through the federal Parent Locator Service and by the Internal Revenue Service.

The provision is effective upon enactment.

Section 20 - Extending Medicaid eligibility when support collection results in termination of AFDC eligibility.--If a family loses AFDC eligibility as the result (wholly or partly) of increased collection of support payments under the IV-D program, the state must continue to provide Medicaid benefits for 4 calendar months beginning with the month of ineligibility. (The family must have received AFDC in at least 3 of the 6 months immediately preceding the month of ineligibility).

The provision is effective upon enactment. It is applicable to families becoming ineligible for AFDC before October 1, 1988.

Section 21 - Collection of overdue support from federal tax refunds.--Current law requires the Secretary of the Treasury, upon receiving notice from a state child support agency that an individual owes past due support which has been assigned to the state as a condition of AFDC eligibility, to withhold from any tax refunds due that individual an amount equal to any past due support. The amendments extend this requirement to provide for withholding of refunds on behalf of non-AFDC families under specified conditions.

The provision is effective for refunds payable after the year ending December 31, 1985, and prior to January 1, 1991.

Section 22 - Wisconsin child support initiative.--The Secretary is required to grant waivers to the state of Wisconsin to allow it to implement its proposed child support initiative in all or parts of the state as a replacement for the AFDC and child support programs. The state must meet specified conditions and give specific guarantees with respect to the financial well-being of the children involved.

The provision is effective for fiscal years 1987-94.

Section 23 - Sense of the Congress that state and local governments should focus on the problems of child custody, child support, and related domestic issues.--State and local governments are urged to focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are within the jurisdictions of such governments.

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REMARKS

NESC has finally published their analysis of state laws to the new federal law. Call me if you have any questions

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ALASKA

The federal Child Support Amendments of 1984 mandate certain legislative modifications of the Alaska Child Support program. The following provisions in Alaska law contain many of the features mandated by P.L. 98-378:

- o Sections 47.23.110-47.23.280, which create an administrative process for the enforcement of child support obligations;
- o Section 47.23.230, which provides for the imposition of liens against real and personal property;
- o Section 47.23.253, which provides for the intercept of any refund or disbursement by the Department of Revenue for the satisfaction of child support obligations;
- o Section 47.23.273, which approves the dissemination of information on the obligor's child support debts to any consumer credit bureau;
- o Section 47.23.060, the provision by which a court may require a parent to post a bond or security to insure collection of child support obligations;
- o Section 47.23.100, which provides equal treatment of non-AFDC and AFDC clients;
- o 15 Alaska Administrative Code 147.010(c), which provides guidelines to be used in the setting of support orders.

Modifications of Alaska law to meet the Child Support Enforcement Amendments of 1984 would include:

- o ^{*not necessary - see 09.65.132*} Altering Sections 47.23.070 and .250 to create a mandatory rather than a discretionary income withholding statute and to include:
 - ✓--recognition of income withholding order as top priority;
 - ✓--provision limiting obligor's defenses to mistakes of fact in contested withholding cases;
 - ✓--designation by state of publicly accountable agency to administer the withholding system;
 - *--simplification of the process by the state, such as allowing employer to send in withheld amounts in one check;
 - ✓--provision for withholding income in interstate cases;
 - ✓--provision to terminate withholding;
 - ✓--provision in contested cases for state to notify obligor within 45 days whether withholding will occur;
- o ✓ Altering Sections 47.23.020 and .025 to reduce the optional late payment fee to meet the federal 3% to 6% standard.

The adoption of new provisions to Alaska law would include:

- ✓o Provision for withholding to be part of all support orders issued or modified after 10-1-85.

The following are areas not currently addressed by state statutes and may be implemented by statutory enactment, administrative plan, judicial procedure, or executive action:

- o The enforcement of spousal support when it is part of the support order;
- o Notification to AFDC recipients of the amount collected on their behalf in the past year;
- o Inclusion of medical insurance in the support order;
- o Continuation of medicaid benefits;
- o Provision to expand services to all children receiving foster care through federal-state assistance programs;
- o Publication of the availability of child support enforcement services through public service announcements;
- o Provision for continuation of child support services when AFDC is terminated;
- o Implementation of a fee for non-AFDC services.

Drafters of state law may wish to be aware of federal regulations affecting their state child support programs. Two pertinent examples are:

- *o Procedure for employer to notify the state or local withholding agency of the termination of the obligor's employment and of the obligor's last known address as well as the name and address of the new employer, if known;
- ✓o Procedure to implement the withholding no later than the first pay period that occurs after 14 days from the mailing date on the notice.

FOR MORE INFORMATION

For more information contact Deborah Dale or Charles Brackney, National Conference of State Legislatures, 1125 17th Street, Suite 1500, Denver, Colorado 80202, 303/292-6600.

Public Law 98-378
98th Congress

An Act

To amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes.

Aug. 16, 1984
[H.R. 4225]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Child Support Enforcement Amendments of 1984".

Child Support
Enforcement
Amendments of
1984.
42 USC 1305
note.

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- Sec. 9. Periodic review of effectiveness of State programs; modification of penalty.
- Sec. 10. Extension of section 1115 demonstration authority to child support enforcement program.
- Sec. 11. Child support enforcement for certain children in foster care.
- Sec. 12. Enforcement with respect to both child and spousal support.
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- Sec. 20. Extension of eligibility under title XIX when support collection results in termination of AFDC eligibility.
- Sec. 21. Collection of past-due support from Federal tax refunds.
- Sec. 22. Wisconsin child support initiative.
- Sec. 23. Sense of the Congress that State and local governments should focus on the problems of child custody, child support, and related domestic issues.

PURPOSE OF THE PROGRAM

SEC. 2. Section 451 of the Social Security Act is amended by striking out "and obtaining child and spousal support," and inserting in lieu thereof "obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this

42 USC 651.

42 USC 601 part to all children (whether or not eligible for aid under part A) for whom such assistance is requested.”

IMPROVED CHILD SUPPORT ENFORCEMENT THROUGH REQUIRED STATE LAWS AND PROCEDURES

42 USC 651 SEC. 3. (a) Section 454 of the Social Security Act is amended—
 (1) by striking out “and” at the end of paragraph (18);
 (2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof “; and”; and
 (3) by adding after paragraph (19) the following new paragraph:

“(20) provide, to the extent required by section 466, that the State (A) shall have in effect all of the laws to improve child support enforcement effectiveness which are referred to in that section, and (B) shall implement the procedures which are prescribed in or pursuant to such laws.”

(b) Part D of title IV of such Act is further amended by adding at the end thereof the following new section:

“REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

42 USC 666. *Supra.* “SEC. 466. (a) In order to satisfy section 454(20)(A), each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

“(1) Procedures described in subsection (b) for the withholding from income of amounts payable as support.

“(2) Procedures under which expedited processes (determined in accordance with regulations of the Secretary) are in effect under the State judicial system or under State administrative processes (A) for obtaining and enforcing support orders, and (B) at the option of the State, for establishing paternity. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement within the political subdivision (in accordance with the general rule for exemptions under subsection (d)).

“(3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part—

“(A) any refund of State income tax which would otherwise be payable to an absent parent will be reduced, after notice has been sent to that absent parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such absent parent;

“(B) the amount by which such refund is reduced shall be distributed in accordance with section 457 (b)(4) or (d)(3) in the case of overdue support assigned to a State pursuant to section 402(a)(26) or 471(a)(17), or, in the case of overdue support which a State has agreed to collect under section 454(G), shall be distributed, after deduction of any fees

Ante., p. 1345,
Post., p. 1317.

42 USC 602.
Post., p. 1318.

Post., pp. 1310,
 1311, 1314.

imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and

“(C) notice of the absent parent's social security account number (or numbers, if he has more than one such number) and home address shall be furnished to the State agency requesting the refund offset, and to the State agency enforcing the order.

“(4) Procedures under which liens are imposed against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State.

“(5) Procedures which permit the establishment of the paternity of any child at any time prior to such child's eighteenth birthday.

“(6) Procedures which require that an absent parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such absent parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

“(7) Procedures by which information regarding the amount of overdue support owed by an absent parent residing in the State will be made available to any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) upon the request of such agency; except that (A) if the amount of the overdue support involved in any case is less than \$1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after notice has been sent to such absent parent of the proposed action, and such absent parent has been given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) a fee for furnishing such information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting agency by the State.

“(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from wages, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.

Notwithstanding section 454(20)(B), the procedures which are required under paragraphs (3), (4), (6), and (7) need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the absent parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of this part or would be otherwise inappropriate in the circumstances.

“(b) The procedures referred to in subsection (a)(1) (relating to the withholding from income of amounts payable as support) must provide for the following:

“(1) In the case of each absent parent against whom a support order is or has been issued or modified in the State, and in being enforced under the State plan, so much of such parent's wages (as defined by the State for purposes of this section) must be withheld, in accordance with the succeeding provisions of this

Ante., p. 1306.

Withholding of
 income.

subsection, as is necessary to comply with the order and provide for the payment of any fee to the employer which may be required under paragraph (6)(A), up to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under such section 303(b), but the State need not withhold up to the maximum amount permitted under such section in order to satisfy arrearages.

"(2) Such withholding must be provided without the necessity of any application therefor in the case of a child (whether or not eligible for aid under part A) with respect to whom services are already being provided under the State plan under this part, and must be provided in accordance with this subsection on the basis of an application for services under the State plan in the case of any other child in whose behalf a support order has been issued or modified in the State. In either case such withholding must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.

"(3) An absent parent shall become subject to such withholding, and the advance notice required under paragraph (4) shall be given, on the earliest of—

"(A) the date on which the payments which the absent parent has failed to make under such order are at least equal to the support payable for one month,

"(B) the date as of which the absent parent requests that such withholding begin, or

"(C) such earlier date as the State may select.

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and (subject to subparagraph (B)) the State must send advance notice to each absent parent to whom paragraph (1) applies regarding the proposed withholding and the procedures such absent parent should follow if he or she desires to contest such withholding on the grounds that withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact. If the absent parent contests such withholding on those grounds, the State shall determine whether such withholding will actually occur, shall (within no more than 45 days after the provision of such advance notice) inform such parent of whether or not withholding will occur and (if so) of the date on which it is to begin, and shall furnish such parent with the information contained in any notice given to the employer under paragraph (6)(A) with respect to such withholding.

"(B) The requirement of advance notice set forth in the first sentence of subparagraph (A) shall not apply in the case of any State which has a system of income withholding for child support purposes in effect on the date of the enactment of this section if such system provides on that date, and continues to provide, such procedures as may be necessary to meet the procedural due process requirements of State law.

"(5) Such withholding must be administered by a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) adequate to document payments of support and to track and monitor such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the supervision of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments.

"(6)(A)(i) The employer of any absent parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such absent parent's wages the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the appropriate agency (or other entity authorized to collect the amounts withheld under the alternative procedures described in paragraph (5)) for distribution in accordance with section 457.

"(ii) The notice given to the employer shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(B) Methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to each appropriate agency or entity (with the portion thereof which is attributable to each individual employee being separately designated).

"(C) The employer must be held liable to the State for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of proper notice under subparagraph (A), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph.

"(D) Provision must be made for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

"(7) Support collection under this subsection must be given priority over any other legal process under State law against the same wages.

"(8) The State may take such actions as may be necessary to extend its system of withholding under this subsection so that such system will include withholding from forms of income other than wages, in order to assure that child support owed by absent parents in the State will be collected without regard to the types of such absent parents' income or the nature of their income-producing activities.

"(9) The State must extend its withholding system under this subsection so that such system will include withholding from income derived within such State in cases where the applicable support orders were issued in other States, in order to assure that child support owed by absent parents in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child's custodial parent.

"(10) Provision must be made for terminating withholding.

"(c) Any State may at its option, under its plan approved under section 454, establish procedures under which support payments under this part will be made through the State agency or other entity which administers the State's income withholding system in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or \$25, whichever is less, shall be imposed on the requesting parent by the State.

"(d) If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

"(e) For purposes of this section, the term 'overdue support' means the amount of a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of such child, or for support and maintenance of the absent parent's spouse (or former spouse) with whom the child is living if and to the extent that spousal support (with respect to such spouse or former spouse) would be included for purposes of paragraph (4) or (6) of section 454. At the option of the State, overdue support may include amounts which otherwise meet the definition in the first sentence of this subsection but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors shall apply independently to each procedure specified under this section."

(c) Section 454(6)(B) of such Act is amended to read as follows: "(B) an application fee for furnishing such services shall be imposed, which shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program), the amount of which (i) will not exceed \$25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in

Optional payment procedure 42 USC 654

Exemption

administrative costs), and (ii) may vary among such individuals on the basis of ability to pay (as determined by the State), and".

(d) Section 454 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (20) the following new paragraph:

"(21)(A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 466(e) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the absent parent owing the overdue support; and

"(B) assure that the fee will be collected in addition to, and only after full payment of, the overdue support, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed."

(e) Section 454(5) of such Act is amended by inserting after "directly to the family" the following: "; and the individual will be notified at least annually of the amount of the support payments collected;".

(f) Section 454 of such Act is further amended by adding at the end thereof (after and below paragraph (21) (as added by subsection (d) of this section)) the following new sentence:

"The State may allow the jurisdiction which makes the collection involved to retain any application fee under paragraph (6)(B) or any late payment fee under paragraph (21)."

(g)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall become effective on October 1, 1985.

(2) Section 454(21) of the Social Security Act (as added by subsection (d) of this section), and section 466(e) of such Act (as added by subsection (b) of this section), shall be effective with respect to support owed for any month beginning after the date of the enactment of this Act.

(3) In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendment prior to the beginning of the fourth month beginning after the end of the first session of the State legislature which ends on or after October 1, 1985. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

FEDERAL MATCHING OF ADMINISTRATIVE COSTS

SEC. 4. (a) Section 455(a) of the Social Security Act is amended— (1) by inserting "(1)" after "(a)";

Ante, p. 1306

Ante, p. 1306

42 USC 654

Supra

Ante, p. 1310

Effective dates, 42 USC 654 note

Supra

Ante, p. 1306

42 USC 651

42 USC 655

(2) by striking out “, beginning with the quarter commencing July 1, 1975.”;

(3) by striking out paragraph (2) and redesignating paragraphs (1) and (3) as subparagraphs (A) and (B), respectively;

(4) by amending paragraph (1)(A) as so redesignated to read as follows:

“(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and”;

(5) in paragraph (1)(B) as so redesignated, by striking out “specified in clause (1) or (2)” and inserting in lieu thereof “specified in subparagraph (A)”;

“(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and”;

(6) by adding at the end thereof the following new paragraph: “(2) The percent applicable to quarters in a fiscal year for purposes of paragraph (1)(A) is—

“(A) 70 percent for fiscal years 1984, 1985, 1986, and 1987,

“(B) 68 percent for fiscal years 1988 and 1989, and

“(C) 66 percent for fiscal year 1990 and each fiscal year thereafter.”

(b) Subsections (d)(1)(B), (d)(2)(A), (d)(2)(B), and (e) of section 452 of such Act are each amended by striking out “455(a)(3)” and inserting in lieu thereof “455(a)(1)(B)”.

(c) The amendments made by this section shall apply to fiscal years after fiscal year 1983.

FEDERAL INCENTIVE PAYMENTS

SEC. 5. (a) Section 458 of the Social Security Act is amended to read as follows:

“INCENTIVE PAYMENTS TO STATES

“SEC. 458. (a) In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for aid to families with dependent children under a State plan approved under part A of this title, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of absent parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b).

“(b)(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to—

“(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 402(a)(26) or section 471(a)(17) (with such total amount for any fiscal year being hereafter referred to in this section as the State’s ‘AFDC collections’ for that year), plus

“(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State’s ‘non-AFDC collections’ for that year).

12 USC 652

Effective date, 12 USC 652 note.

12 USC 655

12 USC 602, Act, p. 1318.

“(2) If subsection (c) applies with respect to a State’s AFDC collections or non-AFDC collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State’s incentive payment under this subsection for that year.

“(3) The dollar amount of the portion of the State’s incentive payment for any fiscal year which is determined on the basis of its non-AFDC collections under paragraph (1)(B) (after adjustment under subsection (c) if applicable) shall in no case exceed—

“(A) the dollar amount of the portion of such payment which is determined on the basis of its AFDC collections under paragraph (1)(A) (after adjustment under subsection (c) if applicable) in the case of fiscal year 1986 or 1987;

“(B) 105 percent of such dollar amount in the case of fiscal year 1988;

“(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

“(D) 115 percent of such dollar amount in the case of fiscal year 1990 or any fiscal year thereafter.

“(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 455(a)(1)(A) for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 455(a)(1)(A) if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

“(c) If the total amount of a State’s AFDC collections or non-AFDC collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 454 for which payment may be made in der section 455 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State’s ‘combined AFDC/non-AFDC administrative costs’ for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) (with respect to such collections) shall be increased to—

“(1) 6.5 percent, plus

“(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds 1.4;

except that the percent so specified shall in no event be increased (for either AFDC collections or non-AFDC collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State’s combined AFDC/non-AFDC administrative costs for that year.

“(d) In computing incentive payments under this section, support which is collected by one State on behalf of individuals residing in another State shall be treated as having been collected in full by each such State.

“(e) The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on the basis of the best information available. The Secretary shall

Ante, p. 1311

Ante, p. 1312

42 USC 651, 42 USC 655

make such payments for such year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section shall be deemed obligated."

Ante. p. 1306

(b) Section 454 of such Act (as amended by subsections (a), (d), and (f) of section 3 of this Act) is amended—

- (1) by striking out "and" at the end of paragraph (20);
- (2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and
- (3) by inserting immediately after paragraph (21) the following new paragraph:

"(22) in order for the State to be eligible to receive any incentive payments under section 458, provide that, if one or more political subdivisions of the State participate in the costs of carrying out activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share (as determined by the State) of any such incentive payments made to the State for such period, taking into account the efficiency and effectiveness of the activities carried out under the State plan by such political subdivision."

Effective dates
42 USC 658 note

(c)(1) The amendments made by the preceding provisions of this section shall become effective on October 1, 1985.

Ante. p. 1312

(2)(A) Effective until September 30, 1985, section 458(a) of the Social Security Act is amended by striking out "distributed as provided in section 457 to reduce or repay assistance payments" and inserting in lieu thereof "distributed as provided in paragraphs (1), (2), and (4)(A) of section 457(b)".

Ante. p. 1145
42 USC 658 note

(B) The reference to provisions of section 457(b) of the Social Security Act in the amendment made by subparagraph (A) of this paragraph is a reference to such provisions as in effect after the effective date of section 2640(b) of the Deficit Reduction Act of 1984.

Ante. p. 1145

90-PERCENT MATCHING FOR AUTOMATED MANAGEMENT SYSTEMS USED IN INCOME WITHHOLDING AND OTHER REQUIRED PROCEDURES

42 USC 651

SEC. 6. (a) Section 454(16) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof the following: "(D) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) through the monitoring of support payments, the maintenance of accurate records regarding the payment of support, the maintenance of accurate records regarding the payment of support, and the prompt provision of notice to appropriate officials with respect to any arrears in support payments which may occur, and (E)".

Ante. p. 1311

(b) Section 455(a)(1)(B) of such Act (as redesignated by section 4(a) of this Act) is amended—

- (1) by inserting after "automatic data processing and information retrieval system" the following: "(including in such sums the full cost of the hardware components of such system)"; and
- (2) by inserting before the semicolon at the end thereof the following: "or meets such requirements without regard to clause (D) thereof".

(c) The amendments made by this section shall apply with respect to quarters beginning on or after October 1, 1984.

Effective date
42 USC 651 note

CONTINUATION OF SUPPORT ENFORCEMENT FOR AFDC RECIPIENTS WHOSE BENEFITS ARE BEING TERMINATED

SEC. 7. (a) Section 457(c) of the Social Security Act is amended—

42 USC 657

- (1) by striking out "may" in the matter preceding paragraph (1) and inserting in lieu thereof "shall"; and
- (2) by striking out "the net amount of" in paragraph (2), and by striking out "to the family" and all that follows in such paragraph and inserting in lieu thereof "to the family (without requiring any formal reapplication and without the imposition of any application fee) on the same basis as in the case of other individuals who are not receiving assistance under part A of this title."

42 USC 601

(b) The amendments made by subsection (a) shall become effective October 1, 1984.

Effective date
42 USC 657 note

SPECIAL PROJECT GRANTS TO PROMOTE IMPROVEMENTS IN INTERSTATE ENFORCEMENT

SEC. 8. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 655

"(c)(1) In order to encourage and promote the development and use of more effective methods of enforcing support obligations under this part in cases where either the children on whose behalf the support is sought or their absent parents do not reside in the State where such cases are filed, the Secretary is authorized to make grants, in such amounts and on such terms and conditions as the Secretary determines to be appropriate, to States which propose to undertake new or innovative methods of support collection in such cases and which will use the proceeds of such grants to carry out special projects designed to demonstrate and test such methods.

"(2) A grant under this subsection shall be made only upon a finding by the Secretary that the project involved is likely to be of significant assistance in carrying out the purpose of this subsection; and with respect to such project the Secretary may waive any of the requirements of this part which would otherwise be applicable, to such extent and for such period as the Secretary determines is necessary or desirable in order to enable the State to carry out the project.

"(3) At the time of its application for a grant under this subsection the State shall submit to the Secretary a statement describing in reasonable detail the project for which the proceeds of the grant are to be used, and the State shall from time to time thereafter submit to the Secretary such reports with respect to the project as the Secretary may specify.

Reports

"(4) Amounts expended by a State in carrying out a special project assisted under this section shall be considered, for purposes of section 458(b) (as amended by section 5(a) of the Child Support Enforcement Amendments of 1984), to have been expended for the operation of the State's plan approved under section 454.

"(5) There is authorized to be appropriated the sum of \$7,000,000 for fiscal year 1985, \$12,000,000 for fiscal year 1986, and \$15,000,000 for each fiscal year thereafter, to be used by the Secretary in making grants under this subsection."

Ante. p. 1312
42 USC 651
Appropriation
authorization.

PERIODIC REVIEW OF EFFECTIVENESS OF STATE PROGRAMS;
MODIFICATION OF PENALTY

42 USC 652

SEC. 9. (a)(1) Section 452(a)(4) of the Social Security Act is amended by striking out "not less often than annually" and inserting in lieu thereof "not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2))".

Infra

42 USC 602

(2) Section 402(a)(27) of such Act is amended by striking out "operate a child support program in conformity with such plan" and inserting in lieu thereof "operates a child support program in substantial compliance with such plan".

42 USC 601

(b) Section 403(h) of such Act is amended to read as follows:

42 USC 651

Supra

"(h)(1) Notwithstanding any other provision of this Act, if a State's program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter beginning after September 30, 1983, and the Secretary determines that the State's program is not complying substantially with such requirements at the time such finding is made, the amounts otherwise payable to the State under this part for such quarter and each subsequent quarter, prior to the first quarter throughout which the State program is found to be in substantial compliance with such requirements, shall be reduced (subject to paragraph (2)) by—

"(A) not less than one nor more than two percent, or

"(B) not less than two nor more than three percent, if the finding is the second consecutive such finding made as a result of such a review, or

"(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding made as a result of such a review.

"(2)(A) The reductions required under paragraph (1) shall be suspended for any quarter if—

"(i) the State submits a corrective action plan, within a period prescribed by the Secretary following notice of the finding under paragraph (1), which contains steps necessary to achieve substantial compliance within a time period which the Secretary finds to be appropriate;

"(ii) the Secretary approves such corrective action plan (and any amendments thereto) as being sufficient to achieve substantial compliance; and

"(iii) the Secretary finds that the corrective action plan (and any amendment thereto approved by the Secretary under clause (ii)), is being fully implemented by the State and that the State is progressing in accordance with the timetable contained in the plan to achieve substantial compliance with such requirements.

"(B) A suspension of the penalty under subparagraph (A) shall continue until such time as the Secretary determines that—

"(i) the State has achieved substantial compliance,

"(ii) the State is no longer implementing its corrective action plan, or

"(iii) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial compliance within the appropriate time period (as specified in subparagraph (A)(i)).

"(C)(i) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(i), the penalty shall not be applied.

"(ii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(ii), the penalty shall be applied as if the suspension had not occurred.

"(iii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(iii), the penalty shall be applied to all quarters ending after the expiration of the time period specified in such subparagraph (and prior to the first quarter throughout which the State program is found to be in substantial compliance).

"(3) For purposes of this subsection, section 402(a)(27), and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the child support enforcement program."

(c) The amendments made by this section shall be effective on and after October 1, 1983.

Ante, p. 1316.

Ante, p. 1316.

Effective date.
42 USC 602 note.

EXTENSION OF SECTION 1115 DEMONSTRATION AUTHORITY TO CHILD
SUPPORT ENFORCEMENT PROGRAM

SEC. 10. (a) Section 1115(a) of the Social Security Act is amended—

42 USC 1315.

(1) by striking out "part A" in the matter preceding paragraph (1) and inserting in lieu thereof "part A or D";

(2) by striking out "402," in paragraph (1) and inserting in lieu thereof "402, 454,"; and

(3) by striking out "403," in paragraph (2) and inserting in lieu thereof "403, 455,".

(b) Section 1115 of such Act is further amended by adding at the end thereof the following new subsection:

42 USC 1315.

"(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

42 USC 651.

"(1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

"(2) may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

"(3) must not result in increased cost to the Federal Government under the program of aid to families with dependent children."

CHILD SUPPORT ENFORCEMENT FOR CERTAIN CHILDREN IN FOSTER CARE

SEC. 11. (a)(1) Section 457 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 657.

"(d) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

42 USC 670.

"(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate

reimbursement of the Federal Government to the extent of its participation in the financing);

"(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payment aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

"(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of aid to families with dependent children) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2)."

(2) Section 457(b) of such Act is amended by inserting "(subject to subsection (A))" after "shall" in the matter preceding paragraph (1).

(b) Part D of title IV of such Act is further amended—

(1) in section 454(4)(B), by inserting "including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E," immediately after "such assignment is effective," and by inserting "or E" immediately after "part A"; and

(2) in section 456(a), by inserting "or secured on behalf of a child receiving foster care maintenance payments" immediately after "section 402(a)(26)".

(c) Section 471(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part."

(d) Section 464(a) of such Act is amended—

(1) by inserting "or section 471(a)(17)" after "402(a)(26)"; and

(2) by striking out "457(b)(3)" and inserting in lieu thereof "457(b)(4) or (d)(3)".

(e) The amendments made by this section shall become effective October 1, 1984, and shall apply to collections made on or after that date.

Ante, p. 1145
42 USC 657

Post, p. 1319

42 USC 670

Ante, p. 1167
42 USC 656

42 USC 671

42 USC 601, 651

Post, p. 1322

Effective date,
42 USC 654 note

ENFORCEMENT WITH RESPECT TO BOTH CHILD AND SPOUSAL SUPPORT

SEC. 12. (a) Section 454(4)(B) of the Social Security Act is amended—

(1) by striking out "and, at the option of the State," and inserting in lieu thereof ", and"; and

(2) by inserting ", and only if the support obligation established with respect to the child is being enforced under the plan" immediately after "but only if a support obligation has been established with respect to such spouse".

(b) Clause (A) of section 454(6) of such Act is amended—

(1) by striking out ", at the option of the State,"; and

(2) by inserting ", and only if the support obligation established with respect to the child is being enforced under the plan" immediately after "but only if a support obligation has been established with respect to such spouse".

(c) The amendments made by this section shall become effective October 1, 1985.

Effective date,
42 USC 654 note

MODIFICATIONS IN CONTENT OF ANNUAL REPORT OF THE SECRETARY

SEC. 13. (a) Section 452(a)(10)(C) of the Social Security Act is amended to read as follows:

"(C) the following data, with the data required under each clause being separately stated for cases where the child is receiving aid to families with dependent children (or foster care maintenance payments under part E), cases where the child was formerly receiving such aid or payments and the State is continuing to collect support assigned to it under section 402(a)(26) or 471(a)(17), and all other cases under this part:

"(i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted, and the total amount of such obligations;

"(ii) the total number of cases in which a support obligation has been established, and the total amount of such obligations;

"(iii) the number of cases described in clause (i) in which support was collected during such fiscal year, and the total amount of such collections;

"(iv) the number of cases described in clause (ii) in which support was collected during such fiscal year, and the total amount of such collections; and

"(v) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;"

(b) Section 452(a)(10) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after subparagraph (H) the following new subparagraph:

42 USC 602
Ante, p. 1318

42 USC 652

"(1) the amount of administrative costs which are expended in each functional category of expenditures, including establishment of paternity."

Effective date: 42 USC 652 note. (c) The amendments made by this section shall be effective for reports for fiscal year 1986 and each fiscal year thereafter.

REQUIREMENT THAT AVAILABILITY OF CHILD SUPPORT ENFORCEMENT SERVICES BE PUBLICIZED

Ante, p. 1314. SEC. 14. (a) Section 454 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended—

- (1) by striking out "and" at the end of paragraph (21);
(2) by striking out the period at the end of paragraph (22) and inserting in lieu thereof "; and"; and
(3) by inserting immediately after paragraph (22) the following new paragraph:

"(23) provide that the State will regularly and frequently publicize, through public service announcements, the availability of child support enforcement services under the plan and otherwise, including information as to any application fees for such services and a telephone number or postal address at which further information may be obtained."

Effective date: 42 USC 651 note. (b) The amendments made by subsection (a) shall become effective October 1, 1985.

STATE COMMISSIONS ON CHILD SUPPORT

42 USC 651 note. 42 USC 601, 651. SEC. 15. (a) As a condition of the State's eligibility for Federal payments under part A or D of title IV of the Social Security Act for quarters beginning more than 30 days after the date of the enactment of this Act and ending prior to October 1, 1985, the Governor of each State, on or before December 1, 1984, shall (subject to subsection (f)) appoint a State Commission on Child Support.

(b) Each State Commission appointed under subsection (a) shall be composed of members appropriately representing all aspects of the child support system, including custodial and non-custodial parents, the agency or organizational unit administering the State's plan under part D of such title IV, the State judiciary, the executive and legislative branches of the State government, child welfare and social services agencies, and others.

(c) It shall be the function of each State Commission to examine, investigate, and study the operation of the State's child support system for the primary purpose of determining the extent to which such system has been successful in securing support and parental involvement both for children who are eligible for aid under a State plan approved under part A of title IV of such Act and for children who are not eligible for such aid, giving particular attention to such specific problems (among others) as visitation, the establishment of appropriate objective standards for support, the enforcement of interstate obligations, the availability, cost, and effectiveness of services both to children who are eligible for such aid and to children who are not, and the need for additional State or Federal legislation to obtain support for all children.

(d) Each State Commission shall submit to the Governor of the State and make available to the public, no later than October 1, 1985, a full and complete report of its findings and recommendations resulting from the examination, investigation, and study under this

Report Public availability.

section. The Governor shall transmit such report to the Secretary of Health and Human Services along with the Governor's comments thereon.

(c) None of the costs incurred in the establishment and operation of a State Commission under this section, or incurred by such a Commission in carrying out its functions under subsections (c) and (d), shall be considered as expenditures qualifying for Federal payments under part A or D of title IV of the Social Security Act or be otherwise payable or reimbursable by the United States or any agency thereof.

(f) If the Secretary determines, at the request of any State on the basis of information submitted by the State and such other information as may be available to the Secretary, that such State—

(1) has placed in effect and is implementing objective standards for the determination and enforcement of child support obligations,

(2) has established within the five years prior to the enactment of this Act a commission or council with substantially the same functions as the State Commissions provided for under this section, or

(3) is making satisfactory progress toward fully effective child support enforcement and will continue to do so, then such State shall not be required to establish a State Commission under this section and the preceding provisions of this section shall not apply.

INCLUSION OF MEDICAL SUPPORT IN CHILD SUPPORT ORDERS

SEC. 16. Section 452 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Such regulation shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicare programs under title XIX with respect to the availability of health insurance coverage."

INCREASED AVAILABILITY OF FEDERAL PARENT LOCATOR SERVICE TO STATE AGENCIES

SEC. 17. Section 453(f) of the Social Security Act is amended by striking out ", after determining that the absent parent cannot be located through the procedures under the control of such State agencies,".

STATE GUIDELINES FOR CHILD SUPPORT AWARDS

SEC. 18. (a) Part D of title IV of the Social Security Act (as amended by section 3(b) of this Act) is further amended by adding at the end thereof the following new section:

"STATE GUIDELINES FOR CHILD SUPPORT AWARDS

"SEC. 467. (a) Each State, as a condition for having its State plan approved under this part, must establish guidelines for child support

42 USC 601, 651

Ante, p. 1305.

42 USC 652.

Regulations.

42 USC 1396.

42 USC 653.

Ante, p. 1306.

42 USC 667.

award amounts within the State. The guidelines may be established by law or by judicial or administrative action.

"(b) The guidelines established pursuant to subsection (a) shall be made available to all judges and other officials who have the power to determine child support awards within such State, but need not be binding upon such judges or other officials.

"(c) The Secretary shall furnish technical assistance to the States for establishing the guidelines, and each State shall furnish the Secretary with copies of its guidelines."

(b) The amendment made by subsection (a) shall become effective on October 1, 1987.

AVAILABILITY OF SOCIAL SECURITY NUMBERS FOR CHILD SUPPORT ENFORCEMENT PURPOSES

Effective date.
42 USC 667 note.

42 USC 653.

SEC. 19. (a) Section 453(b) of the Social Security Act is amended by inserting "the social security account number (or numbers, if the individual involved has more than one such number) and" before "the most recent address".

26 USC 6103.

(b)(1) Section 6103(i)(6)(A)(i) of the Internal Revenue Code of 1954 is amended by inserting "social security account number (or numbers, if the individual involved has more than one such number)," before "address".

Ante, p. 820.

(2) Section 6103(i)(8)(A) of such Code is amended by inserting "social security account numbers," before "net earnings".

EXTENSION OF ELIGIBILITY UNDER TITLE XIX WHEN SUPPORT COLLECTION RESULTS IN TERMINATION OF AFDC ELIGIBILITY

42 USC 606.

SEC. 20. (a) Section 406 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Each dependent child, and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D, and who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins."

42 USC 651.

(b) The amendment made by subsection (a) shall apply only with respect to individuals becoming ineligible for aid to families with dependent children (as described in section 406(h) of the Social Security Act as added by such subsection) on or after the date of the enactment of this Act and before October 1, 1988.

42 USC 1396.

(c) Section 1902(a)(10)(A)(i)(I) of such Act is amended by inserting "or 406(h)" after "402(a)(37)".

Effective date.
42 USC 606 note.

Supra.

Ante, p. 1104.
42 USC 1396a.

COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS

42 USC 664.

SEC. 21. (a) Section 464(a) of the Social Security Act (as amended by section 12(d) of this Act) is further amended by inserting "(1)" after "Sec. 464. (a)" and by adding at the end thereof the following new paragraphs:

"(2)(A) Upon receiving notice from a State agency administering a plan approved under this part that a named individual owes past-due support (as that term is defined for purposes of this paragraph under subsection (c)) which such State has agreed to collect under section 454(G), and that the State agency has sent notice to such individual in accordance with paragraph (3)(A), the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such individual (regardless of whether such individual filed a tax return as a married or unmarried individual). If the Secretary of the Treasury finds that any such amount is payable, he shall withhold from such refunds an amount equal to such past-due support, and shall concurrently send notice to such individual that the withholding has been made, including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund. The Secretary of the Treasury shall pay the amount withheld to the State agency, and the State shall pay to the Secretary of the Treasury any fee imposed by the Secretary of the Treasury to cover the costs of the withholding and any required notification. The State agency shall, subject to paragraph (3)(B), distribute such amount to or on behalf of the child to whom the support was owed.

