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HB

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HOUSE COMMITTEE REPORT

H. FILE

(11)

Date Referred: March 22, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/6/90

The FINANCE Committee considered:

HB 571

HOUSE BILL NO. 571

NOTICE TO CHILD SUPPORT OBLIGORS

"An Act requiring notice to obligors about obligations relating to support."

RECOMMENDATIONS:

- be replaced with CSHB 571 (HESS) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 3/22/90/ REVENUE
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

<u>[Signature]</u> Hoffman			
<u>[Signature]</u> Larson			
<u>[Signature]</u> Swackhammer			
<u>[Signature]</u> Brown			
<u>[Signature]</u> Koponen			
<u>[Signature]</u> Ulmer			
<u>[Signature]</u> Phillips			
<u>[Signature]</u> Rieger			
<u>[Signature]</u> yes! wallis			

[Signature] Larson
Chairman's Signature
[Signature] Hoffman

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act Requiring Notice to Obligor
about obligations relating to support.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Department of Revenue
BRB: Child Support Enforcement Division
Components: _____

EXPENDITURES/REVENUES:

	FY 91	FY 92	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	1.4	1.4	1.5	1.5	1.6	1.6
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.3	2.9	2.4	2.5	2.5	2.6
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	3.7	3.7	3.9	4.0	4.1	4.2
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING:

GENERAL FUND	1.3	1.3	1.4	1.4	1.4	1.5
FEDERAL FUNDS	2.4	2.4	2.5	2.6	2.7	2.7
OTHER	0	0	0	0	0	0
TOTAL	3.7	3.7	3.9	4.0	4.1	4.2

POSITIONS:

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

ANALYSIS: There will be no fiscal impact for FY90. This fiscal note provides the resources to run a special program, to review cases with successful attempts to locate obligor and to mail notice of accruing liability. The Federal funding is computed IAW the Gramm-Rudman-Hollings Act, which set the Federal Financial Participation for child support programs at 64.846%.

Prepared By: Linda Langston
Division: Child Support Enforcement Division

Phone: 263-6270
Date: March 20, 1990

Approved by Commissioner: Hugh Malorie *for*
Agency: Department of Revenue

Date: March 20, 1990

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impactec Agency(ies)

Adopted

Original sponsor(s): HESS Committee

1 IN THE HOUSE BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 571 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring notice to obligors about obliga-
7 tions relating to support."

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

9 * Section 1. AS 47.23.120 is amended by adding new subsections to read:

10 (c) Within 30 days after the agency knows the identity and
11 address of an obligor who resides in the state and who is liable to
12 the state under this section, the agency shall send written notifica-
13 tion to the obligor parent of the obligor's accruing liability. The
14 notice required under this subsection must be in clear, concise, and
15 easily readable language. The notice may accompany other communica-
16 tions by the agency.

17 (d) If the agency fails to comply with (c) of this section,
18 interest does not accrue on the liability to the state unless a sup-
19 port order has been entered.

20 (e) The agency's failure to comply with (c) of this section does
21 not bar an action by the state to recover amounts owed by the obligor.

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

CHILD SUPPORT ENFORCEMENT DIVISION

550 WEST 7TH, 4TH FLOOR
ANCHORAGE, AK 99501-3558
PHONE: (907) 278-3441
TOLL FREE ALASKA: 800-478-3300

March 12, 1990

The Honorable Peter Goll
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

REC'D WIAK 15 1990

Dear Representative Goll:

Following up on your phone conversations with Ardith Lynch of our Division, we have had an opportunity to review HB 571 in light of the comments of the HESS committee and the public who testified last Tuesday.

Since the intent of the bill is to provide notification to obligors that the support rights for their child have been assigned to the State before a substantial AFDC liability accrues, we suggest that the scope of the bill be limited to cases in which support has been assigned to the State under AS 47.23.345. (As a practical matter, notice of the support obligation is also promptly given in other cases enforced by the agency; however, since arrears to the State do not accrue in non-AFDC cases, it is unnecessary to include them in the scope of HB 571.) To clarify that notice must be given regardless of whether a support order has been entered, we suggest that the language "delinquent in paying" should be deleted as indicated in the attached copy of HB 571.

We also suggest that 30-day notice not be required in cases in which the duty of support (i.e. paternity) has not been established. The agency is prohibited by AS 47.23.040 and Federal regulation from attempting to establish paternity in cases involving incest or forcible rape, when legal proceedings for adoption are pending, or when it would not be in the best interests of the child. Therefore, an exception to the notice requirement is necessary for these cases.

