

SB

252

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/9/98

FURTHER: Resources
 Judiciary
 Finance

Date of 5-Day Notice
 2/26/98

DATE TURNED
 IN TO OFFICE: 3/23/98

Health, Education and Social Services Committee considered

SENATE BILL NO. 252

"An Act relating to paternity establishment and child support; relating to the crimes of criminal nonsupport and aiding the nonpayment of child support; and amending Rule 37(b)(2)(D), Alaska Rules of Civil Procedure; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 252 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR# _____

<u>SIGNING DO PASS</u>	<u>DP</u>	<u>OTHER RECOMMENDATIONS</u>	<u>NR</u>	<u>DNP</u>	<u>AM</u>
		<i>[Signature]</i>			<input checked="" type="checkbox"/>
		<i>[Signature]</i>			<input checked="" type="checkbox"/>
		<i>[Signature]</i>			
CHAIR:		CHAIR: <i>[Signature]</i>			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
Revenue	11/24/97	<input checked="" type="checkbox"/>	
Public Defender Administration	11/28/97		***
Admin - Public Advocacy	11/28/97	<input checked="" type="checkbox"/>	
Admin - Motor Vehicles	12/17/97	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Dept of Revenue

0-GS2007.A

suggested amendments

SENATE BILL NO. 252

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/22/98

Referred: HESS, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to paternity establishment and child support; relating to the
2 crimes of criminal nonsupport and aiding the nonpayment of child support; ~~and~~
3 ~~amending Rule 37(b)(2)(D), Alaska Rules of Civil Procedure; and providing for~~
4 an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. PURPOSE. The primary purpose of this Act is to amend Alaska statutes to
7 comply with the mandates of the federal Personal Responsibility and Work Opportunity
8 Reconciliation Act of 1996 and other federal law to ensure continued federal financial
9 participation for Alaska's child support enforcement, public assistance, and unemployment
10 programs.

11 * Sec. 2. AS 09.50.020 is amended by adding a new subsection to read:

12 (b) In addition to the penalty specified in (a) of this section, the court may
13 suspend or revoke, for a period not to exceed one year, a hunting license, sport fishing
14 license, or both, issued under AS 16.05, or the person's ability to obtain the licenses,

1 if

- 2 (1) the person is a natural person;
- 3 (2) the contempt is one under AS 09.50.010(4) - 09.50.010(10); and
- 4 (3) the court, sitting without a jury, finds by a preponderance of
- 5 evidence that

6 ~~(A) the contempt related to failure to pay money in connection~~

7 ~~with a child support action or proceeding;~~ ~~or~~

8 ~~(B) it appears that a right or remedy of a party in a child~~

9 ~~support action or proceeding was defeated or prejudiced by the contempt.~~

10 * Sec. 3. AS 11.51.120(c) is amended to read:

11 (c) Criminal nonsupport is a class A misdemeanor, and is also punishable by

12 loss of hunting and sport fishing licenses as provided in AS 12.55.138.

13 * ~~Sec. 4. AS 11.51.122(d) is amended to read:~~

14 ~~(d) Aiding the nonpayment of child support is a class A misdemeanor, and is~~

15 ~~also punishable by loss of hunting and sport fishing licenses as provided in~~

16 ~~AS 12.55.138.~~

17 * Sec. 5. AS 12.55 is amended by adding a new section to read:

18 **Sec. 12.55.138. Penalties for criminal nonsupport or aiding the**

19 **nonpayment of child support.** In addition to other penalties imposed for the offense

20 of criminal nonsupport under AS 11.51.120 ~~or aiding the nonpayment of child support~~

21 ~~under AS 11.51.122~~, the court may suspend or revoke, for a period not to exceed one

22 year, a hunting license, sport fishing license, or both, issued under AS 16.05, if the

23 defendant is a natural person.

24 * Sec. 6. AS 16.05.330 is amended by adding a new subsection to read:

25 (e) A natural person applying for a license or tag for hunting or sport fishing

26 shall provide the person's social security number on the license application. Upon

27 request, the department shall provide the social security number to the child support

28 enforcement agency created in AS 25.27.010, or the child support agency of another

29 state, for child support purposes authorized by law.

30 * Sec. 7. AS 16.05.346 is amended by adding a new subsection to read:

31 (d) A person applying for a permit under this section shall provide the person's

1 social security number on the permit application. Upon request, the department shall
2 provide the social security number to the child support enforcement agency created in
3 AS 25.27.010, or the child support agency of another state, for child support purposes
4 authorized by law.

5 * Sec. 8. AS 16.05.360 is amended to read:

6 **Sec. 16.05.360. Commissioner charged with license issuance.** The
7 commissioner or an authorized deputy shall issue each license and tag to a qualified
8 person under written application containing such reasonable information as required
9 by the commissioner. The commissioner shall designate the license and tag form or
10 type. The form or type must be sufficient to identify and locate the applicant, [AND]
11 establish the applicant's status as to residency and citizenship, and supply the
12 person's social security number if required by this chapter. Each application shall
13 be subscribed and sworn to by the applicant before an officer authorized to administer
14 oaths in the state.

15 * Sec. 9. AS 16.05.360 is amended by adding a new subsection to read:

16 (b) Upon request, the department shall provide a social security number
17 provided by an applicant under (a) of this section to the child support enforcement
18 agency created in AS 25.27.010, or the child support agency of another state, for child
19 support purposes authorized by law.

20 * ~~Sec. 10. AS 25.20.050 is amended by adding a new subsection to read:~~

21 ~~(p) An order for genetic testing issued by a tribunal under (c) of this section~~
22 ~~in an action to establish paternity may be enforced by a superior court through the use~~
23 ~~of the court's contempt powers. If the tribunal is the child support enforcement~~
24 ~~agency, it may use the procedure set out in AS 25.27.167 for enforcement of~~
25 ~~administrative orders.~~

26 * Sec. 11. AS 25.25.602(a) is amended to read:

27 (a) A support order or income withholding order of another state may be
28 registered in this state by sending the following documents and information to a
29 tribunal of this state:

30 (1) a letter of transmittal to the tribunal requesting registration and
31 enforcement;

1 (2) two copies, including one certified copy, of all orders to be
2 registered, including any modification of an order;

3 (3) a sworn statement by the party seeking registration or a certified
4 statement by the custodian of the records showing the amount of any arrearage;

5 (4) the name of the obligor and, if known,

6 (A) the obligor's address and social security number;

7 (B) the name and address of the obligor's employer and any
8 other source of income of the obligor; and

9 (C) a description and the location of property in this state of the
10 obligor not exempt from execution; and

11 [(D) THE NAMES AND ADDRESSES OF ALL POTENTIAL
12 THIRD-PARTY RESOURCES, INCLUDING A HEALTH INSURER, THAT
13 MIGHT BE AVAILABLE TO MEET THE REQUIREMENTS OF A
14 MEDICAL SUPPORT ORDER; AND]

15 (5) the name and address of the obligee and, if applicable, the agency
16 or person to whom support payments are to be remitted.

17 * Sec. 12. AS 25.25.611(a) is amended to read:

18 (a) After a child support order issued in another state has been registered in
19 this state, unless the provisions of AS 25.25.613 apply, the responding tribunal of this
20 state may modify that order only if, after notice and an opportunity for hearing, it finds
21 that

22 (1) the following requirements are met:

23 (A) the child, the individual obligee, and the obligor do not
24 reside in the issuing state;

25 (B) a petitioner who is not a resident of this state seeks
26 modification; and

27 (C) the respondent is subject to the personal jurisdiction of the
28 tribunal of this state; or

29 or [AN INDIVIDUAL PARTY OR] the child, or a party who is an
30 individual, is subject to the personal jurisdiction of the tribunal and all of the
31 [INDIVIDUAL] parties who are individuals have filed a written consent in the issuing

1 tribunal providing that a tribunal of this state may modify the support order and
2 assume continuing, exclusive jurisdiction over the order; however, if the issuing state
3 is a foreign jurisdiction that has not enacted a law or procedure substantially similar
4 to this chapter, the written consent of an [THE] individual [PARTY] residing in this
5 state is not required for the tribunal to assume jurisdiction to modify the child support
6 order.

7 * Sec. 13. AS 25.27.022(b) is amended to read:

8 (b) Except for requests for assistance made under (c) of this section or
9 AS 25.25.501, requests [REQUESTS] from child support enforcement agencies in
10 other states shall be made by application containing the information that this state's
11 agency requires and including written authorization from the requesting state agency
12 and the obligee for this state's agency to initiate necessary action.