"(B) This paragraph shall apply only with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1991.

"(3)(A) Prior to notifying the Secretary of the Treasury under paragraph (1) or (2) that an individual owes past-due support, the State shall send notice to such individual that a withholding will be made from any refund otherwise payable to such individual. The notice shall also (i) instruct the individual owing the past-due support of the steps which may be taken to contest the State's determination that past-due support is owed or the amount of the past-due support, and (ii) provide information, as may be prescribed by the Secretary of Health and Human Services by regulation in consultation with the Secretary of the Treasury, with respect to procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(B) If the Secretary of the Treasury determines that an amount should be withheld under paragraph (1) or (2), and that the refund from which it should be withheld is based upon a joint return, the Secretary of the Treasury shall notify the State that the withholding is being made from a refund based upon a joint return, and shall furnish to the State the name and addresses of each taxpayer filing such joint return. In the case of a withholding under paragraph (2), the State may delay distribution of the amount withheld until the State has been notified by the Secretary of the Treasury that the other person filing the joint return has received his or her proper share of the refund, but such delay may not exceed six months.

"(C) If the other person filing the joint return with the named individual owing the past-due support takes appropriate action to secure his or her proper share of a refund from which a withholding was made under paragraph (1) or (2), the Secretary of the Treasury shall pay such share to such other person. The Secretary of the Treasury shall deduct the amount of such payment from amounts subsequently payable to the State agency to which the amount originally withheld from such refund was paid.

Ante, p. 1310.
1319.
Post, p. 1324.

Effective date.
Ante, p. 1164.

"(D) In any case in which an amount was withheld under paragraph (1) or (2) and paid to a State, and the State subsequently determines that the amount certified as past-due support was in excess of the amount actually owed at the time the amount withheld is to be distributed to or on behalf of the child, the State shall pay the excess amount withheld to the named individual thought to have owed the past-due support (or, in the case of amounts withheld on the basis of a joint return, jointly to the parties filing such return)."

Ante, p. 1322

(b)(1) Section 464(a)(1) of such Act (as redesignated by subsection (a) of this section) is amended by striking out "and pay" in the second sentence and inserting in lieu thereof the following: "shall concurrently send notice to such individual that the withholding has been made (including in or with such notice a notification to any other person who may have filed a joint return with such individual of the steps which such other person may take in order to secure his or her proper share of the refund), and shall pay".

42 USC 664

(2) Section 464(b) of such Act is amended—

(A) by inserting "(1)" after "(b)";

(B) by striking out "The regulations shall specify" in the second sentence and inserting in lieu thereof "The regulations shall be consistent with the provisions of subsection (a)(3), shall specify";

(C) by striking out "and provide" and inserting in lieu thereof "and shall provide";

(D) by adding at the end of paragraph (1) as so redesignated the following: "Any fee paid to the Secretary of the Treasury pursuant to this subsection may be used to reimburse appropriations which bore all or part of the cost of applying such procedure."; and

(E) by adding at the end thereof the following new paragraph:

Ante, p. 1322

"(2) In the case of withholdings made under subsection (a)(2), the regulations promulgated pursuant to this subsection shall include the following requirements:

"(A) The withholding shall apply only in the case where the State determines that the amount of the past-due support which will be owed at the time the withholding is to be made, based upon the pattern of payment of support and other enforcement actions being pursued to collect the past-due support, is equal to or greater than \$500. The State may limit the \$500 threshold amount to amounts of past-due support accrued since the time that the State first began to enforce the child support order involved under the State plan, and may limit the application of the withholding to past-due support accrued since such time.

"(B) The fee which the Secretary of the Treasury may impose to cover the costs of the withholding and notification may not exceed \$25 per case submitted."

42 USC 664

(c) Section 464(c) of such Act is amended—

(1) by striking out "(c) As used in this part" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), as used in this part" and

(2) by adding at the end thereof the following new paragraph:

Ante, p. 1322

"(2) For purposes of subsection (a)(2), the term 'past-due support' means only past-due support owed to or on behalf of a minor child."

Ante, p. 1307

(d) Section 454(6) of the Social Security Act (as amended by section 3(c) of this Act) is further amended—

(1) by redesignating clause (C) as clause (D);

(2) by striking out "fee so imposed" in clause (D) as so redesignated and inserting in lieu thereof "fees so imposed"; and

(3) by striking out ", and" at the end of clause (B) and inserting in lieu thereof ", (C) a fee of not more than \$25 may be imposed in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 464(a)(2), and".

Ante, p. 1323
26 USC 602

(X1) Section 6402(c) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "to which such support has been assigned" and inserting in lieu thereof "collecting such support"; and

(B) by inserting before the last sentence thereof the following: "A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made."

42 USC 602
Ante, p. 1318

(2) Section 6402 of such Code (as amended by section 2653 of the Deficit Reduction Act of 1984) is further amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

Ante, p. 1154

"(g) TREATMENT OF PAYMENTS TO STATES.—The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c) to a State shall be treated as a payment to the person or persons making the overpayment."

(X1) Section 6103(l) of such Code (as so amended) is further amended by adding at the end thereof the following new paragraph:

Ante, p. 1155

"(11) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c).—

Supra

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon receiving a written request, disclose to officers and employees of a State agency seeking a reduction under section 6402(c)—

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any taxpayer;

"(ii) the amount of such reduction;

"(iii) whether such taxpayer filed a joint return;

"(iv) taxpayer identity information with respect to the taxpayer against whom a reduction was made or not made and of any other person filing a joint return with such taxpayer; and

"(v) the fact that a payment was made (and the amount of the payment) on the basis of a joint return in accordance with section 464(a)(3) of the Social Security Act.

Ante, p. 1322

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from a reduction made under section 6402(c)."

Supra

Ante, p. 1155 (2) Section 6103(p)(3)(A) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

Ante, p. 1155 (3) Section 6103(p)(4) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

Ante, p. 1156 (4) Section 6103(p)(4)(F)(ii) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

Ante, p. 1156 (5) Section 7213(a)(2) of such Code (as so amended) is further amended by striking out "or (10)" and inserting in lieu thereof "(10), or (11)".

Effective date
26 USC 6103
note
Ante, p. 1325 (g) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985.

WISCONSIN CHILD SUPPORT INITIATIVE

Waiver
42 USC 602, note
42 USC 601, 611 (Sec. 22. (a)(1) If the State of Wisconsin requests the Secretary of Health and Human Services to waive the requirements of parts A and D of title IV of the Social Security Act, or to waive the requirements of part D and only those requirements of part A of such Act as relate to the provision of aid to dependent children as defined (without regard to section 407) in section 406(a) of the Social Security Act (hereafter referred to in this section as "dependent children in single-parent families"), in order to permit the State to make an adequate test in any county or counties, or throughout the State, of its Child Support Initiative, the Secretary shall waive such requirements if—

Public availability
42 USC 601, 651 (A) the State provides a complete description, in accordance with paragraph (2), of the program, known as the Initiative, which it will operate in place of the programs under such parts A and D, and makes the description readily available to the public throughout the State;

Medical assistance eligibility
42 USC 1396 (B) the Governor provides assurances that, under the Initiative, assistance will be provided to all children in need of financial support, and the State will continue to operate an effective child support enforcement program;

42 USC 601 (C) the State agrees that, during the conduct of such test, it will continue to determine eligibility for medical assistance under the State plan approved under title XIX of the Social Security Act, applying the criteria (insofar as may be applicable to members of families with dependent children affected by the Initiative) in effect under its State plan approved under part A of title IV for the month preceding the month in which the Initiative (approved under this section) becomes effective, except that such criteria shall be deemed to have been changed to the extent necessary to comply with generally applicable changes in Federal law or regulations occurring after the date of the enactment of this Act;

Reports (D) the State specifies measurable performance objectives, submits an evaluation plan (including criteria for evaluating the Initiative), and agrees to submit interim and final evaluations and reports, at such time or times and containing such information, as the Secretary may require; and

Audit Public availability (E) the State agrees to obtain, at least once every two years, a financial and compliance audit of the funds received under this

section and to obtain, after the close of the operation of the Initiative under this section, such an audit and make it public within the State on a timely basis and provide a copy to the Secretary within 30 days after its completion.

(2) The program description provided under paragraph (1)(A) shall describe in detail how the proposed Initiative will affect children and families, with specific reference to the principles for calculating benefits and establishing and enforcing child support obligations. The description shall also include estimates of cost and program effects and provide other relevant information necessary for the Secretary to determine whether the financial well-being of children and their families will be adversely affected by the operation of the Initiative.

(b) The Child Support Initiative proposed by the State of Wisconsin as detailed in the program description submitted to the Secretary, and the related requested waivers, shall become effective within 120 days after its submission unless the Secretary determines that the financial well-being of children in the State will be adversely affected by the Initiative. The Secretary shall notify the State in writing that, effective with the beginning of the following quarter (or of such later quarter as the State may select), the State may operate its Child Support Initiative instead of its programs of aid to families with dependent children (or, if the State had so requested, instead of its program of aid to dependent children in single-parent families) and child support enforcement in such county or counties or on a statewide basis, as the State has indicated in its request except as specifically provided in subsection (c), no amount will be payable for any quarter under section 403(a) (or under section 403(a) with respect to single-parent families, if the State had so requested), 455(a), or 458 of the Social Security Act with respect to such county or counties in which the Initiative is in effect.

(c)(1) For each quarter during which such program is in effect throughout the State, the Secretary will pay to the State the sum of its proportionate share (as defined in paragraph (4)(A)) of each of the following:

(A) the amount advanced by the Secretary to all the other States (as defined in section 1101(a) of the Social Security Act) for such quarter with respect to section 403(a) (1) and (2) of such Act;

(B) the amount so advanced by the Secretary with respect to section 403(a)(3) of such Act;

(C) the amount so advanced by the Secretary with respect to section 455(a) of such Act; and

(D) the amount so advanced by the Secretary with respect to section 458(a) of such Act,

reduced by so much of its proportionate share of support collections on behalf of individuals receiving aid to families with dependent children (as defined in paragraph (4)(B)) as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

(2) If in any quarter the Initiative approved under this section is in operation in fewer than all the counties in the State, the amount paid to the State with respect to the counties to which the waiver under subsection (a) applies shall equal (in lieu of the amount specified in paragraph (1)) the proportionate share with respect to the counties in which the Initiative is operated (as defined in paragraph (5)(A)) of the amount advanced to the State under the

Effective date

42 USC 603

Ante, pp. 1311, 1312

42 USC 1301
42 USC 603

Ante, p. 1311

Ante, p. 1312

Ante, p. 1318

four authorities specified in paragraph (1) with respect to all the other counties for such quarter, reduced by so much of the proportionate share of support collections (as defined in paragraph (5)(B)) with respect to the counties in which the Initiative is operated, as would have been credited to the Federal Government under section 457(b) of such Act had such collections been made in the last quarter of fiscal year 1986.

(3) Payment under this subsection shall be estimated by the Secretary before the beginning of each quarter during which the Initiative is in effect on the basis of the advances made under parts A and D of title IV of the Social Security Act for such quarter, and the Secretary shall make payments for such quarter on a monthly basis (with each payment made no later than the beginning of the month involved), in the amounts so estimated, and adjusted as necessary to reflect the amount of any previously made overpayment or underpayment under this section. Payment of any amount determined with respect to paragraphs (1)(A) and (1)(B) shall be made from amounts appropriated to carry out part A of title IV of the Social Security Act for the appropriate fiscal year; payment of any amount determined with respect to paragraphs (1)(C) and (1)(D) shall be made from amounts appropriated to carry out part D of title IV of the Social Security Act.

(4)(A) The State's proportionate share of each amount enumerated in paragraph (1) shall be the portion of such amount that bears the same ratio to such amount as the corresponding portion advanced to the State for quarters in fiscal years 1984 through 1986 bears to the total corresponding amount advanced to all the other States for such quarters.

(B) The State's proportionate share of support collections means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children by all the other States for the quarter involved as such collections by the State for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other States for such quarters.

(5)(A) The proportionate share with respect to the counties in which the Initiative is operated, in the case of—

- (i) the amount advanced to the State with respect to all other counties under section 403(a)(1) of the Social Security Act;
- (ii) the amount so advanced under section 403(a)(3) of such Act;
- (iii) the amount so advanced under section 455(a) of such Act; and
- (iv) the amount so advanced with respect to section 457(b) of such Act,

is the sum of such amounts, each having been multiplied by the ratio of (I) the corresponding amount advanced with respect to such counties for all quarters in fiscal years 1984 through 1986 to (II) the corresponding amount advanced with respect to all the other counties in the State for all such quarters.

(B) The proportionate share of support collections for any quarter, with respect to the counties in which the Initiative is operated, means the amount that bears the same ratio to such collections on behalf of individuals receiving aid to families with dependent children with respect to all the other counties in the State for such quarter as such collections by such counties for quarters in fiscal years 1984 through 1986 bear to the total of such collections by all the other counties in the State for such quarters.

(6) If the State requests, under subsection (a), waiver of only those requirements under part A of title IV of the Social Security Act as relate to the provision of aid to dependent children in single-parent families, and continues to operate its program of aid to families with dependent children deprived by reason of the unemployment of a parent—

(A) the State's proportionate share of the amount specified in paragraph (1)(A) (and only that amount) shall be computed under paragraph (4) by application of the ratio of (i) the amount advanced to the State, under section 403(a)(1) of the Social Security Act for quarters in fiscal years 1984 through 1986 with respect to expenditures in the form of aid to dependent children in single-parent families, to (ii) the amount advanced to all the other States, under section 403(a) (1) and (2) of such Act with respect to such expenditures, rather than by application of the ratio specified in paragraph (4); and

(B) part A of title IV of such Act shall continue to apply to the State's program of aid to families with dependent children deprived by reason of the unemployment of a parent; except that section 403(a)(3) shall not apply during the period that, or in the part or parts of the State where, the Initiative is in effect.

(d)(1) The State may cease to conduct the Initiative under this section and (if it so chooses) return to the administration of its plans approved under part A and part D of title IV of the Social Security Act upon the provision to the Secretary of at least 3 months advance notice (or such greater advance notice as may be necessary so that administration of such plans will resume at the beginning of a quarter in the fiscal year).

(2) The Secretary may terminate approval of the Initiative upon the giving of at least 3 months advance notice (or such greater advance notice as may be necessary as specified in paragraph (1)) to the State if it is determined that the financial well-being of children in the State (or county or counties involved) would be better achieved by the operation of programs under part A and part D of title IV of the Social Security Act.

(e) This section shall be in effect for quarters beginning after September 30, 1986, and ending before October 1, 1994.

SENSE OF THE CONGRESS THAT STATE AND LOCAL GOVERNMENTS SHOULD FOCUS ON THE PROBLEMS OF CHILD CUSTODY, CHILD SUPPORT, AND RELATED DOMESTIC ISSUES

SEC. 23. (a) The Congress finds that—

(1) the divorce rate in the United States has reached alarming proportions and the number of children being raised in single parent families has grown accordingly;

(2) there is a critical lack of child support enforcement, which Congress has undertaken to address through the child support enforcement program;

(3) Congress is strengthening that program to recognize the needs of all children;

(4) related domestic issues, such as visitation rights and child custody, are often intricately intertwined with the child support problem and have received inadequate consideration; and

(5) these related issues remain within the jurisdiction of State and local governments, but have a critical impact on the health and welfare of the children of the Nation.

Ante, p. 1318

42 USC 601, 651

42 USC 603.

Ante, p. 1311.

Ante, p. 1312.

42 USC 601.

42 USC 603.

42 USC 601.

42 USC 603.

42 USC 601, 651.

Effective date.

(b) It is the sense of Congress that—

(1) State and local governments must focus on the vital issues of child support, child custody, visitation rights, and other related domestic issues that are properly within the jurisdictions of such governments;

(2) all individuals involved in the domestic relations process should recognize the seriousness of these matters to the health and welfare of our Nation's children and assign them the highest priority; and

(3) a mutual recognition of the needs of all parties involved in divorce actions will greatly enhance the health and welfare of America's children and families.

Approved August 16, 1984.

LEGISLATIVE HISTORY—H.R. 4325:

HOUSE REPORTS: No. 98-527 (Comm. on Ways and Means) and No. 98-925 (Comm. of Conference).

SENATE REPORT No. 98-387 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 16, considered and passed House.

Vol. 130 (1984): Apr. 25, considered and passed Senate, amended.

Aug. 1, Senate agreed to conference report.

Aug. 5, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 33 (1984):

Aug. 16, 1984, Presidential statement.



STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600
465-3603

January 31, 1985

The Honorable Max Gruenberg
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 92 Child and Spousal
Support

Dear Representative Gruenberg:

Holli Ploog asked me to send you the material you requested during the public hearing on HB 92. I have enclosed a copy of the Revised Uniform Reciprocal Enforcement of Support Act (1968), */ as well as copies of 15 U.S.C. 1673 and the Model Interstate Income Withholding Act (with commentary).

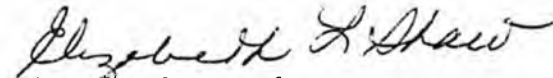
The Department of Law has no proposed amendments to the statutes which control establishment or enforcement of interstate or intrastate child support actions.

By tomorrow I plan to have completed a response to your question regarding due process notice requirement.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Elizabeth L. Shaw
Assistant Attorney General

ELS:bap
Enclosure
cc: Holli Ploog

*/ In a quick comparison of our statutes and the Revised Uniform Reciprocal Enforcement of Support Act, I highlighted the areas of difference which I spotted.

Appendix A
REVISED UNIFORM RECIPROCAL
ENFORCEMENT
OF SUPPORT ACT (1968)

Drafted by the
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS SEVENTY-SEVENTH YEAR
AT PHILADELPHIA, PENNSYLVANIA
JULY 22—AUGUST 1, 1968

APPROVED BY THE AMERICAN BAR ASSOCIATION AT ITS
MEETING AT PHILADELPHIA, PENNSYLVANIA
AUGUST 7, 1968

The Committee which acted for the National Conference of Commissioners on Uniform State Laws in preparing the Revised Uniform Reciprocal Enforcement of Support Act was as follows:

- W. J. BROCKELBANK, 203 South Polk Street, Moscow, Idaho 83843, *Chairman*
BOYD M. BENSON, 76 Third Street, S.W., The National Bank of South Dakota Building, Huron, South Dakota 57350
WILLIAM S. BURRAGE, 3 Court Square, Middlebury, Vermont 05753
LOWRY N. COE, 8400 Wisconsin Avenue, Bethesda, Maryland 20014

FRED T. HANSON, 316 Norris Avenue, McCook, Nebraska
69001

EUGENE A. BURDICK, P.O. Box 757, Williston, North Dakota
58801, *Chairman of Section F*

PART I—*General Provisions*

SECTION 1. [*Purposes.*] The purposes of this Act are to improve and extend by reciprocal legislation the enforcement of duties of support.

SECTION 2. [*Definitions.*]

(a) "Court" means the [here insert name] court of this State and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(c) "Governor" includes any person performing the functions of Governor or the executive authority of any state covered by this Act.

(d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(e) "Law" includes both common and statutory law.

(f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(h) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(i) "Register" means to [record] [file] in the Registry of Foreign Support Orders.

(j) "Registering court" means any court of this State in which a support order of a rendering state is registered.

(k) "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(l) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(m) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(n) "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

SECTION 3. [*Remedies Additional to Those Now Existing.*] The remedies herein provided are in addition to and not in substitution for any other remedies.

SECTION 4. [*Extent of Duties of Support.*] Duties of support arising under the law of this State, when applicable under section 7, bind the obligor present in this State regardless of the presence or residence of the obligee.

PART II—*Criminal Enforcement*

SECTION 5. [*Interstate Rendition.*] The Governor of this State may

(1) demand of the Governor of another state the surrender of a person found in that state who is charged criminally in this State with failing to provide for the support of any person; or

(2) surrender on demand by the Governor of another state a person found in this State who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this Act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

SECTION 6. [*Conditions of Interstate Rendition.*]

(a) Before making the demand upon the Governor of another state for the surrender of a person charged criminally in this State with failing to provide for the support of a person, the Governor of this State may require any prosecuting attorney of this State to satisfy him that at least [6(1)] days prior thereto the obligee initiated proceedings for support under this Act or that any proceeding would be of no avail.

(b) If, under a substantially similar Act, the Governor of another state makes a demand upon the Governor of this State for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require any prosecuting attorney to investigate the demand and to report to him whether

proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If proceedings have been initiated and the person demanded has prevailed therein the Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

PART III—*Civil Enforcement*

SECTION 7. [*Choice of Law.*] Duties of support applicable under this Act are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

SECTION 8. [*Remedies of State or Political Subdivision Furnishing Support.*] If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this Act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

SECTION 9. [*How Duties of Support Enforced.*] All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this Act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

SECTION 10. [*Jurisdiction.*] Jurisdiction of any proceeding under this Act is vested in the [here insert title of court desired].

SECTION 11. [*Contents and Filing of [Petition] for Support; Venue.*]

(a) The [petition] shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. The obligee may include in or attach to the [petition] any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his Social Security number.

(b) The [petition] may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the [petition] on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

SECTION 12. [*Officials to Represent Obligee.*] If this State is acting as an initiating state the prosecuting attorney upon the request of the court [a state department of welfare, a county commissioner, an overseer of the poor, or other local welfare officer] shall represent the obligee in any proceeding under this Act. [If the prosecuting attorney neglects or refuses to represent the obligee the [Attorney General] may order him to comply with the request of the court or may undertake the representation.] [If the

prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

SECTION 13. [*Petition for a Minor.*] A [petition] on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

SECTION 14. [*Duty of Initiating Court.*] If the initiating court finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause 3 copies of the [petition] and its certificate and one copy of this Act to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

SECTION 15. [*Costs and Fees.*] An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in this State when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor,

be paid in whole or in part by the obligor or by the [state or political subdivision thereof]. These costs or fees do not have priority over amounts due to the obligee.

SECTION 16. [*Jurisdiction by Arrest.*] If the court of this State believes that the obligor may flee it may

(1) as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(2) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

SECTION 17. [*State Information Agency.*]

(a) The [Attorney General's Office, State Attorney's Office, Welfare Department or other Information Agency] is designated as the state information agency under this Act, it shall

(1) compile a list of the courts and their addresses in this State having jurisdiction under this Act and transmit it to the state information agency of every other state which has adopted this or a substantially similar Act. Upon the adjournment of each session of the [legislature] the agency shall distribute copies of any amendments to the Act and a statement of their effective date to all other state information agencies;

(2) maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this Act; and

(3) forward to the court in this State which has jurisdiction over the obligor or his property petitions, certificates and copies of the Act it receives from courts or information agencies of other states.

(b) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

(c) After the deposit of 3 copies of the [petition] and certificate and one copy of the Act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the [Attorney General] [State Director of Public Welfare], who may undertake the representation.

SECTION 18. [*Duty of the Court and Officials of This State as Responding State.*]

(a) After the responding court receives copies of the [petition], certificate, and Act from the initiating court the clerk of the court shall docket the case and notify the prosecuting attorney of his action.

(b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this State to enable the court to obtain jurisdiction over the obligor or his property and shall request the court [clerk of the court] to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(c) If the prosecuting attorney neglects or refuses to represent the obligee the [Attorney General] may order him

to comply with the request of the court or may undertake the representation.] [If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

SECTION 19. [Further Duties of Court and Officials in the Responding State.]

(a) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the [petition] or otherwise the court cannot obtain jurisdiction the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended [petition] from the initiating court.

(b) If the obligor or his property is not found in the [county], and the prosecuting attorney discovers that the obligor or his property may be found in another [county] of this State or in another state he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other [county] or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this Act apply to the recipient of the documents so forwarded. If the clerk of a court of this State forwards documents to another court he shall forthwith notify the initiating court.

(c) If the prosecuting attorney has no information as to the location of the obligor or his property he shall so inform the initiating court.

SECTION 20. [Hearing and Continuance.] If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence

constituting a defense the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

SECTION 21. [Immunity from Criminal Prosecution.] If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

SECTION 22. [Evidence of Husband and Wife.] Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Act. Husband and wife are competent witnesses [and may be compelled] to testify to any relevant matter, including marriage and parentage.

SECTION 23. [Rules of Evidence.] In any hearing for the civil enforcement of this Act the court is governed by the rules of evidence applicable in a civil court action in the _____ Court. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (Section 27) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

SECTION 24. [*Order of Support.*] If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this Act shall require that payments be made to the [clerk] [bureau] [probation department] of the court of the responding state. [The court and prosecuting attorney of any [county] in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the [county] in which it was first issued. If enforcement is impossible or cannot be completed in the [county] in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any [county] in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.]

SECTION 25. [*Responding Court to Transmit Copies to Initiating Court.*] The responding court shall cause a copy of all support orders to be sent to the initiating court.

SECTION 26. [*Additional Powers of Responding Court.*] In addition to the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

- (1) require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;
- (2) require the obligor to report personally and to make payments at specified intervals to the [clerk] [bureau] [probation department] of the court; and
- (3) punish under the power of contempt the obligor who violates any order of the court.

SECTION 27. [*Paternity.*] If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

SECTION 28. [*Additional Duties of Responding Court.*] A responding court has the following duties which may be carried out through the [clerk] [bureau] [probation department] of the court:

(1) to transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(2) to furnish to the initiating court upon request a certified statement of all payments made by the obligor.

SECTION 29. [*Additional Duty of Initiating Court.*] An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the [clerk] [bureau] [probation department] of the court.

SECTION 30. [*Proceedings Not to be Stayed.*] A responding court shall not stay the proceeding or refuse a hearing under this Act because of a pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the [petition] being heard the court must

conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

SECTION 31. [*Application of Payments.*] A support order made by a court of this State pursuant to this Act does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this State.

[SECTION 32. [*Effect of Participation in Proceeding.*] Participation in any proceeding under this Act does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.]

[SECTION 33. [*Interstate Application.*] This Act applies if both the obligee and the obligor are in this State but in different [counties]. If the court of the [county] in which the [petition] is filed finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another [county] in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the [petition] and a certification of the findings to the court of the [county] in which the obligor or his property is found. The clerk of the court of the [county] receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the [county] to which the copies are forwarded then shall have duties corresponding to those

imposed upon them when acting for this State as a responding state.]

SECTION 34. [*Appeals.*] If the [Attorney General] [State Director of Public Welfare] is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may

(a) perfect an appeal to the proper appellate court if the support order was issued by a court of this State, or

(b) if the support order was issued in another state, cause the appeal to be taken in the other state. In either case expenses of appeal may be paid on his order from funds appropriated for his office.

PART IV—Registration of Foreign Support Orders

SECTION 35. [*Additional Remedies.*] If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

SECTION 36. [*Registration.*] The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

SECTION 37. [*Registry of Foreign Support Orders.*] The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall [file] foreign support orders.

SECTION 38. [*Official to Represent Obligee.*] If this State is acting either as a rendering or a registering state the prosecuting attorney upon the request of the court [a state department of welfare, a county commissioner, an overseer of the poor, or other local welfare official] shall represent the obligee in proceedings under this Part.

[If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] may order him to comply with the request of the court or may undertake the representation.] [If the prosecuting attorney

neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

SECTION 39. [*Registration Procedure; Notice.*]

(a) An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modification thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this Act.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

SECTION 40. [*Effect of Registration; Enforcement Procedure.*]

(a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

(b) The obligor has [20] days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

(c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this State may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State.

SECTION 41. [*Uniformity of Interpretation.*] This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 42. [*Short Title.*] This Act may be cited as the Revised Uniform Reciprocal Enforcement of Support Act (1968).

SECTION 43. [*Severability.*] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Individual are required to be withheld for payment of any debt, the process by which bankruptcy trustee takes title is "a legal or equitable procedure." In re Cedor, D.C. Cal. 1972, 337 F.Supp. 1103, affirmed 470 F.2d 996, certiorari denied 93 S.Ct. 2148, 411 U.S. 973, 36 L.Ed.2d 697.

The term "garnishment" as used in this subchapter setting forth maximum amount which may be garnished from earnings of individual for any work week is not restricted but includes any legal or equitable procedure through which earnings of an individual are required to be withheld for payment of any debt, thus encompassing orders of support as well as ordinary creditor-debtor "garnishment." General Motors Acceptance Corp. v. Metropolitan Opera Ass'n, Inc., 1978, 413 N.Y.S.2d 818, 98 Misc.2d 307.

nishment that portion of worker's checking account funds attributable to her wages and falling within this subchapter's maximum. Edwards v. Henry, 1980, 293 N.W.2d 756, 97 Mich.App. 173.

4. Ripeness

Where Department of Labor had not reached final conclusion regarding its position on coverage of term "garnishment" as used in this subchapter, plaintiffs were not entitled to declaratory relief that term included wage assignments or injunctive relief requiring Secretary of Labor to enforce provisions of this subchapter as so interpreted, and controversy between plaintiffs and Secretary was not ripe for judicial determination. Western v. Hodgson, D.C.W.Va. 1973, 359 F.Supp. 194, affirmed 494 F.2d 379.

§ 1673. Restriction on garnishment

Maximum allowable garnishment

(a) Except as provided in subsection (b) of this section and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

- (1) 25 per centum of his disposable earnings for that week, or
- (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of Title 29 in effect at the time the earnings are payable, whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

Exceptions

(b)(1) The restrictions of subsection (a) of this section do not apply in the case of

- (A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review.
 - (B) any order of any court of the United States having jurisdiction over cases under chapter 13 of Title 11.
 - (C) any debt due for any State or Federal tax.
- (2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed—

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(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

Execution or enforcement of garnishment order or process prohibited

(c) No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

(Pub.L. 90-321, Title III, § 303, May 29, 1968, 82 Stat. 163; Pub.L. 95-30, Title V, § 501(e)(1)-(3), May 23, 1977, 91 Stat. 161, 162; Pub.L. 95-598, Title III, § 312(a), Nov. 6, 1978, 92 Stat. 2676.)

Historical Note

References in Text. Chapter 13 of Title 11, referred to in subsec. (b)(1)(B), is section 1301 et seq. of Title 11, Bankruptcy.

1978 Amendment. Subsec. (b)(1)(B). Pub. L. 95-598 substituted "court of the United States having jurisdiction over cases under chapter 13 of Title 11" for "court of bankruptcy under chapter XIII of the Bankruptcy Act".

1977 Amendment. Subsec. (b). Pub.L. 95-30, § 501(e)(1), (2), designated existing provisions as par. (1) and existing pars. (1), (2), and (3) as subpars. (A), (B), and (C) thereof, substituted "for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial review" for "of any court for the support of any person" in subpar. (A) as so redesignated, and added par. (2).

Subsec. (c). Pub.L. 95-30, § 501(e)(3), inserted ", and no State (or officer or agency thereof), following "or any State".

Effective Date of 1978 Amendment. Amendment by Pub.L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub.L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Effective Date of 1977 Amendment. Section 501(e)(5) of Pub.L. 95-30 provided that: "The amendments made by this subsection [amending this section and section 1675 of this title] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [May 23, 1977]."

Effective Date. Section effective July 1, 1970, see section 504(c) of Pub.L. 90-321, set out as an Effective Date note under section 1671 of this title.

Legislative History. For legislative history and purpose of Pub.L. 90-321, see 1968 U.S. Code Cong. and Adm. News, p. 1962. See, also, Pub.L. 95-30, 1977 U.S. Code Cong. and Adm. News, p. 185.

Cross References

Enforcement of legal obligations to provide child support and make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

West's Federal Forms

Garnishment, matters pertaining to, see §§ 5196 to 5226.

Code of Federal Regulations

Federal employees, child support and/or alimony, see 5 CFR 581.101 et seq.
Policies and procedures applicable, see 29 CFR 870.1 et seq.
Railroad Retirement Board, provisions respecting,
Remuneration of Board personnel, see 20 CFR 363.1 et seq.
Retirement and unemployment benefits, see 20 CFR 350.1 et seq.

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C.J.S. Interest and Usury; Consumer Credit § 325.

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of Congressional power. *Hodgson v. Cleveland Municipal Court*, D.C. Ohio 1971, 326 F. Supp. 419.

2. Construction

This section is remedial in general purpose, and the exceptions to its coverage should be strictly construed. *In re Cedor*, D.C. Cal. 1972, 337 F.Supp. 1103, affirmed 470 F.2d 996, certiorari denied 93 S.Ct. 2148, 411 U.S. 973, 36 L.Ed.2d 697.

Any exception to maximum garnishment restrictions must be narrowly construed. *V— v. S—*, Mo.App. 1979, 579 S.W.2d 149.

3. Construction with bankruptcy provisions

In enacting this subchapter Congress, in an effort to avoid necessity of bankruptcy, sought to regulate garnishment in its usual sense as a levy on periodic payments of compensation needed to support wage earner and his family on a week-to-week, month-to-month basis, and did not intend to drastically alter delicate balance of a debtor's protections and obligations during bankruptcy procedure. *Kokoszka v. Belford*, Conn. 1974, 94 S.Ct. 2431, 417 U.S. 642, 41 L.Ed.2d 374, rehearing denied 95 S.Ct. 160, 419 U.S. 886, 42 L.Ed.2d 131.

This subchapter does not restrict right of trustee in bankruptcy to treat income tax refund as property of bankrupt's estate. *Id.*

Decisions under former section 35 of Title 11, providing that debts for alimony, maintenance or support are not dischargeable pertain to existence and preservation of debt; such decisions do not pertain to manner or means of collecting debt, which are governed by state procedures when those procedures do not purport to provide for less limitation on garnishments than this section. *Dyche v. Dyche*, Mo. 1978, 570 S.W.2d 293.

1. Constitutionality

This section does not offend due process by unconstitutionally impairing obligation of contracts. *Hodgson v. Hamilton Municipal Court*, D.C. Ohio 1972, 349 F.Supp. 1125.

Congress had rational basis for determining that this subchapter was needed to carry into execution powers of Congress to regulate commerce and to establish uniform bankruptcy laws, and restriction of this section on garnishment, is constitutional and valid exercise

MODEL INTERSTATE INCOME WITHHOLDING ACT

SECTION 1. GENERAL PROVISIONS

(a) Purpose: The purpose of this Act is to enhance the enforcement of support obligations by providing a quick and effective procedure for the withholding of income derived in this jurisdiction to enforce support orders of other jurisdictions and by requiring that income withholding, to enforce the support orders of this jurisdiction, be sought in other jurisdictions. This Act shall be construed liberally to effect that purpose.

(b) Definitions: As used in this Act:

(1) "Support order" means any order, decree, or judgment for the support, or for the payment of arrearages on such support, of a child, spouse, or former spouse issued by a court or agency of another jurisdiction, whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise.

(2) "Jurisdiction" means any state or political subdivision, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) "Court" means the [insert name] court of this state and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this Act, including the issuance and enforcement of support orders.

(4) "Agency" means the [insert name of the income withholding agency] of this state and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this Act, including the issuance and enforcement of support orders.

(5) "Child" means any child, whether above or below the age of majority, with respect to whom a support order exists.

(6) "Obligor" means any person required to make payments under the terms of a support order for a child, spouse, or former spouse.

(7) "Obligee" means any person or entity which is entitled to receive support under an order of support and shall include an agency of another jurisdiction to which a person has assigned his or her right to support.

(8) "Income" means [income] as defined in section [cite to definition of income in state withholding law].

