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**54**

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

MEMORANDUM

January 13, 1989

SUBJECT: Removal of Court Rule references  
(SSSB 54)

TO: Senator Rick Uehling

FROM: Terri Lauterbach *TL*  
Legislative Counsel

Enclosed is a new version of SB 54, a bill relating to the child support provisions of the Family Support Act.

This new version does not include a reference to court rules in the bill title; nor does this version include section 11 of the original bill, a section stating that the bill affects a court rule.

These provisions of the original version of SB 54 have been eliminated as being unnecessary. They are unnecessary because the court rule affected by this bill is an interpretive rule, not a rule of practice or procedure. The constitution and the Uniform Rules both require the special 2/3 vote and the Uniform Rules require special bill titles only with respect to bill provisions that amend "rules of practice and procedure." See sec. 15, art. IV, Constitution of the State of Alaska, and Rule 39(e), Uniform Rules of the Alaska State Legislature. Since Civil Rule 90.3 is not a rule of practice or procedure, no special 2/3 vote is required and no special bill drafting technicalities must be observed.

I hope this information is helpful to you. If I can be of further assistance, please let me know.

Enclosure

TL:gc  
WKG5/090

6-0233E ✓  
Lauterbach  
1/13/89

1 IN THE SENATE

BY UEHLING

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 54

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 \* Section 1. AS 23.05 is amended by adding a new section to read:

10 Sec. 23.05.125. COOPERATION WITH FEDERAL GOVERNMENT. On request  
11 of an agency of the federal government that administers a program  
12 designed to locate absent parents for the purpose of enforcing their  
13 child support obligations, the department shall provide, with respect  
14 to a named individual specified by the requesting agency, the follow-  
15 ing information if it is in the department's records:

16 (1) the individual's most recent address;

17 (2) the individual's wages for the period specified in the  
18 agency's request; and

19 (3) the address of the individual's most recent employer.

20 \* Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

21 (k) On request of an agency of the federal government that  
22 administers a program designed to locate absent parents for the pur-  
23 pose of enforcing their child support obligations, the department  
24 shall provide, with respect to a named individual specified by the  
25 requesting agency, the information listed in (c)(1) - (4) of this  
26 section and

27 (1) the wage rate of the individual, if employed; and

28 (2) the address of the individual's most recent employer.

29 \* Sec. 3. AS 25.24.140(a) is amended to read:

1 (a) During the pendency of the action, the court may provide by  
2 order

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

5 (2) for the care, custody, and maintenance of the minor  
6 children of the marriage during the pendency of the action; an award  
7 of temporary child support under this paragraph must comply with  
8 AS 25.24.320;

9 (3) for the freedom of one spouse from the control of the  
10 other spouse during the pendency of the action;

11 \* Sec. 4. AS 25.24.160(a) is amended to read:

12 (a) In a judgment in an action for divorce or action declaring a  
13 marriage void or at any time after judgment, the court may provide

14 (1) for the payment by either or both parties of an amount  
15 of money or goods, in gross or installments that may include cost-  
16 of-living adjustments, as may be just and proper for the parties to  
17 contribute toward the nurture and education of their children, and the  
18 court may order the parties to arrange with their employers for an  
19 automatic payroll deduction each month or each pay period, if the  
20 period is other than monthly, of the amount of the installment; if the  
21 employer agrees, the installment shall be forwarded by the employer to  
22 the clerk of the superior court which entered the judgment or to the  
23 court trustee, and the amount of the installment is exempt from exe-  
24 cution; an award of child support under this paragraph must comply  
25 with AS 25.24.320;

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

1 (3) for the delivery to either party of that party's per-  
2 sonal property in the possession or control of the other party at the  
3 time of giving the judgment;

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

13 (5) for a [TO] change in [THE] name of one of the parties.

14 \* Sec. 5. AS 25.24.230(a) is amended to read:

15 (a) If the petition is brought by one or both spouses under  
16 AS 25.24.200(a), the court may grant the spouses a final decree of  
17 dissolution and shall provide the other relief as provided in this  
18 section if the court, upon consideration of the information contained  
19 in the petition and the testimony of the spouse or spouses at the  
20 hearing, finds that

21 (1) the spouses understand fully the nature and conse-  
22 quences of their action;

23 (2) the agreements between the spouses concerning child  
24 custody, child support, visitation, spousal support and tax conse-  
25 quences, if any, division of property, and allocation of obligations  
26 are not grossly unfair, unjust, or inequitable and are in the best  
27 interests of the children of the marriage, if any; the court may not  
28 approve the agreement between the spouses pertaining to child support  
29 if the agreement does not specify an amount of child support that

1 would be awarded by a court under AS 25.24.320 unless the court makes  
2 a written finding that the application of AS 25.24.320 would be unjust  
3 or inappropriate in that particular case, as determined under the  
4 criteria established by rules required under AS 25.24.320; and

5 (3) the conditions in AS 25.24.200(a) have been met.

6 \* Sec. 6. AS 25.24 is amended by adding a new section to read:

7 Sec. 25.24.320. GUIDELINES FOR CHILD SUPPORT AWARDS. (a) The  
8 supreme court shall adopt rules to be used by courts to determine the  
9 amount of child support that should be awarded under AS 25.24.140,  
10 25.24.160, 25.24.230, and AS 47.23.060. The supreme court shall  
11 review the rules at least once every four years to ensure that their  
12 application results in the determination of appropriate child support  
13 award amounts.

14 (b) The child support enforcement agency and a hearing officer  
15 who determines an award of child support under AS 47.23 shall follow  
16 the guidelines established for court awards of child support under (a)  
17 of this section.

