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HOUSE COMMITTEE REPORT

3/26

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(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/23/90

JUDICIARY

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 513

HOUSE BILL NO. 513 POST-MAJORITY CHILD SUPPORT

"An Act relating to child support for certain children who are not minors and representation of their interests during certain proceedings."

RECOMMENDATIONS:

- be replaced with CS HB 513 (HESS) the same title
- have attached amendment(s) a new title
- 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 _____

fiscal note(s) _____

zero fiscal note DCR

zero fiscal note(s) _____

zero with analysis _____

zero fn/analysis _____

SIGNING DO PASS: Ellis ELLIS

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

[Signature]
[Signature] GRUENBERG
[Signature] GOLL

| SIGNING | Do Not Pass | No Rec | Amend |
|-----------------------------|-------------|--------|-------|
| <u>[Signature]</u> | | | |
| <u>W. Furnace</u> FURNACE | X | | |
| <u>Cheri Davis</u> C. DAVIS | X | | |
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[Signature]
Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to child support for BRU: _____
certain children
 Sponsor: Gruenberg Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY92 | FY93 | FY94 | FY 95 | FY 96 |
|-------------------|-------|------|------|------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| REVENUE | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TEMPORARY | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

ANALYSIS: (Attach a separate page if necessary)
 FY 90 fiscal impact is "0".

Prepared by: John D. Toker
 Division: Public Assistance
 Approved by Commissioner: Myra M. Munson
 Agency: Department of Health and Social Services

Phone: 465-3347
 Date: 3/21/90
 Date: 3/22/90

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



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.

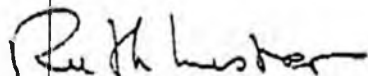
The Women's Commission strongly supports HB513. This legislation is long overdue. Many youth are in school at age 19. Completion of their education is our first concern.

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

Original sponsor(s): REP. GRUENBERG by Request, Ulmer

1 IN THE HOUSE

BY THE HESS COMMITTEE

2 CS FOR HOUSE BILL NO. 513 (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 relating to child support for certain chil-
7 dren who are not minors and representation of their
8 interests during certain proceedings."

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

10 * Section 1. AS 25.24.060(c) is amended to read:

11 (c) Mediation shall be conducted informally as a conference or
12 series of conferences. The parties to the action and a court-ap-
13 pointed representative of any unmarried [MINOR] children of the mar-
14 riage under the age of 19 whose interests may be affected shall at-
15 tend. Counsel for the parties may attend all such conferences.

16 * Sec. 2. AS 25.24.140(a) is amended to read:

17 (a) During the pendency of the action, the court may provide by
18 order

19 (1) that one spouse pay an amount of money as may be neces-
20 sary to enable the other spouse to prosecute or defend the action;

21 (2) for the care, custody, and maintenance of the minor
22 children of the marriage and for the care and maintenance of unmarried
23 18-year-old children of the marriage who are actively pursuing a high
24 school diploma and living as dependents with a parent, guardian, or
25 designee of the parent or guardian, during the pendency of the action;

26 (3) for the freedom of one spouse from the control of the
27 other spouse during the pendency of the action.

28 * Sec. 3. AS 25.24.170(a) is amended to read:

29 (a) Subject to AS 25.20.110, any time after judgment the court,

1 upon the motion of either party, may set aside, alter, or modify so
2 much of the judgment as may provide for alimony, for the appointment
3 of trustees for the care and custody of the minor children or for
4 their nurture and education, for the care, nurture, and education of
5 unmarried 18-year-old children of the marriage while they are actively
6 pursuing a high school diploma and living as dependents with a parent,
7 guardian, or designee of the parent or guardian, or for the mainte-
8 nance of either party to the action.

9 * Sec. 4. AS 25.24.200(a) is amended to read:

10 (a) A husband and wife together may petition the superior court
11 for the dissolution of their marriage under AS 25.24.200 - 25.24.260
12 if the following conditions exist at the time of filing the petition:

13 (1) incompatibility of temperament has caused the irremedi-
14 able breakdown of the marriage;

15 (2) if there are unmarried [MINOR] children of the marriage
16 under the age of 19 or the wife is pregnant, the spouses have agreed
17 on which spouse or third party shall be awarded custody of each minor
18 child of the marriage and the extent of visitation, including visita-
19 tion by grandparents and other persons, and support to be provided on
20 the children's behalf, whether the payments are to be made through the
21 child support enforcement agency and the tax consequences of that
22 agreement;

23 (3) the spouses have agreed as to the distribution of all
24 jointly owned real and personal property and the payment of spousal
25 support, if any, and the tax consequences resulting from these pay-
26 ments; and

27 (4) the spouses have agreed as to the payment of all unpaid
28 obligations incurred by either or both of them, and as to payment of
29 obligations incurred jointly in the future.