13 * Sec. 14. AS 25.27.022 is amended by adding new subsections to read:

14 (c) Requests from a child support agency of another state for assistance in
15 enforcing support orders through high-volume automated administrative enforcement
16 may be made by electronic or other means and shall include the information required
17 by 42 U.S.C. 666(a)(14).

18 (d) An employer receiving an income withholding order from a child support
19 agency of another state shall comply with the choice of law provisions of
20 AS 25.25.502(d), 25.25.503, and 42 U.S.C. 666(b)(6)(A)(i)(V).

21 * Sec. 15. AS 25.27.062(e) is amended to read:

22 (e) The agency or the person who obtains an income withholding order under
23 this chapter shall immediately send a copy of the income withholding order, a copy
24 of the relevant provisions of AS 25.27.260 and this section, and an explanation of the
25 effect of the statutes to persons who may owe money to an obligor. These items may
26 be sent by first class mail or certified mail, return receipt requested, or they may be
27 served personally by a process server, except that the agency alternatively may send
28 the items by electronic means. An income withholding order made under this chapter
29 is binding upon a person, employer, political subdivision, or department of the state
30 immediately upon receipt of a copy of the income withholding order. A person
31 receiving an income withholding order [AN EMPLOYER] shall immediately begin

1 withholding the specified amount from the obligor's earnings [EMPLOYEE'S
2 WAGES]. The amount withheld shall be sent to the agency within seven business
3 days after the date the amount would otherwise have been paid or credited to the
4 obligor [EMPLOYEE]. An employer may, for each payment made under an order,
5 deduct \$5 from other wages or salary owed to the obligor.

6 * Sec. 16. AS 25.27.063(b) is amended to read:

7 (b) If an obligor who is required to provide health care coverage under a
8 medical support order is eligible for family health coverage through an employer
9 [DOING BUSINESS IN THE STATE], the court or agency issuing the medical
10 support order shall send a copy of the medical support order to the employer. If the
11 agency has notice that the obligor has changed or will be changing employment
12 and is or will be eligible for family health coverage through the new employer, the
13 agency shall send a copy of the medical support order to that employer.

14 * Sec. 17. AS 25.27.075 is repealed and reenacted to read:

15 Sec. 25.27.075. **Employment information.** (a) An employer doing business
16 in the state shall report to the agency the hiring, rehiring, or return to work of each
17 employee occurring on or after the effective date of this bill section. The report shall
18 be made within the time limits set out in (b) of this section. The report must contain
19 the name, address, and social security number of the newly hired employee, the name
20 and address of the employer, and the identifying number assigned to the employer by
21 the United States Department of the Treasury, Internal Revenue Service.

22 (b) An employer required to report under (a) of this section shall use the
23 following procedures to make the report:

24 (1) if the report is submitted magnetically or electronically, the report
25 shall be made in a format mutually agreed upon by the employer and the agency; an
26 employer reporting under this paragraph shall make two transmissions a month, not
27 less than 12 days nor more than 16 days apart; or

28 (2) if not made magnetically or electronically, the report shall be made
29 on a United States Department of the Treasury, Internal Revenue Service, W-4 form,
30 or at the option of the employer, an equivalent form; an employer reporting under this
31 paragraph shall make the report to the agency not later than 20 days after the date of

1 the hiring, rehiring, or return to work of the employee; the report shall be transmitted
2 by the employer by first class mail.

3 (c) An employer that does business in this state and that has employees in at
4 least one other state is not required to comply with (a) of this section if

5 (1) in compliance with the laws of that state, the employer submits
6 timely electronic or magnetic reports of hires, rehires, or returns to work to the state
7 directory of new hires of another state in which the employer has employees; and

8 (2) has provided written notification of its election under this subsection
9 to the secretary of United States Department of Health and Human Services.

10 (d) In addition to reporting under (a) of this section, a labor organization of
11 which an obligor is a member or another employer of the obligor shall promptly
12 provide to the agency, or the child support enforcement agency of another state,
13 information requested regarding the obligor's compensation, employment, wages or
14 salary, and occupation.

15 (e) An employer may charge \$1 to each employee who is reported to the
16 agency under this section, to cover the cost of the reporting.

17 (f) In addition to other sanctions available under the law, a labor organization
18 or another employer that violates this section is liable for a civil penalty of not more
19 than

20 (1) \$25 for each failure to meet the requirements of this section for
21 each employee who is newly hired, rehired, or newly returned to work; and

22 (2) \$500 for each failure to meet the requirements of this section if the
23 failure is the result of a conspiracy between the employee and either a labor
24 organization or another employer to not supply the required report or to supply a false
25 or incomplete report concerning the employee.

26 (g) In this section,

27 (1) "employee" has the meaning given in 26 U.S.C. 3401(c);
28 "employee" does not include an employee of a federal or state agency performing
29 intelligence or counterintelligence functions if the head of that agency has determined
30 that reporting under this section on the employee could endanger the safety of the
31 employee or compromise an ongoing investigation or intelligence mission;

1 (2) "employer" has the meaning given in 26 U.S.C. 3401(d);
 2 "employer" includes a governmental entity and a labor organization;

3 (3) "labor organization" has the meaning given in 29 U.S.C. 152; "labor
 4 organization" includes an entity that is used by the labor organization and another
 5 employer to carry out hiring or other requirements described in 29 U.S.C. 158(f)(3) in
 6 accordance with an agreement between the labor organization and the other employer.

7 * Sec. 18. AS 25.27.085 is amended by adding a new subsection to read: ;

8 (g) If a person fails to comply with a subpoena issued under this section, the
 9 agency may apply to the court for an order to compel obedience by proceedings for
 10 contempt as in the case of disobedience of the requirements of a subpoena issued by
 11 a court. ~~In addition to the other remedies available to the court to compel compliance~~
 12 ~~with a subpoena under this section, the court may take an action described in~~
 13 ~~AS 09.50.020(b) regarding hunting and sport fishing licenses of a person failing to~~
 14 ~~comply with the subpoena.~~

15 * Sec. 19. AS 25.27.165(c) is amended to read:

16 (c) A person served with a notice of paternity and financial responsibility and
 17 accompanying orders under (b) of this section shall file a response, admitting or
 18 denying paternity and providing the required financial information, within 20 days after
 19 the date of service of the notice of paternity and financial responsibility. If the
 20 putative father admits paternity, the agency shall issue, within 20 days after the
 21 admission of paternity, a decision establishing paternity. If the putative father denies
 22 paternity, the putative father shall submit to genetic testing, as provided in an
 23 accompanying order under (b) of this section, within 30 days after the date of service
 24 of the notice of paternity and financial responsibility. If the putative father fails to
 25 file a response or to comply with an accompanying order within the time and in
 26 the manner required in this subsection, the agency may issue a decision by default
 27 establishing paternity and financial responsibility, except that if the proceeding
 28 was instituted at the request of the putative father, the agency shall dismiss the
 29 proceeding without prejudice.

30 * Sec. 20. AS 25.27 is amended by adding a new section to read:

31 Sec. 25.27.167. Contempt of order for genetic testing. (a) If a person who

1 is located in this state fails to comply with an order for genetic testing issued by the
 2 agency in this state, or the tribunal of another state, the agency in this state may certify
 3 the facts to the superior court of this state.

4 (b) Upon certification under (a) of this section, the court shall issue an order
 5 directing the person to appear and show cause why the person should not be punished
 6 for contempt. The order and a copy of the certified statement shall be served on the
 7 person in the manner required for service of court orders to show cause.

8 (c) After service under (b) of this section, the court has jurisdiction of the
 9 matter brought under this section.

10 (d) The law of this state applicable to contempt of a court order applies to a
 11 proceeding for contempt of order for genetic testing brought under this section.

12 * Sec. 21. AS 25.27.230(a) is repealed and reenacted to read:

13 (a) The agency shall assert a lien upon the real or personal property of the
 14 obligor in the amount of the obligor's liability if an arrearage occurs under a support
 15 order being enforced by the agency.

16 * Sec. 22. AS 25.27.230 is amended by adding new subsections to read:

17 (e) A lien arising in another state under the child support laws of that state
 18 shall be given full faith and credit in this state. The lien may be asserted in this state
 19 upon the real or personal property of the obligor in the amount of the obligor's liability
 20 by complying with the requirements of this section.