(9) "[Employer] [Payor]" means any payor of income.

(10) "Income derived in this jurisdiction" means any income, the payor of which is subject to the jurisdiction of this state for the purpose of imposing and enforcing income withholding under sections _____ through _____ [state's regular intrastate income withholding procedures].

(c) Remedies Additional to Those Now Existing: The remedy herein provided is in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of another jurisdiction. Relief under this Act shall not be denied, delayed, or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

COMMENT

Subsection (a) states the twofold purpose of the Act: first, to establish a quick and effective procedure for withholding of income in the enacting state in order to enforce a sister state support order, and, second, to require that the appropriate agency in the enacting state seek to have its own support orders enforced in other states by the interstate withholding mechanism. The larger purpose of the Act is intended to enhance interstate support enforcement and the Act should be liberally interpreted and construed toward that end.

As used throughout this commentary, the term "forum state" will refer to the state being asked to utilize its withholding system to enforce a sister state order. The term "requesting state" will refer to the state which seeks this assistance from the forum state.

Most state child support and income withholding laws define frequently used terms. These definitions, for the most part, will also apply to income withholding based on a support order of another jurisdiction. However, for purposes of interstate income withholding, some additional terms and special definitions are needed and these are included in subsection (b).

"Support order," as defined in (b)(1), includes every kind of order for the support of a child, spouse or former spouse, no matter the nature of the legal proceeding in which it was entered. The Act applies to support orders issued by an administrative agency of the requesting state, even if the forum state does not use an administrative process for this purpose. Orders for the support of a spouse or former spouse are included in order to comply with the Child Support Enforcement Amendments of 1984, which requires that income withholding, along with other remedies, be available to enforce support due to a spouse or former spouse with whom the child is living. Social Security Act §466(e), 42 U.S.C. §666(e).

While the full faith and credit clause of the Constitution may not require enforcement of orders that are non-final or modifiable, this subsection includes non-final or temporary support orders, as well as orders which are prospectively or retroactively modifiable. Obligor remain free to seek appropriate modifications in the state which originally issued the support order or any other state which has personal jurisdiction over the parties, and these changes will be reflected in changes in the forum state's withholding order. See Sections 2, 9(a). It should be noted that there is no requirement that a support order include in its terms a conditional order of withholding in order to be entitled to enforcement by this means. Arrearages need not be reduced to judgment before this remedy is used and the remedy is available to enforce the ongoing support obligation.

The definition of "jurisdiction," (b)(2), does not include foreign countries. If foreign nations do not utilize income withholding, this Act could not apply. States wishing to include foreign nations under this Act must define "jurisdiction" accordingly. In so doing, it should be required that foreign support decrees will be recognized under this Act only if withholding or a similar remedy would be required under the facts of the case in that country and "reasonable notice and opportunity to be heard" was given "to all affected persons" at the time of the support decree. Griffin v. Griffin, 327 U.S. 220, 229 (1946).

In subsections (b)(3) and (b)(4) the enacting state should insert the names of the court, if any, and agency respectively, which are responsible for income withholding functions. Typically, these functions might include sending notice to the obligor, conducting income withholding hearings, and sending notice to the payor. Depending on the context in which it is used, "court" may refer either to the specific named court in the enacting state or to the court or agency of another state with similar functions. States may elect to use an administrative agency, rather than a court, to issue withholding orders. "Agency" may also refer to a court or agency of a sister state which performs similar functions.

The definition of "agency" refers to the public agency which, in accordance with the Child Support Enforcement Amendments of 1984, each state must designate to administer its income withholding system. It is assumed that in most states the IV-D agency will be the income withholding agency. Where this is not the case drafters will have to examine the Act carefully and insert the name of the IV-D agency rather than the withholding agency where the context requires.

As a rule, where the terms "court" or "agency" appear in brackets, they refer to the court or agency of the enacting state; where they appear without brackets, they refer to the court or agency of the sister state requesting the interstate income withholding. At times the terms [court] [agency] appear together. Legislative drafters in this case should choose the appropriate one for their state.

"Child," as defined in section (b)(5), includes both minor children and children above the age of majority with respect to whom a support order exists. The latter might include college students or other dependant children above the age of majority such as incompetent young adults. Some states impose liability for support of such "adult children." See, e.g., D.C. Code Ann. §21-586 (1981); Ill. Ann. Stat. ch. 40, §513 (Smith-Hurd 1983). Where another state allows post-minority support, the enacting state should make its income withholding scheme available to enforce sister state support orders pertaining to such children. This also is consistent with the Child Support Enforcement Amendments of 1984, which permits enforcement of support obligations through state IV-D agencies "on behalf of a child who is not a minor child." Social Security Act §466(e), U.S.C. §666(e).

"Obligor," as defined in section (b)(6), is the term used in this Act for the person who is required to make payments under a support order. It corresponds generally to the term "absent parent" which is used in Title IV-D of the Social Security Act.

An "obligee" as defined in section (b)(7) includes not only a person entitled to receive support payments - who might be the custodial parent or another custodian - but also an agency to which a person has assigned his or her right of support.

The term "income," (b)(8), for interstate withholding purposes, should be defined the same as in intrastate withholding cases. The state's usual definition may simply be cross-referenced. Using the forum state's definition of income should simplify administration of the interstate withholding program and ensure that policies of the forum state with respect to what income is reachable are not contravened. See, e.g., Young v. Young, 467 A.2d 33 (Pa. 1983) in which a state

law barring attachment of municipal pension benefits was held to bar equitable distribution of those benefits under a sister state divorce decree.

According to federal law, states must include wages in their income withholding system; however, they may extend withholding to include other types of income. Social Security Act §466(b)(8), 42 U.S.C. §666(b)(8). Most states which, prior to the federal Child Support Enforcement Amendments of 1984, already provided for some form of income withholding have a broad definition of income. For example, Illinois defines income as "any form of periodic payment to an individual, regardless of source, including, but not limited to: wages, salary, commission, compensation as an independent contractor, worker's compensation, disability, annuity and retirement benefits, and any other payments made by a person, private entity, federal or state government, any unit of local government, school district or any other entity created by Public Act." Ill. Rev. Stat. ch. 23 §10-16.2(4) (Smith-Hurd 1983). Many states have adopted broad, catch-all phrases in defining income, such as "earnings or other entitlements to money, without regard to source." Ariz. Rev. Stat. Ann. §§12-2454, 25-323.

The only limit on a state's definition of income are those required by other federal laws. For example, the Louisiana Supreme Court has recently held that maritime worker's benefits are exempt from garnishment for child support due to an anti-attachment provision of the federal Longshoremen's and Harbor Worker's Compensation Act. Thibodeaux v. Thibodeaux, 454 So.2d 813 (1984). Under the Retirement Equity Act of 1984, Pub. L. No. 98-397, Congress has provided that retirement benefits may be withheld to pay for child and spousal support, provided they are based upon a "qualified domestic relations order" as defined in the statute.

The definition of "income derived in this jurisdiction," subsection (b)(10), is essentially a statement of "the jurisdiction of the courts or withholding agency in the forum state. This statute is not based on personal jurisdiction over the obligor. Rather, it is based on the exercise of quasi in rem jurisdiction over the obligor's property, i.e., his income which is derived in the forum state. However, in most cases the forum state will be where the obligor works, and this state will also have personal jurisdiction over the obligor. The use of quasi in rem jurisdiction also distinguishes this procedure from procedures to establish a support obligation initially. There must be personal jurisdiction over an obligor to establish the support obligation in the first instance. The ability to establish personal jurisdiction by long-arm statute for the purpose of establishing the initial support obligation is limited. Kulko v. California Superior Court, 436 U.S. 84 (1978).

The key jurisdictional question for income withholding purposes is whether the forum state has jurisdiction over the payor of income, usually an employer. Only with such jurisdiction can the forum state compel the payor to comply with income withholding. In the majority of cases in which the obligor is employed by the payor, the payor will have its principal place of business in the forum state or will be reachable by the state's long-arm statute because it is doing business in the state. The payor's transaction of business in the forum state, i.e., the obligor works there, should satisfy the "minimum contacts" requirement. International Shoe Co. v. Washington, 360 U.S. 310 (1945). In short, the forum state will usually be where the obligor works." Preference for the obligor's state of employment will promote fairness by minimizing the obligor's expenses if he wishes to contest withholding. The one exception to this rule might be when the requesting state itself could obtain jurisdiction over the payor. In such instances, use of the state's regular withholding scheme may be preferred, without reverting to this interstate Act. When a state can use its own long-arm statute to reach a payor it may be assumed that it would do so rather than use an interstate income withholding request.

There may be other instances where the forum state is not where the obligor works or resides, such as when income withholding is being sought against pension benefits. The forum state may have little or no direct contacts with the obligor. The Supreme Court, in Shaffer v. Heitner, 433 U.S. 186 (1977), cast doubt on the availability of quasi in rem jurisdiction where the defendant does not have "minimum contacts" with the state where the property is located. However, the Court in Shaffer observed that this holding did not apply to the enforcement of a judgment. In the Court's words:

Once it has been determined by a court of competent jurisdiction that the defendant is a debtor to the plaintiff, there would seem to be no unfairness in allowing an action to realize on the debt in a State where the defendant has property, whether or not that state would have jurisdiction to determine the existence of the debt on an original matter. Id. at 210 n. 36.

Since Shaffer was decided, only two courts have ruled whether or not it applies to enforcement of child support.

*The proposed regulations which implement the 1984 Child Support Enforcement Amendments require that the requesting state agency seek withholding in the state where the obligor is employed. 49 Fed. Reg. 36803 (Sept. 19, 1984) to be codified at 45 C.F.R. 303.100(g)(3). Legislative drafters should consult the final regulations on this point.

Both courts held that, based upon the enforcement of an existing judgment exception, Shaffer did not apply. Huggins v. Diehard, 134 Ariz. 98, 654 P.2d 32 (Ariz. App. 1982); Rich v. Rich, 93 Misc. 2d 409, 402 N.Y.S. 2d 767 (N.Y. Sup. Ct. 1978). Although in many cases a support order is not deemed a judgment, policy considerations of Shaffer suggest that it be treated as one in this context. The Court's purpose in not recognizing quasi in rem jurisdiction without the defendant's minimum contacts to the forum state is that it believed a defendant should not be forced to choose between default and defending an unliquidated claim in a state in which he has no contacts. The Court reasoned that it would be unfair to make a defendant litigate the validity of a claim in an alien forum. Child support orders are liquidated claims; the original order, litigated in a state with personal jurisdiction over both parties, sets the exact amount of support. The defendant had his day in court and now, like any other defendant debtor, has limited defenses to an enforcement actions, such as satisfaction of the judgment.

Subsection (c) provides that income withholding may be used in addition to any other remedies that might be available under state law to enforce a sister state support order. These might include remedies available through URESA or the Uniform Enforcement of Foreign Judgments Act. Monies collected under other procedures will be duly credited in determining the amount to be withheld under the withholding procedures. See Section 8(b). The withholding procedure should not be delayed because other remedies are available or vice versa. Since the Child Support Enforcement Amendments of 1984 mandate the use of withholding, however, this Act must be utilized in IV-D cases upon the accumulation of arrearages sufficient to trigger withholding.

SECTION 2. INITIATION OF INCOME WITHHOLDING AND COOPERATION WITH OTHER JURISDICTIONS

On behalf of any client for whom the [agency] is already providing services, or on application of a resident of this state, an obligee or obligor of a support order issued by this state, or an agency to whom the obligee has assigned support rights, the [agency] shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against such income. The [agency] shall compile and transmit promptly to the agency of the other jurisdiction all documentation required to enter a support order for this purpose. The [agency] also shall transmit

immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order. If the [agency] receives notice that the obligor is contesting income withholding in another jurisdiction, it shall immediately notify the individual obligee of the date, time, and place of the hearings and of the obligee's right to attend.

COMMENT

This section describes the responsibility of the income withholding agency in the enacting state to request income withholding in another state. It is different from the remaining sections which detail the responsibilities of the enacting state upon receiving a request (i.e., acting as the forum state) from another state to obtain and enforce income withholding. Under the Child Support Enforcement Amendments of 1984, both the forum and requesting state may receive incentive payments for child support collected on an interstate basis. Social Security Act §458(d), 42 U.S.C. §658(d).

The income withholding agency is required to request interstate withholding on behalf of its current IV-D clients, as well as for state residents who apply for this service through the IV-D agency. This corresponds to the federal requirement for intrastate cases which requires that income withholding services be made available to IV-D agency clients, both APDC and non-APDC. Social Security Act §466(b)(2), 42 U.S.C. §666(b)(2). Non-APDC families may specifically apply to the IV-D agency to take advantage of the withholding remedy, although many states recognize a private right of action to seek this relief. See, e.g., Cal. Civ. Code. Ann. §4701(b)(1); Tex. Fam. Code Ann. §14.091. In addition, under this section, the agency must also initiate this process for a person who resides out-of-state, when the underlying support order was issued by the agency's state. This will likely occur when the obligee has moved out of state and all the relevant documents, including payment records, are still in possession of the enacting state or when the obligee moved out of state and was receiving payments directly from the obligor, without ever utilizing agency services of a new state. In any event, the obligee could also elect to go to the agency where she or he now resides for purposes of initiating an interstate request for income withholding.

This section also requires the agency to transmit all documentation required by the forum state in order to enter the support order. This means that the agency will have to first determine the forum state's documentation requirements.

This section also requires the requesting state to transmit to the forum state any modifications to the support order, including any termination of the support order. Section 9(a) is the counterpart to this provision, requiring a forum state to amend income withholding in light of any modifications received.

Finally, this section requires the agency to immediately notify the individual obligee when a hearing is scheduled, indicating a challenge to the withholding request. Under Section 4(b), the forum state agency must alert the requesting agency of any pending challenge. Notice to the obligee assures that this individual will be kept aware of case developments and, more importantly, afforded an opportunity to appear at the hearing, either in person, or by telephone (Section 5 (d)) if the individual cares to appear.

SECTION 3. RESPONSIBILITIES FOR ENTERING A SUPPORT ORDER OF ANOTHER JURISDICTION FOR PURPOSES OF INCOME WITHHOLDING

(a) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (b) from an agency of another jurisdiction [an obligee, an obligor, or an attorney for either], the [agency] [shall enter this order]. [shall file these documents with the clerk of the court in which withholding is being sought. [Alternatively, the obligor or obligee may file the documents specified in subsection (b) with the clerk of the court in which income withholding is being sought.] The clerk of the court shall accept the documents filed and such acceptance shall constitute entry of the support order under this Act.]

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

- (1) a certified copy of the support order with all modifications;
- (2) a certified copy of an income withholding [order/notice], if any, still in effect;
- (3) a copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;
- (4) a sworn statement of the obligee or certified statement of the agency of the arrearages and the assignment of support rights, if any;

(5) a statement of:

- (a) the name, address, and social security number of the obligor, if known;
- (b) the name and address of the obligor's employer or of any other source of income of the obligor derived in this state against which income withholding is sought;
- (c) The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(c) If the documentation received by the [agency] under subsection (a) does not conform to the requirements of subsection (b), the [agency] shall remedy any defect which it can without the assistance of the requesting agency [or person]. If the [agency] is unable to make such corrections, the requesting agency [or person] shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The [agency and court] shall accept the documentation required by subsections (a) and (b) even if it is not in the usual form required by state or local rules, so long as the substantive requirements of these subsections are met.

(d) A support order entered under subsection (a) shall be enforceable by income withholding against income derived in this state in the manner and with the effect as set forth in sections 4-11 of this Act and [cite to this state's regular income withholding provisions]. Entry of the order shall not confer jurisdiction on the [courts/agencies] of this state for any purpose other than income withholding.

COMMENT

Subsection (a) describes the responsibilities of the forum state's agency. Upon receiving the request for income withholding and accompanying documentation set forth in subsection (b), the agency will enter the support order by the procedure set forth in subsection (a). Entry of a sister state support order under this Act is the cornerstone of this interstate withholding procedure. Once the order is entered, it is enforceable by the forum state's own income withholding law, with some specific minor modifications to accommodate interstate needs. Subsection (b). It is assumed that states will have enacted an income withholding law or modified their existing one to conform to the Child Support Enforcement Amendments of 1984 by October 1, 1985 or shortly thereafter.

See Social Security Act §466(b), 42 U.S.C. §666(b). It should be noted that this Act may be used only for enforcement of support orders by income withholding. To use other remedies which may be available under state law it will be necessary to use URESA, the Uniform Enforcement of Foreign Judgments Act, a suit on the judgment of another state or some other method of enforcement.

As a general rule, full faith and credit is granted to judgments of a sister state by allowing a suit on the judgment in the forum state. This obviously is a cumbersome process. The Uniform Enforcement of Foreign Judgments Act seeks to circumvent this problem by providing a simpler procedure for registration and enforcement of foreign judgments which would otherwise be entitled to full faith and credit.

Under the traditional view, however, child support orders which are non-final and modifiable are not entitled to full faith and credit. Sistare v. Sistare, 218 U.S. 1 (1910); Restatement (Second) Conflict of Laws §109 (1971). A more contemporary view rejects this notion and would entitle support orders to full faith and credit, regardless of their modifiability. See, Barber v. Barber, 323 U.S. 77 (1944) (Jackson, concurring); Light v. Light, 12 Ill. 2d 502, 147 N.E.2d 34 (1958). Even if the traditional view prevails, a state may recognize a sister state support order under the principle of comity even though not constitutionally compelled to do so. This statute is designed to do precisely that for the specific purpose of allowing income withholding to enforce sister state support orders. It should be noted that under the definition of support order in section 1(b)(1) administrative orders for support as well as judicial orders may be entered and enforced under this Act.

Two kinds of optional language are included in subsection (a). The first choice of language depends on whether the state has chosen to operate its intrastate income withholding system through an administrative agency or through the courts. Model language is provided for both options. Both options are consistent with the 1984 Child Support Enforcement Amendments.

In addition, subsection (a) provides optional language to allow for private party access, whether pro se or through private counsel, to the forum state's income withholding system to enforce a sister state support order. This would be especially logical in states which already permit private parties to initiate income withholding on an intrastate basis. See, e.g., Minn. Stat. Ann. §518.611.1. This option is permissible under the 1984 Amendments but is not required.

If a state uses an administrative enforcement mechanism and does not make it available through private counsel, subsection (a) would read:

"Upon receiving a support order ... from an agency of another jurisdiction, the [agency] shall enter this order."

If private parties are to be allowed access to the administrative remedy, this section would read:

"Upon receiving a support order ... from an agency of another jurisdiction, an obligee, an obligor or an attorney for either, the [agency] shall enter this order."

If the withholding system is operated through the courts and the state chooses to allow private party access subsection (a) would read:

"Upon receiving a support order ... from an agency of another jurisdiction, an obligee, an obligor or an attorney for either, the [agency] shall file these documents with the clerk of the court in which withholding is being sought. Alternatively, the obligor or obligee or the attorney for either may file the documents specified in section (b) with the clerk of the court in which income withholding is being sought. The clerk of the court shall accept the documents filed and such acceptance shall constitute entry of the support order under this Act."

If the state does not wish to allow private party access to the court-based interstate withholding procedure, subsection (a) would read:

"Upon receiving a support order ... from an agency of another jurisdiction, the agency shall file these documents with the clerk of the court in which withholding is being sought. The clerk of the court shall accept the documents filed and such acceptance shall constitute entry of the support order under this Act."

The list of documents required is largely self-explanatory. Subsection (b)(2) applies only when payments were already being withheld from the obligor's income under an income withholding order or notice, still in effect, previously issued in another state. As used throughout this Act, the term "order/notice" refers to the document submitted to the payor requiring him to withhold support payments from the obligor's income. States

have different names for this document. It may also be called, for example, "employer's notice" or an "order of wage withholding." The enacting state should, where order/notice appears in brackets throughout this Act, substitute whatever term it uses. Throughout this Act the term "income withholding" is used. It should be noted that some states may use different, interchangeable terms, such as wage withholding, wage assignment, income assignment, or the like. Again, the enacting state may substitute its usual intrastate term.

Subsection (b)(3) is included because the triggering event in the state which originally issued the support order, i.e., amount of arrearages necessary to mandate income withholding, will determine when income withholding should commence.

Subsection (b)(4), which requires a statement of arrearages and assignment of support rights, can be met in one of two ways. Either the obligee can submit a sworn statement or affidavit or the requesting agency may certify the arrearages and any assignment of support rights. Agency certification will probably be used in states where public agencies or clearinghouses collect and disburse support payments. In such instances a certified copy of the payment record as of the date of the first arrearage or a certified statement of the arrearages will suffice.

Subsection (b)(5) places a burden on the requesting state to provide the name, address and social security number of the obligor and the names and addresses of obligor's employers and other sources of income derived in the forum state. Requesting states may use the Federal Parent Locator Service (FPLS) to obtain this information. Under the Child Support Enforcement Amendments of 1984, access to the FPLS has been liberalized. A state no longer need exhaust its own locator resources before requesting assistance from the FPLS. Social Security Act §453(f), 42 U.S.C. §653(f). A state may also request assistance from the forum state through that state's parent locator system. Furthermore, as noted in the comments to section 3(c), the forum state's location services may be used if it turns out that the information sent was incorrect.

Subsection (c) requires the forum state agency to take steps to correct faulty or incomplete documentation, without returning it to the requesting agency, when possible. This should avoid unnecessary delays and advance Congress' intent of expeditious handling of income withholding cases. In addition to providing for correction of errors, this subsection requires the agency and court to accept or process documents which are correct in substance but not form.

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Examples of cases in which improper documentation is submitted which the state may correct or accept as provided include the following:

1. The forum state requires information to be submitted on a special form or in a special format; the requesting agency does not use this form but nonetheless provides all the required information. The forum state should accept the documents as provided or fill out the correct forms and attach the sworn originals.
2. Incorrect information on the obligor's address or source of income is sent by the requesting state. The forum state, through its normal locate procedures, should attempt to provide this data. This does not place any additional burdens on the forum state which is already required to help sister states in this regard. 42 U.S.C. §654(9); 45 C.F.R. 303.7.

Subsection (d) is the central section of this Act. Once a support order is "entered" in the agency or court through the procedures described in this section, it essentially becomes an order of the forum state for the sole and limited purpose of obtaining income withholding. This subsection makes it clear that the entered order does not confer jurisdiction on the court or agency for any other purpose such as resolution of disputes over custody or visitation or modification of the original support order, whether prospectively or retroactively. See discussion of modification issues in Section 5.

SECTION 4. NOTICE

(a) On the date a support order is entered pursuant to section 3, the [agency] [court] shall serve upon the obligor, in accordance with section [cite to notice provision for income withholding], notice of a proposed income withholding. That notice shall contain the same information required in section [cite to regular notice section]. The notice shall also advise the obligor that the income withholding was requested on the basis of a support order of another jurisdiction. The date of serving notice on the obligor shall be the equivalent of [the state's own triggering event] for the purpose of measuring time for holding a hearing and rendering a decision.

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

COMMENT

On the day the original support order is entered under this procedure, notice of the proposed withholding must be sent to the obligor. The forum state will use its regular notice procedures to notify the obligor of the intent to withhold income. The significance of specifying when advance notice should be sent to the obligor is that, under the new federal law, within 45 days of such notice the state must determine whether income withholding will take place if the obligor contests it.

Because locating communicating between states takes an indeterminate amount of time, a gap will inevitably occur between the happening of the triggering event in the requesting state and the sending of notice in the forum state. Accordingly, the Act requires the requesting states to "promptly" request (section 2) and the forum state to "promptly" enter (section 3) support orders without specifying an exact time frame for so doing. However, once the order is entered the notice must be sent at once.

The notice should be served according to usual state practice and contain the same information required in an intrastate income withholding notice. According to section 466(b)(4)(B) of the Social Security Act, as amended by the Child Support Enforcement Amendments of 1984, such notice must alert the absent parent to the proposed withholding and to the procedures to follow if he or she wishes to contest such withholding on the grounds that it is not proper due to a mistake of fact.

This notice should state a method and a time period within which the parent must contact the court or agency in order to contest withholding and should state that failure to do so will result in the implementation of withholding. The only added requirement of this Act is that the notice indicate that the proposed withholding is based upon a sister state support order.

The 1984 Amendments generally require that advance notice of the proposed withholding be sent to the obligor, as described in the previous paragraph. However, the law provides an exception for those states which were operating an income withholding system prior to the date of enactment of the 1984 Amendments. They are not required to provide advance notice as described in the Amendments to obligor so long as due process requirements are met. Social Security Act §466(b)(4)(B), 42 U.S.C. §666(b)(4)(B).

States which fall within this exception should modify their withholding systems to provide some form of notice of withholding and an opportunity to contest before money is actually withheld in interstate cases in order to meet equitable and due process concerns. (Often some notice will have been given in intrastate cases when the original support order is made.)

In addition, states which use automatic, immediate withholding as the payment method in every support case, without first requiring any arrearages, will not generally provide for any special notice or contest procedures dealing with withholding. In those cases, the parties are personally before the court at the time a withholding order is imposed and can resolve any disputes regarding withholding at that time. These states will have to enact special notice and hearing procedures as described in the Amendments for interstate withholding cases in order to ensure adequate due process protection for these obligors.

Finally, this section initiates the running of the 45 days a state has to notify the obligor of the proposed withholding, hold a hearing if one is requested, and inform the obligor of whether or not withholding will occur. Section 466(b)(4)(A) Social Security Act, as amended. To further expedite the handling of these cases, this Act places an obligation on the requesting state to promptly take steps to initiate the interstate income withholding process (see Section 2), and upon the forum state to promptly enter sister state orders. See Section 3(a).

SECTION 5. INCOME WITHHOLDING HEARING

(a) At any hearing contesting proposed income withholding based on a support order entered under section 3, the entered order, accompanying sworn or certified statement, and a certified copy of an income withholding [order/notice], if any, still in effect shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

(b) Once a prima facie case has been established, the obligor may raise only the following:

- (1) that withholding is not proper because of a mistake of fact that is not res judicata concerning such matters as an error in the amount of current support owed or

arrears that had accrued, mistaken identity of the obligor; or error in the amount of income to be withheld;

- (2) that the court or agency which issued the support order entered under this Act lacked personal jurisdiction over the obligor;
- (3) that the support order entered under this Act was obtained by fraud; or
- (4) that the statute of limitations under section 11(c) precludes enforcement of all or part of the arrearages.

The burden shall be on the obligor to establish these defenses.

(c) If the obligor presents evidence which constitutes a full or partial defense, the [court] [agency] shall, on the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party, provided, however, that if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the [agency] [court] shall require income withholding for the payment of current support payments under the support order and of so much of any arrearage as is not in dispute, while continuing the case with respect to those matters still in dispute. The [court] [agency] shall determine those matters still in dispute as soon as possible, and if appropriate shall modify the withholding order to conform to that resolution.

(d) In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another state, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions or by personal appearance before the [court] [agency] by telephone or photographic means. The [court] [agency] on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

(e) A [court] [agency] of this state may request the appropriate court or agency of another state to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state and to forward to

the [court] [agency] of this state certified copies of the evidence adduced in compliance with the request.

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

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

COMMENT

This section addresses the hearing an obligor may request if he wishes to contest the income withholding. Under subsection (a) the entered support order, the existing income withholding order, if any, and the sworn or certified statement of the appropriate arrearage (see section 3(a)(4)) may be admitted into evidence without any further proof or foundation required and constitute prima facie proof that, absent a valid defense under subsection (b), the obligee is entitled to income withholding under the law of the jurisdiction which issued the support order. This means that the amount of current support and arrearage is as stated and that the triggering event, i.e., amount of arrears required to commence withholding, of the jurisdiction which rendered the support order has been met.

Once a prima facie case is established, subsection (b) shifts the burden of proof to the obligor. The obligor's defenses are limited. They include those defenses permitted by the Child Support Enforcement Amendments of 1984. According to the Act's legislative history, these defenses are restricted to "mistakes of fact," see Subsection (b)(4), which include "errors in the amount of current support owed, errors in the amount of arrearage that had accrued, or mistaken identity of the alleged obligor." The obligor cannot "contest the proposed withholding on other grounds, such as the inappropriateness of the amount of support ordered to be paid, changed financial circumstances of the obligor, or lack of visitation." H.R. Rep. No. 98-527, 98th Cong., 1st Sess. 33 (1983). Such claims, though important, must be pursued through a separate legal action in the state which has jurisdiction over the original support order.

Limitation of defenses to mistakes of fact distinguishes this Act from URESA and RURESA. Courts have interpreted the latter uniform acts to allow them to consider current support needs and to enter orders for higher or lower support amounts. Balestrine v. Jordan, 275 S.C. 442, 272 S.E.2d 438 (1980); Jarmillo v. Jarmillo, 27 Wash. App. 391, 618 P.2d 528 (1980); McKenna v. McKenna, 253 Ga. 6, 315 S.E. 2d 885 (Ga. 1984). Modification of the support order in the forum state is not permitted under this Act.

In drafting this section, the Advisory Group discussed in great detail the issue of modification of the support amount, both retroactively and prospectively. On policy grounds and for practical considerations, it was determined that modification should not be allowed in the forum state. The policy reasons are as follows:

- (1) Experience under URESA has shown that the responding (forum) state frequently has no relationship to the obligee and dependent child, and they usually are not able to appear in person and often are not notified of hearings, resulting in modification orders which are unreasonably low.
- (2) Modification claims needlessly delay enforcement actions on existing arrearages. It was the intent of Congress in the 1984 Amendments to establish an expeditious system for enforcing support orders as written through an automatic wage withholding system, relying on a separate proceeding to consider modification of the order.
- (3) The obligor's right to seek modification remains intact. He or she may obtain modification in the state which has jurisdiction over the support order and have this modification recognized in the forum state, with any financial adjustments necessary made against future withholding. See Sections 2 and 9(a) regarding modification.
- (4) Where support orders are retroactively modifiable in the original state, immediate withholding should be permitted in the forum state. If the obligor has his arrearages reduced in the original state, the forum state will be notified and withholding adjusted accordingly. See Sections 2, 9(a). As the withholding requirement is applied to new support obligations, the accumulation of large arrearages should not occur in most cases. As a practical matter, courts will seldom retroactively reduce small arrearages.

By limiting jurisdiction in the forum state exclusively to enforcement, this Act follows the example of the Uniform Child Custody Jurisdiction Act and the Parental Kidnapping Prevention Act of 1980. Under these statutes a state may have authority to enforce a custody decree but none to modify it. UCCJA §15 and comments; 28 U.S.C. §1738A(a). Modification authority, if any, is independent of enforcement authority and must be based upon specified jurisdictional grounds. UCCJA 14; 28 U.S.C. §1738A(f)7-

In addition to mistakes of fact, three other defenses are permitted under this act. Subsections (b)(2)-(4). These include two collateral attacks on the original judgment which could even be raised in the state which issued the original order if it sought to enforce it. These attacks include charges that the court which issued the original support order lacked jurisdiction (if this had not been previously litigated), or that there was fraud in the procurement of the judgment. See, Griffin v. Griffin, 327 U.S. 220 (1945); Scoles and Hoff, Conflicts of Law §24.14 (1982); Leflar, American Conflicts of Law 157 (1977); Restatement (Second), Conflicts of Law §105 (1971). Fraud in the procurement of the support order refers to fraud in the actual obtaining of the order, e.g., the defendant was lured into the jurisdiction in order to obtain personal jurisdiction. The third defense concerns the statute of limitation. See Section 12(c) for choice of law provision pertaining to statute of limitations.

If the obligor meets his burden of proof, it may be necessary to obtain additional evidence in order to resolve the dispute. Subsections (c)-(g) offer means of proving a case without requiring the obligee or other witnesses to travel to the forum state. Subsections (c)-(e) apply when income withholding is being sought in the enacting state; sections (f)-(g) apply when the enacting state is seeking withholding elsewhere. The most common method of presenting evidence, without live courtroom testimony, is by deposition or interrogatory. These sections should augment existing state rules of civil procedure which address out-of-state evidence. For example, many states have adopted the Federal Rule of Civil Procedure 32(a)(3), which permits offering a deposition as evidence at a trial if the court finds that "the witness is at a greater distance than 100 miles from the place of trial or hearing." Many of these provisions are similar to those set forth in the Uniform Child Custody Jurisdiction Act, sections 18-20; therefore state experience under this Uniform Act in adducing evidence across state lines should be instructive. For a description of these techniques see Hoff, P., Schulman, J., and Volenik, A., Interstate Child Custody Disputes and Parental Kidnapping: Policy, Practice and Law, ch. 7 (1982).

Under subsection (c), an obligee may request that the case be continued for the purpose of submitting additional evidence should the obligor fully or partially meet his burden of proof. Income withholding must commence, however, where the right to such withholding is not in dispute, but only the extent of arrearages remains in controversy. This will occur when there is proof that an arrearage sufficient to trigger income withholding exists, but the full amount of arrearages is in dispute. In this scenario, withholding to cover current support and uncontested arrearages will commence. A subsequent hearing will be held to settle the dispute and the original withholding notice to the employer will be modified, if necessary. Subsection (d) addresses methods of collecting evidence, such as interrogatories, depositions, and court appearances live or by telephone. While it may be necessary to continue the case while such evidence is being obtained, these devices are also available for use at the initial hearing. Provisions for notifying the obligee of this first hearing (sections 2, 4(b)) should encourage this result.

SECTION 6. INCOME WITHHOLDING [ORDER/NOTICE]

If the obligor does not request a hearing in the time provided, or if a hearing is held and it is determined that the obligee has or is entitled to income withholding under the local law of the jurisdiction which issued the support order, the [agency] [court] shall issue an income withholding [order/notice] under section [cite to state's regular income withholding provision for notice to obligor of withholding decision]. The [agency] shall notify the requesting agency [or person] of the date upon which withholding will begin.

SECTION 7. NOTICE TO [EMPLOYER/PAYOR] AND OTHER PROVISIONS

The provisions of sections [governing this state's income withholding notice to the employer, penalties and sanctions against noncomplying employers, employer fees, protections against employer retaliation, payment directions, ability to issue a single check, etc.] apply to income withholding based on a support order of another jurisdiction entered under this Act.

COMMENT

These sections incorporate the state's own provisions for issuing an income withholding notice or order to the employer and for other employer-related matters. The latter include

requirements of the Child Support Enforcement Amendments of 1984, such as: contents of the notice to the employer, employer fees, payment mechanisms, and liability of employers who fail to withhold wages or who take adverse job action against an employee who is subject to wage withholding. The agency in the forum state must notify the requesting agency or person of the date on which withholding will begin.

Under section 7 the state will use its regular procedures to notify the employer or other payor of income that support payments must be withheld. The employer will treat the order or notice exactly like any other withholding order or notice. In fact, because of statutory limits on the content of the notice to the employer, the employer probably will not even know the withholding is based on a sister state order. See Social Security Act §466(b)(6)(A)(ii), 42 U.S.C. §666(b)(6)(A)(ii). For that reason, states will probably choose to require payment through the state agency in cases initiated by private counsel or pro se as well as in agency cases.

The language in section 6, "entitled to income withholding under the local law of the jurisdiction which issued the support order," refers to the triggering event in the original state, i.e., whether the amount of arrearages satisfies the requirement for income withholding under the law of the state that originally issued the support order. See also section 11 (b)(2).

SECTION 8. DISTRIBUTION OF COLLECTED SUPPORT PAYMENTS

(a) The income withholding [order/notice] shall direct payment to be made to [agency]. The [agency] shall promptly transmit payments received pursuant to an income withholding [order/notice] based on a support order of another jurisdiction entered under this Act to the agency or person designated in section 3(b)(5)(c).