There is also a good policy reason to waive the notice requirement in all cases in which paternity has not been established. Before we file a paternity complaint, we obtain a sworn affidavit from the mother to verify the allegation of paternity. We could certainly notify putative fathers within 30 days on the basis of the minimal information provided with the AFDC application. However, since the new Federal program standards require the agency to serve paternity complaints within 90 days of locating the putative father, these potential obligors will receive timely notification. The slight additional delay to obtain detailed factual support for this serious allegation must be balanced against the potential disruption to an obligor which could be caused by an unsubstantiated claim.

Representative Peter Goll
March 12, 1990
Page 2 of 2

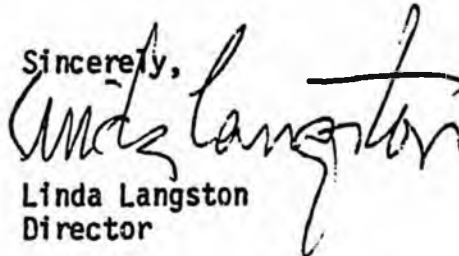
Finally, to address the concern that obligors are unable to pay both the liability and the interest when there has been a delay in notice, we suggest that no interest accrue on the liability to the State if timely notice is not given, as stated in proposed subsection (b). AS 47.23.120 should be amended to provide that an obligor is liable for public assistance provided regardless of receipt of notice under AS 47.23.277. It then would read as follows:

AS 47.23.120. OBLIGOR LIABLE FOR PUBLIC ASSISTANCE FURNISHED OBLIGEE.

(a) An obligor is liable to the State in the amount of assistance granted under AS 47.25.310 - 47.25.420 to a child whom the obligor owes a duty of support except that if a support order has been entered, the liability of the obligor may not exceed the amount of support provided in the support order. An obligor is liable to the State regardless of receipt of notice under AS 47.23.277.

(b) An obligor is liable to the State in the amount of the cost incurred if the State is maintaining a child whom the obligor owes a duty of support in a foster home or institution, except that if a support order has been entered, or an agreement for payment of that cost executed between the obligor and the State, the liability of the obligor may not exceed the amount provided in the support order or agreement. An obligor is liable to the State regardless of receipt of notice under AS 47.23.277.

Sincerely,



Linda Langston
Director

LL:AL:tr
90-57

Enclosure (HB 571 with annotations)

cc: Representative Johnny Ellis, Chairman, House HESS Committee ✓

FN: 32871



STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

March 7, 1990

Representative Johnny Ellis
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Ellis and members of House HESS:

I had the opportunity to listen in on the discussion on HB 571, and the clarification regarding the intent of directing this bill towards absent parents who are accruing a debt to AFDC. The Women's Commission supports the speedy notification to absent parents who do not have a child support order in place and who are accruing a debt to AFDC. It is, of course, incumbent upon that parent to respond in a timely manner.

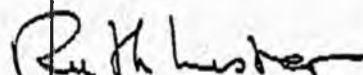
The Women's Commission strongly supports HB513. This legislation is long overdue. Many youth are in school at age 19. Completion of their education is our first concern.

Regarding HB472, the Women's Commission at their meeting on Mar 2 and 3 in Anchorage, made a decision not to support HB472. Last year I observed the court appointed child support guidelines committee. This committee took extensive testimony and carefully addressed all issues. A review of their committee notes would easily persuade you of this. There were good reasons for their decisions and the process was cost effective for the State.

Only the court has the opportunity of actually knowing both sides of the story. The obligors have been very vocal. It is my experience from years of working in the domestic violence field that where there is ongoing harassment in relation to custody and support there is often past or present violence or threats. We are only hearing one side of the story at these hearings. Custodial parents rarely feel able or safe to testify. If guidelines are decided legislatively, I believe that we will not have a fair and balanced process because we will only hear from obligors.

The present guidelines, with allowance for special case exceptions, provide for adequate support if the non-custodial parent is working. They are not high compared to other states. One of the problems that is most often brought up is second families. Some non-custodial parents who have been paying low support amounts have suddenly, through a modification, had their obligation increased. This problem will decline with time as all new awards are determined by 90.3 and non-custodial parents do not therefore experience large changes in their obligations.

Sincerely



Ruth Lister
Executive Director

RL/kh

STATE OF ALASKA

DEPARTMENT OF REVENUE

CHILD SUPPORT ENFORCEMENT DIVISION

STEVE GOWPER, GOVERNOR

580 WEST 7TH, 4TH FLOOR
ANCHORAGE, AK 99501-3558
PHONE: (907) 278-3441
TOLL FREE ALASKA: 800-478-3300

March 5, 1990

Representative Johnny Ellis
Room 104, Capitol
P.O. Box V
Juneau, Alaska 99811

Subject: HB 571

Dear Johnny:

We have had an opportunity to review HB 571 in conjunction with the new Federal standards for program operations (45 CFR Part 232, 301 through 304, 306 and 307). The new Federal standards become effective for all States on October 1, 1990. They establish specific time frames for child support case actions that will now be uniform across the nation.