21 (f) A lien recorded under this section is a judgment lien and may be enforced
 22 by execution under AS 09.35 in the full amount of the obligor's liability at the time
 23 of execution.

24 * Sec. 23. AS 25.27.240(a) is amended to read:

25 (a) The agency of this state or another state, or a party or other entity
 26 seeking to enforce a child support obligation, may, at any time after recording of a
 27 lien recorded under AS 25.27.230, serve a copy of the lien upon any person, political
 28 subdivision, or department of the state possessing earnings, or deposits or balances
 29 held in any bank account of any nature that are due, owing, or belonging to the
 30 obligor.

31 * Sec. 24. AS 25.27.250(a) is repealed and reenacted to read:

1 (a) Without prior notice to the obligor, the agency may issue to any person,
 2 including an entity, political subdivision, or state agency, an order to withhold and
 3 deliver property under this section; the order may be issued

4 (1) immediately upon issuance of an income withholding order that
 5 provides for immediate income withholding under AS 25.27.062(a);

6 (2) immediately after an arrearage occurs under a support order
 7 described in AS 25.27.150(a);

8 (3) at the expiration of 30 days after the date of service of a notice and
 9 finding of financial responsibility under AS 25.27.160; or

10 (4) at the expiration of 30 days after service of a decision establishing
 11 paternity and financial responsibility under AS 25.27.165.

12 * Sec. 25. AS 25.27.900(9) is amended to read:

13 (9) "support order" means any judgment, decree, or order that is issued
 14 by a tribunal for the support and maintenance of a child or of [A CHILD AND] a
 15 parent with whom the child is living; "support order" includes a judgment, decree, or
 16 order

17 (A) on behalf of a child who has reached the age of majority
 18 if the judgment, decree, or order was lawfully issued; and

19 (B) for

20 (i) monetary support, including arrearages;

21 (ii) payment of health care costs or maintenance of
 22 health insurance;

23 (iii) reimbursement of related costs;

24 (iv) payment of attorney's [ATTORNEY] fees and legal
 25 costs and other fees; and

26 (v) penalty, interest, and other relief as required by a
 27 tribunal; [.]

28 * Sec. 26. AS 25.27.900 is amended by adding new paragraphs to read:

29 (11) "arrearage" means a debt for support that is past due and equal to
 30 at least one monthly obligation under the support order;

31 (12) "high-volume automated administrative enforcement" means the

1 use of automatic data processing to search various state data bases, including license
 2 records, employment service data, and state new-hire registries, to determine whether
 3 information is available regarding a parent who owes a child support obligation.

4 * Sec. 27. AS 28.15.061(b) is amended to read:

5 (b) An application under (a) of this section must

6 (1) contain the applicant's full name, social security number, date and
 7 place of birth, sex, and mailing and residence addresses;

8 (2) state whether the applicant has been previously licensed as a driver
 9 and, if so, when and by what jurisdiction;

10 (3) state whether any previous driver's license issued to the applicant
 11 has ever been suspended or revoked or whether an application for a driver's license
 12 has ever been refused and, if so, the date of and reason for the suspension, revocation,
 13 or refusal; and

14 (4) contain other information that the department may reasonably
 15 require to determine the applicant's identity, competency, and eligibility.

16 * Sec. 28. AS 28.15.061 is amended by adding a new subsection to read:

17 (g) Upon request, the department shall provide a social security number
 18 provided under this section to the child support enforcement agency created in
 19 AS 25.27.010, or the child support agency of another state, for child support purposes
 20 authorized by law.

21 * Sec. 29. Section 148(c), ch. 87, SLA 1997 is repealed.

22 * ~~Sec. 30. The provisions of AS 25.20.050(p), added by sec. 10 of this Act, and~~
 23 ~~AS 25.27.167, added by sec. 20 of this Act, have the effect of amending Rule 37(b)(2)(D),~~
 24 ~~Alaska Rules of Civil Procedure, by permitting the use of contempt of court powers to enforce~~
 25 ~~orders for genetic testing.~~

26 * ~~Sec. 31. The provisions of AS 25.20.050(p), added by sec. 10 of this Act, and~~
 27 ~~AS 25.27.167, added by sec. 20 of this Act, take effect only if sec. 30 of this Act receives the~~
 28 ~~two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State~~
 29 ~~of Alaska.~~

30 * Sec. 32. This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105


MEMORANDUM

March 12, 1998

SUBJECT: Paternity; Support (CSSB 252(HES), draft version "B")

TO: Senator Gary Wilken
Attn: Sheila Peterson

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is a draft HES CS for SB 252. I have conferred with Assistant Attorney General Dan Branch, as you requested, and he and I have agreed that AS 25.27.167, added by sec. 18 of the bill probably does not amend a court rule.

Since this was our first opportunity to review the underlying governor's bill, we have made some technical changes at a number of places, chief among them the following:

(1) changing the first part of the bill title so that it refers to "support orders" rather than "child support"; this change, or something similar, is needed because of the change in the definition of "support order" in sec. 23 of the bill; it appears that a support order may now include only an alimony order as long as a child is living in the same household;

(2) deletion of the phrase "occurring after the effective date of this bill section" in AS 25.27.075(a) and the addition of a corresponding applicability section at the end of the bill.

Please let us know if we can be of further assistance.

TML:jdr:gle
98-154:jdr

Enclosure

0-GS2007B
- Lauterbach -
3/11/98

CS FOR SENATE BILL NO. 252(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to paternity establishment and support orders; relating to the
2 crime of criminal nonsupport; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. PURPOSE.** The primary purpose of this Act is to amend the Alaska Statutes
5 to comply with the mandates of the federal Personal Responsibility and Work Opportunity
6 Reconciliation Act of 1996 and other federal law to ensure continued federal financial
7 participation for Alaska's child support enforcement, public assistance, and unemployment
8 programs.

9 * **Sec. 2.** AS 09.50.020 is amended by adding a new subsection to read:

10 (b) In addition to the penalty specified in (a) of this section, the court may
11 suspend or revoke, for a period not to exceed one year, a hunting license, sport fishing
12 license, or both, issued under AS 16.05, or the person's ability to obtain the licenses,
13 if

14 (1) the person is a natural person;

1 (2) the contempt is one under AS 09.50.010(4) - (10); and

2 (3) the court, sitting without a jury, finds by a preponderance of
3 evidence that the contempt related to failure to pay money in connection with a child
4 support action or proceeding.

5 * Sec. 3. AS 11.51.120(c) is amended to read:

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31 establish the applicant's status as to residency and citizenship, and supply the

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11 registered in this state by sending the following documents and information to a
12 tribunal of this state:

13 (1) a letter of transmittal to the tribunal requesting registration and
14 enforcement;

15 (2) two copies, including one certified copy, of all orders to be
16 registered, including any modification of an order;

17 (3) a sworn statement by the party seeking registration or a certified
18 statement by the custodian of the records showing the amount of any arrearage;

19 (4) the name of the obligor and, if known,

20 (A) the obligor's address and social security number;

21 (B) the name and address of the obligor's employer and any
22 other source of income of the obligor; and

23 (C) a description and the location of property in this state of the
24 obligor not exempt from execution; and

25 [(D) THE NAMES AND ADDRESSES OF ALL POTENTIAL
26 THIRD-PARTY RESOURCES, INCLUDING A HEALTH INSURER, THAT
27 MIGHT BE AVAILABLE TO MEET THE REQUIREMENTS OF A
28 MEDICAL SUPPORT ORDER; AND]

29 (5) the name and address of the obligee and, if applicable, the agency
30 or person to whom support payments are to be remitted.

31 * Sec. 10. AS 25.25.611(a) is amended to read:

1 (a) After a child support order issued in another state has been registered in
2 this state, unless the provisions of AS 25.25.613 apply, the responding tribunal of this
3 state may modify that order only if, after notice and an opportunity for hearing, it finds
4 that

5 (1) the following requirements are met:

6 (A) the child, the individual obligee, and the obligor do not
7 reside in the issuing state;

8 (B) a petitioner who is not a resident of this state seeks
9 modification; and

10 (C) the respondent is subject to the personal jurisdiction of the
11 tribunal of this state; or

12 (2) [AN INDIVIDUAL PARTY OR] the child, or a party who is an
13 individual, is subject to the personal jurisdiction of the tribunal and all of the
14 [INDIVIDUAL] parties who are individuals have filed a written consent in the issuing
15 tribunal providing that a tribunal of this state may modify the support order and
16 assume continuing, exclusive jurisdiction over the order; however, if the issuing state
17 is a foreign jurisdiction that has not enacted a law or procedure substantially similar
18 to this chapter, the written consent of an [THE] individual [PARTY] residing in this
19 state is not required for the tribunal to assume jurisdiction to modify the child support
20 order.