(b) A support order entered pursuant to section 3 does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state. Amounts collected by any withholding of income shall be credited against the amounts accruing or accrued for any period under any support orders issued either by this state or by a sister state.

COMMENT

Income withheld under this Act is to be paid to the income withholding agency of the forum state, which in turn will

forward it to the requesting agency or person. If the forum state uses a different entity such as a private agency or bank to collect and disburse such funds, as allowed under the Child Support Enforcement Amendments of 1984, Social Security Act §466(b)(5), 42 U.S.C. §666(b)(5), this entity should also collect and disburse funds withheld in interstate cases under this Act.

Entry of a support order for withholding purposes under this Act does not nullify any other support order which may exist - whether issued by the forum state or another state. When two or more orders exist for the support of one child by an absent parent, any amount collected will be credited against both orders. Such a situation may exist, for example, if there is both an original support order and a subsequent URESA order. Amounts withheld are to be credited against both orders.

SECTION 9. CHANGES

(a) Changes in original order: The [agency], upon receiving a certified copy of any amendment or modification to a support order entered pursuant to section 3, shall initiate, as though it was a support order of this state, necessary procedures to amend or modify the income withholding [order/notice] of this state which was based upon the entered support order. [The court shall amend or modify the income withholding [order/notice] to conform to the modified support order.]

(b) Changes in jurisdiction: If the [agency] determines that the obligor has obtained employment in another state or has a new or additional source of income in another state, it shall notify the agency which requested the income withholding of the changes within five working days of receiving that information and shall forward to that agency all information it has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income. The [agency] shall include with the notice a certified copy of the income withholding [order/notice] in effect in this state.

COMMENT

Subsection (a) assures that in the event a support order entered in the forum state is modified in another state, the forum state will take the necessary steps to modify the amounts withheld accordingly. The last sentence, in brackets, applies in states which use the judicial system to impose income withholding. The obligation of an agency to notify a sister

state agency of any change to a support order being enforced in the sister state may be found in section 2.

Under subsection (b), an agency in the forum state must notify the requesting agency when the obligor's source of income has shifted to yet another state. This presumes that when there has merely been a shift of a source of income within the state, e.g., if the obligor gets a new job, the state agency will take necessary steps, as it would with any other in state income withholding case, to obtain withholding against the new source of income within the state. Some states have facilitated the task of identifying new income by requiring employers to notify the agency of any change in the obligor/employee's status, including the name and address of a new employer, if known. N.D. Cent. Code §§14-09-09.1(6). The proposed federal regulations implementing the 1984 Amendments require that states impose an obligation on the employer to provide this information to the state. 49 Fed. Reg. 36803 (Sept. 19, 1984) 45 C.F.R. §302.100(d)(2). States should specifically provide that income withholding orders will apply against successor employers.

SECTION 10. VOLUNTARY INCOME WITHHOLDING

Any person who is the obligor on a support order of another jurisdiction may obtain voluntary income withholding by filing with the [agency] [court] a request for such withholding and a certified copy of the support order of a sister state. The [agency] [court] shall issue an income withholding [order/notice] under section [regular voluntary income withholding section]. Payment shall be made to the [agency].

COMMENT

The Child Support Enforcement Amendments of 1984 require states to withhold income upon the absent parent's request. This section allows such voluntary withholding when the underlying support order is from another state.

SECTION 11. CHOICE OF LAW

(a) The local law of this state shall apply in all actions and proceedings concerning the issuance, enforcement and duration of income withholding [orders/notices] issued by a [court] [agency] of this state, which is based upon a support order of another jurisdiction entered pursuant to section 3, except as provided in subsections (b) and (c).

(b) The local law of the jurisdiction which issued the support order shall govern the following:

- (1) the interpretation of the support order entered under section 3, including amount, form of payment, and the duration of support;
- (2) the amount of support arrearages necessary to require the issuance of an income withholding [order/notice].
- (3) the definition of what costs, in addition to the periodic support obligation, are included as arrearages which are enforceable by income withholding, including but not limited to interest, attorney's fees, court costs, and costs of paternity testing.

(c) The [court] [agency] shall apply the statute of limitations for maintaining an action on arrearages of support payments of either the local law of this state or of the state which issued the support order entered under this Act, whichever is longer.

COMMENT

In keeping with a major principle of this Act -- that the forum state's regular income withholding laws and procedures be applied to the greatest extent possible -- most choice of law questions are resolved in favor of the local law of the forum, making it simpler for decision-makers to apply this Act.

Only three issues must be determined by the law of the state which issued the order. First are the questions of the interpretation of the original support order including questions about the amount and form of payments and the duration of the order. For example, the law of the state issuing the order would determine the meaning of the term "minor child" as used in an order, whether support may continue beyond the age of majority for a college student or whether in-kind payments would be credited against the support obligations. The law of the state which issued the original order determines the amount of support arrearages necessary to require the commencement of withholding. This should pose no problem as a request should not be made until this condition is met and a copy of the section of the state's withholding law containing this condition should be included with the request. Third, the law of the state which issued the support order determines what items are included as arrearages which may be

enforced by income withholding. These could include interest on late payments, attorneys' fees or costs of paternity determination, for example.

Under subsection (c), the forum state must use the statute of limitations of whichever state is longer. This allows maximum time for enforcement. This subsection combines two acceptable choice-of-law practices by joining them in the alternative: first, a state may "borrow" a sister state's statute of limitations period and second, a state may apply its own limitations period to enforce sister state judgments. Restatement (Second) Conflicts of Law §119(2)(1971).

This rule should not be difficult for local judges. Under general conflicts of laws principles a judge may assume that the law of the state whose support order is being considered is the same as the law of the forum until one of the parties demonstrates otherwise. Obviously, it would be in the interest of the requesting state to submit an appropriate reference to the case and statutory law of the state which issued the order when a question is raised.

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HR 92

Section 9 of the bill corrects an oversight. Section 11, ch. 144, SLA 1984, enacted AS 47.23.265, which currently sets out specific service provisions for all of AS 47.23. Service provisions contained in AS 47.23.150 should have been deleted at the same time, but were not. The amendment to AS 47.23.150 in sec. 9 of the bill accomplished the deletion.

Section 10 of the bill amends AS 47.23.226 to refer to the general service provision in AS 47.23.265. Section 14 of the bill then modifies that general service provision so that no more restrictive service requirements are necessary than are appropriate under Rule 5 of the Alaska Rules of Civil Procedure. Civil Rule 5 allows service either upon a party or his attorney by first class mail. It has been perceived as a problem to some of the individuals handling child support cases on behalf of the agency that the previous requirement of service by registered or certified mail often set up a barrier to the receipt of the notice. Since the affected sections only relate to the enforcement of previously established support orders, the court has continuing jurisdiction to enforce these orders. Palchen v. Palchen, 566 P.2d 324 (Alaska 1977). In that case, the Alaska Supreme Court acknowledged that the proper service provision in enforcement actions is Civil Rule 5(b), and not Civil Rule 4 which requires personal or restricted delivery service. The court even commented that there would be merit to providing, in matters of support enforcement, that service could be made directly upon the party rather than upon the attorney for the party from the earlier divorce proceeding.

Sections 12 and 13 of the bill simply change language in statutes pertaining to income assignment orders to reflect the new term, "income withholding" orders.

Sincerely,

/s/

Bill Sheffield
Governor"

HR 93

HOUSE BILL NO. 93 by the Rules Committee by request of the Governor, entitled:

"An Act establishing a system of recreation rivers; and providing for an effective date."

was read the first time and referred to the Resources and Finance Committees.

A fiscal note was attached and appears in House Journal Supplement No. 5. The Governor's transmittal letter, dated January 18, 1985, appears below:

HB 91

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the creation of a system of recreation rivers.

The bill is based in part on legislation enacted last session creating the Kenai River Special Management Area. The establishment of the Kenai River Special Management Area was a significant beginning in our program to improve the quality of recreation for Alaskans and to reduce the resource damage that results from overuse.

This year I will be introducing several pieces of legislation directed at expanding and diversifying recreational opportunities in southcentral Alaska. To provide for the growing recreation demands of Alaskans, who are among the most active anglers, hikers, boaters, hunters and campers in the United States, we must take action now to designate appropriate state lands and waters for special use.

Today I am introducing two recreation bills: to establish a state recreation rivers system, including the Little Susitna River, and to designate the Willow Creek State Recreation Area. Both of these areas were recommended for special designation on the Willow Subbasin Plan adopted two years ago. On March 1, after the Susitna Area Plan is adopted, I will introduce legislation to create several more special areas as recommended in the final plan.

Section 1 of this bill amends AS 41.21.022 to allow the discharge of firearms for lawful hunting in recreation river corridors except when public safety requires otherwise.

Section 2 contains the body of the bill. New AS 41.21.308 states the purposes of the new sections in AS 41.21, which include dedication of a recreation river and adjacent state land as a unit of the state park system. New AS 41.21.310 designates the Little Susitna River corridor and adjacent state lands as a recreation river. New AS 41.21.312 delegates to the Department of Natural Resources the regulatory responsibilities for the river corridor subject to the existing powers of the Department of Fish and Game, Board of Fisheries, Board of Game, Guide Licensing and Control Board, and Department of Environmental Conservation.

Under new AS 41.21.314, the commissioner of natural resources is directed to develop and adopt a comprehensive management plan for the river corridor through a public hearing process and consultation with affected local municipalities and other interested state and local agencies. Once the plan is adopted, the commissioner is directed to adopt regulations under the Administrative Procedure Act (AS 44.02) to implement the plan. These regulations, as a minimum, must designate appropriate transportation and utility corridors for the area in cooperation with the Department of Transportation and Public Facilities; establish guidelines for the extraction of sand and gravel for public purposes and the harvest of forest

HB 92

HOUSE BILL NO. 92 by the Rules Committee by request of the Governor, entitled:

"An Act relating to child and spousal support; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services, Judiciary and Finance Committees.

A fiscal note was attached and appears in House Journal Supplement No. 5. The Governor's transmittal letter, dated January 18, 1985, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child support enforcement. This bill is intended to ensure that Alaska Statutes are in compliance with the federal Child Support Enforcement Amendments of 1984, PL 98-378, which strengthens enforcement techniques of state agencies. It is essential that these provisions be in effect by October 1, 1985, in order for the state to continue to obtain federal funding of 70 percent for support enforcement. Other provisions of the bill strengthen the remedies presently available by amending AS 47.23 and AS 09.65.132.

Sections 1 and 3 of the bill are necessitated by Sec. 466 of PL 98-378, which mandates that each state must have in effect a law that will permit the establishment of the parentage of a child at any time before the child's 18th birthday. Section 1 adds new AS 09.10.095, which acts as a statute of limitation. Section 3 amends AS 25.20.050, relating to establishment of paternity, to specify that such an action must be permitted until the child is 18. As a statute of limitation, a child's right to bring such an action would toll during his minority, so an action could still be maintained until age 20. AS 25.20.050 would not prohibit an action at that time, but simply reflects the federal mandate that parentage actions be permitted at least until the child reaches age 18.

Section 2 amends AS 09.65.132 to conform to federal requirements relating to income withholding orders. The use of the term "income withholding order" in substitution for "income assignment order" will provide for consistency in state and federal statutes. PL 98-378 requires that collections be deposited and distributed by a public agency designated by the state. In this case, the agency is the child support enforcement division of the Department of Revenue (referred to as the "agency"). Since the agency will be required to administer any income withheld, and will be accountable for collection and distribution, the bill also requires that all applications for income withholding orders be filed through the agency. The effectiveness of AS 09.65.132 as an enforcement tool is strengthened by requiring an automatic procedure to trigger withholding without court intervention if an obligor does

HB 92

not request a hearing, and an expedited decision if a hearing is requested. The service requirement is also amended so that no more restrictive service provision is necessary than would be required under normal motion practice in a typical lawsuit. PL 98-378 also requires that employers who discharge an employee, discipline an employee, or refuse to hire a person, because of an income withholding order, be fined; therefore the bill adds a provision making commission of any of those acts a misdemeanor punishable by a fine of not more than \$1,000. This misdemeanor is not classified; thus the imprisonment provisions of AS 12.55.135 do not apply.

Section 2 of the bill also amends AS 09.65.132(g) to remove the income exemption for collections from income under an income withholding order, because new subsection (h) requires that at least the amount of the support obligation be withheld, subject to the limits of 15 U.S.C. sec. 1673(b). 15 U.S.C. sec. 1673(b) allows withholding of 50 percent of an individual's disposable earnings, or 60 percent if the individual does not support a spouse or dependent child. The maximum amount allowed to be withheld is raised to 55 and 65 percent, respectively, if collection is for arrearages over 12 weeks old. Section 11 of the bill modifies AS 47.23.250(i) to also remove the income exemptions set out in that subsection.

Section 4 of the bill contains a new chapter, AS 25.26, the Interstate Income Withholding Act, which is also required by PL 98-378. This chapter draws heavily upon a Model Interstate Income Withholding Act, drafted by the Child Support Projects section of the American Bar Association and the National Conference of State Legislatures. The Model Act was prepared to assist states to meet the deadline of October 1, 1985 for implementation of the interstate withholding requirements. The Model Act enables states that enact similar provisions to order income withholding in another state in the same manner as they would impose intrastate withholding, without the necessity of filing a new action in the other state, as is necessary under the existing Uniform Reciprocal Enforcement of Support Act (AS 25.25) or other enforcement statutes.

Sections 5, 7, and 8 of the bill amend several sections of AS 47.23 to reflect other requirements of PL 98-378. The child support enforcement agency will be responsible for enforcing existing spousal support orders where it is also enforcing a child support order. It must also attempt to obtain medical support orders as a part of a child support order if health care coverage is available to the obligor at a reasonable cost.

Section 6 of the bill reflects a change in the percentage of penalty that must be assessed, if any is imposed, to comport with PL 98-378. Under the federal law, the penalty rate must be between three and six percent; the bill imposes the highest penalty possible. Even at the six percent penalty rate, the present penalty is reduced by one-half from the 12 percent penalty now assessed.

MEMORANDUM

State of Alaska

TO: Honorable Mary A. Nordale
Commissioner
Department of Revenue

THRU: Holli Ploog, Director
Child Support Enforcement Div.

FROM: Norman C. Gorsuch
Attorney General

By: *Iris S. Barnett*
Iris Sokolow Barnett
Assistant Attorney General
Human Services Section-Juneau

DATE: March 8, 1985

FILE NO:

TELEPHONE NO: 465-3603

SUBJECT: CSHB 92 (HESS)

The Attorney General has asked me to respond to your memo of March 7, 1985, regarding whether lines 20-24 at page 4 of CSHB 92 (HESS) violate the contract clause of the Alaska or U.S. Constitution. My preliminary review of this matter indicates that this subsection of CSHB 92 does not violate either constitution's contract clause.

Art. I, § 15 of the Alaska Constitution provides, in part, that "[n]o law impairing the obligation of contracts ... shall be passed." Likewise, art. I, § 10 of the U.S. Constitution provides, in part, that "[n]o state shall ... [pass any] law impairing the obligation of contracts." It is clear that both provisions prohibit the Alaska legislature from passing laws that impinge upon contracts that have been entered. The legislature may not pass a law that alters rights and entitlements that have vested under an extant contract. See Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819), the seminal case on this issue. See also State v. Allen, 625 P.2d 844 (Alaska 1981); Hood v. State, Workmen's Compensation Board, 574 P.2d 811, 816 n. 13 (Alaska 1978).

The fact that legislation may restrict or prohibit a person's right to enter a contract in the future does not implicate the state or federal contract clause. As the proposed legislation, at most, limits an obligor's ability to contract with an obligee in the future concerning the obligor's child support obligation, it does not involve violation of art. I, § 15 of the Alaska Constitution or art. I, § 10 of the U.S. Constitution.

ISB:ebc

CONNOR, Justice, with whom RABINOWITZ, Justice, joins, dissenting in part.

I dissent from the holding that an action for innocent misrepresentation should be permitted against the real estate broker.

When a realtor acts as a mere conduit for passing on information supplied by the seller, he should be under no duty independently to verify that information unless he has reason to believe the information to be false. See *Lyons v. Christ Episcopal Church*, 71 Ill.App.3d 257, 27 Ill.Dec 559, 389 N.E.2d 623, 625 (1979). Allowing an innocent misrepresentation action against the broker in such circumstances is quite close to imposing strict liability. There is no reason to make the broker the "insurer" of the seller's representation.

Although we recognized a cause of action based on innocent misrepresentation in *Cousineau v. Walker*, 613 P.2d 608 (Alaska 1980), that case is distinguishable from a case between a buyer and a broker. Sellers who make representations about their property should be held to the accuracy of the representations, as they are normally in the best position to know the facts. But a broker often has little personal knowledge of the property which he offers for sale. I see no reason to make the broker the guarantor of representations emanating from the seller. I would hold that innocent misrepresentation is not available as a cause of action by the buyer against the broker. Thus, I would reverse the judgment of the superior court. I agree with the balance of the majority opinion.



in we affirmed a judgment in favor of a small "subdivider" in a damage action founded upon the subdivider's innocent failure to disclose undetected permafrost conditions in lots sold to the plaintiffs.

Subdividers are subject to, and protected by, the Alaska Land Sales Practices Act, AS 34.55. Under the act, a subdivider is liable for material misrepresentations or omissions affecting the land, "unless in the case of an untruth or omis-

Laureen BAILEY, Appellant and
Cross-Appellee,

v.

Dennis J. HAAS, Appellee and
Cross-Appellant.

Nos. 6177, 6688.

Supreme Court of Alaska.

Dec. 3, 1982.

Cross appeals were taken from a decision of the Superior Court, Third Judicial District, Kenai, James A. Hanson, J., which was entered in an action brought pursuant to the Uniform Reciprocal Enforcement of Support Act. The Supreme Court, Connor, J., held that: (1) failure of petition to include a prayer for arrearages did not justify dismissal of the claim where respondent had notice of the claim for arrearages at the very latest by time motion for an order of support was filed, and (2) request for arrearages in child support need not be reduced to judgment by petitioning state prior to recovering such arrearages in an Uniform Reciprocal Enforcement of Support Act action.

Reversed and remanded.

1. Parent and Child \Leftrightarrow 3.4(2)

Failure of petition to initiate support proceedings under Uniform Reciprocal Enforcement of Support Act to include a prayer for arrearages did not justify dismissal of the claim where respondent had notice of the claim for arrearages at the very latest by time motion for an order of support was filed. AS 25.25.010-25.25.270.

sion it is proved that . . . the person offering or disposing of subdivided land did not know and in the exercise of reasonable care could not have known of the untruth or omission." AS 34.55.030(a). Thus, a "subdivider" is not liable for innocent misrepresentations. Such liability is barred by the statute. This protection, however, is not available to the defendants in the case at bar, since they are not "subdividers."

Appellant and
Lee,

Appellee and
ant.

§88.

Alaska.

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2. Parent and Child ⇔3.4(1)

Request for arrearages in child support need not be reduced to judgment by petitioning state prior to recovering such arrearages in an Uniform Reciprocal Enforcement of Support Act action. AS 25.25.010-25.25.270.

3. Parent and Child ⇔3.4(2)

Civil rule providing that court shall award a fee commensurate with amount and value of legal services rendered in actions where money judgment is not an accurate criteria for determining the fee was applicable to child support proceedings under Uniform Reciprocal Enforcement of Support Act rather than set schedule. Rules Civ.Proc., Rule 82(a)(1, 2); AS 25.25.010-25.25.270.

4. Parent and Child ⇔3.3(7)

Father failed to show an abuse of discovery in action brought for child support and therefore was not entitled to an award of attorney fees. Rules Civ.Proc., Rule 95(a).

Donald W. Edwards, Asst. Atty. Gen., Anchorage, and Wilson L. Condon, Atty. Gen., Juneau, for appellant and cross-appellee.

Phil N. Nash, Kenai, for appellee and cross-appellant.

Before BURKE, C.J., and RABINOWITZ, CONNOR, MATTHEWS and COMPTON, JJ.

OPINION

CONNOR, Justice.

This appeal arises from an action brought pursuant to the Uniform Reciprocal Enforcement of Support Act¹ (hereinafter URESA) for child support. The superior court entered judgment in favor of plaintiff Laureen Bailey, ordering defendant Dennis Haas to pay child support of \$150 per month. Bailey appeals the superior court's

1. AS 25.25.010-.270.

dismissal of her petition for past due child support and the denial of costs and attorney's fees. Haas cross-appeals the court's denial of his attorney's fees.

I. Dismissal Of Arrears

On June 9, 1980, a petition to initiate support proceedings under URESA was filed by the State of Michigan on behalf of Michigan resident Laureen Bailey. The petition was filed in Kenai Superior Court naming Dennis Haas, a resident of Alaska, as respondent. A motion for an order of support was filed in Kenai Superior Court on October 3, 1980, requesting \$240 per month in ongoing support and \$10,255.78 in arrears. At a child support hearing on January 16, 1981, the superior court dismissed the action for arrearages because the petition did not specifically pray for such a judgment and because it considered Michigan to be in a better position to ask for judgment within that state. We hold that the superior court erred in its dismissal on both grounds.

[1] First, the petition's failure to include a prayer for arrearages did not justify dismissal of the claim. The function of a pleading is to give notice of the type of claim asserted. *The Morrow v. New Moon Homes, Inc.*, 548 P.2d 279, 295 (Alaska 1976). The body of the petition stated that Haas had contributed nothing toward the support for his daughter. Further, the motion for an order of support specifically requested arrearages. Therefore, Haas had notice of the claim for arrearages at the very latest by October 3, 1980, when the motion was filed.

[2] The superior court's second ground of dismissal seems to be based on the assumption that a request for arrearages must be reduced to judgment by the petitioning state. There is no such requirement. It is clear that in URESA actions, Alaska law applies.² Under Alaska law,

2. AS 25.25.060.

arrearages are recoverable in UKESA actions.³

Thus, the superior court's dismissal of the claim for arrears was in error.

II. Costs And Attorney's Fees

[3] Laureen Bailey appeals the superior court's denial of her costs and attorney's fees. The court cited *Johnson v. Johnson*, 564 P.2d 71 (Alaska 1977), cert. denied, 434 U.S. 1048, 98 S.Ct. 896, 54 L.Ed.2d 800 (1978), as preventing the application of Alaska Civil Rule 82, the attorney's fees provision. We hold that *Johnson*, which involved divorce proceedings, does not apply in child support proceedings under UKESA. We note, however, that Rule 82(a)(2)⁴, rather than the set schedule of Rule 82(a)(1), should apply here as the money judgment is not an accurate criterion for determining the award. We further caution that this poses a delicate problem in child support proceedings, as too large a fee may impair the ability of the defendant to fulfill support obligations.

[4] Haas cross-appeals the superior court's denial of his motion for attorney's fees. Haas alleges an abuse of the discovery process which should result in an award of fees pursuant to Civil Rule 95(a). This appeal is without merit. Haas has failed to show an abuse of discovery, and he has not shown an abuse of the superior court's discretion.

Accordingly, we REVERSE the superior court's decision and REMAND for a hearing on arrearages and Bailey's costs and fees.



3. See AS 25.25.010(6) and AS 25.25.080.

4. Civil Rule 82(a)(2) states:

"(2) In actions where the money judgment is not an accurate criteria [sic] for determining

James R. LEONARD, Appellant,

v.

STATE of Alaska, Appellee.

No. 5989.

Court of Appeals of Alaska.

Nov. 12, 1982.

Defendant was convicted in the District Court, Third Judicial District, Henry C. Keene, Jr., J., of two counts of misconduct involving weapons in second degree and two counts of criminal mischief in third degree, and he appealed. The Court of Appeals, Singleton, J., held that: (1) after defendant himself volunteered information concerning his initial agreement to take polygraph test, trial court did not abuse its discretion in permitting prosecution to establish that defendant was in fact unwilling to take test; (2) convictions for two counts of each crime, based upon firing at cabin and at truck, did not subject defendant to double jeopardy; and (3) concurrent rather than consecutive sentences were appropriate.

Affirmed.

1. Criminal Law ⇐388

Results of polygraph examinations should not be received in evidence over objection, and, even if there has been no objection, trial court should ordinarily reject such evidence.

2. Criminal Law ⇐388

Rationale prohibiting introduction of polygraph evidence also precludes references to witness' willingness or unwillingness to take polygraph.

3. Criminal Law ⇐396(1)

Where trial court properly entered protective order precluding any reference to

the fee to be allowed to the prevailing side, the court shall award a fee commensurate with the amount and value of legal services rendered."

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

March 6, 1985

The Alaska Women's Lobby strongly supports CSHB 92 (HESS), An Act relating to child and spousal support, which will significantly enhance the collection of support payments for Alaskan children from absent parents.

We stress the importance of prompt passage of this legislation. The Federal Child Support Enforcement Amendments were signed into law last August. The various states have been given until October 1, 1985 to comply with these amendments or risk jeopardizing federal funding.

The law is designed to strengthen child support enforcement techniques and to assure that assistance in obtaining support from parents will be available to all families. It also focuses attention on interstate enforcement of support orders.

The Alaska Women's Lobby supports the proposed HESS Committee amendment allowing for the inclusion of an automatic cost-of-living increase. A recent, nationwide, study aimed at finding ways to improve the economic status of single parent families found that many absent parents can afford to pay far more in child support than is now being ordered by most state courts. This amendment would provide a way for the support payments to increase due to changes in circumstances without a separate court order.

Problems of delinquency in child support payments are much discussed and wide-spread. A review done at the request of the U.S. Senate Budget Committee revealed that absent parents paid only about half the support owed, and about two thirds of these parents' payments were delinquent by more than 30 days at least once during the study year.

In this light the Alaska Women's Lobby also supports the proposed change in the service of notice from certified or registered mail to first class mail. Testimony by custodial parents before the House HESS Committee clearly showed that the more restrictive service requirement often sets

up a barrier to collection when the delinquent parent refuses or neglects to claim the notice from the postmaster.

The more restrictive service which is required of the Child Support Enforcement Agency is not required when notice is served through a private attorney. Thus the ability of low income custodial parents who must turn to the agency to effect collection of past due support payments is hampered while those who can afford to pursue support collection privately have a better chance of securing the withholding order.

The Women's Lobby advocates equal protection for those low income parents and urges the passage of this legislation with the inclusion of this change.

Sherrie Goll

Sherrie Goll

for The Alaska Women's Lobby

MEMORANDUM

State of Alaska

TO: Honorable Mary A. Nordale
Commissioner
Department of Revenue

THRU: Holli Ploog, Director
Child Support Enforcement Div.

FROM: Norman C. Gorsuch
Attorney General

By: *Iris S. Barnett*
Iris Sokolow Barnett
Assistant Attorney General
Human Services Section-Juneau

DATE: March 8, 1985

FILE NO:

TELEPHONE NO: 465-3603

SUBJECT: CSHB 92 (HESS)

The Attorney General has asked me to respond to your memo of March 7, 1985, regarding whether lines 20-24 at page 4 of CSHB 92 (HESS) violate the contract clause of the Alaska or U.S. Constitution. My preliminary review of this matter indicates that this subsection of CSHB 92 does not violate either constitution's contract clause.

Art. I, § 15 of the Alaska Constitution provides, in part, that "[n]o law impairing the obligation of contracts ... shall be passed." Likewise, art. I, § 10 of the U.S. Constitution provides, in part, that "[n]o state shall ... [pass any] law impairing the obligation of contracts." It is clear that both provisions prohibit the Alaska legislature from passing laws that impinge upon contracts that have been entered. The legislature may not pass a law that alters rights and entitlements that have vested under an extant contract. See Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819), the seminal case on this issue. See also State v. Allen, 625 P.2d 844 (Alaska 1981); Hood v. State, Workmen's Compensation Board, 574 P.2d 811, 816 n. 13 (Alaska 1978).

The fact that legislation may restrict or prohibit a person's right to enter a contract in the future does not implicate the state or federal contract clause. As the proposed legislation, at most, limits an obligor's ability to contract with an obligee in the future concerning the obligor's child support obligation, it does not involve violation of art. I, § 15 of the Alaska Constitution or art. I, § 10 of the U.S. Constitution.

ISB:ebc

PAYMENT HISTORY AUDIT

Case Number 1 JU-82-967	Date of Request 12-31-84
Case Name Juan Van Pool vs David Lee Van Pool	

Date	Amount Due	Date Proc.	Amount Paid	Amount Credit
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I hereby certify that this is a true and correct copy of the official record of the Child Support Enforcement Agency at my custody and control. Certified to this 31st day of December 1984
Jessie Glover
 Child Support Enforcement Agency
 Department of Revenue

RECEIVED

JAN 16 1985

Juneau Field Office
 Child Support Enforcement Division

	Amount DUE	Amount PAID	Credits
Total Page	9,000 -	2,731.29	3,300 -

1 IN THE SUPREIOR COURT FOR THE STATE OF ALASKA

2 FIRST JUDICIAL DISTRICT AT JUNEAU

3 SUSAN VAN POOL,)

4 Plaintiff.)

5 vs.)

6 DAVID LEE VAN POOL,)

7 Defendant.)

NO. 180-82-967 CIVIL

8
9 DECREE OF DIVORCE

10 This matter came on regularly for hearing this date, the
11 plaintiff appearing personally and with her attorney, Shirley F.
12 Kohls, the defendant not appearing and his Admission of Service
13 of Summons and Copy of Complaint, Petition and Driver of Title
14 for Pleading and Trial having been entered, and the Court having
15 heard the testimony and having made and entered herein its
16 Findings of Fact and Conclusions of Law, and being fully advised
17 in the premises, it is now

18 ORDERED, ADJUDGED AND DECREED that the plaintiff be, and she
19 is hereby, granted an absolute divorce from the defendant, and
20 the bonds of matrimony heretofore existing between the plaintiff
21 and the defendant be, and they are hereby, dissolved.

22 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Property
23 Settlement and Custody agreement entered into between the parties
24 on June 16, 1982 be, and it is hereby, the order of this Court.

25 Done in open Court this 16th day of July, 1983.

26 *[Signature]*

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

SUSAN VAN POOL,)
)
Plaintiff,)
)
vs.)
)
DAVID LEE VAN POOL,)
)
Defendant.)

No. 1JU-82-967 CIVIL

PROPERTY SETTLEMENT AND CUSTODY AGREEMENT

THIS AGREEMENT made this 16th day of June, 1982
between SUSAN VAN POOL of Juneau, Alaska, hereinafter referred
to as the "wife", and DAVID LEE VAN POOL of Juneau, Alaska,
hereinafter referred to as the "husband",

WITNESSETH:

WHEREAS, the parties were married at Rockford, Illinois,
on March 18, 1977,

WHEREAS, serious differences have arisen between the
parties hereto rendering it impossible for them longer to
live together as husband and wife;

WHEREAS, the wife has filed suit for divorce in the
Superior Court for the State of Alaska; and

WHEREAS, each of the parties herein desires to settle
and adjust all marital interests and all rights and claims
in and to the property of the other now and hereafter acquired,

NOW, THEREFORE, in consideration of the promises and
the mutual covenants and agreements hereafter contained, the
parties do mutually agree as follows:

1. That each of the said parties is fully and completely
informed of the financial and personal status of the other
and each of the parties has given full and mature thought to
the making of this agreement, and all of the obligations

1 contained therein, and that each of said parties understands
2 that the agreements and obligations assumed by the other are
3 assumed with the express understanding and agreement that
4 they are in full satisfaction of all obligations which each
5 of said parties now has or might hereafter or otherwise have
6 toward the other.

7 2. The wife shall have the care, custody and control
8 of the minor children of the parties, namely:

9 Patrick Lee Van Pool, born July 11, 1977, and
10 Kimberly Rebecca Van Pool, born October 16, 1979,

11 and the husband may have reasonable rights of visitation,
12 provided he gives 24-hours notice.

13 3. The husband agrees to pay to the wife the sum of
14 \$150.00 per month per child beginning July 1, 1982 and
15 continuing on the first day of each month thereafter, for
16 the support, care and education of said children until they
17 reach the age of majority or are sooner self-supporting.

18 4. The husband quitclaims, conveys and releases to
19 the wife the following property:

20 1965 Magnolia trailer home with trunk and household
21 furniture and furnishings therein and the husband
22 agrees to pay the remaining balance owed to the Bank of
the North in the sum of approximately \$200.

23 1980 Buick and the husband agrees to use every effort
24 to obtain a release from his father Roscoe H. Van Pool
25 to the wife, all of his right, title and interest in
said automobile and the wife will make the remaining
payments owed to the B. H. Van Pools bank after receiving
said release.

26 5. The wife conveys and releases to the husband the
27 following:

28 all of his right, title and interest in tools and
29 equipment connected with his business, entitled Cold
Lagget Inter, Inc.

30 6. The parties agree that the wife may take the
31 children of the parties as a Federal income tax deduction.
32

1 7. The parties do certain debts which they will pay
2 as follows:

3 The husband will pay the Federal income tax owed for
4 the years 1971 and 1981 in the sum of approximately
5 \$5,000 or whatever balance is owed; Jansau-Douglas
6 Telephone Company, Petrolana and all debts connected
7 with his business, Gold Marine Laboratories.

8 The wife will pay Sears, P. I. Cable, Chunnel Sanitation,
9 Alaska Electric Lines & Power, Douglas Oil Heat and any
10 other utility bills connected with the trailer.

11 8. Each party agrees to pay their own attorney fees
12 and costs in this action.

13 9. Each party will execute promptly any and all
14 documents of any and every kind or character for the other
15 which may be necessary or proper to carry out the terms
16 hereof.

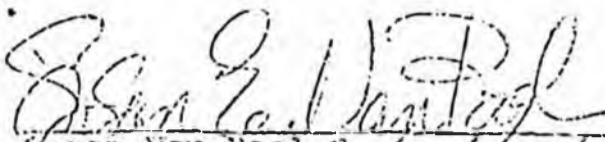
17 10. It is understood and agreed that the terms and
18 provisions of this Property Settlement and Custody Agreement
19 shall be incorporated in any final decree of divorce which may
20 hereafter be entered and enforceable by contempt proceedings,
21 if necessary.

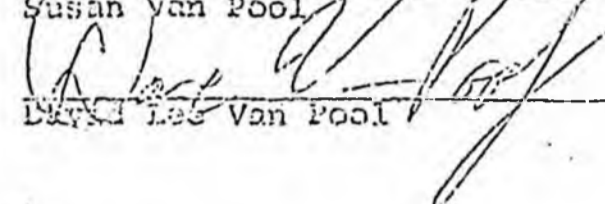
22 11. It is the intent of the parties that this agreement
23 shall be the final agreement of all of the right, title and
24 interest in and to any property acquired before or during
25 the marriage, and any property acquired by either of the
26 parties subsequent to the date of this agreement. It is
27 further the intent of this agreement that each of the parties
28 shall be in full control of his or her separate property and
29 responsible for his or her separate debts. It is further
30 agreed that each of the parties does hereby release and
31 discharge each other from any and all claims and demands of
32 every nature which they have against the other, except
those provided herein.

IN WITNESS WHEREOF, the parties have set their hands

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this 16th day of June, 1982.



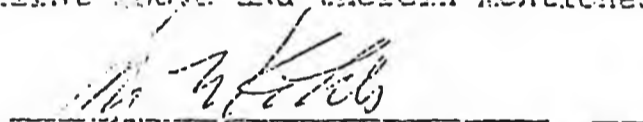
Susan Van Pool


David Lee Van Pool

S T A T E O F A L A S K A)
FIRST JUDICIAL DISTRICT) ss.