18 (c) There is a rebuttable presumption in a judicial or adminis-  
19 trative proceeding for the award of child support that the amount of  
20 the award that would result from the application of the guidelines in  
21 the rules adopted under (a) of this section is the correct amount of  
22 child support to be awarded. A court, hearing officer, or agency that  
23 awards an amount of child support that is different from that which  
24 would result from the application of the guidelines shall make a  
25 written finding that the application of the guidelines would be unjust  
26 or inappropriate in that particular case, as determined under criteria  
27 which the supreme court shall establish in the rules.

28 \* Sec. 7. AS 47.23.020(a) is amended to read:

29 (a) The agency shall

1 (1) seek enforcement of child support orders of the super-  
2 ior courts of the state in other jurisdictions and shall obtain,  
3 enforce, and administer the orders in this state;

4 (2) adopt regulations to carry out the purposes of this  
5 chapter, including regulations that 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  
9 Security Act); the schedules adopted under this paragraph may not  
10 conflict with the guidelines adopted by the supreme court under  
11 AS 25.24.320;

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

14 (C) subject to AS 47.23.025 and to federal law, a  
15 uniform rate of interest on arrearages of support that shall be  
16 charged the obligor upon notice if child support payments are 10  
17 or more days overdue or if payment is made by a check backed by  
18 insufficient funds; however, an obligor may not be charged inter-  
19 est on late payment of a child support obligation, other than a  
20 payment on arrearages, if the obligor is

21 (i) employed and income is being withheld from  
22 the obligor's wages under an income withholding order;

23 (ii) receiving unemployment compensation and child  
24 support obligations are being withheld from the obligor's  
25 unemployment payments under AS 23.20.401; or

26 (iii) receiving compensation for disabilities under  
27 AS 23.30 and child support obligations are being withheld  
28 from the obligor's compensation payments;

29 (3) administer and enforce the Uniform Reciprocal

1 Enforcement of Support Act (AS 25.25);

2 (4) establish, enforce, and administer child support obli-  
3 gations administratively under this chapter;

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

6 (6) disburse support payments collected by the agency to  
7 the obligee, together with interest charged under (2)(C) of this  
8 subsection;

9 (7) establish and enforce administratively under this  
10 chapter, or through the superior courts of the state, child support  
11 orders from other jurisdictions pertaining to obligors within the  
12 state;

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

17 (9) obtain a medical support order as part of a child  
18 support order if health care coverage is available to the obligor at a  
19 reasonable cost.

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

21 Sec. 47.23.047. REVIEW OF CHILD SUPPORT OBLIGATIONS. (a) The  
22 agency shall develop a plan for review of all child support awards  
23 enforced by the agency. The plan must provide that

24 (1) by October 13, 1990, the agency shall, at the request  
25 of either parent subject to a child support order or duty of support,  
26 and may on its own initiative, review a child support order or duty of  
27 support being enforced by the agency and adjust the duty of support,  
28 or seek adjustment of the order under AS 25.24.170, in accordance with  
29 the guidelines established under AS 25.24.320;

1 (2) by October 13, 1993, the agency shall review a child  
2 support order or duty of support being enforced by the agency not  
3 later than 36 months after the establishment of the order or duty of  
4 support or the most recent review, and shall adjust the duty of sup-  
5 port, or seek adjustment of the order under AS 25.24.170, in accor-  
6 dance with the guidelines established under AS 25.24.320 unless

7 (A) in the case of an order with respect to an indi-  
8 vidual whose rights are transferred to the state by subrogation  
9 under AS 47.23.130, the agency determines, under applicable  
10 federal regulations, that review would not be in the best inter-  
11 ests of the child and neither parent has requested review; and

12 (B) in the case of an order or duty of support being  
13 enforced under this chapter that is not described in (A) of this  
14 paragraph, neither parent has requested review.

15 (b) The agency shall notify each parent subject to a child sup-  
16 port order or duty of support that is being enforced under this chap-  
17 ter of

18 (1) a review of the order or duty of support at least 30  
19 days before the beginning of the review process;

20 (2) the right of each parent to request review of an order  
21 or duty of support under (a) of this section; and

22 (3) a proposed adjustment, or determination that there  
23 should be no change, in the child support award amount, after which  
24 the parent shall have at least 30 days to initiate proceedings to  
25 challenge the adjustment or determination under AS 47.23.210.

26 \* Sec. 9. AS 47.23.060 is amended by adding a new subsection to read:

27 (e) An award of child support under this section must comply  
28 with AS 25.24.320.

29 \* Sec. 10. AS 47.23.210(a) is amended to read:

1 (a) Judicial review by the superior court of an agency decision  
2 establishing, [OR] modifying, refusing to modify, or refusing to seek  
3 modification of a duty of support or amounts of support due may be  
4 obtained by filing a notice of appeal in accordance with the applica-  
5 ble rules of court governing appeals in civil matters. A notice of  
6 appeal shall be filed within 30 days of the decision.

7 \* Sec. 11. The supreme court shall adopt the rules required by AS 25.-  
8 24.320, added by sec. 6 of this Act, in a timely manner so that the rules  
9 take effect on October 13, 1989.

10 \* Sec. 12. Except for sections 1 - 2, and 11 of this Act, this Act  
11 takes effect October 13, 1989.

12 \* Sec. 13. Sections 1 - 2 of this Act take effect January 1, 1990.

13 \* Sec. 14. Section 11 of this Act takes effect immediately under AS 01.-  
14 10.070(c).

THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

H.R. 1720

THE FAMILY SUPPORT ACT OF 1988

SENATOR RICK UEHLING  
Capitol Room 516  
465-4821