21 * Sec. 11. AS 25.27.022(b) is amended to read:

22 (b) Except for requests for assistance made under (c) of this section or
23 AS 25.25.501, requests [REQUESTS] from child support enforcement agencies in
24 other states shall be made by application containing the information that this state's
25 agency requires and including written authorization from the requesting state agency
26 and the obligee for this state's agency to initiate necessary action.

27 * Sec. 12. AS 25.27.022 is amended by adding new subsections to read:

28 (c) Requests from a child support agency of another state for assistance in
29 enforcing support orders through high-volume automated administrative enforcement
30 may be made by electronic or other means and must include the information required
31 by 42 U.S.C. 666(a)(14).

1 (d) An employer receiving an income withholding order from a child support
2 agency of another state shall comply with the choice of law provisions of
3 AS 25.25.502(d), 25.25.503, and 42 U.S.C. 666(b)(6)(A)(i)(V).

4 * Sec. 13. AS 25.27.062(e) is amended to read:

5 (e) The agency or the person who obtains an income withholding order under
6 this chapter shall immediately send a copy of the income withholding order, a copy
7 of the relevant provisions of AS 25.27.260 and this section, and an explanation of the
8 effect of the statutes to persons who may owe money to an obligor. These items may
9 be sent by first class mail or certified mail, return receipt requested, or they may be
10 served personally by a process server, except that the agency alternatively may send
11 the items by electronic means. An income withholding order made under this chapter
12 is binding upon a person, employer, political subdivision, or department of the state
13 immediately upon receipt of a copy of the income withholding order. A person
14 receiving an income withholding order [AN EMPLOYER] shall immediately begin
15 withholding the specified amount from the obligor's earnings [EMPLOYEE'S
16 WAGES]. The amount withheld shall be sent to the agency within seven business
17 days after the date the amount would otherwise have been paid or credited to the
18 obligor [EMPLOYEE]. An employer may, for each payment made under an order,
19 deduct \$5 from other wages or salary owed to the obligor.

20 * Sec. 14. AS 25.27.063(b) is amended to read:

21 (b) If an obligor who is required to provide health care coverage under a
22 medical support order is eligible for family health coverage through an employer
23 [DOING BUSINESS IN THE STATE], the court or agency issuing the medical
24 support order shall send a copy of the medical support order to the employer. If the
25 agency has notice that the obligor has changed or will be changing employment
26 and is or will be eligible for family health coverage through the new employer, the
27 agency shall send a copy of the medical support order to the new employer.

28 * Sec. 15. AS 25.27.075 is repealed and reenacted to read:

29 Sec. 25.27.075. Employment information. (a) An employer doing business
30 in the state shall report to the agency the hiring, rehiring, or return to work of each
31 employee. The report shall be made within the time limits set out in (b) of this

1 section. The report must contain the name, address, and social security number of the
2 newly hired employee, the name and address of the employer, and the identifying
3 number assigned to the employer by the United States Department of the Treasury,
4 Internal Revenue Service.

5 (b) An employer required to report under (a) of this section shall use the
6 following procedures to make the report:

7 (1) if the report is submitted magnetically or electronically, the report
8 shall be made in a format mutually agreed upon by the employer and the agency; an
9 employer reporting under this paragraph shall make two transmissions a month, not
10 less than 12 days nor more than 16 days apart; or

11 (2) if the report is not submitted magnetically or electronically, the
12 report shall be made on a United States Department of the Treasury, Internal Revenue
13 Service, W-4 form or, at the option of the employer, on an equivalent form; an
14 employer reporting under this paragraph shall make the report to the agency not later
15 than 20 days after the date of the hiring, rehiring, or return to work of the employee;
16 the report shall be transmitted by the employer by first class mail.

17 (c) An employer that does business in this state and that has employees in at
18 least one other state is not required to comply with (a) of this section if, in compliance
19 with the laws of that state, the employer

20 (1) submits timely magnetic or electronic reports of hires, rehires, or
21 returns to work to the state directory of new hires of another state in which the
22 employer has employees; and

23 (2) has provided written notification of its election under this subsection
24 to the United States Secretary of Health and Human Services.

25 (d) In addition to reporting under (a) of this section, a labor organization of
26 which an obligor is a member or another employer of the obligor shall promptly
27 provide to the agency, or the child support enforcement agency of another state,
28 information requested regarding the obligor's compensation, employment, wages or
29 salary, and occupation.

30 (e) An employer may charge \$1 to each employee who is reported to the
31 agency under this section to cover the cost of the reporting.

1 (f) In addition to other sanctions available under the law, a labor organization
2 or another employer that violates this section is liable for a civil penalty for each
3 failure to meet the requirements of this section of not more than

4 (1) \$25 for each employee who is newly hired, rehired, or newly
5 returned to work; and

6 (2) \$500 if the failure is the result of a conspiracy between the
7 employee and either a labor organization or another employer not to supply the
8 required report or to supply a false or incomplete report concerning an employee.

9 (g) In this section,

10 (1) "employee" has the meaning given in 26 U.S.C. 3401(c);
11 "employee" does not include an employee of a federal or state agency performing
12 intelligence or counterintelligence functions if the head of that agency has determined
13 that reporting under this section on the employee could endanger the safety of the
14 employee or compromise an ongoing investigation or intelligence mission;

15 (2) "employer" has the meaning given in 26 U.S.C. 3401(d);
16 "employer" includes a governmental entity and a labor organization;

17 (3) "labor organization" has the meaning given in 29 U.S.C. 152; "labor
18 organization" includes an entity that is used by the labor organization and another
19 employer to carry out hiring or other requirements described in 29 U.S.C. 158(f)(3) in
20 accordance with an agreement between the labor organization and the other employer.

21 * Sec. 16. AS 25.27.085 is amended by adding a new subsection to read:

22 (g) If a person fails to comply with a subpoena issued under this section, the
23 agency may apply to the court for an order to compel obedience by proceedings for
24 contempt as in the case of disobedience of the requirements of a subpoena issued by
25 a court.

26 * Sec. 17. AS 25.27.165(c) is amended to read:

27 (c) A person served with a notice of paternity and financial responsibility and
28 accompanying orders under (h) of this section shall file a response, admitting or
29 denying paternity and providing the required financial information, within 20 days after
30 the date of service of the notice of paternity and financial responsibility. If the
31 putative father admits paternity, the agency shall issue, within 20 days after the

1 admission of paternity, a decision establishing paternity. If the putative father denies
2 paternity, the putative father shall submit to genetic testing, as provided in (b) of this
3 section, within 30 days after the date of service of the notice of paternity and financial
4 responsibility. If the putative father fails to file a response or fails to comply with
5 an accompanying order within the time and in the manner required in this
6 subsection, the agency may issue a decision by default establishing paternity and
7 financial responsibility, except that, if the proceeding was instituted at the request
8 of the putative father, the agency shall dismiss the proceeding without prejudice.

9 * Sec. 18. AS 25.27 is amended by adding a new section to read:

10 **Sec. 25.27.167. Contempt of order for genetic testing.** (a) If a person who
11 is located in this state fails to comply with an order for genetic testing issued by the
12 agency in this state, or the tribunal of another state, the agency in this state may certify
13 the facts to the superior court of this state.

14 (b) Upon certification under (a) of this section, the court shall issue an order
15 directing the person to appear and show cause why the person should not be punished
16 for contempt. The order and a copy of the certified statement shall be served on the
17 person in the manner required for service of court orders to show cause.

18 (c) After service under (b) of this section, the court has jurisdiction of the
19 matter brought under this section.

20 (d) The law of this state applicable to contempt of a court order applies to a
21 proceeding for contempt of order for genetic testing brought under this section.

22 * Sec. 19. AS 25.27.230(a) is repealed and reenacted to read:

23 (a) The agency shall assert a lien upon the real or personal property of the
24 obligor in the amount of the obligor's liability if an arrearage occurs under a support
25 order being enforced by the agency.