On this 15th day of June, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared SUSAN VAN POOL, known to me and known to me to be the person named in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed freely and voluntarily for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto affixed my signature and official notarial seal at Juneau, Alaska, the day, month and year in this certificate first above and therein mentioned.

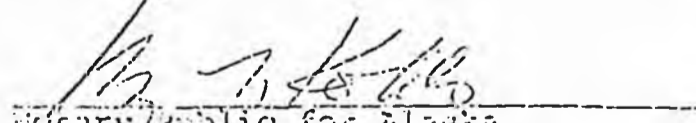


Notary Public for Alaska
My Commission Expires: 3/12/86

S T A T E O F A L A S K A)
FIRST JUDICIAL DISTRICT) ss.

On this 16th day of June, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared DAVID LEE VAN POOL, known to me and known to me to be the person named in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed freely and voluntarily for the uses and purposes therein mentioned.

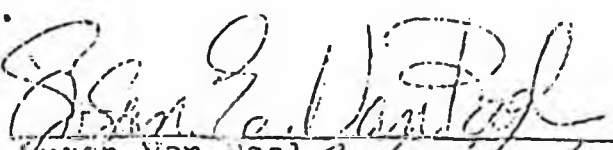
In Witness Whereof, I have hereunto affixed my signature and official notarial seal at Juneau, Alaska, the day, month and year in this certificate first above and therein mentioned.

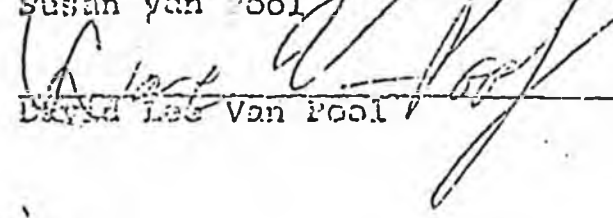


Notary Public for Alaska
My Commission Expires: 3/12/82

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this 16th day of June, 1982.



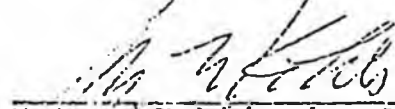
Susan Van Pool


David Lee Van Pool

S T A T E O F A L A S K A)
) ss.
F I R S T J U D I C I A L D I S T R I C T)

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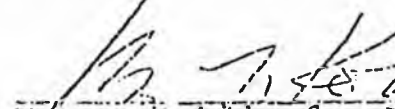


Notary Public for Alaska
My Commission Expires: 3/10/86

S T A T E O F A L A S K A)
) ss.
F I R S T J U D I C I A L D I S T R I C T)

On this 16th day of June, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared DAVID LEE VAN POOL, known to me and known to me to be the person named in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed freely and voluntarily for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto affixed my signature and official notarial seal at Juneau, Alaska, the day, month and year in this certificate first above and therein mentioned.



Notary Public for Alaska
My Commission Expires: 3/10/86

Some imperfect indicators of the size of the population of children needing child support.

Source: 1980 U.S. Census for Alaska

Table 21, General Population Characteristics

	Number	Percent
Total children under the age of 18	130,745	100 %
Living independently as householder or spouse ..	384	.003%
Living in married couple families	102,138	78.1%
Remainder	28,223	21.6%

This remainder group of 28,223 children is both under-inclusive and over-inclusive of those who are theoretically due child support. Under-inclusive because it ommits those living in married couple households whose parents have remarried. Over-inclusive because it includes children whose parents have died.

The 28,223 children are distributed thus:

Total	28,223	100%
Living with female householder, no husband present	13,792	49%
" with male householder, no wife present	4,476	16%
" with other relatives	6,671	24%
" with non-relatives	2,462	9%
In institutional or group quarters	822	3%

Alaska Child Support Enforcement Division, 1980 ^{Active} caseload: 6,770

Averaging slightly less than 2 children per case, this means that 12,000 to 13,000 children were on the agency's caseload.

The average amount due per month per case was \$153.

Per child this works out to about \$77.

38.5% of this amount was actually collected.

At the end of 1983 the amount due per case had risen to \$167 (\$84 per child) per month and the collection rate had risen to 58%.

Source: CSED Performance Report, FY83

Testimony of Judy Brakel
3/8/85

Alaska State Legislature



House of Representatives House Judiciary Committee

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

Contents - HB 92
March 28, 1985

CSHB 92 (JUD)

Letter of Intent

3/26/85 draft CSHB 92 (JUD)

Edwards amendment, page 1, line 14, 3/26/85

3/25/85 draft CSHB 92 (JUD)

Clocks in amendments 3/21/85

draft Letter of Intent

CSHB 92 (HESS)

HB 92

Fiscal Note - CSHB 92 HESS - 2/25/85 - Child Support Enforcement

Position paper & fiscal note - 1/30/85 - Public Assistance

Sectional Analysis - CSHB 92 (HESS)

Memorandum to HESS re bill changes from Nancy Bennett,
2/13/85

Proposed amendment

2/5/85 letter from AG Elizabeth Shaw re due process

Sectional summary of Child Support Enforcement Amendments of 1984

Summary by area of improvement

Civil Rule 5 Service & Filing of Pleadings and Other Papers with Balchen

Report by US General Accounting Office: US Child Support: Needed

Efforts Underway to Increase Collections from Absent Parents, 10/30/84

Routing Slip from Vice Herberhoft dated 1/17/85 with listing of needed

Alaska Law modifications and suggestions

Public Law 98-378 - 8/16/84, 98 Stat 1305

1/31/85 letter from AG Elizabeth Shaw re enforcement of
interstate/intrastate actions and enclosing copies

Revised Uniform Reciprocal Enforcement of Support Act (1968) drafted by
the National Conference of Commissioners on Uniform State Laws

Model Interstate Income Withholding Act

House Journal 1/18/85

Bailey v Haas, 3/12/82

Memorandum from AG Iris Barnett on CSHB 92 re lines 20-24,
p. 4

Letter from Alaska Women's Lobby

Indicator of size of population of children needing child
support

3/22/85 Edwards memo re (SSB 92) - Civil Rule 77



10606 Wilkins Avenue
Los Angeles, California 90024
(213) 475-5352
James A. Cook
President

A Nonprofit Association concerned with
the joint custody of children and related issues of divorce,
including research, information dissemination
and legal and counseling practices

January 11, 1985

Chairman and Committee Members
House Judiciary Committee
State of Alaska
Juneau, Alaska 99811

JAN 16 1985

Dear Chairman and Committee Members;

A legislative review of child support enforcement procedures, by state, is required by the recent federal enactment of Public Law 98-378 which amended title IV-D of the Social Security Act.

During Congressional analysis of the support issue there was widespread recognition that adequacy and effectiveness of support payment could be encouraged by legal procedures other than merely increasingly punitive enforcement.

Those additional measures dealt primarily with an assurance of equitability and equal rights for each member of a family, upon divorce or during periods of separate maintenance. The public's expectation of equity in human relations, following divorce, is a natural progression of the past thirty years of federal and state implementation of equal rights.

Procedural and Constitutional restraints inhibited Congress from legislating, in PL 98-378, those additional family law matters reserved for the states.

However, recognition of those other influences and family law improvements to increase the likelihood of support payment, while reducing the tax burden, prompted Congress to add "sense of the Congress" encouragement, and the suggestion of State Commissions where necessary, to assure that states enact statutes to make support payment more probable and avoidance less likely.

Enclosed, for state legislative review and enactment where applicable, are copies of our material submitted to Congress that dealt with those influential actions which could diminish state and federal tax burdens of enforcement.

Among the enclosures, you are particularly referred to:

1. An itemization of amendment proposals, with justifications in brief and priority-ranked by our knowledge of the likelihood of each to make support payment more probable while resolving the complaints of individuals who resist the inequity of the present enforcement system.

2. Wage assignment provisions earmarked by those additional clauses and actions that make wage assignment more humane and palatable.

- We urge your enactment of the enclosures, where applicable, as a means of developing more broadly-based public acceptance of your legislative task and to overcome a temporary impression that federal and state support enforcement is favoring only one narrow class of recipient to the disadvantage of obligors and the general tax-paying public.

Sincerely,

A handwritten signature in cursive script, appearing to read "James A. Cook". The signature is written in dark ink and is positioned above the printed name.

James A. Cook

P.S. Please distribute this letter and enclosures to other committee members.



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JAMES A. COOK
President
ALAN Z. LEBOW
Executive Vice President
ROBERT A. HIRSCHFELD
Secretary
PETER T. CYR
Treasurer
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Kent S. Wilcox
Director, Consumer Services
Michigan

Tom Williamson
Director, Marketing
New York

Thomas H. Wing
General Contractor
Washington

Richard Woods
Director, Economic Analysis
Iowa

Testimony

regarding child support enforcement legislation
submitted to the

Senate Finance Committee
January 24-26, 1984

by

James A. Cook

Chairman, National Congress for Men
and
President, The Joint Custody Association

10606 Wilkins Avenue
Los Angeles, California 90024

(213) 474-4859 475-5352

I am James A. Cook.

I will be speaking for, and on behalf of child support. I will suggest proposals that will make the payment of child support more likely to occur, including concepts that will make an enforcement system more recognizeably just, humane and equitable.

I speak from my observation of activity within two separate organizations:

- * The Joint Custody Association (of which I am the initiator and President), an organization of 1,500 individuals, about 30% of whom are professionals engaged in assuring statutes as well as case precedents that establish joint custody as a first-step preference for the children of divorce before resorting to severing a child into sole custody isolation.
- * The National Congress for Men (of which I was the initial President and am now the Chairman), a linking network organization that serves as a focal point for the 285 men's, fathers' rights and divorce reform organizations with which we are in touch nationwide. We are not in competition with women nor demanding power over women as a mechanism of social change. We believe the problems confronted by men, in relationship with women, are rectifiable by continually attuning the political, judicial and social system toward that which is equitable and decent.

Separating and identifying the problem

In order to apply equitability, and logic, to that portion of the child support problem that is amenable to improvement, it is necessary to separate the problem of unpaid child support into manageable segments.

Much has been said about so-called unpaid child support in an effort to acquire political backing for punitive enforcement measures.

Before enacting such proposals, however, it is important to recognize that, for approximately 41% of the women with children under 21 years of age,

there is no court order whatsoever that anyone, including the father, is responsible for paying child support.

Furthermore, a large segment of the child support problem is comprised of unmarried, never-married mothers. According to the child support enforcement program "the largest single factor accounting for the increase in AFDC rolls has been the increase in the number of families in which the parents were never married." (Approximately 1.1 million families; 641,000 Black and 406,000 Caucasian)

Generally, the punitive child support enforcement techniques now being proposed are largely ineffectual for such groups and, instead, the proposals tend to impose the most stringently upon the very segment of society which we should be striving to improve and maintain.

The disproportionate impact of punitive legislation

In the name of immediate action, predicated on large, all-inclusive statistics, and to satisfy political demand, the current legislative proposals impose the hardest on the desperate, marginally-employed, economically-struggling father who did honor his relationship with marriage, who has a residence, has been or is 'paying something', is salaried, who pays taxes, who has remarried an income-earning and tax-paying spouse, who seeks to save and bank money, has property and falls within all those conventional activities that are identifiable by the parent locator system.

Yet, the proposed legislation conveys an important anti-social message to such parents: you are unlikely to be entrapped if, instead, you don't marry, you live-off the cash economy, have no taxable income, retain no savings, own no property, live with someone also not earning traceable money, and avoid the conventional banking, telephone, postal, vehicle registration and organizational memberships that knit together a responsible society.

Throughout the broad middle-ground of those 'sometimes paying, sometimes not paying' parents is the disenfranchised, discouraged and exploited parent who has a lingering or intense interest in their children....it's a segment made

up primarily of those individuals who did not necessarily initiate divorce and are resentful of the consequences.

Social movement, change and solution

Furthermore, two great social movements are going on, albeit seemingly on divergent paths, but suggesting solutions to the child support dilemma.

On the one hand is the increasing interest and respectability in proclaiming oneself a father and participating in that responsibility through first-person, on-the-spot activity with ones child. This is one of the most socially-advantageous reassertions in America during the past decade. Such interest in fatherhood is not new in America; it is merely being restated, emphatically, as an honorable goal.

However, concurrently we have been experiencing during the same decade a striving for independence by women seeking other options and an avoidance...at least temporarily...of commitment.

In answer to this dichotomy, society is working-out a solution not reflected in the legislative bills you are considering but is reflected in scattered instances of state statute law. It is one of several solutions that is compiling the best statistical record of payment and satisfaction of child support payment of all the alternatives: that of a preference for joint custody before recourse to winner-take-all sole custody. Furthermore, the concept also satisfies the demand for equality of all parties that has identified much social legislation and judicial decisions of the past two decades.

Unfortunately, the proposed legislation appears to many as a throwback to a previous era: a single-issue, one-way-only, punitive, peevish and vindictive legislation that tends to put the sexes in opposition. Instead, we urge balanced enforcement.

Balanced, rational solutions

The proposed legislation does not reflect logic in prioritizing the most productive means of encouraging payment of child support and of removing a tax-supported bureaucracy from this process.

Our proposals are prioritized to parallel those measures which are already demonstrating the best success at voluntarily achieving child support payment.

1. For instance, the various state commissions should be directed to examine the potential in performance of child support payment to be found in state statute availability of a preference for joint custody before recourse to sole parent custody.

Every substantial survey study done thus far is demonstrating that the delinquency rate of child support payment is the lowest in joint custody situations: averaging only 6% - 7% delinquency, while also satisfying the demand for equality that characterizes other social legislation in America.

2. Furthermore, state commissions should similarly be directed to make available the modification of prior custody decrees to joint custody. Child support relitigation is the second largest volume of family law litigation in America today. However, joint custody cases are demonstrating as much as a 50% reduction in the volume of relitigation...a potential cost savings for our court systems as well as implying a relative level of satisfaction by such parents. Even in those cases wherein joint custody was decreed over the objections of one parent, the relitigation rate is less than that experienced by sole custody parents.

3. To decrease the unrealistic expectation of widely divergent child support amounts as a result of litigation, state commissions should be encouraged to consider statewide support schedules, formulas, tables and norms so that, in advance of divorce, the parents' expectation are more realistic, and to encourage the recourse of the following proposal.

4. Currently, the second most successful method of assuring payment of child support is that of the voluntary written agreement. The child support and alimony Census

report indicates that 78% of the amount due is paid, and that the average payment is higher than that ordinarily made nationwide, when agreements are voluntary. Hence, as an adjunct to statewide tables, state commissions should be encouraged to facilitate private or public mediation also encompassing decisions about child support.

5. Generalities are rare in topics of so much individual personal anguish and reaction as that of custody and support. But, the one generality that has emerged from the practice of District Attorney collectors in California is that, the longer a child is permitted to live-with the noncustodial parent before being excluded, and the more extensive that contact following birth and into the younger years, the more likely the excluded parent is to pay child support.

Hence, we request federal acknowledgment of making available so-called "visitation enforcement":

1. Assure availability of continuing visitation despite an out-of-state removal of children.
2. Assure the availability of specified parenting-time (visitation) with as much vigor of enforcement as that applied to the collection of child support.
3. Make the federal parent locator system available to noncustodial parents (as well as custodial parents) to determine the location of a child for whom support is sought.
4. Assure equitable, non-sexist enforcement of the Federal Parental Kidnapping Act by making it as applicable against custodial as against non-custodial parents.

Wage assignment guidelines

Following establishment of the prerequisites cited above for participation in the federal program, thereupon assure that if wage assignment statutes are required for the remaining delinquencies that such statutes reflect the following considerations:

1. An option by the obligor to select wage assignment payment to a private bank or similar fiduciary rather than solely through the governmental collection and dispersal system

2. Limited time periods of increasing length for subsequent delinquencies. Debt is not a crime for punishment in perpetuity, or throughout a child's minority, predicated on merely one or two delinquencies.
3. Opportunities through court action by the obligor to 'wipe the slate clean' of wage assignment so that wage assignment does not become an 'albatross' to be carried from one potential employer to another by the unemployed competing in the job market.
4. Judicial discretion to waive arrearages when fact-finding judges detect rational justification for aiding parents to focus on the present and future.
5. Establishment of hardship trust funds to more rapidly reimburse the approximately one-fifth of the parents now found to have had tax refunds wrongly confiscated and wages improperly garnished.

Concurrently with this testimony we are also submitting more detailed wording and explanation of these and allied proposals

We welcome the opportunity to construct a program that takes into consideration those methods which have been most successful at voluntarily inducing child support thus far, and we caution against the creation of an enforcement program that is disproportionate in its effect upon the most nearly stable segment of society merely because they are more available for entrapment.

**23 AMENDMENT PROPOSALS
TO ENSURE THE SUPPORT
OF CHILDREN OF DIVORCE**

relevant to
child support enforcement legislation
and related Congressional legislation.

Submitted by:



NATIONAL CONGRESS FOR MEN

with endorsement of:



James A. Cook
Chairman, National Congress for Men
and
President, The Joint Custody Assn.

10606 Wilkins Avenue
Los Angeles, California 90024

(213) 475-5352

October 31, 1983

Making payment palatable, not punitive.

RANKING PRIORITY AMENDMENT CRITERIA

1 Rebuttable presumption for joint custody.

Joint custody pays,
Reduce sole custody martyrdom

Require states, as a prerequisite for participation in federal program:

that the frequent and continuing access by children of divorce with both parents after the parents have dissolved their marriage will be encouraged by means of a rebuttable presumption for joint custody unless the parents have agreed to sole custody to one of the parents or that joint custody is found harmful to a particular child of a specific marriage.

Joint custody success in child support payment:

- * Only 6%-7% default on child support by joint custody parents, as compared with 72% default by sole custody parents in most extensive, recent study thus far.
- * Another study: Only 7% of joint custodians relitigating support; but 21% of sole custodians doing so. Only 13% of joint custodians reporting conflict on support, but 34% of sole custodians conflicted. (Center for Policy Research, Denver Custody - Mediation Project.)
- * Individual child support dollar payment level running 30% higher than sole custody cases in initial year of joint decrees studied.
- * 85% - 90% of joint custody families report "highly satisfactory" acceptance of joint custody for themselves, and as demonstrated by the children in same study.
- * Costs to parents, and to court system, reduced: 50% reduction in relitigation of joint custody cases as compared with sole custody.

A feasible Congressional and state action: See House Conc. Res. 6; also, 28 states have joint custody statutes, 13 of those already have required presumption/preference clause to satisfy amendment.

2 Facilitate modification into joint custody.

Joint custody is valid
"change of circumstances"

Require, as a prerequisite for participation in the federal program:

that each state recognize the establishment of joint custody by legislated statute or precedent decree as amounting to a "change in circumstances" warranting hearing and approval for modifying prior divorce/custody decrees into joint custody.

- * The support-payment advantages demonstrated by joint custody are thereby available to parents of prior decrees, to the economic advantage of the state, taxpayers and the children involved.

3 Establish child support base level tables. Basic support schedules

Require, as a prerequisite for participation in federal program:

that each state establish base child support sliding-scale dollar level tables, (keyed to (a) foster parent dollar support levels, and/or (b) AFDC basic support levels, and/or (c) Bureau of Consumer Economics, Department of Agriculture tables for costs of raising a child) thereby removing the inequity of individually litigated child support decrees having no relationship to the costs of raising a child. Assure a base minimum for the child, permitting each parent, thereupon, to spend directly upon the child those additional dollar amounts that reflect the income level of each parent.

* Increase the incentive for each parent to spend funds directly upon the child.

4 Assure availability of visitation for out-of-state removals of children.

No 'taxation without representation'

Require, as a prerequisite for participation in the federal program:

that each state assure, by statute, the continued availability of visitation for a child with both parents, despite a move out-of-state of a custodial parent, by requiring that a child removed out-of-state for more than 90 days must satisfy one of the two following criteria:

1. Agreement by the parents on how visitation for the child will continue on a frequent and continuing basis, or
2. Court hearing to assure continued visitation, despite an out-of-state move, at which the following may be considered:
 - a. Adjustment of child support to compensate for additional costs of transportation for out-of-state children.

* Assured visitation, despite out-of-state moves, is the statute law in 11 states.

5 Voluntary agreement achieves better compliance than arbitrary decisions

Agreements before decrements

Require, as a prerequisite for participation in federal program:

that, in those jurisdictions having access to either a private or a publicly-funded mediation or conciliation service, that the parents contesting child support levels or payment will first be directed to resolve the issues and compliance with the aid of a mediator or counselor before proceeding to a formal court of law.

* Parents have demonstrated a substantially better likelihood of compliance with custody, visitation, and support decisions when each has expressed significant input into the agreement or decisions, as compared with the lack of performance in response to arbitrary decrees wherein justifications were expressed solely to a magistrate in order to achieve that magistrate's punitive action upon the alternate parent.

- 6 Specified percentage of 'parenting time' rather than ambiguous 'reasonable visitation.'

Specificity, not leveraged ambiguity

Require, as a prerequisite for participation in federal program:

that, in cases wherein the parents have not selected nor been decreed joint custody, 'parenting time' allocated to the non-custodial parent will be specified.

Furthermore, in those decrees wherein such 'parenting time' allocated to the non-custodial parent is less than 28.5% of the weekly time (Saturday & Sunday), the court shall indicate the reasons for curtailment of 'parenting time.'

* Curtail the potential for mischief and uncertainty through vague custody decrees which, heretofore, have relegated to the custodial parent the sole power of decision to determine what is 'reasonable' or 'liberal' visitation.

- 7 Enforceable visitation.

No see, no pay

Require, as a prerequisite for participation in the federal program:

that states assure and enforce the continuance and availability of visitation by the children with non-custodial parents with the same vigor as applied to the enforcement and collection of child support from non-custodial parents.

- 8 Sole custody "best interests" criteria. Most capable, sole custodian

Sole custody based on an important, relevant, problem-resolving criterion,

if the economic assurance of child support is a crucial, priority,

Require, as a prerequisite by a state for participation in the federal program:

that, in those cases wherein joint custody does not prevail, and if the parents have not otherwise agreed which parent should have sole custody, decree sole custody for that parent most capable of assuming the economic responsibility as in the child's "best interests".

* An obvious solution to the support problem in sole custody cases.

- 9 Both parents responsible for financial support of child.

Sex equality in support

Require, as a prerequisite for participation in the federal program:

that both parents are financially responsible for the economic support of their child and that performance of this obligation can be evaluated periodically after decree, as well as merely prior to divorce decree.

* Most states already have statutes requiring both parents to be financially responsible but, in practice, have made this inquiry only prior to decree rather than periodically and subsequently.. ..which has resulted in custodial parents being advised by their attorneys not to work or demonstrate any source of income until after the decree has been issued.

10 Procedural ease for distress circumstances.

Review process
for income losses

Upon a drop in income by the support-paying parent, guaranteed access to an inexpensive administrative/judicial review to readjust dollar support payment levels.

Require, as a prerequisite for participation in the federal program:

that an inexpensive administrative/judicial review mechanism be established for the evaluation and readjustment of support for support-paying parents experiencing an income loss, salary reduction, or are incapacitated and unable to meet previous dollar-level commitments. Make the system as easily available as that proposed for recipient parents seeking an increase in child support.

* Triple-jeopardy is currently experienced by support-paying parents suffering an income loss or reversal with no equivalent risk for a support-receiving parent.

1. Delinquencies mount-up rapidly, and no equivalent income can be recouped for the loss-period. Child support reductions are not currently reduceable retroactive to the moment when the loss occurred.
2. The costs of legal representation to seek a redress are an additional financial burden at a time when new expenses can not be assumed.
3. There is no guarantee of achieving a reduction in dollar support amounts when an income-loss occurs under the present system, despite the added cost of hiring legal representation.

11 Accountability in dispersal of child support. Verifiable disbursements

Problem now: Contempt-prone for payment obligation; contempt-free for disbursement abuse.

Require, as a prerequisite for participation in the federal program:

that the same power of subpoena, investigation, and examination of records to ascertain the income of a non-custodial support-paying parent also be utilized, including penalties, to require that a custodial parent provide a verifiable accounting of support expenditures by both parents.

- * Accountability for child support payment records is statute law in at least two states.
- * Lack of accountability is as preposterous as if the federal welfare system handed out cash instead of food stamps; thereby implying we don't care how you spend it as long as you have an excuse to qualify for cash welfare.

12 Four tax law modification/changes to increase acceptability of child support

Tax break: support improvement
Chop tax ripoff artists

Require, as a prerequisite for participation in the federal program, that both federal and state governments make the following tax law changes:

4 Amendments in tax law:

1. Dependency deduction for the support-paying parent.
2. "Head of household" status for the support-paying parent (who must make the support payments as well as maintain a household for the child to reside in, or visit when the child is with the support-paying parent.)
3. Tax-deduction of child support (by a paying parent) as is now available for alimony.
Why?
 - a. Conventionally married families can deduct many of the expenses disbursed for a child; why not the same for the divorced support-paying parent?
 - b. If there is a clamor for assured payment of child support (yet permitting tax-deduction for alimony paid to individuals capable of earning income) it is rational to extend this same deduction to divorced, support-paying parents.
4. Assure pass-through to parent paying support for those subterfuge tax-deduction and capitalization of child support monies by recipient parents.
(At present, support-paying parent receives no tax deduction or credit for the end-use of child support payments. Conversely, the recipient parent...without reporting receipt of funds...can shunt that income into such end-use tax-deductible items as interest on housing purchases (which is further tax deductible by the recipient) and other payments typified as "medical", transportation that the recipient may have as tax deductible, certain child care costs, etc.)

Recipients don't report income, yet reap tax deductibility and increasing equity with no guarantees for child, and at the expense of other tax-paying Americans.

13 Due process notice.

Stop phony process-serving

Require legitimate service of notice.

Require, as a prerequisite for participation in the federal program:

that service of delinquency notice is by adequate "due process", not merely return receipt mail or publication notice. A parent falsely accusing the support-obligated parent shall assume costs of rectification for false accusation.

- * Unjustified harassment, including annoyance of employers, must be stopped. System must not be a gratuitous mechanism for annoyance of parent or employer.
- * Falsely-accusing parents have no responsibility for their acts under the current legislative proposals.

- 14** Prevent long-term "debtors' prison" treatment merely for limited-time delinquencies. Amounts delinquent, not future amounts due

Garnishment/deduction only for amount of delinquency unless repeated delinquencies within specified time periods.

Require, as a prerequisite for participation in the federal program:

that each state assure garnishment/deduction is limited to abuse by application only for amount past due,
-second offense of two month's delinquency within two years conveys garnishment/deduction for three consecutive months only;
-third offense of two months's delinquency within three years results in garnishment/deduction for two consecutive years only.

- 15** Equitable application of parent-locator files system Finders keepers;
Visitation besides support

Require, as a prerequisite for participation in the federal program:

that the federal parent locator system be available and used for locating custodial parents hiding children from access to noncustodial parents, and employed with a vigor equal to the use of that system for location of noncustodial parents to enforce child support collection.

- 16** Third-party action jeopardizing of support-paying parent's status.

Holding blameless

Require, as a prerequisite for participation in the federal system:

that a child support-paying parent shall be held blameless and without recourse by the recipient parent, and none of the rights and responsibilities of the child support-paying parent shall be abridged or denied because of a failure by the employer to make proper, punctual or accurate payment of wage-assigned payments.

* Beware: Vindictive activity by support-receiving ex spouse can wreak havoc for working relationship between employer and parent's former spouse.

- 17** Equitable, non-sexist enforcement of parental kidnapping statutes.

Equal enforcement of snatching laws

Require, as a prerequisite for participation in the federal system:

that the Federal Parental Kidnapping Act of 1980 and similar state statutes be applied:
a. Without regard to sex of parent, and
b. As applicable against custodial as against non-custodial parents.

- 18** Support payments to addresses wherein child is physically resident.
Defeat subterfuge of payment demands purposely obscuring child's whereabouts.

No bogus addresses

Require, as a prerequisite for participation in the federal system:

that payments of child support-paying parent be made directly to an address where the child is physically resident and that this address is known to the support-paying parent.

- * Support-paying parents have been required to make payments to post office boxes, drop-off points, court clerks, and to third parties for purposes of thwarting the support-paying parent's participation in 'visitation.'
- * Support payments deliberately shunted through payroll assignment obliterates ability of support-paying parent to deliver money in witnessing-presence of child; depersonalizing support payment system fuels unfounded accusation that other parent 'isn't paying.'

- 19** Compensate for subsequent fluctuation.
Reduce the subterfuge of filing for divorce at the presumed peak of earning power by a support-paying parent on the assumption of long-term payment of an inflated dollar support level.

Opportunism in divorce-timing

Require, as a prerequisite for participation in the federal system:

that an economic review of the income status of the support-paying parent will be conducted not less than once every two years to determine if their income has fallen below that which pertained at the time of child support decree or whether economic, health, income potential and subsequent responsibilities are in rational balance with the dollar level of the decree.

- * During past three years real-income of American males has been falling; simultaneously dollar level requirements of individual divorce decrees have been rising between 1/4 and 1/3. Problem: no rational review of these falling incomes.

- 20** Notification to child and recipient parent that opposite parent is paying.

Acknowledgment for payment

AFDC aid program does not currently and routinely notify the recipient child and parent that the absent parent is paying into the welfare system. Hence, aid-receiving parents are wrongly assuming the other parent is 'not' paying support.

Require, as a prerequisite for participation in the federal system:

that the recipient parent and child receive an accounting with each aid support check indicating the payment record into the aid system by the support-obligated parent.

21 Hardship funds

Hardship trust funds for falsely accused

Fraud and error in tax-refund confiscation and wage assignment is being encountered in one fifth of such cases by parents wrongly accused. Hardships arise upon confiscation, lengthy and costly rectification procedures place law-abiding parents at risk and disadvantage.

Require, as a prerequisite for participation in the federal system:

that each state establish by statute a substantial trust fund for the prompt rectification of unjustified confiscation and assignments.

22 Judicial discretion to waive arrearages.

Amnesty for the obvious

Require, as a prerequisite for participation in the federal system:

that each state establish statute permission for fact-finding judges to waive obligation of past due child support amounts predicated on such conditions as,

- physical impairment,
- irreplaceable job loss,
- catastrophic economic circumstances,
- equivalent residence and/or caretaking by support obligated parent,
- entrapment of obligated parent in additional caretaking,
- recipient parent had no justifiable need for now-delinquent funds and that claim is predicated solely on punitive enforcement of decree obligation.

23 Unjustified removals as "change of circumstances"

Removals as harassment

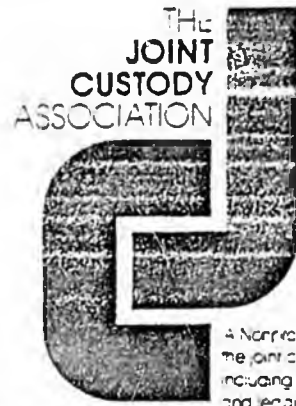
Require, as a prerequisite for participation in the federal program:

that the removal of a child by a custodial parent from a residence for the purpose of secreting or depriving that child of visitation access with the non-custodial parent shall be considered an offense against the child and as a sufficient "change of circumstances" to warrant a change in custody. Proof of harm shall be admissible as a defense against a change of custody.

- * The arbitrary movement of children in order to deny them access to the alternate parent, in the intact marriage as well as the divorced family, must be curtailed as an harassment technique when done without justification beyond a reasonable doubt.

Master, Model Joint Custody Statute

FOR UNIFORMITY NATIONWIDE



10206 Wilkins Avenue
Los Angeles, California 90024

Text for a modern, up-to-date joint custody statute available for introduction in state legislatures with the intent of seeking more nearly uniform joint custody practices nationwide and ease of implementation under the Uniform Child Custody Jurisdiction Act.

The following is predicated primarily on joint custody statutes enacted in Louisiana, Kansas, Idaho, California, Nevada, Iowa and other states which combine most of the features contained in the accompanying draft.

An advantage of the following is that the issues have undergone legislative analysis and debate, found public approval, and incorporate minor technical improvements that experience has demonstrated as desirable.

Indexing should be integrated with each state's Civil, family and domestic law provisions.

POLICY

Section 1. Section 100. (a) The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

AT OUTSET & THEREAFTER

In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper.

PRIORITIES

(b) Custody should be awarded in the following order of preference, according to the best interests of the child.

1. To both parents jointly pursuant to Section 100.5

PLAN

The court, in its discretion, may require the parents to submit a plan for implementation of the custody order upon finding that both parents are suitable parents, or the parents acting individually or in concert may submit a custody implementation plan to the court prior to issuance of a custody decree.

COOPERATION

2. To either parent. In making an order for custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of that parent's sex. The burden of

proof that joint custody would not be in a child's best interest shall be upon the parent requesting sole custody.

- (3) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.
- (4) To any other person or persons deemed by the court to be suitable and able to provide adequate and stable environment.

(c) Before the court makes any order awarding custody to a person or persons other than a parent without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a non parent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

PRESUMPTION

Section 2. Section 100.5. (a) There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child unless

- (1) the parents have agreed to an award of custody to one parent or so agree in open court at a hearing for the purpose of determining the custody of a minor child of the marriage or
- (2) the court finds that joint custody would be detrimental to a particular child of a specific marriage.

For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court may direct that an investigation be conducted.

REASONS

If the court declines to enter an order awarding joint custody pursuant to this subdivision, the court shall state in its decision the reasons for denial of an award of joint custody.

DEFINITIONS

(b) For the purposes of this section, "joint custody" means joint physical and legal custody. "Joint physical" means an order awarding each of the parents significant periods of time in which a child resides with or is under the care and supervision of each of the parents or parties. Joint physical custody shall be shared by the parents in such a way as to assure a child of frequent and continuing contact with both parents. "Joint legal" means that the parents or parties share, or shall have voluntarily allocated or the court shall have decreed between them, the decisionmaking rights, responsibilities, and authority relating to the health, education, and welfare of a child.

An award of joint physical and legal custody obligates the parties to exchange information concerning the health, education, and welfare of the minor child, and unless allocated, apportioned, or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority.

MODIFICATION (c) Any order for joint custody may be modified or terminated
 from JOINT CUSTODY upon the petition of one or both parents or on the court's
 own motion if it is shown that the best interests of the
REASONS child require modification or termination of the order. The
 court shall state in its decision the reasons for modification
 or termination of the joint custody order if either parent
 opposes the modification or termination order.

MODIFICATION (d) Any order for the custody of a minor child of a marriage
 to JOINT CUSTODY entered by a court in this state or in any other state,
 subject to jurisdictional requirements, may be modified at
 any time to an order of joint custody in accordance with
 the provisions of this section.

CONCILIATION (e) In jurisdictions having a private or publicly-supported
 conciliation service, the court or the parties may, at any
 time, pursuant to local rules of court, consult with the
 conciliation service for the purpose of assisting the parties
 to formulate a plan for implementation of the custody order or
 to resolve any controversy which has arisen in the implementa-
 tion of a plan for custody.

RECORDS (f) Notwithstanding any other provision of law, access to
 records and information pertaining to a minor child, includ-
 ing but not limited to medical, dental, and school records,
 shall not be denied to a parent because the parent is not the
 child's custodial parent.

Explanatory notes

Issues not to be contained in the statute, but as an outgrowth
 of implementation and as a guide to furthering the statute's
 policy.