1 * Sec. 5. AS 25.24.210(e) is amended to read:

2 (e) If the petition is brought by both spouses under AS 25.-
3 24.200(a), the petition shall state in detail the terms of agreement
4 as between the spouses with regard to the custody of children, child
5 support, visitation, spousal support and tax consequences, if any,
6 division of property, and allocation of debts, and, in addition, shall
7 state

8 (1) the respective occupations of the spouses;

9 (2) the income, assets, and liabilities of the respective
10 spouses at the time of filing the petition;

11 (3) the date and place of the marriage;

12 (4) the name, date of birth, and current marital, educa-
13 tional, and custodial status of each [MINOR] child born of the mar-
14 riage or adopted by the petitioners who is under the age of 19;

15 (5) whether the wife is pregnant;

16 (6) other facts and circumstances which the petitioners
17 believe should be considered; and

18 (7) any other relief sought by the spouses.

19 * Sec. 6. AS 25.24.230(c) is amended to read:

20 (c) The court shall dismiss or continue an action brought under
21 AS 25.24.200 - 25.24.260 before findings are made if

22 (1) a representative of the unmarried [MINOR] children who
23 are under the age of 19 objects to a term of any of the agreements
24 between the spouses;

25 (2) either of the spouses withdraws from any of the agree-
26 ments required under AS 25.24.200(a); or

27 (3) the petition alleges that the conditions in AS 25.24.-
28 200(b) exist, but the whereabouts of the absent spouse becomes known
29 to the other spouse or the court before findings are made.

1 * Sec. 7. AS 25.24.310(a) is amended to read:

2 (a) In an action involving a question of the custody, support,
3 or visitation of a child [MINOR], the court may, upon the motion of a
4 party to the action or upon its own motion, appoint an attorney or the
5 office of public advocacy to represent a minor with respect to the
6 custody, support, and visitation of the minor or in any other legal
7 proceeding involving the minor's welfare or to represent an unmarried
8 18-year-old child with respect to post-majority support while the
9 child is actively pursuing a high school diploma and living as a
10 dependent with a parent or guardian or a designee of the parent or
11 guardian. When custody, support, or visitation is at issue in a
12 divorce, it is the responsibility of the parties or their counsel to
13 notify the court that such a matter is at issue. Upon notification,
14 the court shall determine whether the minor or other child should have
15 legal representation or other services and shall make a finding on the
16 record before trial. If the parties are indigent or temporarily
17 without funds, the court shall appoint the office of public advocacy.
18 The court shall notify the office of public advocacy if the office is
19 required to provide legal representation or other services. The court
20 shall enter an order for costs, fees, and disbursements in favor of
21 the state and may further order that other services be provided for
22 the protection of the minor or other child.

23 * Sec. 8. AS 25.24.310(c) is amended to read:

24 (c) Instead of, or in addition to, appointment of an attorney
25 under (a) of this section, the court may, upon the motion of either
26 party or upon its own motion, appoint an attorney or other person or
27 the office of public advocacy to provide guardian ad litem services to
28 a child [MINOR] in any legal proceedings involving the child's [MI-
29 NOR'S] welfare. The court shall require a guardian ad litem when, in

1 the opinion of the court, representation of the child's [MINOR'S] best
2 interests, to be distinguished from preferences, would serve the
3 welfare of the child [MINOR]. The court in its order appointing a
4 guardian ad litem shall limit the duration of the appointment of the
5 guardian ad litem to the pendency of the legal proceedings affecting
6 the child's [MINOR'S] interests, and shall outline the guardian ad
7 litem's responsibilities and limit the authority to those matters
8 related to the guardian's effective representation of the child's
9 [MINOR'S] best interests in the pending legal proceeding. The court
10 shall make every reasonable effort to appoint a guardian ad litem from
11 among persons in the community where the child's [MINOR'S] parents or
12 the person having legal custody or guardianship of the child's [MI-
13 NOR'S] person reside. When custody, support, or visitation is at
14 issue in a divorce, it is the responsibility of the parties or their
15 counsel to notify the court that such a matter is at issue. Upon
16 notification, the court shall determine if a child's [THE MINOR'S]
17 best interests need representation or if a [THE] minor or other child
18 needs other services and shall make a finding on the record before
19 trial. If one or both of the parties is indigent or temporarily
20 without funds the court shall appoint the office of public advocacy.
21 The court shall notify the office of public advocacy if the office is
22 required to provide guardian ad litem services. The court shall enter
23 an order for costs, fees, and disbursements in favor of the state and
24 may further order that other services be provided for the protection
25 of a [THE] minor or other child.

26 * Sec. 9. AS 47.23.070(a) is amended to read:

27 (a) In a proceeding in which the court has ordered either or
28 both parents to pay for the support of a [MINOR] child, the court may,
29 on its own motion or motion of a party or the agency on behalf of a

1 party, after notice and an opportunity for hearing, order either
2 parent or both parents to assign to the custodian of the child that
3 portion of salary or wages of either parent due them currently and in
4 the future sufficient to pay the amount ordered by the court for the
5 support, maintenance, nurture and education of the [MINOR] child.

6 * Sec. 10. AS 47.23.130(b) is amended to read:

7 (b) To establish or enforce an order of support, based on the
8 subrogation of the state, the agency is not limited to the amount of
9 assistance being granted to the [MINOR] child.
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