26 * Sec. 20. AS 25.27.230 is amended by adding new subsections to read:

27 (e) A lien arising in another state under the child support laws of that state
28 shall be given full faith and credit in this state. The lien may be asserted in this state
29 upon the real or personal property of the obligor in the amount of the obligor's liability
30 by complying with the requirements of this section.

31 (f) A lien recorded under this section is a judgment lien and may be enforced

1 by execution under AS 09.35 in the full amount of the obligor's liability at the time
2 of execution.

3 * Sec. 21. AS 25.27.240(a) is amended to read:

4 (a) The agency of this state or another state, or a party or other entity
5 seeking to enforce a child support obligation, may, at any time after recording of a
6 lien recorded under AS 25.27.230, serve a copy of the lien upon any person, political
7 subdivision, or department of the state possessing earnings, or deposits or balances
8 held in any bank account of any nature that are due, owing, or belonging to the
9 obligor.

10 * Sec. 22. AS 25.27.250(a) is repealed and reenacted to read:

11 (a) Without prior notice to the obligor, the agency may issue to any person,
12 including an entity, political subdivision, or state agency, an order to withhold and
13 deliver property under this section; the order may be issued

14 (1) immediately upon issuance of an income withholding order that
15 provides for immediate income withholding under AS 25.27.062(a);

16 (2) immediately after an arrearage occurs under a support order
17 described in AS 25.27.150(a);

18 (3) at the expiration of 30 days after the date of service of a notice and
19 finding of financial responsibility under AS 25.27.160; or

20 (4) at the expiration of 30 days after service of a decision establishing
21 paternity and financial responsibility under AS 25.27.165.

22 * Sec. 23. AS 25.27.900(9) is amended to read:

23 (9) "support order" means any judgment, decree, or order that is issued
24 by a tribunal for the support and maintenance of a child or of [A CHILD AND] a
25 parent with whom the child is living; "support order" includes a judgment, decree, or
26 order

27 (A) on behalf of a child who has reached the age of majority
28 if the judgment, decree, or order was lawfully issued; and

29 (B) for

30 (i) monetary support, including arrearages;

31 (ii) payment of health care costs or maintenance of

- 1 health insurance;
- 2 (iii) reimbursement of related costs;
- 3 (iv) payment of attorney fees and legal costs and other
- 4 fees; and
- 5 (v) penalty, interest, and other relief as required by a
- 6 tribunal; [.]

7 * Sec. 24. AS 25.27.900 is amended by adding new paragraphs to read:

8 (11) "arrearage" means a debt for support that is past due and equal to

9 at least one monthly obligation under the support order;

10 (12) "high-volume automated administrative enforcement" means the

11 use of automatic data processing to search various state data bases, including license

12 records, employment service data, and state new-hire registries, to determine whether

13 information is available regarding a parent who owes a child support obligation.

14 * Sec. 25. AS 28.15.061(b) is amended to read:

15 (b) An application under (a) of this section must

16 (1) contain the applicant's full name, social security number, date and

17 place of birth, sex, and mailing and residence addresses;

18 (2) state whether the applicant has been previously licensed as a driver

19 and, if so, when and by what jurisdiction;

20 (3) state whether any previous driver's license issued to the applicant

21 has ever been suspended or revoked or whether an application for a driver's license has

22 ever been refused and, if so, the date of and reason for the suspension, revocation, or

23 refusal; and

24 (4) contain other information that the department may reasonably

25 require to determine the applicant's identity, competency, and eligibility.

26 * Sec. 26. AS 28.15.061 is amended by adding a new subsection to read:

27 (g) Upon request, the department shall provide a social security number

28 provided under this section to the child support enforcement agency created in

29 AS 25.27.010, or the child support agency of another state, for child support purposes

30 authorized by law.

31 * Sec. 27. Section 148(c), ch. 87, SLA 1997, is repealed.

1 * Sec. 28. APPLICABILITY. The report required under AS 25.27.075(a), enacted by
2 sec. 15 of this Act, applies to the hiring, rehiring, or return to work of an employee that
3 occurs on or after the effective date of this Act.

4 * Sec. 29. This Act takes effect immediately under AS 01.10.070(c).

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 1998

SB 252

The Honorable Mike Miller
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Miller:

While federal welfare reform law gave our state greater flexibility for providing public assistance, it also required Alaska and other states to make extensive changes to their state child support laws. The attached bill is needed to satisfy mandates placed on Alaska by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Failure to comply with the federal child support mandates may result in a significant reduction in federal financial participation to the state for public assistance, unemployment, and child support enforcement programs.

The state's enactment of Senate Bill 154 last year met most, but not all, of the federal child support mandates of federal welfare reform. More needs to be done to finish the job. This bill will do that by making additional changes to Alaska's statutes.

Under this bill, all employers in the state would be required to report each new hire to the state child support enforcement agency within 20 days. The state will share this information with the federal child support agency and the child support agencies of other states. Timely access to this information may help avoid significant delays in support payments for some children.

The bill would also fine-tune state procedures for establishing paternity and for enforcing child support orders. The bill would also make state law conform to new federal requirements regarding reporting of social security numbers for certain licensees not already required to report under state law. The social security numbers provide an invaluable means of ensuring that support payments are timely received and accurately recorded.


The Honorable Mike Miller
January 21, 1998
Page 2

The bill also amends the Uniform Interstate Family Support Act (UIFSA), which Alaska enacted in 1995, to reflect subsequent changes to the uniform Act adopted by the National Conference of Commissioners on Uniform State Laws. Congress requires that our state child support laws be consistent with the uniform Act.

Finally, this bill will give state courts the power to suspend or revoke, in appropriate circumstances, the recreational hunting and fishing licenses and certain permits of obligors who are out of compliance with child support laws.

I urge your prompt attention to this important matter. Alaska's children are our most precious resource and they deserve timely access to child support necessary for their care.

Sincerely,



Tony Knowles
Governor

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Ver. No.: SB 252
(S) Publish Date: 1/22/98

Revision Date: _____ Dept. Affected: Revenue
Title: Federal Welfare Reform BRU: Child Support Enforcement Division
Component: Child Support Enforcement Division
Sponsor: Rules
Requestor: Governor COMPONENT SERIAL NO. 111

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1016 Federal Incentive Payments						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This legislation was developed so that Alaska will be in compliance with the mandates of 1996 federal welfare reform and subsequent technical amendments. This legislation is required to avoid fiscal sanctions that the federal government will impose if the state does not comply with federal law. Failure to satisfy the mandates could mean a drastic reduction in federal funding of Alaska's Child Support Enforcement and Public Assistance Divisions.

The legislation requires employers to report all new hires or rehires within 20 days; gives courts the authority to revoke sport fishing and hunting licenses if the license holder fails to honor a child support or paternity subpoena or is substantially in arrears on child support; mandates that social security numbers be provided on applications for drivers' licenses and hunting and sport fishing licenses and that the information will be shared with child support enforcement agencies; and gives support liens from other states the same standing as Alaskan liens and provides for

(Continued on Page 2)

Prepared by: Barbara Miklos, Dir Phone: 269-6800
 Division: Child Support Enforcement Division Date: 11/26/97
 Approved by: [Signature] Date: 11/24/97
 Commissioner: Wilson Condon
 Agency: Dept. of Revenue

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**DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION**

Federal Welfare Reform
November 26, 1997
Work Draft #0007
Page 2 of 2

Fiscal Note Analysis, continued

liens to arise as a matter of law. This legislation also makes changes in statutes to assure that the Alaskan child support program is able to operate under federal requirements.

Child support enforcement is a cornerstone of federal welfare reform. Congress has recognized that it is very difficult for families with low incomes to adequately support their children without the assistance of both parents. Therefore, the federal legislation increases requirements for CSED to meet various deadlines and improve processes for obtaining child support.

CSED does not associate increased costs directly with this legislation. Therefore, the fiscal note is zero. However, it must be recognized that changes mandated by welfare reform not addressed in this legislation require additional resources in order for CSED to meet federal requirements.

FISCAL NOTE

N 22
 Bill Version: SB752
 (S) Publish Date: 1/22/98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Administration
 Title _____ BRU Legal and Advocacy Services
 "An Act relating to paternity establishment and child support..." Component Public Defender Agency
 Sponsor Rules Committee
 Requester Governor Component Serial No. 1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
CHANGE IN REVENUES ()	***	***	***	***	***	***

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	***	***	***	***	***	***
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The main concern the Public Defender Agency has with this bill is the effect it will have on people who need "sport" fishing and hunting licenses for subsistence. Although it is obviously important to comply with federal law, there should be an exception or temporary licensing provision for subsistence hunting and fishing.