Initiating To facilitate easing litigating parents into consideration of
 planning joint custody planning, you are encouraged to examine, and
 duplicate for distribution within the family court system,
 "Initiating Joint Custody Planning; Encouraging & facilitating
 joint physical and legal custody plans."*

Decree Joint custody provisions and clauses for decrees or agreements
 clauses as a convenient reference for judges, attorneys and counselors
 can be found in "Decree or Agreement, Joint Custody Provisions
 & Clauses."*

Public A basic and explanatory booklet suitable for reproduction and
 pamphlet distribution to parents filing for divorce, written in lay
 language and addressing the divorce process, is available in
 "Cooperative Parenting Following Dissolution: Your child needs
 both of you. Prepared by the Los Angeles Committee to Implemen
 California's Joint Custody Statute (Los Angeles Superior
 Court)."

Best "Best interests of a child" need not be specified within the
 interests statute in view of the on-going analysis and redetermination
 of what amounts to "best interests" and lest a listing of
 presumed "best interests" constitute an unconstitutional denial

of access by child and parent to each other and thereby jeopardize the entire custody statute.

However, informal court guidelines, apart from the formal statute, may include the following:

In determining the best interests of the child the court may consider:

1. The physical, emotional, mental, religious, and social needs of the child;
2. The capability and desire of each parent to meet these needs;
3. The love and affection existing between the child and each parent;
4. The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
5. The desirability of offering the child a variety of life experiences;
6. The desire and ability of each parent to allow an open and loving relationship between the child and his other parent.

Child's
preference

It is not considered advisable that a child's preference, desire or wish be elicited from the child, under the pretext of 'best interests of a child,' as a prerequisite for court determination of custody because:

- a. Such an action or supposition could vest with a child, at an impressionable age, and prior to a comprehension of the long-term consequences by the child, a sense of power or control or leverage over either or both parents and over the court system.
- b. A decision predicated on a child's decision between two parents raises the spectre of an eventual guilt-feeling by the child regarding the excluded parent and the necessity of a custodial parent to reassure the child of the wisdom of excluding a parent.
- c. By implying the power of decision by a child, the parents are unnecessarily and unwisely thrown into a competitive situation to cater to and curry favor with the child in hopes of influencing a child's decision of one parent over another.

Criteria for
joint custody

So-called criteria for determining the qualifications or suitability of one or both parents to be decreed joint custody, such as geographic convenience, association with friends, and adequacy of living quarters are not advisable to be specified in a statute. Such criteria have been widely debated and eventually dropped because:

- a. definitive criteria that are largely the product of opinion or cultural viewpoint have the likelihood of being unconstitutional, and
- b. a listing of criteria provokes litigating parents into envisioning methods for defeating joint custody and of scrutinizing comparisons and issues that could be used to belittle the opposite parent.

* Items available from The Joint Custody Association, James A. Cook, 10606 Wilkins Avenue, Los Angeles, California 90024

Family law proposals

James A. Cook
10606 Wilkins Avenue
Los Angeles, California 90024
(213) 474-4859, 475-5352

Thirteen brief single-paragraph state legislative bill proposals for you to place with sponsoring legislators in your state

Following your verification to determine whether these proposals are already statute law in your state, we advise your submitting and promoting each as separate, individual bills rather than a single, all-encompassing omnibus bill. Bills containing many topics accumulate opponents of individual issues and thereby increase the probability of defeat. Separate bills on individual topics reduce the necessity of negotiating trade-offs.

A few of the following issues, such as that of joint custody, are worthy of more elaboration (we recommend the JtCtdyAssn model bill in preference to the following paragraph) but, generally, we advise against festooning legislative bills with provisions that capture the attention of opponents.

Move swiftly and directly to place these proposals with the most influential legislator who is a member of the relevant policy committee, usually a Judiciary Committee in either legislative house.

JOINT CUSTODY

The frequent and continuing access by children of divorce with both parents after the parents have dissolved their marriage will be encouraged by means of a rebuttable presumption for joint custody unless the parents have agreed to sole custody to one of the parents or that joint custody is found harmful to a particular child of a specific marriage.

"CHANGE OF CIRCUMSTANCES" MODIFICATION

The establishment of joint custody by statute or precedent decree amounts to a sufficient change of circumstances to warrant hearing and approval for modifying prior divorce-custody decrees into joint custody.

ESTABLISH SUPPORT SCHEDULES

In order to reduce the inequity of individually litigated child support decrees having an uncertain relationship to the costs of raising a child, the state shall conduct a one-year study leading to legislative implementation of statewide child support sliding-scale dollar level tables or formulas.

ASSURED ACCESS DESPITE OUT-OF-STATE REMOVALS

In order to assure the continued and frequent access by a child of divorce with both parents despite an out-of-state move by a custodial parent, removal of a child out-of-state for more than 90 days must satisfy one of the two following criteria:

1. Agreement by the parents on how visitation for the child will continue on a frequent and continuing basis, or
2. Court hearing to assure continued visitation despite an out-of-state move, at which the following may be considered:
 - a. Adjustment of child support to compensate for additional costs of transportation for out-of-state children.

VOLUNTARY, MEDIATED CHILD SUPPORT AGREEMENTS

In those jurisdictions having access to either a private or a publicly-funded mediation or conciliation service, the parents contesting child support levels or payment will be directed, first, to resolve the issues and compliance with the aid of a mediator or counselor before proceeding to a formal court of law.

SPECIFIED TIME, NOT AMBIGUITY

In child custody decrees pursuant to the dissolution of marriage wherein the parents have not selected nor been decreed joint custody, 'parenting time' (or visitation) allocated to the non-custodial parent will be specified.

"BEST INTERESTS" ECONOMIC SECURITY CRITERIA

To assure the economic welfare of a child following dissolution of a marriage, in those cases wherein joint custody does not prevail, and if the parents have not otherwise agreed which parent shall have sole custody, among the child's "best interests" criteria sole custody may be decreed for that parent most capable of assuming economic responsibility for the child.

SEX EQUALITY IN SUPPORT

Both parents are financially responsible for the economic support of their child within their respective means.

INCOME LOSS REVIEW PROCESS

A rapidly-available administrative/judicial review mechanism shall be established for the evaluation and readjustment of child support obligations for obligor parents experiencing an income loss, salary reduction, or are incapacitated and unable to meet prior support-level commitments to the satisfaction of the court.

VERIFIABLE DISBURSEMENTS

The same power of subpoena, investigation and examination of records to ascertain the income of a non-custodial support-obligated parent shall also be utilized, upon direction of the court, to require that a custodial parent provide a verifiable accounting of support expenditures by both parents.

DELINQUENCY SCHEDULES

The initial garnishment or wage assignment for delinquent child support shall be solely for amounts past due. Repeated delinquencies within specified time periods shall result in garnishment or wage assignment on the following schedule:

- a. Second offense of two month's delinquency within two years conveys garnishment, wage assignment for three consecutive months only;
- b. Third offense of two month's delinquency within three years may result in garnishment, wage assignment for two consecutive years only.

EQUITABLE USE OF LOCATOR SYSTEM

The federal parental locator system shall be made available for use by custodial as well as non-custodial parents to locate children being hidden from or denied access to the alternate parent.

JUDICIAL DISCRETION FOR ARREARAGE AMNESTY

To enable payment of present and future child support obligations, a fact-finding judicial officer may waive obligation of past-due child support amounts when satisfied that such past due child support amounts are predicated on such conditions as:

- physical impairment
- irreplaceable employment loss
- catastrophic economic circumstances
- performance of equivalent residence and/or caretaking by the support-obligated parent

Enforceable visitation proposed

Enforceable visitation proposal now proceeding through the California legislature is quoted below, for those of you planning to propose a similar measure in your legislature. This proposed bill is in addition to California's present recourse to enforce visitation through use of Penal Code Section 278.5 (Citizens Arrest).

Following is the text of Assembly Bill 2915 (Agros)

Existing law contains no express provision as to the manner in which visitation rights as to minors shall be rescheduled if the original schedule is not met.

This bill would require the mediator or district attorney, or both, to propose an order regarding the rescheduling of visitations, thereby imposing a state-mandated local program, and would make it a crime to conceal, take, or entice away a child with the intent to deprive a person of a right to any right under a rescheduled visitation order, thereby imposing a state-mandated local program.

SECTION 1. Section 4609 is added to the Civil Code, to read:

4609. (a) In any proceeding where a mediator is made available pursuant to Section 4607 and there is an issue of visitation rights, the mediator shall propose to and file with the court an order regarding the manner in which visitations shall be rescheduled if an original visitation schedule is not met.

(b) The district attorney shall prepare and file with the court a proposed order regarding the manner in which visitation shall be rescheduled if a child has been detained, taken, concealed, or retained with the intent to deprive another person of visitation rights.

(c) Any court order for the rescheduling of visitation rights previously not met shall include visitations of the same type and duration as those previously missed, shall be rescheduled within one year from the original visitation date, and the rescheduled times shall be acceptable to the noncustodial parent.

(d) If an order rescheduling visitations previously missed is issued by the court, the noncustodial parent shall keep a record of any visitations missed and shall provide the district attorney with notice of an instance, within seven days of the occurrence thereof, in which the child has been detained, taken, concealed, or retained with the intent to deprive another person of visitation rights.

(e) Within _____ days of receiving an allegation pursuant to subdivision (d), the district attorney shall notify the custodial parent of the allegation and of his or her intention to propose a makeup visitation order.

(f) With _____ days of receiving an allegation pursuant to subdivision (d), the district attorney shall notify the custodial parent of its intent to use civil or criminal proceeding to enforce the rescheduling visitation rights.

SEC. 2. Section 278.5 of the Penal Code is amended to read:

278.5. (a) Every person who, in violation of the physical custody or visitation provisions of a custody order, judgment, or decree, takes, retains, detains, or conceals a child with the intent to deprive another person of his or her rights to physical custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars (\$10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

(b) Every person who, whether within or without this state, causes a child to be transported out of this state with the intent to deprive another of his or her rights to physical custody or visitation, in violation of the physical custody or visitation provisions of a custody order, judgment, or decree, shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars (\$10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

(c) Every person who has a right to physical custody of or visitation with a child pursuant to an order, judgment or decree of any court which grants another person, guardian or public agency right to physical custody of or visitation with that child, and who within or without the state detains, conceals, takes or entices away that child with the intent to deprive the other person of such right to custody or visitation or any rescheduled visitation order, as provided in Section 4609 of the Civil Code, shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars (\$10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

Pursuant to Sections 27 and 778, a violation of this subdivision is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of California or present in California at the time of the taking, or if the child is thereafter found in California.

From: The Joint Custody Association
10606 Wilkins Avenue
Los Angeles, California 90024

Enforceable visitation

California procedure

INFORMATION REGARDING CITIZEN'S ARREST *

The following constitutes information regarding the making of a Citizen's Arrest in California and nothing more. It does not constitute legal advice recommending any specific action. A citizen making a Citizen's Arrest is deemed to know the law and is responsible for his or her actions. A citizen making a false arrest may be criminally or civilly liable if he is mistaken about the circumstances of the case. A citizen should consult with an attorney prior to making a Citizen's Arrest.

CITIZENS ARREST FOR VISITATION REFUSAL (Penal Code 278.5)

1. Obtain certified copy of specific visitation order. ("Specific" when it defines the exact days and hours during which visitation is to take place. "Order" is a written document from a court wherein visitation rights are defined and is signed, or stamped, by a Judge. Orders may result from temporary or interim hearings, or embodied in an interlocutory judgment of divorce)
2. Obtain a copy of Penal Code S 278.5. Have your attorney explain this code section to you. Read it. This section describes the crime for which the arrest will be made. Verify that it applies. Understand it thoroughly so that you can explain how this section applies to the police officer at the scene facilitating the Citizen's Arrest.
3. Retain copies of the California statute regarding Citizen's Arrest. (P.C. 837, 839, and 847).
4. Arrive at the place designated for visitation (in the court order) at the designated time with one or more witnesses. Dress and conduct yourselves in a polite, respectable manner.
5. At the time and place designated for visitation, request visitation from your former spouse exactly in the manner as visitation is provided in the court order. (e.g. don't ask for 3 days if court order provides for 2 days.)
6. If visitation is refused, and refusal appears as a violation of law as embodied in P.C. 278.5, then call the local police department. Advise the police that a crime is now being committed in your presence. Request that the police department send an officer to the scene to cause an arrest to be made or to process a Citizen's Arrest.
7. When the police officer arrives, at all times be polite, courteous and assertive of your rights. Show the police officer the certified copy of the court order containing specific visitation, Penal Code S 278.5 and the penal code sections applying to your right to make a citizen's arrest. Allow the police officer to make his independent investigation. If he contends that P.C. 278.5 does not apply ask him to explain why it does not apply. If it applies, insist that an arrest be made (or citizens arrest processed) unless your former spouse relents and agrees to the court ordered visitation.
8. If the police officer refuses to make an arrest, or to process your citizen's arrest, and it appears that you are right, insist on speaking to his supervisor. If you are right, be persistent and assertive. Be polite and courteous. If the supervisor refuses, then, later, see your attorney and make a formal complaint with the police department. Be sure you have the names and badge numbers of all police officers involved. If you are turned down at the scene, do not take matters into your own hands.

9. The law states that a citizen, when making an arrest, may orally summon the assistance of others in making an arrest (Penal Code section 839). However, it is not recommended that a citizen summon anyone other than a police officer to assist in making the arrest. It is further not recommended that the citizen utilize any force or damage any property in effectuating an arrest. The citizen should leave the processing of the arrest entirely up to the police officer.

Penal Code S 278.5 (Detention or concealment of child in violation of custody decree) (a) Every person who in violation of a custody decree takes, retains - after the expiration of a visitation period, or conceals the child from his legal custodian, and every person who has custody of a child pursuant to an order, judgment or decree of any court which grants another person rights to custody or visitation of such child, and who detains or conceals such child with the intent to deprive the other person of such right to custody or visitation shall be punished by imprisonment in the state prison for a period of not more than one year and one day or by imprisonment in county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

(b) A child who has been detained or concealed in violation of subdivision (a) shall be returned to the person having lawful charge of the child. Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Such costs shall be assessed against any defendant convicted of a violation of this section.

Penal Code S 837. Arrests by private persons: (Circumstances authorizing)
A private person may arrest another:

1. For a public offense committed or attempted in his presence.
 2. When the person arrested has committed a felony, although not in his presence.
 3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
-

Penal Code S 839. Persons making arrest may summon assistance.
Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.

Penal Code S 837. (Duty of private person making arrest to take prisoner before magistrate or deliver to peace officer: When peace officer not liable for false arrest or false imprisonment)

A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him to a peace officer. There shall be no civil liability on the part of and no cause of action shall arise against any peace officer, acting within the scope of his authority, for false arrest or false imprisonment arising out of any arrest when:

- (a) Such arrest was lawful or when such peace officer, at the time of such arrest had reasonable cause to believe such arrest was lawful; or
- (b) When such arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested; or
- (c) When such arrest was made pursuant to the requirements of Penal Code Section 142, 838, or 839.

distributed by: The Joint Custody Association
James A. Cook
10606 Wilkins Avenue
Los Angeles, California 90024

MISMATCH

Retribution & punishment (of proposed enforcement legislation) doesn't correlate with majority of the problem.

Proposed punishment laws:

- Will impose hardest on
 - a. the desparate, marginally-employed, economically-struggling father who is locatable and 'paying something' (and convert him into a fugitive with the guilt-association of wage assignment.)
 - b. the unprotected but stable 'second family' that is without the assured economic guarantees that the proposed law is creating for the woman who divorced with child.
- Yet, will almost entirely miss doing anything about
 - a. the majority of the problem that includes:
 - 1. cases with no court ordered child support,
 - 2. no identification by the mother of the father or where he is.

Punishments appear predicated on mechanisms, procedures and controls that are intended for a conventional, locatable, economically stable society.

Hence, the legislative enforcement proposals are most likely to effect:

Those who have been married (with less likelihood of affecting those who have never married.)

Those with court orders which occur as a result of divorce (with the likelihood that those without court orders are unlikely to be affected.)

Those who are salaried (garnishment and wage assignment possibilities) as compared with those who have no regularly salaried or wage job and who live off the cash economy.

Those who pay taxes (and are subject to tax refund confiscation) as compared to those who slide by with no taxable income and no savings, investment and interest payments warranting a tax refund.

Those who have married an income-earning and tax-paying spouse (who is likely to have a confiscatable tax refund) as compared with those living with someone not earning money or living off the cash economy.

Those who have other recordable and traceable forms of income (such as rents or income payments) as compared with those having no investments or savings.

Those who have property (subject to liens to force sale for support payment) as compared with those who have no tangible property subject to liens.

Those whose lifestyle is so stable as to place them within the parent locator system (driver's license, bank account, tax payment, telephone service, medical assistance, U.S. postal address, union member, current & past employers, vehicle registration, and fraternal membership) as compared with those who 'live off the street,'

Those whose children are younger (because the one-month delinquency to trigger a confiscation/assignment throughout childhood is more likely in view of probable economic fluctuations over many year's duration) as compare with those wherein the children are older.

Wage Assignment ?

Clauses and provisions to assure that wage assignment for child support enforcement is humane and equitable.

Choose: Yes or No ?

WAGE ASSIGNMENT ?

Amend & vote accordingly

For converting sole custody control into money-leverage advantage: NO

For equality in parenting, such as joint custody and/or ample visitation or parenting-time. (The 1st best support-payment record!) YES

WAGE ASSIGNMENT ?

For arbitrary dollar amounts, litigiously created? NO

For basic support tables/formulas, democratically established? YES

WAGE ASSIGNMENT ?

For unevaluated dollar amounts arbitrarily decreed by judges? NO

For voluntary written agreements by parties, in mediated settings, based on money realistically available? YES
(2nd best support-payment record, higher average amounts paid)

WAGE ASSIGNMENT ?

For perpetuity throughout childhood, following one delinquency? NO

For limited time-periods upon amortizing arrears? YES

WAGE ASSIGNMENT ?

For systems wherein only obligation of assignment can be imposed? NO

For circumstances wherein paying-parent can remove assignment obligation in simplified court/approved procedure? YES

WAGE ASSIGNMENT ?

For jurisdictions wherein judges are required to enforce full amount in arrears? NO

For jurisdictions wherein fact-finding judge has discretion to evaluate and adjust amounts in arrears, when justified? YES

WAGE ASSIGNMENT ?

For custodial parents unilaterally moving a child out-of-state to thwart visitation by paying parent? NO

For movement out-of-state when continuation of visitation is assured, nevertheless? YES

For circumstances where there is no quid-pro-quo visitation enforcement? NO

For systems also employing stepped visitation enforcement (1. make-up time; 2. added penalty time; 3. dollar damages, but not child support cutoff.) YES

WAGE ASSIGNMENT ?

For situations wherein controlling custodial parent can determine what visitation is "reasonable"? NO

For decrees that spell-out substantial, assured visitation (parenting) time? YES

WAGE ASSIGNMENT ?

For states where federal parent locator service is used only to locate support-obligated parent? NO

For states also enforcing use of federal parent locator service to locate child and custodial parent? YES

WAGE ASSIGNMENT ?

For states enforcing the Federal Parental Kidnapping Act upon only noncustodial parents? NO

For states enforcing the FPKA equally upon both custodial and noncustodial parents? YES

WAGE ASSIGNMENT ?

For systems wherein payments are made only through a government collection/dispersal bureaucracy? NO

For states permitting obligor to select payment through private bank or depository? YES

WAGE ASSIGNMENT ?

For states not examining disbursement for or upon the child? NO

For states demonstrating same subpoena power to examine expenditures (for/upon child) as to examine earnings of paying parent? YES

WAGE ASSIGNMENT ?

For states wherein only one-sex parent is statistically demonstrated as being solely responsible for financial support? NO

For states wherein both parents are financially responsible for economic support of child? YES

WAGE ASSIGNMENT ?

For states having a simplified administrative procedure only for increasing and collecting support? NO

For states having a simplified administrative procedure for reducing as well as increasing and enforcing support. YES

Rural Alaska

Community Action Program, Inc.

November 19, 1984

JAN 18 1985

Dear Advocate,

Throughout the country, families and communities are identifying the pressing need for quality early childhood services, and the government and the private sector are listening and responding. Many rural Alaskan families and communities are in need of quality early childhood services for their children, especially those from birth through five years of age. These families and communities are making their needs known, and both the private sector and the government of Alaska must listen and respond.

These families and communities in need have most often contacted the Rural Alaska Community Action Program for assistance because of our 20 year history of providing Head Start services in rural Alaska. Upon reviewing requests for assistance, it became evident to us that many communities did want and could benefit from a comprehensive service program like Head Start, but were unable to receive services due to lack of funding. It also became evident that some communities wanted a child care or after school care program while others wanted a home learning program or an enrichment program. What all of these communities wanted, however, was information on how to decide what type of program would work best and information on how to get it started.

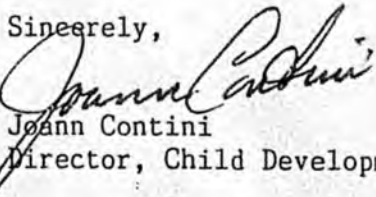
As a service to rural Alaskan families and communities, RurAL CAP undertook a special project - the Early Childhood Planning Project. The purpose of the project was to provide a means by which rural communities could 1) determine their needs for direct early childhood services and, 2) begin planning to meet those identified needs.


What follows is report on that project - its activities - its findings - its recommendations.

The Early Childhood Planning Project is a bright spark that ignited much enthusiasm; however, it is only a beginning. There is much work that remains to be done if the young children of rural Alaska are to benefit from quality early childhood services. You can assist in this effort.

As a person interested in young children and their families, we encourage you to read the report, and we further encourage you to give serious thought to what you can do, in your life or in your job, to assure that young children in rural Alaska receive the best there is in early childhood services.

Sincerely,


Joann Contini
Director, Child Development


Robert A. Lohr
Executive Director

Planning the future for Alaska's Children



**Early Childhood Planning Program
Rural Alaska Community Action Program**

PLANNING THE FUTURE FOR ALASKA'S CHILDREN

produced by

*Rural Alaska Community Action Program, Inc.
Robert A. Lohr, Executive Director*

*Child Development Department
Joann Contini, Director*

*Early Childhood Planning Project
Debra Ward, Coordinator*

*Cover photo Anthony Peeke of Hydaburg Head Start
by Mary Mullen*

The Early Childhood Coordination Project was funded through Community Services Block Grant CC211835 to Rural Alaska Community Action Program, Inc., from the State of Alaska Department of Community and Regional Affairs. Opinions expressed do not necessarily reflect those of the funding source.

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Additional copies of this report may be obtained from: Child Development Department, Rural Alaska Community Action Program, P.O. Box 3-3908, Anchorage, AK., 99501.

EARLY CHILDHOOD PLANNING PROJECT

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EARLY CHILDHOOD PLANNING PROJECT
Description of Project

Funding Source: Community Services Block Grant
Administering Agency: Rural Alaska Community Action Program
Child Development Department
Project Duration: September 1, 1983 - September 30, 1984

At present time, there is no system for determining the needs of birth through five year old children within rural Alaskan communities for early childhood services (early childhood education, child development, child care, etc.), nor is there a system for planning to meet the identified needs.

- Major Activities:
1. Review early childhood services and develop summary document of types of services;
 2. Review basic data required for determination of needed services and for future eligibility for available resources;
 3. Develop tool for collection of required information and determination of services needed;
 4. Identify early childhood service planners from the twelve (12) Native corporate areas;
 5. Provide planners with service summary document and information collection tool;
 6. Assist planners in information collection and needs determination process;
 7. Identify major resource/information providers for work session;
 8. Coordinate work session with planners and providers;
 9. Conduct work session;
 10. Prepare "how to manual" for regions to hold their own work sessions;
 11. Prepare summary of work session outcomes and;
 12. Provide work session outcomes to state employees, officials and legislators.

Process
Description:

Establish a process by which local communities can identify their own needs and by which local, regional and state representatives can review these needs and, together, plan for the provision of necessary services for young children. The major parts of this process are:

Community

1. Identify needs of local communities for early childhood services to 0 to 5 year olds.
2. Provide a local representative who would be considered for participation in a three day work session in Anchorage, to discuss the identified needs.

Regional Non-Profit Corporations

1. Identify existing research data, statistics, information on employment, education and family services in the community.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss the identified needs.

State Government Offices

1. Identify existing early childhood services for 0 to 5 year olds.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss existing services.

Project Outcome:

Individual communities and regions would be involved in a local, grassroots level in identifying needs and in determining the most appropriate types of services to meet those needs. All existing resources will be utilized and exhausted. Long range planning will occur at a local and regional level to identify and create new resources for providing identified but unmet needs for early childhood services. The final outcome will be that needed early childhood services will be provided to young children in rural Alaska.

EXECUTIVE SUMMARY

EARLY CHILDHOOD PLANNING PROJECT

PURPOSE

TO DETERMINE THE NEED FOR DIRECT SERVICE EARLY CHILDHOOD PROGRAMS IN RURAL ALASKAN COMMUNITIES

FINDING

THERE IS A CRITICAL NEED FOR A VARIETY OF DIRECT SERVICE EARLY CHILDHOOD PROGRAMS IN RURAL ALASKAN COMMUNITIES

RECOMMENDATION

THE STATE OF ALASKA, THROUGH BOTH THE EXECUTIVE AND LEGISLATIVE BRANCHES, ACCEPT THE RESPONSIBILITY TO REVIEW, PLAN AND PROVIDE DIRECT SERVICE EARLY CHILDHOOD PROGRAMS ON A COMPREHENSIVE BASIS

SPECIFIC FINDINGS

Rural Alaskan communities have identified the need for specific direct service early childhood programs

11 communities need a Pre-school program

17 communities need a Head Start program

14 communities need a Child Care program

7 communities need a Family Home Providers program

0 communities need a Kindergarten program

19 communities need a Parent Child program

10 communities need a Parent Co-operative program

Over 300 rural Alaskan communities have not had the opportunity to identify their need for specific direct service early childhood programs

Over 90% of rural Alaskan communities with existing direct service early childhood programs have identified a critical need for continued and increased support for training, facilities and general funding

Allocation of state funds for direct service early childhood programs is not based on comprehensive review or planning

Allocation of state funds for direct service early childhood programs does not correlate to identified need

Quality direct service early childhood programs result in gains in education, employment and social responsibility providing positive contributions to children, family, the economy and society as a whole

SPECIFIC RECOMMENDATIONS

The State of Alaska* must recognize and emphasize the positive contribution that quality direct service early childhood programs have on Alaska's children, families, economy and society

The State of Alaska must demonstrate its commitment to quality direct service early childhood programs through funding allocation, regulation and legislation

The State of Alaska must expand its role in reviewing, planning and providing direct service early childhood programs

The State of Alaska must develop a comprehensive plan to provide the needed programs identified by this project

The State of Alaska must initiate new programs in those communities which have identified their needs through this project

The State of Alaska must obligate funds to begin and maintain operations of these new programs

The State of Alaska must require local community involvement in planning and establishing these new programs

* State of Alaska refers to both the Executive and Legislative branches

The State of Alaska must promote a variety of options in the direct service early childhood programs provided (i.e., Head Start, Parent Child Program, Child Care, Pre-school, Parent Co-operative, Kindergarten, Family Child Care and Enrichment) to meet the variety of needs identified by individual communities

The State of Alaska must survey those rural Alaskan communities not included in this project and those not responsive to this project and identify their need for direct service early childhood programs

The State of Alaska must strengthen its role in the provision of training and career development for early childhood workers

The State of Alaska must provide training opportunities for early childhood staff in child development

The State of Alaska must provide training opportunities for program administrators in program operations

The State of Alaska must provide information and education opportunities for parents in child development

The State of Alaska must develop a comprehensive plan for early childhood facility construction and renovation

The State of Alaska must construct and/or renovate early childhood facilities which are developmentally appropriate and which meet licensing and certification requirements

The State of Alaska must establish a central clearinghouse to collect, review and disseminate information regarding the status of early childhood services in Alaska

The State of Alaska must review and evaluate the allocation of state funds for direct service early childhood programs

The State of Alaska must increase the allocation of state funds for direct service early childhood programs

The State of Alaska must create a central early childhood office to provide comprehensive review planning and provision of early childhood services

The State of Alaska, through this central early childhood office, must coordinate and fully utilize all local, regional and state resources to achieve all of the aforementioned recommendations.

January 3, 1984

Dear Community Leader:

A system to identify the early childhood services needed for birth through five year old children within rural Alaskan communities does not exist. The identification of needs must be made at a local level.

The Rural Alaska Community Action Program, Inc. is undertaking a short-term project that provides a process by which local communities can identify their own needs and by which local, regional and state representatives can review these needs and plan for the provisions of necessary services for young children.

The major parts of this process are:

Community

1. Identify needs of local communities for early childhood services to 0 to 5 year olds.
2. Provide a local representative who would be considered for participation in a three day work session in Anchorage, to discuss the identified needs.

Regional Non-Profit Corporations

1. Identify existing research data, statistics, information on employment, education and family services in the communities.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss the identified needs.

State Government Offices

1. Identify existing early childhood services for 0 to 5 year olds.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss existing services.

For further discussion on how your community can participate in this process, please read on.

Enclosed you will find an Early Childhood Community Planning Questionnaire. Please answer all the questions with yes or no, or a written response. If you need more space for your responses, please add a sheet of paper and indicate the number of the question you are responding to.

If you do not have the information necessary to answer these questions, we suggest:

1. Choose an individual in your community who has the time, interest and connections necessary to answer the questions;
2. Conduct door-to-door surveys;
3. Have community meetings and;
4. Have a meeting of parents of 0 to 5 year old children.

The questionnaire distinguishes between a variety of early childhood programs: pre-schools; Family Home Providers; Parent Cooperatives; Head Starts; Parent Child Programs; kindergartens; and Enrichment Programs. Please read the first page so that you understand the distinctions between these types of programs.

Please complete and return the questionnaire in the enclosed self-addressed, stamped envelope by January 31st.

If you have any questions, please contact me in Anchorage at: (907) 274-1953.

Thank you for your time and interest in early childhood in the State of Alaska.

Sincerely,

Debra Ward
Project Coordinator

DW/ifp

January 3, 1984

Dear Non-Profit Representative:

A system to identify the early childhood services needed for birth through five year old children within rural Alaskan communities does not exist. The identification of needs must be made at a local level.

The Rural Alaska Community Action Program, Inc. is undertaking a short-term project that provides a process by which local communities can identify their own needs and by which local, regional and state representatives can review these needs and plan for the provisions of necessary services for young children.

The major parts of this process are:

Community

1. Identify needs of local communities for early childhood services to 0 to 5 year olds.
2. Provide a local representative who would be considered for participation in a three day work session in Anchorage, to discuss the identified needs.

Regional Non-Profit Corporation

1. Identify existing research data, statistics, information on employment, education and family services in the communities.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss the identified needs.

For further information on how your agency can participate in this process, please read on.

Attached is a sheet listing the communities in your area. For each community listed on the sheet, indicate the information your agency has on file in the areas of: employment, education, social services and early childhood services. Specific topics of needed information are listed below. Please review the existing documents in your agency.

1. Employment

- A. Incidence of employment that is seasonal.
- B. Main source of income.
- C. Average yearly income.
- D. Families in which one or more than one adult is working.
- E. Single families.

2. Education

- A. Average grade level of adult population.
- B. Number of people enrolled in community college classes.
- C. Number of people enrolled in GED classes.
- D. Primary language spoken.
- E. Literacy level.

3. Social Service:

- A. Incidence of alcoholism.
- B. Incidence of drug abuse.
- C. Incidence of child abuse.
- D. Incidence of sexual abuse.
- E. Incidence of domestic violence.
- F. Incidence of crime.
- G. Birth rate (last five years).
- H. Infant mortality rate.
- I. Major health problems for 0-5 year olds.
- J. Incidence of handicaps for 0-5 year olds.

4. Early Childhood Services

- A. Existing pre-schools.
- B. Existing Family Home Providers.
- C. Existing Parent Cooperatives.
- D. Existing child care.
- E. Existing enrichment program.
- F. Existing kindergarten.
- G. Existing Head Start.
- H. Existing Parent Child Programs.

The intent of this process is to gather information that already exists, not to do new research. Information can be found in economic feasibility studies, community surveys, planning studies, departmental reports, board reports, police reports, and census data.

Thank you for your time in gathering the requested information. Please return the community worksheets prior to January 31, 1984. If you have any further questions, you may contact me at: (907) 274-1953. I am looking forward to working with you in completing the finished report at our three day work session in Anchorage.

For your information, a copy of the questionnaire that was sent to the communities in your region is enclosed.

Sincerely,

Debra Ward
Project Coordinator

DW/ifp

January 3, 1984

Dear Commissioner:

A system to identify the early childhood services needed for birth through five year old children within rural Alaskan communities does not exist. The identification of needs must be made at a local level.

The Rural Alaska Community Action Program, Inc. is undertaking a short-term project that provides a process by which local communities can identify their own needs and by which local, regional and state representatives can review these needs and plan for the provisions of necessary services for young children.

The major parts of this process are:

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Regional Non-Profit Corporations

1. Identify existing research data, statistics, information on employment, education and family services in the communities.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss the identified needs.

State Government Offices

1. Identify existing early childhood services for 0 to 5 year olds.
2. Provide an early childhood representative who would attend a three day work session in Anchorage, to discuss existing services.

For further discussion on how your office can participate in this process, please read on.

We are requesting a representative from your agency/office/department who has experience with early childhood programs in the rural communities of the state of Alaska. This person would come to Anchorage for a three day work session in February, to discuss your existing programs and join other representatives to discuss the needs of rural communities.

I will be contacting you the week of January 9th to discuss your agency's representative. If you have any further questions, I can be reached by telephone at: (907) 274-1953.

Sincerely,

Debra Ward
Project Coordinator

DW/ifp

EARLY CHILDHOOD COMMUNITY PLANNING PROGRAM

PRE-SCHOOLS

A program that provides services up to three hours a day. The focus of the program is a developmental program/curriculum for the children. Pre-schools usually operate in the mornings, but they can also occur in the afternoons. They can meet anywhere from two to five days a week.

HEADSTART

This is a comprehensive program that provides educational, medical and dental health, social services, special needs, and nutrition services to children and their families. Programs are usually for 3- or 4-year-olds. Families must meet low income guidelines to participate. The programs strongly emphasize parent involvement and decision making. Programs operate from two to five hours. Services are provided either in a center or through home visits.

PARENT CHILD PROGRAM

This is a program for 0- to 3-year-old children of low-income families. Families receive regular home visits and are provided with information on how to help their child grow and develop.

CHILD CARE

This is a program that provides care and supervision of children for more than three hours per day. Often child care programs also provide a developmental program/curriculum for the children. Care is provided all day, part of the day, before and after other early childhood programs, weekend care, crisis intervention, etc.

PARENT COOPERATIVE

This is a program in which parent and paid staff accept mutual responsibility. Parents provide care and supervision of children the same as staff but are not paid. Most parent co-ops are part-day programs but they can also be full-day programs. Parents are involved in all aspects of the program.

FAMILY HOME PROVIDERS

This is when a person cares for more than two children (not their own) in their own home. They can provide care all day or part of the day, weekdays or weekends. The specific arrangement depends on what individual families need.

KINDERGARTEN

This is a program operated through the State Department of Education through the local school district. It is usually five days a week for part of the day or all of the day.

EARLY CHILDHOOD COMMUNITY PLANNING PROGRAM

QUESTIONNAIRE

A. Does your community have more than 15 children under the age of 5? Yes _____ No _____

If no, how many children (0-5) live in your community? _____

If you have less than 15 children (0-5) please begin your questionnaire at question B.