The new Federal rules stipulate a 90-day notice requirement, and we would like to recommend that that standard be adopted in HB 571. We also recommend that the bill, instead of adding a new section as AS 47.23.277, be entered as a new subsection (c) to AS 47.23.120. It then would read as follows:

AS 47.23.120. OBLIGOR LIABLE FOR PUBLIC ASSISTANCE FURNISHED OBLIGEE.

(a) An obligor is liable to the state in the amount of assistance granted under AS 47.25.310 - 47.25.420 to a child whom the obligor owes a duty of support. [except that] If a support order has been entered, the liability of the obligor may not exceed the amount of support provided [for] in the support order. An obligor is liable to the State regardless of receipt of notice under (c) of this section.

(b) An obligor is liable to the State in the amount of the cost incurred if the State is maintaining a child whom the obligor owes a duty of support in a foster home or institution, except that if a support order has been entered, or an agreement for payment of that cost executed between the obligor and the State, the liability of the obligor may not exceed the amount provided in the support order or agreement. An obligor is liable to the State regardless of receipt of notice under (c) of this section.

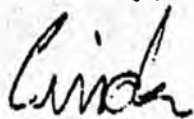
(c) An obligor who resides in the State shall be notified of the accruing liability for a child for whom a duty of support has been established within 90 days after the agency knows the identity and address of the obligor.

Representative Johnny Ellis
Re: HB 571
March 5, 1990
Page 2 of 2

You will note that we have added language to clarify that the obligor's liability for support is not affected by the notice requirement, since it could be construed under HB 571 that the notice requirement imposes a 30-day statute of limitations on the State's right to recover support to offset the State's public assistance debt.

We thank you for the opportunity to comment and look forward to working with you on this bill.

Sincerely,



Linda Langston
Director

LL:AAL:akj

FN: 32611

ATTENTION: HOUSE H.E.S.S.

H.B. 472 I strongly support this bill. This Bill will put the child support award system in to the democratic process.

In my opinion it is good policy for parents and elected officials to be directly involved in formulating child support laws.

H.B. 571 I strongly support this bill so that obligors will be notified when a duty of support begins accruing.

H.B. 538 and 539 I strongly support these bills. I believe that children have the right to have access to both parents and both parents have the right to access their children. This visitation project will benefit families and children by providing mediation for visitation problems.

I am a member of the Alaska Support Group.

^
FAMILY

Paul A. L. Nelson

Paul A. L. Nelson

March 6, 1990

Rhona L. Miels

Rhona L. Miels Non-member

Notify Obligor within 30 Days

RECOMMENDATION 37:

THE TASK FORCE RECOMMENDS THAT IN CASES WHERE THE UNCONTESTED IDENTITY AND THE ADDRESS WITHIN ALASKA OF THE NON-CUSTODIAL PARENT ARE KNOWN, THE CHILD SUPPORT ENFORCEMENT DIVISION MUST NOTIFY OBLIGORS THAT A SUPPORT OBLIGATION HAS BEEN ACCRUING BECAUSE OF NON-PAYMENT OF COURT-ORDERED SUPPORT AND/OR BECAUSE OF PAYMENT OF AID TO FAMILIES WITH DEPENDENT CHILDREN BENEFITS FOR WHOM THE PARENT HAS A DUTY OF SUPPORT, WITHIN 30 DAYS AFTER THE DATE THAT THESE FACTS BECOME KNOWN TO THE DIVISION.

Issue

Sometimes government agencies take a long time to notify non-custodial parents that the custodial parent of their children is receiving AFDC benefits. Because of this, non-custodial parents can build a large debt to the state without knowing that the debt is being incurred, with interest. How can this be avoided?

FSA Criteria

The Act strengthens the relationship between the public assistance and Child Support Enforcement agencies, both of which operate on the assumption that parents are responsible for the support of their children, even if they don't live in the same house.

AFDC benefits can sometimes be viewed as child support payments paid by the government on behalf of the non-custodial parent. Just because the parents don't make the payments doesn't mean they are not still responsible for some or all of the payments. Therefore AFDC cash benefits can be considered a loan to the non-custodial parent, which must be repaid, with interest. This debt and interest accrual begins when the first AFDC check is issued for a parent's children.

Therefore when single parents apply for AFDC, they must provide the name and address of the children's other parent, so that child support payments can be collected to offset the government-paid AFDC benefits. The government then notifies the non-custodial parent that the other parent is receiving AFDC benefits for their children and that a debt is therefore developing.