This bill may result in a slight increase to the Public Defender Agency caseload. Adding loss of sport fishing and hunting licenses to the already existing criminal laws on non-support probably would not have an effect, although given the importance of sport fishing and hunting licenses in Alaska, more cases may go to trial. The main effect would most likely be in contempt of court cases. Indigent putative fathers who do not complete genetic testing would have a right to a court-appointed attorney in contempt of court

Prepared by Barbara K. Brink, Director Phone 7-264-4414
 Division Public Defender Agency Date _____
 Approved by Commissioner Mark Boyer Date 11/28/97
 Agency Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

1 3
Bill Version: SB252
(S) Publish Date: 1/22/98

Revision Date (Note if correction) _____	Dept. Affected _____	Administration _____
Title "An Act relating to paternity establishment and child support..."	BRU	Office of Public Advocacy
Sponsor Rules Committee	Component	Office of Public Advocacy
Requester Governor	Component Serial No.	43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Brant McGee
Division Office of Public Advocacy

Phone 269-3500
Date _____

Approved by Mark Boyer, Commissioner
Agency Department of Administration

Date 11/28/97

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FISCAL NOTE

No. 4

Bill Version: SR252

(S) Publish Date: 1/22/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected _____	Administration _____
Title "An Act relating to paternity establishment and child support" _____	BRU _____	Division of Motor Vehicles _____
Sponsor Rules Committee _____	Component _____	Field Services _____
Requester Governor _____	Component Serial No. _____	2150 _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
No fiscal impact anticipated.

Prepared by Juanita Hensley
Division Motor Vehicles

Approved by Mark Boyer, Commissioner
Agency Department of Administration

Phone 465-5648
Date 12/17/97

Date 12/17/97

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www.ncsl.org info@ncsl.org

RICHARD H. FINAN
PRESIDENT OF THE SENATE
OHIO
PRESIDENT, NCSL

ANNE C. WALKER
CHIEF CLERK-ADMINISTRATOR
MISSOURI HOUSE
STAFF CHAIR, NCSL

WILLIAM POUND
EXECUTIVE DIRECTOR

Date: February 12, 1998
To: Sheila Peterson
From: Teresa Klingensmith
Senior Policy Specialist, Child Support
Children & Families Program
RE: Review of S.B. 252

Pursuant to your request, I have reviewed S.B. 252 and analyzed each section for relevance to the federal child support provisions of 1996. I have also included materials I thought might be helpful to you, given the content of the bill. Please feel free to call with any questions or for further information.

Review of Alaska Senate Bill No. 252:

This Report reviews the sections of S.B. 252 and determines whether they address federal requirements contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, and the accompanying technical amendments to the Act, included in the Balanced Budget Act of 1997. It does not attempt to address overall compliance or compliance with other federal laws. This review will not address sections of PRWORA not covered in S.B. 252, nor will it draw conclusions as to whether coverage of a particular PRWORA section is sufficient to achieve federal compliance in that area. This Report simply reviews each section of S.B. 252 for relevance to PRWORA.

-- Teresa Klingensmith
Senior Policy Specialist, Child Support
NCSL

- Sec. 2: Requirement of license denial or revocation for noncompliance with a child support order or related court order.
Federal law requires license restriction, denial or revocation for child support arrearages or noncompliance with a subpoena or warrant related to child support enforcement. Federal law does not distinguish whether the revocation must be made by the court or may be ordered by the agency.
- Sec. 3 & 5: Requirement of loss of hunting and sport fishing licenses for nonpayment.
Federal law requires denial, restriction, or revocation of recreational licenses. This requirement has been interpreted to include sporting, hunting, and fishing licenses.
- Sec. 4 & 5: Requirement of loss of hunting and sport fishing licenses for aiding nonpayment.
Federal law does not explicitly extend the license revocation requirement to individuals who merely aid in the nonpayment of support. On its face, federal law only addresses the noncustodial obligor's responsibilities.
- Sec. 6, 7, 8, 9, 27, & 28: Collection of social security numbers on applications for licenses.
Federal law requires collection of social security numbers on applications for driver's licenses, professional licenses, occupational licenses, recreational licenses, and marriage licenses, as well as divorce decrees, paternity and support orders, and death certificates. States are also required to permit access to the information by child support enforcement officials for child support purposes.
- Sec. 10: Permits enforcement of genetic testing order by the superior court
Federal law requires that the state agency have the authority to order genetic tests in contested paternity cases, and to enforce those orders. This

section would seem to address that requirement and references other sections that presumably do as well.

Sec. 11: UIFSA provision for out of state orders, requiring inclusion of health insurer information.

Federal law requires passage of UIFSA, which Alaska has already done. This additional provision, related to health care coverage information, is not a direct requirement of federal law, but does relate to a federal requirement. Federal law requires that all child support orders also contain an order for health care coverage if such coverage is available through the noncustodial parent's policy. The amended provision in this section would facilitate meeting that federal requirement.

Sec. 12: Technical amendment to clarify wording regarding modification of an out of state order.

This is not a federal requirement, but may be necessary for clarification within your state.

Sec. 13: Technical amendment to clarify requests for assistance.

This provision does not appear to address a federal requirement, but I could not determine for certain without seeing the section that it references.

Sec. 14: Requirements concerning automated enforcement requests and interstate income withholding orders.

Both of these provisions conform to sections of federal law.

Sec. 15: Technical amendments to clarify language.

These amendments are not specifically required by federal law, although the section itself does address several federal requirements. Federal law speaks generally of an "employer's" actions upon receiving an income withholding order, but a broader definition may be necessary or helpful under state law.

Sec. 16: Notice of required health care coverage sent to employer.

Amendments to this section are targeted at federal sections requiring that dependant children be automatically enrolled in the noncustodial parent's health care coverage upon notice to the employer.

Sec. 17: New hire reporting requirements.

This section contains provisions required under federal law. Federal law does not require, but rather permits, that an employer deduct a fee for processing. This section of federal law requires that certain data matches be conducted between the new hire registry and other state and federal databases; those requirements are not addressed here. Federal law also requires that the agency responsible for maintaining the directory enter the new hire information within 5 business days, that it transmit the data to the national registry within 3 business

days, and that it send withholding notices to employers within 2 business days. None of these timeframe requirements are included here.

- Sec. 18: Enforcing compliance with an administrative subpoena.
Federal law requires that state agencies be able to enforce administrative subpoenas issued for child support enforcement purposes. Such enforcement mechanisms must include license revocation, restriction, or denial, as discussed above.
- Sec. 19: Default paternity determinations.
Federal law specifically requires procedures for default paternity determinations.
- Sec. 20: Enforcement of genetic testing orders.
Federal law requires that state agencies be able to enforce administrative or court orders for genetic testing in contested paternity cases. This section outlines procedures for such enforcement.
- Sec. 21, 22, & 23: Administrative liens.
These sections address federal law requirements that liens arise by operation of law against real and personal property for over support obligations, that such liens be granted full faith and credit by other states, and that parties seeking to enforce liens in other states shall not be required to obtain judicial notice or hearings prior to enforcement.
- Sec. 24: Income withholding and property seizure in child support cases
This section is not directly related to a federal requirement, but does facilitate provision of the federal requirements regarding income withholding and asset seizure.
- Sec. 25: Technical language correction.
This amended section is required under federal law.
- Sec. 26: Definitions.
These phrases are more broadly defined under federal law, but are essentially conforming.

**Alaska Department of Revenue
Child Support Enforcement Division**

**Summary of attorney general's office Feb. 23 memo on privacy considerations
Re: Child support legislation House Bill 344 / Senate Bill 252**

The Alaska Constitution's right to privacy is not absolute, and the courts have ruled an individual's rights must be balanced against compelling state and public interests. The attorney general's office has determined that the proposed child support legislation requiring Social Security numbers on state license applications would pass a legal privacy challenge.

The Alaska Supreme Court has applied a three-part test to evaluating privacy claims. This summary analyzes how the legislation would stand up to that privacy test.