1. PRE-SCHOOLS

This is a program that provides services up to three hours a day. The focus of the program is a developmental program/curriculum for the children. Pre-schools usually operate in the mornings but they can also occur in the afternoons. They can meet anywhere from two to five days a week.

a. Is there a pre-school in your community? Yes _____ No _____
If no, please proceed to question 2.

b. What is the name of the program? _____

c. List the number and ages of children in the program. _____

d. How many children can be accommodated in this program at one time? _____

e. Is there a waiting list? Yes _____ No _____ If yes, how many are on the waiting list? _____

f. How many hours a day does the program operate? _____

g. How many and what days are they open? _____

h. Are children (0-5) with special needs accepted? Yes _____ No _____

i. Are there paid staff working with the children (0-5) in the program? Yes _____ No _____

If yes, list number of staff and job titles. _____

j. Does the program provide information/training to the staff on child growth and development? Yes _____ No _____

If yes, what is provided? _____

k. Does the program provide information/training to the parents on child growth and development? Yes _____ No _____

If yes, what is provided? _____

l. Is the building used by the program licensed? Yes _____ No _____

If yes, by whom? _____

m. Does the program share the building with anyone else? Yes _____ No _____

If yes, whom? _____

n. Is the program for profit or non-profit? _____

o. Where does the money come from for running this program? _____

p. What does the community provide to support this program? _____

q. What needs/problems does the program have? _____

2. HEADSTARTS

This is a comprehensive program that provides educational, medical and dental health, social services, special needs, and nutritional services to children and their families. Programs are usually for 3- or 4-year-olds. Families must meet low income guidelines to participate. The programs strongly emphasize parent involvement and decision making. Programs operate from two to five hours a day. Services are provided either in a center or through home visits.

- a. Is there a Headstart program in your community? Yes _____ No _____ If no, please proceed to question #3.
- b. What is the name of the program? _____
- c. List the number and ages of children in the program. _____

- d. How many children can be accommodated in the program at one time? _____
- e. Is there a waiting list? Yes _____ No _____ If yes, how many are on the waiting list? _____
- f. How many hours a day does the program operate? _____
- g. How many and what days are they open? _____
- h. Is the building the program meets in licensed? Yes _____ No _____
If yes, by whom? _____
- i. Does the program share the building with anyone else? Yes _____ No _____
If yes, whom? _____
- j. Where does the money come from to run this program? _____

3. PARENT CHILD PROGRAM

This is a program for 0- to 3-year-old children of low income families. Families receive regular home visits and are provided with information on how to help their children grow and develop.

- a. Is there a parent-child program in your community? Yes _____ No _____ If no, please proceed to question #4.
- b. What is the name of the program? _____
- c. List the number and ages of children in the program. _____

- d. How many children can be accommodated in this program at one time? _____
- e. Is there a waiting list? Yes _____ No _____ If yes, how many are on the waiting list? _____
- f. Are children (0-3) with special needs accepted? Yes _____ No _____
- g. Where does the money come from to run this program? _____

4. CHILD CARE

This is a program that provides care and supervision of children for more than three hours per day. Often child care programs also provide a developmental program/curriculum for the children. Care is provided all day, part day, before and after other early childhood programs, weekend care, crisis intervention, etc.

- a. Does your community offer any type of child care? Yes _____ No _____
If yes, what type? _____
If no, please proceed to question #5.
- b. What is the name of the program(s)? _____

- c. List the number and ages of children in the program(s). _____

- d. How many children can be accommodated in the program(s) at one time? _____

- e. Is there a waiting list? Yes _____ No _____ If yes, how many are on the waiting list? _____
- f. How many hours a day does the program(s) operate? _____
- g. How many days are they open? _____
- h. Are children (0-5) with special needs accepted? Yes _____ No _____
- i. Is there a paid staff working with the children (0-5) in the program(s)? Yes _____ No _____
If yes, list number of staff and job titles. _____

- j. Does the program(s) provide information/training to the staff on child growth and development? Yes _____ No _____
If yes, what is provided? _____

- k. Does the program(s) provide information/training to the parents on child growth and development? Yes _____ No _____
If yes, what is provided? _____

- l. Is the building the program meets in licensed? Yes _____ No _____
If yes, by whom? _____
- m. Does the program share the building with anyone else? Yes _____ No _____
If yes, whom? _____
- n. Is the program for profit or non-profit? _____
- o. Where does the money come from to run this program? _____

- p. What does the community provide to support this program? _____

- q. What needs/problems does the program have? _____

5. PARENT COOPERATIVE

This is a program in which parents and paid staff accept mutual responsibility. Parents provide care and supervision of children the same as staff but are not paid. Most parent co-ops are part-day programs but they can also be full-day programs. Parents are involved in all aspects of the program.

- a. Does your community have a parent cooperative? Yes _____ No _____
If no, please proceed to question #6.
- b. What is the name of the program? _____
- c. List the number and ages of children in the program. _____

- d. How many children can be accommodated in this program at one time? _____
- e. Is there a waiting list? Yes _____ No _____ If yes, how many are on the waiting list? _____
- f. How many hours a day does the program operate? _____
- g. How many days are they open? _____
- h. Are children (0-5) with special needs accepted? Yes _____ No _____

i. List the number of adults with children and their positions. _____

j. Does the program provide information/training to the staff and parents on child growth and development?
Yes _____ No _____ If yes, what is provided? _____

k. Is the building used by the program licensed? Yes _____ No _____
If yes, by whom? _____

l. Does the program share the building with anyone else? Yes _____ No _____
If yes, whom? _____

m. Is the program for profit or non-profit? _____

n. Where does the money come from to run this program? _____

o. What does the community provide to support this program? _____

p. What needs/problems does the program have? _____

6. FAMILY HOME PROVIDERS

This is when a person cares for more than two children (not their own) in their own home. They can provide care all day or part of the day, weekdays or weekends. The specific arrangements depend on what individual families need.

a. Does your community have family home providers? Yes _____ No _____ If no, please proceed to question #7.

b. How many family home providers are in your community? _____

c. List as accurately as possible the number and ages of children in these programs. _____

d. How many children can be accommodated in these programs? _____

e. Are these programs full? Yes _____ No _____

f. Are children (0-5) with special needs accepted? Yes _____ No _____

g. Do the family home providers have any access to training in child growth and development in your community?
Yes _____ No _____

h. What is the percentage of homes that are licensed by the State Department of Health and Social Services in your
community? _____

i. What needs/problems do the programs have? _____

7. KINDERGARTEN

This is a program operated by the State Department of Education through the local school district. It is usually five days a week for part of the day or all of the day.

- a. Does your community have a kindergarten? Yes _____ No _____ If no, please proceed to question #8.
- b. What is the name of the school and school district? _____

- c. How many programs do they have? _____
- d. List the number and ages of children in the program. _____

- e. How many hours a day does the program operate? _____
- f. How many days a week does the program operate? _____
- g. Does the teacher have any early childhood training? Yes _____ No _____
- h. Is the teacher provided with any on-going information/training on child growth and development (0-5)?
Yes _____ No _____
- i. Does the program share space with other grades or other programs? Yes _____ No _____
If yes, with whom? _____

8. ENRICHMENT PROGRAM

This is a short or long term gathering of children for a specific purpose such as arts and crafts, Campfire, Scouts, cultural activities, etc.

- a. Does your community have any type of enrichment programs for children 0 to 5 years of age?
Yes _____ No _____ If no, please proceed to question B.
- b. Please list types and names of these activities. _____

- c. List the number and ages of children in each program. _____

- d. How often and how long do these programs meet? _____

- e. Where do the programs meet? _____
- f. Do they share this space with other programs? Yes _____ No _____
- g. Where does the money come from to run these programs? _____

- h. What needs/problems do the programs have? _____

B. The intent of this process is to determine actual needs of the community, not to create needs. Please do not list services that "sound good" or "would be nice" but rather list services that the community really needs or wants. Please read questions E 1-8 carefully before you begin this section.

1. Pre-schools: A program that provides services up to three hours a day. The focus of the program is a developmental program/ curriculum for the children. Pre-schools usually operate in the mornings, but they can also occur in the afternoons. They can meet anywhere from two to five days a week.

a. Does the community need/want this type of service? Yes _____ No _____

If yes, how many children (0-5) would attend? _____

What would their ages be? _____

2. Headstarts: This is a comprehensive program that provides educational, medical and dental health, social services, special needs, and nutrition services to children and their families. Programs are usually for 3- or 4-year-olds. Families must meet low income guidelines to participate. The programs strongly emphasize parent involvement and decision making. Programs operate from two to five hours. Services are provided either in a center or through home visits.

a. Does the community need/want this type of service? Yes _____ No _____

If yes, how many children (3-5) would attend? _____

b. Does your community have enough low income families with young children to support this program?

(You must have a minimum of 15 children 3 to 5 years old.) Yes _____ No _____

3. Parent Child Program: This is a program for 0- to 3-year-old children of low-income families. Families receive regular home visits and are provided with information on how to help their child grow and develop.

a. Does the community need/want this type of service? Yes _____ No _____

If yes, how many children (0-3) of low income families would participate? _____

4. Child Care: This is a program that provides care and supervision of children for more than three hours per day. Often child care programs also provide a developmental program/curriculum for the children. Care is provided all day, part of the day, before and after other early childhood programs, weekend care, crisis intervention, etc.

a. Does your community need/want this type of service? Yes _____ No _____

If yes, how many children would attend? _____

5. Parent Cooperative: This is a program in which parent and paid staff accept mutual responsibility. Parents provide care and supervision of children the same as staff but are not paid. Most parent co-ops are part-day programs but they can also be full-day programs. Parents are involved in all aspects of the program.

a. Does your community need/want this type of service? Yes _____ No _____

If yes, how many children would attend? _____

b. Does your community have the support of the parents to staff this type of program? Yes _____ No _____

6. Family Home Providers: This is when a person cares for more than two children (not their own) in their own home. They can provide care all day or part of the day, weekdays or weekends. The specific arrangement depends on what individual families need.

a. Does your community need/want this type of program? Yes _____ No _____

7. Kindergarten: This is a program operated through the State Department of Education through the local school district. It is usually five days a week for part of the day or all of the day.

a. Does your community need/want this type of program? Yes _____ No _____

If yes, how many 5-year-old children would attend? _____

Thank you for your time and efforts in gathering this information.

Name of person who gathered this information, and who will be interested in attending the three-day work session in Anchorage.

Address

City

State

Zip

Phone

Date Completed

How was this information gathered? _____

Please return this packet to RurAl .CAP. A self-addressed stamped envelope is enclosed.

Communities That Received Questionnaires
*Communities That Returned Questionnaires

Bristol Bay

1. Aleknagik *
2. Chignik
3. Chignik Lagoon *
4. Chignik Lake *
5. Dillingham
6. Ekwok *
7. Iliamna *
8. Ivanof Bay *
9. Manokotak
10. Naknek
11. Nondalton *
12. Nunapitchuk *
13. Pedro Bay *
14. South Naknek
15. Togiak
16. Ugashik

Koniag

1. Larsen Bay *
2. Old Harbor *
3. Ouzinkie
4. Fort Lions *

Chugach

1. English Bay *
2. Port Graham *

Cook Inlet

1. Ninilchik *
2. Salamatof
3. Seldovia
4. Tyonek

Ahtna

1. Cooper Center *
2. Mentasta Lak *

Dovon

1. Arctic Village *
2. Beaver *
3. Cantwell *
4. Eagle Village
5. Fort Yukon *
6. Galena *
7. Grayling
8. Hughes *
9. Huslia *
10. Kaltag
11. Koyukuk
12. McGrath *
13. Manley Hot Springs *
14. Minto
15. Nenana
16. Nikolai *
17. Stevens Village *
18. Takotna *
19. Tanana
20. Venetie *
21. Holy Cross *
22. Hooper Bay *
23. Tanacross
24. Telida
25. Teflin

Arctic Slope

1. Anaktuvak Pass
2. Barrow *
3. Kaktovik
4. Nuiqsit
5. Wainwright

Aleut

1. Atka *
2. False Pass *
3. King Cove
4. St. George
5. St. Paul
6. Sand Point
7. Unalaska *

Nana

1. Ambler
2. Buckland
3. Deering *
4. Kiana *
5. Kivalina *
6. Kotzebue *
7. Noatak *
8. Noorvik
9. Selawik *
10. Shungnak
11. Point Hope

Bering Straits

1. Elim
2. Gambell *
3. Koyuk *
4. Savoonga
5. Shaktolik
6. Shismaref *
7. Stebbins *
8. Teller *
9. Unalakleet
10. St. Michaels *
11. Wales
12. Inalik *

Sealaska

1. Angoon
2. Craig *
3. Hoonah *
4. Hydaburg *
5. Kake *
6. Klawock
7. Yakutat
8. Kasaan *
9. Saxman

Calista

1. Akiachak
2. Akiak
3. Alakanuk
4. Aniak *
5. Atmautlvak
6. Bethel *
7. Cheforak
8. Chevak
9. Crooked Creek *
10. Eek *
11. Emmonak *
12. Goodnews Bay
13. Hooper Bay
14. Kipnuk *
15. Kotlik *
16. Kwethluk *
17. Kwigilingok
18. Lower Kalskag *
19. Mekoryuk *
20. Mountain Village
21. Napakiak
22. Napaskiak *
23. Newtok *
24. Pilot Station
25. Quinhagak
26. Red Devil *
27. Russian Mission *
28. St. Marys *
29. Scammon Bay
30. Stony River *
31. Toksook Bay *
32. Konqrganak *
33. Kasigluk *
34. Fortuna Ledge
35. Kunupitchuk
36. Chuqthbaiuk
37. Tuluksak
38. Tuntutuliak
39. Tununak

EARLY CHILDHOOD PLANNING PROJECT

Number And Percentage of Replies
Prior to Work Session

Region	# Communities Surveyed	# Replies	% Replies
Ahtna	2	2	100
Aleut	7	3	43
Arctic Slope	5	2	40
Bering Straits	12	7	58
Bristol Bay	16	8	50
Calista	39	19	49
Chugach	2	2	100
Cook Inlet	4	1	25
Doyon	25	15	60
Koniag	4	3	75
Nana	11	6	55
Sealaska	9	5	56
TOTAL	136	73	54%

REGION: Bering Straits/Kawerak

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Elim	2 teachers, building, JOM, food supplies	New building for preschool use only
Gambell	Rural Cap	Parent involvement
Koyuk	Title I	Separate building or larger room
Shishmaref	DOE	More training opportu- nities, limited budget
Teller	Bering Straits School District	More staff training workshops
St. Michaels	Kawerak	Needs to understand parent staff distinction; lack supplies, office
Golovin	DCRA	
White Mountain	BS REAA	
Bering Mission	BS REAA	

REGION: Bristol Bay/Bristol Bay Native Associaton

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Aleknagik	State	
Chignik Bay	State	More Room
Chignik Lake	State	
Dillingham	State	
Ekwok	State	
Iliamna	State	
Ivanof Bay	State	Parent information and toddlers learning program
Manokotak	State	
Naknek	State	
Nondalton	State	No time to train aide, more staff needed for special needs
Calista	State	More staff training, more materials
Pedro Bay	State	
Perryville	State	
South Naknek	State	
Togiak	State	Lack of equipment main- tenance
Koknanok	State	Tentative funding

	Point Hope	Shungnak	Selawik	Noorvik	Noatak	Kotzebue	Kobuk	Kivalina	Kiana	Deering	Buckland	Ambler
PRESCHOOL	N	N	N	N	N	N	N	N	N	N	N	N
Needs a Preschool	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Has a Preschool	*	*	*	*	*	*	*	*	*	*	*	*
# of Children	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Building Shared	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Special Needs Accepted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Staff Training	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
HEADSTART	*	*	*	*	*	*	*	*	*	*	*	*
Needs a Headstart	*	*	*	*	*	*	*	*	*	*	*	*
Has a Headstart	*	*	*	*	*	*	*	*	*	*	*	*
PARENT CHILD PROGRAM	N	N	N	N	N	N	N	N	N	N	N	N
Needs a Parent Child Program	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Has a Parent Child Program	N	N	N	N	N	N	N	N	N	N	N	N
# of Children	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
CHILDCARE	*	*	*	*	*	*	*	*	*	*	*	*
Needs a Childcare Program	N	N	N	N	N	N	N	N	N	N	N	N
Has a Childcare Program	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
# of Children	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Special Needs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Staff Training	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Building Shared	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Licensed	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
PARENT CO-OPERATIVE	*	*	*	*	*	*	*	*	*	*	*	*
Needs a Parent Co-operative	N	N	N	N	N	N	N	N	N	N	N	N
Has a Parent Co-operative	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
FAMILY HOME PROVIDERS	*	*	*	*	*	*	*	*	*	*	*	*
Needs Family Home Providers	N	N	N	N	N	N	N	N	N	N	N	N
Has Family Home Providers	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
KINDERGARTEN	N	N	N	N	N	N	N	N	N	N	N	N
Needs Kindergarten	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Has a Kindergarten	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

REGION: Nana/Maunelok

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Ambler	Ambler School Dist.	Training
Buckland	Buckland School Dist.	Training
Deering	Deering School Dist.	Over crowding; poorly trained aides
Kiana	Kiana School Dist.	Training
Kivalina	Kivalina School Dist.	Training
Kobuk	Kobuk School Dist.	Training
Kotzebue	Kotzebue School Dist.	Further training for Early Childhood teachers & aides
Noatak	Noatak School Dist.	Training
Noorvik	Noorvik	Training
Selawik	Selawik School Dist.	Training
Shungnak	Shungnak School Dist.	Training
Point Hope	Pt. Hope School Dist.	

REGION

Sealaska

	Angoon	Craig	Hoonah	Hydaburg	Kake	Yakutat	Kassman	Saxman	Haines	Klawock
PRESCHOOL										
Needs a Preschool	*	N	Y	*	Y	*	Y	*	N	*
Has a Preschool	*	Y	N	N	N	*	N	*	Y	*
# of Children		15							20	
Building Shared		Y							*	
Special Needs Accepted		Y							*	
Staff Training		Y						Y		
HEADSTART										
Needs a Headstart	N	Y	N	N	N	N	N	*	N	N
Has a Headstart	Y	N	Y	Y	Y	Y	N	*	Y	Y
PARENT CHILD PROGRAM										
Needs a Parent Child Progra	*	Y	*	*	*	N	N	*	*	*
Has a Parent Child Program	*	N	N	*	N	*	N	*	*	*
# of Children										
CHILDCARE										
Needs a Childcare Program	*	N	Y	N	*	*	*	*	*	*
Has a Childcare Program	*	Y	N	Y	N	*	*	*	*	*
# of Children										
Special Needs										
Staff Training										
Building Shared										
Licensed										
PARENT CO-OPERATIVE										
Needs a Parent Co-operative	*	N	*	*	*	*	N	*	*	*
Has a Parent Co-operative	*	N	N	*	N	*	N	*	*	*
FAMILY HOME PROVIDERS										
Needs Family Home Providers	*	N	*	*	*	*	*	*	*	*
Has Family Home Providers	*	N	*	*	N	*	*	*	*	*
KINDERGARTEN										
Needs Kindergarten	*	N	N	N	N	N	N	*	N	*
Has a Kindergarten	*	Y	Y	Y	Y	Y	Y	*	Y	*

REGION: Sealaska/Tlinget & Haida

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Craig		Not enough funding for all children; need van to transport children to and from center; larger building

													PRESCHOOL	
													N	Needs a Preschool
													Y	Has a Preschool
													13	# of Children
													Y	Building Shared
													Y	Special Needs Accepted
													Y	Staff Training
													HEADSTART	
													N	Needs a Headstart
													N	Has a Headstart
													PARENT CHILD PROGRAM	
													Y	Needs a Parent Child Program
													N	Has a Parent Child Program
														# of Children
													CHILDCARE	
													N	Needs a Childcare Program
													Y	Has a Childcare Program
														# of Children
														Special Needs
														Staff Training
														Building Shared
														Licensed
													PARENT CO-OPERATIVE	
													N	Needs a Parent Co-operative
													N	Has a Parent Co-operative
													FAMILY HOME PROVIDERS	
													N	Needs Family Home Providers
													N	Has Family Home Providers
													KINDERGARTEN	
													N	Needs Kindergarten
													Y	Has a Kindergarten

* DATA NOT PROVIDED
NEEDS AND PROBLEMS LISTED ON BACK

REGION: Koniag/Kodiak Area Native Association

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Larsen Bay	JOM BIA	Training of staff
Old Harbor	Kodiak Area Native Assn.	New building, more hours for aid, hot water, more heat
Ouzinkie		More training
Port Lions	Kodiak Area Native Assn.	More training
Akhiok	JOM	More training
Karlak	JOM	More training
Ivanof Bay	State	Parent information and toddlers learning program
Manokotak	State	
Naknek	State	
Nondalton	State	No time to train aide, more staff needed for special needs
Calista	State	More staff training, more materials
Pedro Bay	State	
Perryville	State	
South Naknek	State	
Togiak	State	Lack of equipment main- tenance
Koknanok	State	Tentative funding

REGION: Ahtna/Copper River Native Association

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Copper Center	Community education, BIA	Public awareness, program activity coordinator, more advertisement, training coordinator
Gakana	BIA	
Chitina	BIA	

REGION

Chugach

	English Bay	Port Graham	Taticlik	
				PRESCHOOL
	N	N	N	Needs a Preschool
	Y	Y	Y	Has a Preschool
	4	3		# of Children
	Y	Y		Building Shared
	Y	Y		Special Needs Accepted
	*	Y		Staff Training
				HEADSTART
	Y	Y	*	Needs a Headstart
	N	N	N	Has a Headstart
				PARENT CHILD PROGRAM
	N	N	*	Needs a Parent Child Program
	N	N	*	Has a Parent Child Program
				# of Children
				CHILDCARE
	N	N	*	Needs a Childcare Program
	Y	N	*	Has a Childcare Program
				# of Children
				Special Needs
				Staff Training
				Building Shared
				Licensed
				PARENT CO-OPERATIVE
	Y	*	*	Needs a Parent Co-operative
	N	N	*	Has a Parent Co-operative
				FAMILY HOME PROVIDERS
	Y	*	*	Needs Family Home Providers
	N	N	*	Has Family Home Providers
				KINDERGARTEN
	N	N	N	Needs Kindergarten
	Y	Y	*	Has a Kindergarten

* DATA NOT PROVIDED
NEEDS AND PROBLEMS LISTED ON BACK

REGION: Chugach/North Pacific Rim Association

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
English Bay	BIA, JOM, N.P.R.	
Port Graham	JOM	More hours, more money, building

	Arctic Village	Beaver	Cantwell	Bagle Village	Ft. Yukon	Galena	Grading	Hughes	Huslia	Kaltaq	Kovukak	McGrath	Manley Hot Spr	Minto	Nenana	Nikolai	Northway	Nulato	Ruby	Stevens Village	Takotna	Tanana
PRESCHOOL																						
Needs a Preschool	N	Y	Y	Y	N	*	*	*	N	*	N	N	N	*	*	N	*	N	Y	N	*	*
Has a Preschool	Y	N	N	N	Y	*	*	Y	Y	*	Y	Y	Y	*	*	Y	*	Y	N	Y	*	*
# of Children	3								16		*	24	6	*	*	2				5		
Building Shared	N										*	Y	Y			Y				Y		
Special Needs Accepted	N										Y	Y	Y			Y				N		
Staff Training	N										Y	Y	N			Y				N		
HEADSTART																						
Needs a Headstart	Y	Y	N	Y	*	N	N	*	N	N	*	N	*	*	*	N	*	*	Y	*	*	N
Has a Headstart	N	N	N	N	*	Y	Y	*	Y	Y	*	N	N	*	*	N	*	*	N	*	*	Y
PARENT CHILD PROGRAM																						
Needs a Parent Child Program	N	N	N	N	*	*	*	*	N	*	*	Y	*	*	*	Y	*	*	N	*	*	*
Has a Parent Child Program	N	N	N	Y	*	*	*	*	N	*	*	1	N	*	*	N	*	*		*	*	*
# of Children				14												22						
CHILDCARE																						
Needs a Childcare Program	N	N	*	N	*	*	*	*	Y	*	*	N	Y	*	*	N	*	*	Y	N	*	*
Has a Childcare Program	N	N	*	N	*	*	*	*	N	*	*	Y	N	*	*	N	*	*	Y	N	*	*
# of Children									*		*				15							
Special Needs												Y			*							
Staff Training												N			*							
Building Shared												Y			*							
Licensed															*							
PARENT CO-OPERATIVE																						
Needs a Parent Co-operative	N	N	Y	Y	*	*	*	*	N	*	*	N	N	*	*	N	*	*	N	*	*	*
Has a Parent Co-operative	N	N	N	N	*	*	*	*	N	*	*	N	Y	*	*	N	*	*	N	*	*	*
FAMILY HOME PROVIDERS																						
Needs Family Home Providers	*	*	*	*	*	*	*	*	*	*	*	N	N	*	*	N	*	*	N	Y	*	*
Has Family Home Providers	*	N	*	*	*	*	*	*	*	*	*	Y	N	*	*	N	*	*	N	N	*	*
KINDERGARTEN																						
Needs Kindergarten	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
Has a Kindergarten	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

* DATA NOT PROVIDED
NEEDS AND PROBLEMS LISTED ON BACK

	Amuk	Hooper Bay	Holy Cross	Venetie	
					PRESCHOOL
	*	Y	*	N	Needs a Preschool
	*	N	*	Y	Has a Preschool
				7	# of Children
				N	Building Shared
				N	Special Needs Accepted
				Y	Staff Training
					HEADSTART
	*		N	N	Needs a Headstart
	*	Y	Y	N	Has a Headstart
					PARENT CHILD PROGRAM
		Y	*	N	Needs a Parent Child Program
		N	*	N	Has a Parent Child Program
					# of Children
					CHILDCARE
	*	Y		N	Needs a Childcare Program
	*	N		N	Has a Childcare Program
					# of Children
					Special Needs
					Staff Training
					Building Shared
					Licensed
					PARENT CO-OPERATIVE
	*	N		Y	Needs a Parent Co-operative
	*	N		N	Has a Parent Co-operative
					FAMILY HOME PROVIDERS
	*	N			Needs Family Home Providers
	*	N		N	Has Family Home Providers
					KINDERGARTEN
	N	N	N	N	Needs Kindergarten
	Y	Y	Y	Y	Has a Kindergarten

* DATA NOT PROVIDED
NEEDS AND PROBLEMS LISTED ON BACK

REGION: Doyon/Tanana Chiefs Conference

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Arctic Village	School District	Not enough materials
Koyukuk	JOM	Building, staff training, community support, JOM support, limited funding
McGrath	ECIA ,Chapter I, school district	More staff funding, more space
Manley Hot Springs	5B-103 Aid to unincorporated comm. grant monies	Money runs out in 1984
Nikolai	Federal Chapter I	
Nulato	JOM	
Stevens Village	JOM	
Venetie	JOM	Too little funding, not enough space

ENRICHMENT

Cantwell	Parents	More money, paid staff, qualified direction, more regular meetings
Huslia	Rural-CAP	Sewer freezes
McGrath	Parents, school district	More programs and teachers more type of activities
Manley Hot Springs	Community Education grant	Additional funding to continue program
Nikolai	JOM IEA	Need instructor-good weather
Stevens Village		Need program director, instructors, money

REGION

Arctic Slope

	Anaktuvak Pass	Barrow	Kaktovik	Nulqsit	Marwright	Pt. Lay	Atkasug	
								PRESCHOOL
	N	Y	N	N	N	N	N	Needs a Preschool
	Y	Y	Y	Y	Y	Y	Y	Has a Preschool
	*	*	*	*	42	*	*	# of Children
	*	*	*	*	*	*	*	Building Shared
	*	*	*	*	*	*	*	Special Needs Accepted
	*	*	*	*	*	*	*	Staff Training
								HEADSTART
	N	N	N	N	N	N	N	Needs a Headstart
	N	N	N	N	N	N	N	Has a Headstart
								PARENT CHILD PROGRAM
	*	N	*	*	Y	*	*	Needs a Parent Child Program
	*	N	*	*	N	*	*	Has a Parent Child Program
								# of Children
								CHILDCARE
	*	N	*	*	*	*	*	Needs a Childcare Program
	*	Y	*	*	N	*	*	Has a Childcare Program
								# of Children
								Special Needs
								Staff Training
								Building Shared
								Licensed
								PARENT CO-OPERATIVE
	*	N	*	*	*	*	*	Needs a Parent Co-operative
	*	N	*	*	N	*	*	Has a Parent Co-operative
								FAMILY HOME PROVIDERS
	*	N	*	*	Y	*	*	Needs Family Home Providers
	*	Y	*	*	N	*	*	Has Family Home Providers
								KINDERGARTEN
	N	N	N	N	N	N	N	Needs Kindergarten
	Y	Y	Y	Y	Y	Y	Y	Has a Kindergarten

* DATA NOT PROVIDED
NEEDS AND PROBLEMS LISTED ON BACK

	AKLACHOK	ANIAK	ALMAUTLUCK	BETHEL	CHEFORNAK	CHUATHLOOLUK	CHEVAK	CROOKED CREEK	EEK	EMMONAK	GOOD NEWS BAR	HOOPER BAY	KIPNUK	KOTLIK	KWETHLUK	KWIGILINGOK	KALSKA	LOWER KALSKA	MEKORVUK	MT. VILLAGE	NAPAKRAK
PRESCHOOL																					
	*	N	N	N	N	N	N	N	N	*	N	*	N	N	N	N	N	N	N	*	N
	*	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	*	Y	Y	Y	Y	Y	Y	Y	*	Y
								4	15				17					17	10		
								Y	Y			Y						Y	Y		
								Y	Y			Y						Y	Y		
HEADSTART																					
	*	*	*	N	*	*	N	*	*	N	*	*	Y	N	N	*	*	N	N	N	*
	*	*	*	Y	*	*	Y	*	*	Y	*	*	N	Y	Y	*	*	N	N	Y	*
PARENT CHILD PROGRAM																					
	N	*	*	N	*	*	*	N	N	*	*	*	N	N	N	*	*	Y	Y	*	*
	Y	*	*	Y	*	*	*	N	Y	*	*	*	N	N	N	*	*	N	N	*	*
									17												
CHILDCARE																					
	*	N	*	N	*	*	*	N	*	*	*	*	N	N	N	*	*	N	N	N	*
	*	Y	*	Y	*	*	*	N	*	*	*	*	N	N	N	*	*	N	N	*	*
PARENT CO-OPERATIVE																					
	*	*	*	N	*	*	*	N	*	*	*	*	N	Y	N	*	*	N	N	*	*
	*	*	*	N	*	*	*	N	*	*	*	*	Y	N	N	*	*	N	N	*	*
FAMILY HOME PROVIDERS																					
	*	*	*	N	*	*	*	N	*	*	*	*	N	N	N	*	*	N	N	*	*
	*	*	*	Y	*	*	*	N	*	*	*	*	N	N	N	*	*	N	N	*	*
KINDERGARTEN																					
	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

41
 * DATA NOT PROVIDED
 NEEDS AND PROBLEMS LISTED ON BACK

REGION: Calista Association of Village Council Presidents

<u>Location</u>	<u>Funding Source</u>	<u>Needs/Problems</u>
Crooked Creek	Kuskokwim Native Assn.	Transportation for students
Eek	JOM Grant	Additional staff so all students can attend daily
Kipnuk	JOM LKSD	Parent cooperation, parent volunteers
Lower Kalskag	JOM KNA Donation	More funding
Mekoryuk	State	Parent education in child development; more parent involvement
Newtok	JOM	Funding for future; separate building with bath and kitchen
Red Devil	JOM	More consistency in staff
St. Marys	Fed Gov't Chapters	Budget is decreasing, cut-backs in programs seems imminent
Stony River	JOM	Lack parent support
Tununak	City Council	Large muscle space
Kongiganak		Better building
Kasigluk	Chapter I	BIA school closing, which will end program

	PRESCHOOL			HEADSTART			PARENT CHILD PROGRAM			CHILDCARE PROGRAM			PARENT CO-OPERATIVE			FAMILY HOME PROVIDERS			KINDERGARTEN		
	Needs a Preschool	Has a Preschool	Data Unavailable	Needs a Headstart	Has a Headstart	Data Unavailable	Needs a Parent Child Program	Has a Parent Child Program	Data Unavailable	Needs a Childcare Program	Has a Childcare Program	Data Unavailable	Needs a Parent Co-operative	Has a Parent Co-operative	Data Unavailable	Needs Family Home Providers	Has Family Home Providers	Data Unavailable	Needs a Kindergarten	Has a Kindergarten	Data Unavailable
Arctic	0	7	0	0	0	0	1	0	5	0	1	5	0	0	5	1	1	5	0	7	0
Chugach	0	3	0	2	0		0	0	1	0	1	1	1	0	1	1	0	1	0	3	0
Ahtna	0	2	0	1	0	1	1	1	0	0	1	0	0	0	1	1	0	1	0	2	0
Nana	0	12	0	2	0	7	3	0	4	2	2	8	2	0	7	1	2	8	0	12	0
Bristol	1	13	2	2	1	6	1	0	13	1	0	13	0	1	13	0	2	14	0	14	3
Doyon	5	11	10	4	7	12	3	2	14	4	2	14	3	1	14	1	2	18	0	25	0
Aleut	0	4	4	1	0	5	0	0	7	0	0	6	0	1	5	0	0	6	0	8	0
Cook Inlet	1	0	3	0	0	3	1	0	3	1	0	3	0	1	3	0	0	3	0	4	0
Calista	1	26	11	2	8	21	4	6	25	2	2	25	1	1	27	1	1	24	0	34	4
Sealaska	2	2	4	1	7	1	1	0	6	1	3	5	0	0	6	0	0	8	0	6	8
Koniag	0	6	0	2	2	3	2	0	3	0	2	4	2	0	3	0	0	3	0	6	0
Bering Straits	1	11	0	0	7	8	2	1	4	3	0	8	1	0	7	1	0	7	0	15	0
Total of Needs	11			17			19			14			10			7			0		
Total of Prog.	97			32			10			14			5			8			136		
		34			67			75			92			92			98			15	

EARLY CHILDHOOD PLANNING PROJECT
STATE OF ALASKA GOVERNMENT FUNDING FOR EARLY CHILDHOOD PROGRAMS

I. AHTNA

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program-March 84)

B. Department of Community and Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Centers</u>	<u>Cost</u>
a. <u>Glenallen</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>\$1,386*</u>
<u>Total</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>\$1,386*</u>

(*Expenditures as of March 1984)

2. Day Care Assistance Program FY84

<u>Municipality</u>	<u>Contract</u>
a. <u>Glenallen</u>	<u>\$8,886</u>
<u>Total</u>	<u>\$8,886</u>

3. Education & Training Grant - FY84

None

4. Head Start/Parent Child Program - FY 84

Mentasta - (Rural-CAP*) -4

*This community received a share of the Rural-CAP total of \$1,758,413

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program - (Dec 83)

None

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u># of Homes</u>	<u>Capacity</u>	<u># of Centers</u>	<u>Capacity</u>
a. <u>Glenallen</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>29</u>
<u>Total</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>29</u>

D. Legislative Grants

None

EARLY CHILDHOOD PLANNING PROJECT

II. ALEUT

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

None

2. Day Care Assistance Program - FY 84

None

3. Education & Training Grant - FY 84

None

4. Head Start - FY 84

None

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

None

2. Day Care Licensing (Feb 84)

None

E. Legislative Grants

None

III. ARCTIC SLOPE REGION

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

None

EARLY CHILDHOOD PLANNING PROGRAM

(Arctic Slope Region Cont.)