Rationale

Neither the Act nor existing regulations provide guidelines for when the State must notify the non-custodial parents that costs are being incurred for which they are responsible. This recommendation provides a reasonable time frame. The intent is to allow the non-custodial parent as much time as possible to repay or make plans for repaying AFDC debts.

(b) In determining the amount of money an obligor must pay to satisfy the obligor's immediate duty of support, the agency shall consider all payments made by the obligor directly to the obligee or to the obligee's custodian before the time the obligor is ordered to make payments through the agency. After the obligor is ordered to make payments through the agency, the agency may not consider direct payments made to the obligee or the obligee's custodian unless the obligor provides clear and convincing evidence of the payment.

(c) If admitted to the practice of law in the state, the director of the agency, or the director's designee, shall sign a complaint or other pleadings on behalf of the agency in an action to establish or enforce a support obligation under this chapter in which the agency is not represented by the attorney general (§ 1 ch 251 SLA 1976; am § 7 ch 126 SLA 1977; am §§ 3 — 5 ch 118 SLA 1982; am § 4 ch 40 SLA 1985; am § 1 ch 72 SLA 1986; am §§ 4-5 ch 68 SLA 1988)

Sec. 47.23.022. Enforcement requests from other states.

(a) The agency may act, under the laws of this state, upon requests from similar state agencies in other states that operate child support enforcement programs under 42 U.S.C. 651 — 665 (Title IV-D Social Security Act) to establish and enforce against obligors within this state support obligations determined in other states.

(b) Requests from child support enforcement agencies in other states shall be made by application containing the information that this state's agency requires and including written authorization from the requesting state agency and the obligee for this state's agency to initiate action necessary to establish, enforce, and collect the support obligation on their behalf. (§ 5 ch 40 SLA 1985)

Sec. 47.23.025. Rates of interest. The rate of interest imposed under AS 47.23.020(a)(2)(C) shall equal the rate imposed under AS 3.05.225 or a lesser rate that is the maximum rate of interest permitted to be imposed under federal law. (§ 6 ch 118 SLA 1982; am § 6 ch 40 SLA 1985)

Sec. 47.23.030. Establishment of fund. There is established in the state general fund a continuing, revolving, reserve account to receive collections and make the authorized disbursements of the agency. (§ 1 ch 251 SLA 1976)

Sec. 47.23.040. Determination of paternity. (a) The agency shall appear on behalf of minor children or their mother or legal custodian of the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian.

(b) The agency may not attempt to establish paternity in any case involving incest or forcible rape, when legal proceedings for adoption are pending, or when it would not be in the best interests of the children or the state. (§ 1 ch 251 SLA 1976; am § 18 ch 126 SLA 1977)

Sec. 47.23.045. Determination of support obligation. The agency may appear in an action seeking an award of support on behalf of a child owed a duty of support, or to enforce a spousal support order if a spousal support obligation has been established and if a support obligation, established with respect to a child of that spouse, is also being administered, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee, or at the agency's own discretion if the obligor is liable to the state under AS 47.23.120(a) or (b). (§ 19 ch 126 SLA 1977; am § 7 ch 40 SLA 1985)

Sec. 47.23.050. Legal assistance. The agency shall contract with the Department of Law to provide needed legal services. (§ 1 ch 251 SLA 1976; am § 20 ch 126 SLA 1977)

Sec. 47.23.060. Order of support. (a) An order of support establishes a relationship by which the custodian of the child is the administrator for the purposes of administering child support on behalf of the child. The court shall carefully consider the need for support, the ability of both parents to meet such support obligations, the extent to which the parents supported the child before divorce, and the economic ability of the parents to pay after separation and divorce. The court shall also consider the effect on the support obligation of a change in custodian. The need of the child for support shall be considered regardless of the sex of the parent awarded custody of the child.

(b) *[Repealed, § 21 ch 126 SLA 1977.]*

(c) In a court proceeding where the support of a minor child is at issue, the court may order either or both parents to pay the amount necessary for support, maintenance, nurture, and education of the child. The court shall issue a medical support order as part of a child support order if health care coverage is available to the obligor at a reasonable cost. Upon a showing of good cause the court may order the parents required to pay support to give reasonable security for payments.

(d) An order for prospective child support may be modified or revoked under AS 25.24.170. (§ 1 ch 251 SLA 1976; am § 21 ch 126 SLA 1977; am § 8 ch 40 SLA 1985; am § 6 ch 68 SLA 1988)

Sec. 47.23.062. Income withholding order for support. (a) A judgment, court order, or order of the child support enforcement agency under this chapter providing for support must contain an income withholding order. An income withholding order under this section may not be enforced unless the obligor had 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.