Is there a legitimate expectation of privacy? *The answer is no.*

The federal Privacy Act of 1974 specifically allows government agencies to collect Social Security numbers when required by federal law. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (also known as Welfare Reform) is just such a case. It requires that states collect Social Security numbers on license applications and make those numbers available to child support enforcement agencies. Any expectation of a right to privacy for a Social Security number would be based on earlier congressional action to hold the numbers confidential. That expectation, however, no longer reasonably exists with the change in federal law requiring disclosure of the numbers in limited cases. Welfare Reform merely extends the list of state and federal agencies required to collect the number for identification purposes.

Does the use of Social Security numbers serve a compelling state interest? *Yes.*

Even if a court were to decide there is a reasonable expectation of privacy to a Social Security number, the next test would be if disclosure of the number serves a compelling state interest. The Alaska Legislature has consistently recognized a compelling public need for enforcement of child support obligations (the Child Support Enforcement Act of 1977 and amendments in 1984). Congress recognized the same public interest in its welfare reform legislation. This year's bill fulfills the requirements of the Welfare Reform Act for using Social Security numbers to identify child support obligors. The courts likely will find that any privacy concerns are far outweighed by society's interests in effective child support enforcement. The state's interest also is served because millions of dollars a year of support obligations go directly into the state general refund as repayment for public assistance payments to single-parent households.

Will Social Security numbers be collected in the least intrusive manner? Yes.

The legislation requires the state to use existing licensing systems to collect Social Security numbers – no special forms or reporting requirements would be imposed on individuals or employers. The Alaska Supreme Court has found that, generally, self-disclosure constitutes the least intrusive method of obtaining information. And though the legislation requires Social Security numbers on state license applications, it does not require display of the numbers on the actual licenses.

For sport hunting and fishing applicants reluctant to apply for a license at a commercial vendor, there are two strong protections against unauthorized use of their Social Security number:

- It is a felony to disclosure the Social Security number. The federal statute applies to anyone – government employees and private business people – with legal access to Social Security numbers obtained under reporting requirements of federal law, such as license applications.
- Sport hunters and fishermen may apply for licenses by mail, bypassing any risk of disclosure of their Social Security number to private license vendors.

MEMORANDUM

State of Alaska
Department of Law

to: Deborah Vogt
Deputy Commissioner
Department of Revenue

ALASKA DEPARTMENT OF REVENUE
RECEIVED
DATE: February 24, 1998
FEB 2 1998
FILE NO.: 663-98-0248

COMMISSIONER'S OFFICE
TELEPHONE NUMBER 53600

FROM: Dan N. Branch *DNB*
Assistant Attorney General
Human Services Section - Juneau

SUBJECT: Privacy considerations
and the Governor's child
support bill

You have asked whether any provisions of HB 344/SB 252 (the Governor's child support bill) would violate the privacy rights guaranteed Alaskans by article I, section 22, of the Alaska Constitution. Since the Governor's bill would repeal the sunset provision of SB 154, a child support bill passed into law in 1997, you also asked whether the provisions of SB 154 violate privacy rights under the Alaska Constitution. In our opinion, a court is unlikely to find that the provisions of either child support bill would be found to violate the right of privacy afforded under the Alaska Constitution.

BACKGROUND

The United States Congress, in an effort to reform the country's welfare system, enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193 (PWRORA). The Act imposed a set of child support mandates upon the states.¹ The federal mandates raise privacy issues by requiring the production and sharing of social security numbers, employee hire information, and information in government and bank records for child support purposes. In 1997, the Alaska Legislature complied with most of the federal mandates by enacting SB 154.² Section 148(c) of SB 154 will sunset all the legal changes of the bill on

¹ Article I, section 8, of the U.S. Constitution gives Congress the authority to condition receipt of federal funds upon compliance with federal and administrative statutory directives. South Dakota v. Dole, 107 S. Ct. 2793 (1987). If a state does not substantially comply with the child support mandates of the Social Security Act, the Secretary of the Department of Health and Human Services is authorized to penalize the state. Blessing v. Freestone, 117 S. Ct. 1353 (1997).

² For example, SB 154 did not satisfy the federal mandate which requires states to require all employers to report each new hire and rehire to the child support agency within 20 days, because it was not required to be in effect until this year. A provision designed to comply with this mandate is part of the Governor's child support bill.

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July 1, 1999. The Governor's current child support bill would repeal this sunset provision and comply with federal child support mandates which were not addressed by SB 154.³

DISCUSSION

Right To Privacy Guaranteed by the Alaska Constitution

In 1972, the right to privacy was made explicit in Alaska by an amendment to the Alaska Constitution. Ravin v. State, 537 P.2d 494, 498 (Alaska 1975). The privacy amendment provides:

Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

Alaska Const. art. I, sec. 22.

You asked if the sections of the Governor's child support bill or SB 154 violate this provision. The following sections of the Governor's bill and SB 154 are most likely to be challenged as violations of article I, section 22, of the Alaska Constitution: sections mandating the production of social security numbers, employee hire information, financial information, utility records, and the sharing of information in government records.

The right to privacy under the Alaska Constitution is not absolute. Messerli v. State, 626 P.2d 81, 83 (Alaska 1981). One asserting a right to privacy must exhibit a subjective expectation of privacy that society is prepared to recognize as reasonable. State v. Glass, 583 P.2d 872, 875 (Alaska 1978). Courts do not approach the right to privacy in a vacuum. Rather, there must be a balancing of conflicting rights and interests. Messerli, 626 P.2d at 83.

The Alaska Supreme Court applies the following three-part test when evaluating an informational privacy claim:

(1) does the party seeking to come within the protection of the right to privacy have a legitimate expectation that the materials or information will not be disclosed?

After enactment of SB 154, Congress added more mandates by adopting technical amendments to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) is disclosure nonetheless required to serve a compelling state interest?

(3) if so, will the necessary disclosure occur in that manner which is least intrusive with respect to the right to privacy?

The Alaska Wildlife Alliance v. Rue, 948 P.2d 976, 980 (Alaska 1997); Jones v. Jennings, 788 P.2d 732, 738 (Alaska 1990).

Social Security Numbers

The Governor's bill would require applicants for driver's licenses and for sport hunting and fishing licenses to provide their social security numbers on the license application. These numbers would then be shared with the child support agency in this and other states for child support purposes. SB 154 requires anyone applying for a professional or occupational license to provide his or her social security number on the application so that the numbers may be shared with child support agencies. It also requires that vital statistics records contain the social security numbers of those mentioned in them.

It is possible that someone in the state will assert that these provisions violate their right to privacy guaranteed by article I, section 22, of the Alaska Constitution. To prevail in court, anyone asserting such a challenge must meet the three-prong test set out in Alaska Wildlife Alliance, 948 P.2d at 980.

The first prong of the privacy test requires a court to determine whether the party raising the right to privacy has a legitimate expectation that the Alaska Constitution prevents the state from disclosing information the party considers private. In this case, this means the court will have to determine if the party has a legitimate expectation that the state will not disclose the party's social security number to child support agencies. Alaska Wildlife Alliance, 948 P.2d at 980. It is doubtful that a court would make such a finding because the U.S. Congress which created the social security system and initially mandated that the numbers be kept private, has now mandated that they be disclosed on state license applications, and given to child support agencies upon request.

Congress created the social security number. It also passed the Privacy Act of 1974, 42 U.S.C. § 405(c)(2)(C), and

42 U.S.C. § 408(a)(8) to enhance the privacy protections for social security numbers. Section 7 of the Privacy Act of 1974 prohibited states from denying benefits to its citizens as a penalty for refusing to produce social security numbers. 42 U.S.C. § 405(c)(2)(C)(viii)(I) and 42 U.S.C. § 408(a)(8) made it a criminal offense to disclose social security numbers in violation of federal law. These laws are responsible, in large part, for creating an expectation that social security numbers are private, and not subject to release. At least one court has found that the Privacy Act of 1974 creates an expectation of privacy in the minds of employees concerning the use and disclosure of their social security numbers. Tribune-Review v. Allegheny County Housing Authority, 662 A.2d 677 (Pa. 1995).

The Privacy Act of 1974 does not apply where disclosure is mandated by federal law. Sections of SB 154 and the Governor's child support bill would not violate the Privacy Act, 42 U.S.C. § 405 or 42 U.S.C. § 408(a)(8) because they are enacting federal mandates. Therefore, a court is not likely to find that an Alaskan resident has a legitimate expectation that the Alaska right to privacy prevents the state from requiring the production of his or her social security number on license applications or from sharing the numbers with child support agencies.