2. Day Care Assistance Program - FY 84

None

3. Education & Training Grant - FY 84

None

4. Head Start - FY 84

None

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program - (Dec. 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
<u>Barrow</u>	<u>\$64,915</u>	<u>17</u>
<u>Total</u>	<u>\$64,915</u>	<u>17</u>

2. Day Care Licensing

None

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
<u>FY 83</u>	<u>Point Hope</u>	<u>\$300,000</u>	<u>Construction of Day Care Center</u>
<u>Total</u>		<u>\$300,000</u>	

IV. BERING STRAITS

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

EARLY CHILDHOOD PLANNING PROGRAM

(Bering Straits Continued)

(Child Care Grant Program - Continued)

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Centers</u>	<u>Cost</u>
a. Nome	1	\$1,636	1	\$2,585*
Total	1	\$1,636	1	\$2,585*

(*Expenditures as of March 1984)

2. Day Care Assistance Program - FY 84

<u>Municipality</u>	<u>Contract</u>
a. Nome	\$33,076
Total	\$33,076

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Nome Child Care, Inc.	\$1,324	9 workshops & assistance to attend AAEYC Training Conference
Total	\$1,324	

4. Head Start - FY 84

<u>Community</u>	<u># of Slots</u>
*Gambell (Rural CAP)	21
Little Diomedea (Kawerak)	15)
) \$78,542
Nome (Kawerak)	29)
*Savoonga (Rural CAP)	22
*Stebbins (Rural CAP)	23
*Unalakleet (Rural CAP)	30
Total	140

*These communities receive a share of Rural CAP's total of \$1,768,413

5. Rural Development Assistance Program

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
a. FY 78	Savoonga	\$ 2,086	Head Start Center Renovation
b. FY 81	Unalakleet	\$35,000	Head Start Center Phase I

EARLY CHILDHOOD PLANNING PROGRAM

(BERING STRAITS CONTINUED)

5. Rural Development Assistance Program - CONTINUED

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
c. FY 81	Stebbins	\$40,000	Head Start Building
d. <u>FY 83</u>	<u>Unalakleet</u>	_____	<u>Head Start Center Phase II</u>
Total		\$77,086	

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Nome	\$177,000	27
Total	\$177,000	27

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u># of Homes Served</u>	<u>Capacity</u>	<u># of Centers</u>	<u>Capacity</u>
a. Nome	3	15	1	40
Total	3	15	1	40

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
FY 83	Kawarek	\$135,000	Comprehensive Child Care Program
FY 84	Kawarek	\$305,000	Comprehensive Child Care Program
Total		\$440,000	

V. BRISTOL BAY

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

None

EARLY CHILDHOOD PLANNING PROGRAM

(BRISTOL BAY CONTINUED)

2. Day Care Assistance Program - FY 84

None

3. Education & Training Grant - FY 84

None

4. Head Start - FY 84

None

5. Rural Development Assistance Program

None

C. Department of Social Services

1. Infant Learning Program - (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Dillingham	\$173,000	11
Total	\$173,000	11

2. Day Care Licensing - (Feb 84)

None

D. Legislative Grants

None

VI . CALISTA

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

None

E. Department of Community & Regional Affairs

1. Child Care Grant Program - 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost # of Centers</u>	<u>Cost</u>
a. Aniak	0	1	\$ 2,017*
b. Bethel	0	2	\$19,221
Total	0	3	\$21,238*

(*Expenditures as of March 1984)

EARLY CHILDHOOD PLANNING PROGRAM

(CALISTA CONTINUED)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>	<u>Slots</u>
a. Aniak	\$15,100	
b. Bethel	93,795	
Total	\$108,899	

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Aniak Day Care Assoc.	\$3,423	CDA Training and Assistance to attend AAEYC Training Conference
b. Bethel Social Services	\$1,424	CDA Training and assistance to attend AAEYC Training Conference
c. Delta AEYC	\$2,228	Assistance to attend Delta AEYC Training Conference
Total	\$7,075	

4. Head Start/Parent Child Programs - FY 84

<u>Community</u>	<u># of Slots</u>	<u>Grantee</u>	<u>Amount</u>
a. Akiachak (AVCP)	14		\$ 125,884
b. Akiak (AVCP)	13		
c. Bethel (AVCP)	16		
d. Kotlik (AVCP)	17		
e. Pilot Station (AVCP)	17		
f. Russian Mission (AVCP)	16		
g. Alakanuk (Rural CAP)	28	Rural CAP*	
h. Chevak (r-c)	26	"	
i. Emmonask (R-C)	22	"	
j. Fortuna Ledge (r-CO)	10	"	
k. Hooper Bay (R-C)	41	"	
l. Kwethluk (R-C)	26	"	

(CONTINUED)

EARLY CHILDHOOD PLANNING PROGRAM

(CALISTA CONTINUED)

(Head Start/Parent Child Programs - FY 84 - CONTINUED)

<u>Community</u>	<u># of Slots</u>	<u>Grantee</u>	<u>Amount</u>
m. Mt. Village (R-C)	34	Rural CAP*	
n. Napaskiak (R-C)	12	"	
o. Toksook Bay (R-C)	13	"	
p. Akiachak (PCP) (R-C)	27	"	
q. Eek (PCP) (R-C)	16	"	
r. Kasigluk (PCP) (R-C)	31	"	
s. Pilot Station (PCP) (R-C)	30	"	
t. Seammon Bay (PCP) (R-C)	26	"	
u. Tuntutuliak (PCP) (R-C)	15	"	
v. Bethel (PCP) (R-C)	9	"	
TOTAL	459		

(*These communities receive a share of Rural CAPS total: \$1,768,413)

5. Rural Development Assistance Program

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
a. FY 78	Bethel	\$59,850	Construction of Day Care/Nursery
b. FY 78	Fortuna Ledge	20,000	Head Start Building
Total		\$79,850	

C. Department of Health & Social Services

1. Infant Learning Program - (Dec. 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Bethel	\$153,100	43
Total	\$153,100	43

2. Day Care Licensing - (Feb 84)

<u>Community</u>	<u># of Homes Served</u>	<u>Capacity</u>	<u># of Centers</u>	<u>Capacity</u>
a. Aniak	0	0	1	15
b. Bethel	0	0	3	151
Total	0	0	4	166

EARLY CHILDHOOD PLANNING PROGRAM

(CALISTA CONTINUED)

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1. FY 83	Aniak	\$250,000	Day Care Center Construction
2. FY 85	Bethel	250,000	Head Start/Preschool Building
3. FY 85	Bethel	20,000	Infant Center-Bethel Social Service
4. FY 85	Pilot Station	125,000	Head Start building
TOTAL		645,000	

VII. CHUGACH

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March - 84)

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Centers</u>	<u>Cost</u>
a. Cordova	0	0	2	\$ 6,283*
b. Seward	5	3,636*	1	2,768
c. Valdez	0	0	2	5,490
TOTAL	5	\$3,636*	5	\$14,541*

(*Expenditures as of March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>
a. Cordova	\$ 48,023
b. Seward	65,763
c. Valdez	35,500
TOTAL	\$149,286

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Contract</u>	<u>Purpose</u>
a. Gateway Children's Center	\$2,100	CDA Training
TOTAL	\$2,100	

EARLY CHILDHOOD PLANNING PROGRAM

(CHUGACH CONTINUED)

4. Head Start - FY 84

<u>Community</u>	<u># of Slots</u>
Seward Rural CAP*	20

(*This community receives a share of Rural CAP's total: \$1,768,413)

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

English Bay, and Port Graham are part of the Homer Catchment Area. Seward is part of the Kenai Catchment Area. Both Catchment Areas are listed under Cook Inlet.

2. Day Care License (Feb 84)

<u>Community</u>	<u># of Homes</u>	<u>Capacity</u>	<u># of Centers</u>	<u>Capacity</u>
a. Cordova	1	3	2	50
b. Seward	11	46	1	30
c. Valdez	3	15	2	44
<u>TOTAL</u>	<u>15</u>	<u>64</u>	<u>5</u>	<u>124</u>

D. Legislative Grants

None

VIII. COOK INLET

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - FY 84

<u>Community</u>	<u>Amount</u>
a. Anchorage	\$ 9,500
b. Wasilla	29,327
c. <u>Wasilla</u>	<u>50,000</u>
<u>TOTAL</u>	<u>\$88,827</u>

B. Department of Community & Regional Affairs

1. Child Care Grant Program - 84

EARLY CHILDHOOD PLANNING PROGRAM

(COOK INLET CONTINUED)

(Child Care Grant Program - 84 - continued)

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Centers</u>	<u>Cost</u>
a. Anchorage	98	\$88,063	39	\$273,377
b. Homer	1	990	1	3,483
c. Kenai	4	1,941	2	6,345
d. Mat-Su	4	2,872	6	28,137
e. Soldotna	2	245	3	11,221
TOTAL	109	\$88,117*	51	\$322,563*

(* Expenditures as of March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>
a. Anchorage	\$2,588,308
b. Homer	36,657
c. Kenai	95,071
d. Mat-Su	270,761
e. Kenai/Soldotna	114,981
f. Soldotna	67,186
TOTAL	\$3,172,964

3. Education & Training Grants - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Anchorage	\$ 7,684	Annual AAEYC Training Conf.
b. AAEYC	3,050	22 workshops
c. Alaska Family Child Care Society	3,510	12 workshops - child care during AAEYC Training Conf.
d. Butterfly Day Care	1,980	Observation of 4 Centers Management workshops
e. Campfire	8,090	Before & after school care for elementary age children workshop

EARLY CHILDHOOD PLANNING PROGRAM

(COOK INLET CONTINUED)

(Education & Training Grants - CONTINUED)

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
f. Easter Seal Society	\$ 1,260	Early identification of handicapping conditions workshop
g. Girdwood Children's Corp	1,346	5 Training sessions assistance to attend Annual AAIEYC Conf.
h. Joy Child Care Center	1,000	Training to child care providers in Eagle River & Chugiak
i. Women's Resource & Crisis Ctr	4,452	CDA Training
j. Hobby Horse House/Children's House	1,175	5 workshops for Palmer-Wasilla Center staff
TOTAL		
	\$35,547	

4. Head Start - FY 84

<u>Community</u>	<u># of Slots</u>	<u>Amount</u>
Anchorage (CINA)	44	\$36,575
Anchorage (Rural CAP*)	136	
Eagle River/Chugiak	<u>44</u>	66,968
TOTAL	244	

(*This community receives a share of Rural CAP's share \$1,768,413)

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program - (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Anchorage	\$274,000	173
b. Chugiak	91,100	55
c. Homer	54,600	16

EARLY CHILDHOOD PLANNING PROGRAM

(COOK INLET - CONTINUED)

(Department of Health & Social Services - CONTINUED)

Infant Learning Program

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
d. Mat-Su	47,500	36
e. Kenai	70,350	20
TOTAL	\$537,550	300

2. Day Care Licensing - (Feb 84)

<u>Community</u>	<u># of Homes</u>	<u>Capacity</u>	<u># of Centers</u>	<u>Capacity</u>
a. Anchorage	221	1061	50	3448
b. Military	4	23	1	240
c. Kenai	6	26	1	35
d. No. Kenai	1	4	1	45
e. Homer	3	14	1	29
f. Mat-Su	22	115	6	259
g. Soldotna	3	15	4	132
TOTAL	260	1,258	64	4,188

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1. FY 83	Anchorage	\$38,000	Latchstring Program
2. FY 83	Anchorage	42,00	Resource Ctr & Conf. AAEYC
3. FY 85	Anchorage	4,100,000	Site acquisition and Building
TOTAL		\$4,180,00	

IX DOYON

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - (March 84)

<u>Community</u>	<u>Amount</u>
a. Fairbanks	\$ 20,000
b. "	30,000

EARLY CHILDHOOD PLANNING PROGRAM

(DOYON CONTINUED)

(Child Care Revolving Loan Program- Continued)

<u>Community</u>	<u>Amount</u>
c. Fairbanks	\$ 50,000
d. "	50,000
e. "	50,000
f. "	50,000
TOTAL	\$250,000

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Centers</u>	<u>Cost</u>
a. Delta Junction	1	\$ 999*	1	\$2,739*
b. Fairbanks	48	37,030	26	155,621
c. McGrath	0	0	1	2,557
d. Nenna	0	0	1	926
TOTAL	49	\$36,029*	29	\$161,843*

(*Expenditures as of March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>
a. Delta Junction	\$ 41,326
b. Fairbanks	1,329,100
c. Fort Greely	53,825
d. McGrath	24,001
e. Nenna	15,480
TOTAL	\$1,463,732

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Fairbanks Rehab.	\$6,640	Mainstreaming special needs
b. Association		children training for 4 centers & 2 homes
c. Eneplut Childrens Ctr	1,070	Management Training & assistance to attend AAEYC Training Conf.
d. Fairbanks AAEYC	4,600	12 CDA related workshops
e. Play 'N' Learn, Inc.	600	Assistance to attend AAEYC Trng Conf.
TOTAL	\$12,910	

EARLY CHILDHOOD PLANNING PROGRAM

(DOYON CONTINUED)

4. Head Start/Parent Child Program - FY 84

<u>Community</u>	<u>Grantee</u>	<u># of Slots</u>	<u>Amount</u>
a. Grayling (HS)	TCC	17	\$119,266
b. Holy Cross (HS)	"	15	
c. Kaltag (HS)	"	17	
d. Tanana (HS)	"	23	
e. Dot Lake (PCP)	Rural CAP*	7	
f. Eagle (PCP)	"	12	
g. North Way (PCP)	"	22	
h. Tetlin (PCP)	"	10	
i. Tok (PCP)	"	25	
j. Galene (HS)	"	20	
k. Husliq (HS)	"	17	
l. Fairbanks (HS)	Fairbanks H.S.	80	\$161,313
TOTAL		265	\$280,579

(*These communities receive a share of Rural CAP's share: \$1,768,413)

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Project Teach Fairbanks	\$250,000	88
b. TCC	11,600	13
c. ACCA		
d. McGrath	54,645	
TOTAL		101

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u># of Homes</u>	<u>Capacity</u>	<u># of Ctrs</u>	<u>Capacity</u>
a. Delta Junction	2	11	1	31
b. Fairbanks	117	389	32	1,188
c. Military	56	249	1	116
d. Ft. Greely	0	0	1	45
e. Military	10	32	1	25
f. McGrath	0	0	1	23
g. Nenana	0	0	1	15
TOTAL		185	38	1443

EARLY CHILDHOOD PLANNING PROGRAM

(DOYON CONTINUED)

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1. FY 82	Fairbanks	\$ 50,000	Fairbanks Head Start Bldg repair
2. FY 82	"	10,500	Purchase 2 vans
3. FY 83	"	150,000	Infant Toddler Ctr Construction
4. FY 83	"	50,000	Fbx Head Start Bldg renovation
5. FY 83	Grayling	100,000	Head Start Bldg
6. FY 85	Ft. Yukon	200,000	Day Care Ctr (HB 691)
7. FY 85	Holy Cross	180,000	Day Care Recreation Ctr (HB 691)
8. FY 85	Ruby	35,000	Day Care/Comm. Servs Bldg (HB 691)
9. FY 85	Shageluk	15,000	Head Start Bldg Supplemental
10. FY 85	Fairbanks	85,000	Property purchase Eneput Child Ct
11. FY 85	Fairbanks	65,000	" " " " (HB 691)
TOTAL		\$1,140,500	

X KONIAG

A. Department Commerce & Economic Development

1. Child Care Revolving Loan Program - FY 84

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Ctrs</u>	<u>Cost</u>
a. Kodiak	6	\$5,948*	6	\$23,129*
TOTAL	6	\$5,948*	6	\$23,129*

(*Expenditures as March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>
a. Kodiak	\$203,790
TOTAL	\$203,790

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Small World, Inc.	\$1,350	Purchase "Business of Being a Baby" to be used by Anch, Bethel, Fairbanks, Juneau, Kodiak, Kotzebue & Nome
b. Small World, Inc.	\$1,080	Assistance to attend AAEYC Training Conf.
TOTAL	\$2,430	

EARLY CHILDHOOD PLANNING PROGRAM

(KONIAG CONTINUED)

B. Department of Community & Regional Affairs

4. Head Start - FY 84

<u>Community</u>	<u>Grantee</u>	<u># of Slots</u>
a. Kodiak	Rural CAP*	16

*(This community receives a share of Rural CAP's share:\$1,768,413)

5. Rural Development Assistance Program

None

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Kodiak	\$31,025	10
TOTAL		10

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u># of Homes</u>	<u>Capacity</u>	<u># of Ctrs</u>	<u>Capacity</u>
a. Kodiak	12	53	6	187
TOTAL		12	6	187

D. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1. FY 83	Kodiak	\$250,000	Day Care Ctr Construction
TOTAL		\$250,000	

XI NANA

A. Department of Commerce & Economic Development

1. Child Care Revolving Funding Loan Program - FY 84

None

B. Department Community & Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># of Homes</u>	<u>Cost</u>	<u># of Ctrs</u>	<u>Cost</u>
a. Kotzebue	0	0	1	\$10,612*
b. Noorvik	0	0	1	976
TOTAL		0	2	\$11,588*

(*Expenditures as of March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>	
a. Kotzebue	\$78,105	
b. Noorvik	21,222	
TOTAL		\$99,338

EARLY CHILDHOOD PLANNING PROGRAM

XI NANA

A. Department Commerce & Economic Development

1. Child Care Revolving Loan Program - FY 84

None

B. Department Community & Regional Affairs

1. Child Care Grant Program - FY 84

	<u>Municipality</u>	<u># Homes</u>	<u>Cost</u>	<u># Ctrs</u>	<u>Cost</u>
a.	Kotzebue	0	0	1	\$10,612*
b.	Noorvik	0	0	1	976
	TOTAL	0	0	2	\$11,588*

.*Expenditures as of March 1984)

2. Day Care Assistance Program

	<u>Municipality</u>	<u>Contract</u>
a.	Kotzebue	\$78,105
b.	Noorvik	21,338
	TOTAL	\$99,338

3. Education & Training Grant - FY 84

	<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a.	Kotzebue Day Care Center	\$4,940	CDA Training & assistance to attend AAEC Training Conf.
	TOTAL	\$4,940	

4. Head Start - FY 84

None

5. Rural Development Assistance Program

	<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
a.	FY 80	Kotzebue	\$25,610	Day Care Bldg Renovation
	TOTAL		\$24,610	

C. Department of Health & Social Services

1. Infant Learning Program - (Dec 83)

	<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a.	Kotzebue	\$40,400	6
	TOTAL	\$40,400	6

EARLY CHILDHOOD PLANNING PROGRAM

(XI NANA) CONTINUED

(Department of Health & Social Services Continued)

2. Day Care Licensing (Feb 84)

	<u>Community</u>	<u># Homes</u>	<u>Capacity</u>	<u># Ctrs</u>	<u>Capacity</u>
a. Kotzebue		0	0	1	60
b. Noorvik		0	0	1	52
	TOTAL	0	0	2	112

E. Legislative Grants

	<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1.	FY 83	Kotzebue	\$647,000	Day care center construction
		TOTAL	\$647,000	

XII SEALASKA

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program (Mar 84)

	<u>Community</u>	<u>Amount</u>
a.	Juneau	\$ 2,747
b.	Ketchikan	50,000
	TOTAL	\$52,747

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

	<u>Municipality</u>	<u># Homes</u>	<u>Cost</u>	<u># Ctrs</u>	<u>Cost</u>
a.	Craig	0	0	1	\$ 3,671*
b.	Haines	0	0	2	1,490
c.	Juneau	21	14,493*	9	42,186
d.	Ketchikan	13	14,870	4	8,418
e.	Petersburg	5	2,194	1	8,124
f.	Sitka	6	3,431	2	10,828
g.	Wrangell	1	76	2	6,696
	TOTAL	46	\$35,014*	21	\$181,413*

(*Expenditures as of Mar. 1984)

2. Day Care Assistance Program

	<u>Municipality</u>	<u>Contract</u>
a.	Craig	\$23,387
b.	Haines	26,583
c.	Hydaburg	10,272
d.	Juneau	444,677
e.	Ketchikan	205,149
f.	Petersburg	69,105
g.	Sitka	151,717
h.	Wrangell	45,684
	TOTAL	\$ 976,684

EARLY CHILDHOOD PLANNING PROGRAM

(XII SEALASKA CONTINUED)

3. Education & Training Grant - FY 84

<u>Contractor</u>	<u>Amount</u>	<u>Purpose</u>
a. Craig	\$1,482	2 workshops at Craig & at Hydaburg Assistance to attend S.E. AAWYC Trng Co
b. Chilkat Valley Ch.	1,865	CDA Trng Assistance to attend S.E. AEYC
c. Aiding Women From Abuse & Rape	3,264	Child abuse & neglect training at Juneau, Haines & Petersburg
d. Catholic Comm. Srvs.	3,810	Trng to 10 family child care providers
e. South East AEYC	4, 231	S.E. AEYC AEYC Annual Training Conf.
f. St. Annes Infant & Day Care Ctrs	1,685	Skill improvement trng regarding children with behavioral & emotional problems
g. Petersburg	2,034	EC practicum, evening workshops & assistance to attend S.E. AEYC Annual Trng Conf.
h. Betty Eliason Child Care Center	1,412	CDA Trng & assistance to attend S.E. AEYC Annual Training Conference
TOTAL	\$19,784	

4. Head Start - FY 84

<u>Community</u>	<u># slots</u>	<u>Grantee</u>	<u>Amount</u>
a. Angoon	25	T&H	\$99,050
b. Hoonah	23	"	
c. Juneau	50	"	
d. Klawock	15	"	
e. Haines	23	Rural CAP*	
f. Hydaburg	21	"	
g. Kake	19	"	
h. Ketchikan	22	"	
TOTAL	198		

(*These communities receive a share of Rural CAP's total:\$1,768,413)

5. Rural Development Assistance

None

C. Department of Health & Social Services

1. Infant Learning Program (Dec 83)

<u>Catchment Area</u>	<u>Amount</u>	<u>Children Served</u>
a. Juneau	\$64,400	23
b. Ketchikan	51,265	19
c. Petersburg	19,745	12
d. Sitka	52,720	20
TOTAL	\$ 188,130	74

EARLY CHILDHOOD PLANNING PROGRAM

(SEALASKA CONTINUED)

(Department of Health & Social Services CONTINUED)

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u>#Homes</u>	<u>Capacity</u>	<u># Centers</u>	<u>Capacity</u>
a. Craig	0	0	1	35
b. Haines	0	0	3	55
c. Hydaburg	2	10	0	0
d. Juneau	59	289	11	514
e. Ketchikan	32	165	4	140
f. Petersburg	9	49	1	60
g. Sitka	21	99	3	162
h. Wrangell	2	8	2	86
TOTAL	125	620	25	1,052

E. Legislative Grants

<u>Year</u>	<u>Community</u>	<u>Amount</u>	<u>Purpose</u>
1. FY 83	Sitka	\$200,000	Day Care Center construction (construction)
2. FY 83	Sitka	300,000	Completion of Day Care Center
3. FY 84	Juneau	6,000	Mainstreaming special needs kids (HB 691)
4. FY 85	Klawock	200,000	Head Start Bldg Construction (HB 635)
5. FY 85	Klawock	40,000	Head Start Equipment Purchase
TOTAL		\$746,000	

XIII METLAKATLA

A. Department of Commerce & Economic Development

1. Child Care Revolving Loan Program - FY 84

None

B. Department of Community & Regional Affairs

1. Child Care Grant Program - FY 84

<u>Municipality</u>	<u># Homes</u>	<u>Cost</u>	<u># Centers</u>	<u>Cost</u>
a. Metlakatla	0	0	1	\$2,061*
TOTAL	0	0	1	\$2,061*

(*Expenditures as of March 1984)

2. Day Care Assistance Program

<u>Municipality</u>	<u>Contract</u>
a. Metlakatla	\$38,707
TOTAL	\$38,707

3. Education & Training Grant FY 84

<u>Grantee</u>	<u>Amount</u>	<u>Purpose</u>
a. Metlakatla Indian Community	\$690	Management Training
TOTAL	\$690	

EARLY CHILDHOOD PLANNING PROGRAM

(XIII METLAKATLA CONTINUED)

(Department of Community & Regional Affairs CONTINUED)

4. Head Start - FY 84

<u>Community</u>	<u>Grantee</u>	<u># slots</u>	<u>Amount</u>
a. Metlakatla	Metlakatla	40	\$24,252
TOTAL			\$24,252

5. Rural Development Assistance Program - FY 84

None

C. Department of Health & Social Services - (Dec. 83)

1. Infant Learning Program

None

2. Day Care Licensing (Feb 84)

<u>Community</u>	<u># Homes</u>	<u>Capacity</u>	<u># Centers</u>	<u>Capacity</u>
a. Metlakatla	0	0	1	35
TOTAL			1	35

E. Legislative Grants

None

EARLY CHILDHOOD PLANNING PROJECT
Rural Alaska Community Action Program, Inc.
STATEWIDE GOVERNMENT FUNDING FOR EARLY CHILDHOOD PROGRAMS

REGION	DC&ED ¹	D...A ³		H.S./PCP ⁷			RDAP ⁸	DHSS ⁹		JCL ¹¹		LEGISLATIVE+	TOTAL		
	CCRLP ²	CCGP ⁴	DCAP ⁵	E&TG ⁶				ILP ¹⁰			GRANTS				
	03-84	03-84 EXP	FY 84	FY 84	FY 84			12-83	02 84						
					\$	#		\$	#	Homes/Capacity	Ctrs/Capacity				
AHTNA	0	\$ 1,386	\$ 8,886	0	*	4	0	0		0	0	1	29	0	\$ 10,272
ALEUT	0	0	0	0	0	0	0	0		0	0	0	0	0	0
ARCTIC SLOPE	0	0	0	0	0	0	0	64,915	17	0	0	0	0	\$ 300,000	364,915
BERING STRAITS	0	\$ 4,221	33,076	\$ 1,324	78,542*	140	\$ 77,086	177,000	27	3	15	1	40	440,000	811,249
BRISTOL BAY	0	0	0	0	0	0	0	173,600	11	0	0	0	0	0	173,000
CALISTA	0	\$ 21,238	108,899	\$ 7,075	125,884*	459	79,850	153,000	43	0	0	4	166	645,000	1,140,946
CHUGACH	0	\$ 18,177	149,286	\$12,100	*	20	0	0		15	64	5	124	0	179,563
COOK INLET	\$ 88,827	\$410,680	3,172,964	\$35,547	103,543*	224	0	537,550	300	260	1,258	64	4,188	4,180,000	8,529,111
DOYON	\$250,000	\$197,872	1,463,732	\$12,910	280,579*	265	0	316,245	101	185	881	38	1,443	1,140,500	3,661,838
KONIAG	0	\$ 29,077	203,790	\$ 2,430	*	16	0	31,025	10	12	53	6	187	250,000	55,322
NANA	0	\$ 11,588	99,338	\$ 4,940	0	0	25,610	40,400	6	0	0	2	112	647,000	828,76
SEALASKA	\$ 52,747	\$216,427	976,684	\$19,784	99,050	198	0	188,130	74	125	620	25	1,052	746,000	2,298,822
METLAKATLA	0	\$ 2,061	38,707	690	24,252	40	0	0		0	0	1	35	0	65,710
TOTAL	\$391,574	\$572,727	\$6,255,362	\$96,800	\$2,480,263	1,226	\$182,546	\$1,681,265	589	600	2,891	147	7,376	8,348,500	\$20,349,037

1. DC&ED-Department of Commerce & Economic Development

2. CCRLP-Child Care Revolving Loan Program

3. DCRA-Department of Community and Regional Affairs

4. CCGP-Child Care Grant Program

5. DCAP-Day Care Assistance Program

6. E&TG-Education and Training Grants

7. HS/PCP-Head Start/Parent Child Programs

8. RDAP-Rural Development Assistance Program-FY 84

9. DHSS-Department of Health and Social Services

10. ILP-Infant Learning Program-Children served as of Dec. 1983

11. DCL-Day Care Licenses

+ up to and including FY 78 - 85

* These regions receive a portion of Rural-CA's Total \$1,768,413

Work Session Participants

Community Representatives

Esta Finley, Wainwright
Arctic Slope Region

Anita Erickson, Unalaska
Aleut Region

Karen Kallen, Nondalton
Bristol Bay Region

Agnes David, Kongiganak
Calista Region

Linda Watson, Ninilchik
Cook Inlet Region

Sue Adams, Kotzebue
Nana Region

Sue Liebner, Port Lions
Koniag Region

Susan Brown, Hoonah
Sealaska Region

Deborah Meganak, Port Graham
Chugach Region

Virginia Washington, St. Michael's
Bering Strait Region

Cheryl Denhart, Manley Hot Springs
Doyon Region

Non Profit Association Representatives

Diedre Bailey
Kodiak Area Native Assn.

Rusty Taylor
Maniilaq Native Assn.

Arnold Melsheimer
North Pacific Rim

Mary Dalton
Cook Inlet Native Assn.

Gail Evanoff
North Pacific Rim

Jo Putnam
Kawerak, Inc.

Joanie Cleary
North Pacific Rim

Kathleen Stout
Bristol Bay Native Assn.

Linda Weld
Copper River Native Assn.

Edna Charley
Copper River Native Assn.

Sharon Eluska
Al tian/Pribilof Island Assn.

Margaret Ericsson
Central Council of Tlingit and Haida Indian Tribes of Alaska

Sara Turner
Tanana Chiefs Conference

State of Alaska

Ms. Lare, Child Care Coordinator
Community and Regional Affairs

Annie Calkins, Early Childhood Coordinator
Department of Education

Pat O'Brien, Community Care Licensing Coordinator
Department of Health and Social Services

Guests

Mary Asper, President
Alaska State Association for the Education of
Young Children

Barbara Smith
Early Childhood Coordination Project

AND

Debra Ward, Project Coordinator

Joann Contini, Director
Child Development, Rural-CAP

Discussion Topics

THINK EARLY CHILDHOOD!

Quality early childhood programs are beneficial to children, parents, communities and society as a whole.

Children have increased language development.

Children have more self-esteem and feel better about themselves.

Fewer children are held back in school.

Early intervention means fewer children are classified as special needs and fewer need special services.

Children do better in school and are more likely to graduate.

Children have better socialization skills and have less chance of anti-social behavior, such as crime.

Children with positive early experiences are more likely to stay in school and go on to college.

More children are immunized.

More children participate in the child nutrition program and have better nutrition habits.

Parents become involved earlier in their child's development.

Children seem more interested in learning new things.

Parents understand more about how young children learn and develop.

SUPPORT FOR EARLY CHILDHOOD!

Community Level Resources for Early Childhood

Parents	Village Council
IRA Council	Village Corporation
City Offices	Village Chief
Mayor	Local Businesses
Schools	School Board
Churches	Local newspapers
Community Health Aide	
Women's Shelters and Resource Centers	
Fraternal Organizations (Lions, Elks, etc.)	
Other Early Childhood Programs (Head Start, Pre-School, etc.)	

Regional Level Resources for Early Childhood

School Districts	Community Colleges
Library	State Senator
State Representative	Native Profit Corporation
Cooperative Extension Service	
Radio and Television Stations	
Native Non-Profit Corporation	
Regional Health Associations	
Regional Associations for the Education of Young Children (Alaska AEYC, Kenai AEYC, Arctic AEYC, Delta AEYC, Southeast AEYC, Anchorage AEYC and Fairbanks AEYC)	

State Level Resources for Early Childhood

Universities	State Board of Education
Family Service Providers	Private Foundations
Johnson O'Malley Program	Bureau of Indian Affairs
Alaska Native Education Association	
Alaska Federation of Natives	
Alaska Head Start Director's Association	
Alaska Native Health Services Association	
Rural Alaska Community Action Program	
State Department of Education	
State Department of Health and Social Services	
State Department of Community and Regional Affairs	
Governor's Mini-Cabinet on Women's Issues	
Governor's Mini-Cabinet on Rural Issues	
Public Health Service and Indian Health Service	
State Association for the Education of Young Children	

ACT FOR EARLY CHILDHOOD!

What Communities Can Do

- Know what the early childhood needs are.
- Be vocal about needs on local, regional and state levels.
- Establish early childhood needs as a priority.
- Network with others who support early childhood services.
- Organize parents.
- In a bicultural setting, make sure both sides have input.
- Build or refurbish a building for an early childhood program.
- Let your legislator know what your needs are.
- Adopt a philosophy statement on early childhood.
- Support child development and parenting courses in local junior and senior high schools.
- Hold community meetings and discuss early childhood.
- Attend parent education sessions.
- Enlist support of the local government.
- Volunteer time working in an early childhood program.

What Regions Can Do

- Establish early childhood as a priority.
- Assess needs of early childhood in the region.
- Hire an early childhood trainer for the region.
- Develop employer-related options for child care.
- Coordinate regional efforts with state and local early childhood efforts.
- Find out about available funding.
- Develop relevant materials for early childhood programs.
- Network with family health and social service organizations.

Hold an early childhood conference.

Develop a regional early childhood association.

Talk to legislators about the early childhood needs of the regions.

Talk to businesses about the early childhood needs of the regions.

Offer to coordinate planning for regional early childhood services.

What State Government Can Do

Listen to communities.

Come and stay a few days in the community.

Technical assistance in grant writing.

Be more specific in providing information.

Disseminate current and relevant information.

More personnel in health and social services.

Research and collect hard data on young children.

Provide more early childhood training.

Certify early childhood teachers.

Learn more about life in rural Alaska.

Write information, regulations, etc. so they can be easily read and understood.

Provide local or regional resource centers.

Work together with all departments which deal with young children.

Provide training in early childhood for staff and parents.

Ask for local involvement when developing regulations.

Allow more time to send, receive and act on information.

Put early childhood professionals on boards and commissions.

What the Legislature Can Do

Increase funding for licensing activities.

Put preschools in all school buildings.

Establish early childhood foundation funds.

Increase funding for Head Start.

Increase funding for Day Care Assistance Programs, Child Care Training Grants and Education and Training Grants.

Develop parent education programs in child development.

Tie funding to quality of care.

Appropriate funds for building early childhood facilities.

Develop better preschool regulations.

Develop statewide philosophy on early childhood.

Establish regional information and resource centers.

Require all departments dealing with young children to work together.

Establish a statewide central early childhood office.

PLANNING THE FUTURE FOR ALASKA'S CHILDREN
EARLY CHILDHOOD PLANNING PROJECT MANUAL

Some participants in the April 1984 work session requested a how-to manual for conducting this type of assessment and planning on a regional level. Thus, a manual was written and will be distributed to regional non-profit native corporations. All others wishing to obtain a copy may contact:

RurAL-CAP
Box 3-3908
Anchorage, Alaska 99501

STATE OF ALASKA
THE LEGISLATURE

FOUCHY STATE CAPITOL
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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 22, 1985

SUBJECT: The effect of CSHB 92(Jud) on Civil Rule 77

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for an analysis of the effect of section 1 of CSHB 92(Jud) on Civil Rule 77.

The portion of section 1 in question is the 15-day time period allowed for a response to notice of an application for an income withholding order set out in AS 09.65.132(d). Civil Rule 77 provides that a response is required within 10 days of the notice.

The time conflict is not significant to your bill since the bill language in question is unchanged from that adopted in 1981 and found in section 1 of Chapter 96, SLA 1981. The necessary Rule 77 change was passed at that time in section 12 of Chapter 96. The change is incorporated into Civil Rule 77 by an editor's note to the rule.

GWE:csh
c3/058