There are other reasons that it is unlikely that a court would find that expectation to be reasonable. In State v. Chryst, 793 P.2d 538 (Alaska Ct. App. 1990), the court held there is no reasonable expectation of privacy with respect to a person's name and address and the locations where he receives utility services. The Alaska Supreme Court has held that the right to privacy embodied in the Alaska Constitution is only implicated by the disclosure of personal information about oneself. Doe v. Alaska Superior Ct., Third Jud. Dist., 721 P.2d 617, 629 (Alaska 1986). This is the type of personal information which, if disclosed, could cause embarrassment or anxiety. Doe, 721 P.2d at 629; Falconer v. Alaska Public Offices Commission, 570 P.2d 469, 479 (Alaska 1977). The disclosure of one's social security number is not likely to evoke such a response.

Furthermore, in AS 44.99.300 - 44.99.350, the Legislature has indicated that "personal information" does not include a person's name, address, or telephone number, if the number is published in a directory. In our opinion, a court is likely to find that a person's social security number is a specific identifying number, like an address or telephone number, that has

become so widespread in use that an expectation that one can keep it private is unreasonable. Social security numbers are divulged for identification purposes in a wide variety of circumstances. For instance, social security numbers generally appear on drivers' licenses, which must usually be shown to cash a check.⁵ While there may once have been a higher expectation of privacy for social security numbers, we believe that a court is likely to recognize, that, in this day and age, the use of that number for identification purposes has made the expectation of keeping it private an unreasonable expectation.

The inquiry may not end there, however. Perhaps a court will decide that the expectation of privacy in one's social security number is a legitimate one. In such a case, the court would have to determine if the mandated disclosure will serve a compelling state interest. See Alaska Wildlife Alliance, 948 P.2d at 980. This involves balancing the state interest served by the mandate provision with the right of privacy asserted. See, e.g., Welcome to the "Last Frontier," Professor Gardner: Alaska's Independent Approach to State Constitutional Interpretation, 12 Alaska L. Rev. 1, 21 (1995).

In our opinion, a court reviewing this issue is likely to find that the important issues served by the welfare reform mandates far outweigh the interests of an individual in keeping his or her social security number out of the child support enforcement system. The court would consider the same information about child support enforcement efforts that was considered by the Congress when it enacted the requirements relating to social security numbers in the federal welfare reform act that is implemented by SB 154 and the Governor's child support bill. The Congress found that this use of social security numbers would enhance efforts to locate child support obligors and collect child support payments. The Congress has determined that children's poverty, national and state expenditures on welfare programs, and other societal problems

⁵ Before passage of PRWORA, Congress gave states permission to use social security numbers to establish the identity of those applying for driver's licenses and to require applicants to provide their social security number on the driver's license application. See 42 U.S.C. § 405(c)(2)(C)(I). In Alaska, a driver's social security number usually appears on his or her driver's license. Drivers are given the option of not having the number appear on their license. While the Governor's child support bill would require production of the social security number on the driver's license application, it would not require that the number appear on the driver's license.

could be decreased by more effective methods of child support enforcement.

The Alaska Legislature has consistently recognized that there is a compelling public policy favoring enforcement of child support obligations. Anderson v. Anderson, 736 P.2d 320, 323 (Alaska 1987). The Legislature attempted to enhance the collection of child support in 1977 when it passed the Child Support Enforcement Act. The Legislature stated that the act was passed for the following reasons:

The state . . . declares that the common law and Alaska statutes pertaining to the establishment and enforcement of child support obligations shall be augmented by additional remedies in order to meet the needs of children. It is declared to be the public policy of this state that this Act be construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving, at least in part, the burden presently born by the general citizenry through welfare and welfare-related programs.

Section 1, ch. 126, SLA 1977.

In 1984, the Alaska Legislature passed amendments to the Child Support Enforcement Act "to encourage the efforts of those persons who seek to enforce the payment of child support obligations by noncustodial parents having the duty of support." Section 1, ch. 144, SLA 1984.

In its statement of findings and purpose for the 1984 amendments, the Legislature made the following finding:

a disproportionately high percentage of lower-income, single-parent families are headed by women. The difficulties in obtaining child support from non-custodial parents contributing significantly to the hardship of those families The legislature also finds that the hardship experienced by children in families who may rely on support from a noncustodial parent should not be a necessary condition that must be endured by those families.

Section 1, ch. 144, SLA 1984.

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We believe that a court, looking at this type of information, is likely to find that, even if there is some right of privacy in one's social security number, that right is outweighed in this instance by the societal interests in more effective child support enforcement.

If the first two criteria were met, the final prong of Alaska's right to privacy test would require the court to determine whether the necessary disclosure will occur in the manner which is least intrusive with respect to one's interest in the right to privacy. See Alaska Wildlife Alliance, 948 P.2d at 980. Here again, we believe the proposed legislation, and SB 154, meet this requirement.

SB 154 and the Governor's child support bill use the existing state licensing system to collect social security numbers. Since this approach involves self disclosure on forms that the license applicants will have to complete anyway, it is less intrusive than other systems that could be used to obtain applicant's social security numbers. The Alaska Supreme Court has found that, generally, self-disclosure, accompanied by the appropriate use of the summons power, constitutes the least intrusive method of obtaining information. State, Dep't of Revenue v. Oliver, 636 P.2d 1156, 1167 (Alaska 1981). While applicants must provide their social security numbers on the license application, there is no requirement that an applicant's social security number appear on the license itself, thereby reducing the chance of unnecessary disclosure. See, footnote 4, above. The child support bills provide that social security numbers may only be shared with child support agencies for child support purposes. These provisions will help to ensure that the mandated disclosure not exceed what is necessary to serve the compelling state interest that justifies it.

Almost all of the programs affected by SB 154 and the Governor's child support bill are carried out by state employees. The system for dispensing hunting and sport fishing licenses is an exception. It relies upon private vendors to sell these licenses to applicants. This might raise some concern that the social security numbers of fish and game license applicants will be more at risk of unwarranted disclosure. 42 U.S.C. § 405(c)(2)(C)(viii)(I) should alleviate those concerns. It provides that social security numbers obtained by any provision of law enacted after October 1, 1990, shall be kept confidential. This mandate extends to government employees or anyone who has legal access to the numbers. See 42 U.S.C. § 405(c)(2)(C)-(viii)(III). Therefore, the federal privacy mandate extends to private vendors who sell sport fish and hunting licenses to the public. Violation of the mandate could result in conviction, in

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federal court, of a felony punishable by fine and a maximum five year jail sentence under 42 U.S.C. § 408(a)(8).

New Hire Information

The Governor's child support bill would require all employers and labor unions in the state to report all new hires and rehires to the state child support enforcement agency. Each report will contain the name, address and social security number of each newly hired employee, and the name, address, and federal tax identifying number of the employer. Currently, only those Alaskan businesses that employ more than 19 employees are required to provide this information for long-term employees. See AS 25.27.075.⁶

We do not believe a court would find that AS 25.27.075, as amended by the Governor's child support bill, would violate the right to privacy guaranteed by article I, section 22, of the Alaska Constitution. Any court considering such a challenge would apply the three-prong test discussed above. The first prong would require the court to determine if the party asserting the right to privacy has a legitimate expectation that the information will not be disclosed. Alaska Wildlife Alliance, 948 P.2d at 980.

AS 25.27.075 requires employers to report the social security numbers and other personal identifiers like names and addresses to the state child support agency. In State v. Chryst, 793 P.2d 538 (Alaska App. 1990), the Court of Appeals held that a defendant did not have a reasonable expectation of privacy with respect to address information given to an electric utility for purposes of obtaining utility service. There is no reason to believe that a person would have a greater expectation of privacy if the information is given to an employer rather than to a utility.

Furthermore, all of the information sought is shared on income tax returns and other government records where, in the course of their use, they are bound to be seen by others. Therefore, the legitimate expectation of privacy is lower. See Oliver, 636 P.2d at 1167.

Even if a person did have a legitimate expectation that his or her name, address, and date of hire would not be disclosed by the employer, a court is likely to uphold AS 25.27.075 because its disclosure requirements serve the compelling state interest of

⁶ AS 25.27.075 was rewritten into its current form in 1992 and has not been challenged in court.

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enforcing child support obligations. Alaska Wildlife Alliance, 948 P.2d at 980. The analysis is similar to that for disclosure of social security numbers as set out above.

Finally, the method of employer reporting, designated by AS 25.27.075 to ensure that the state child support agency obtains new hire information, meets the third prong of the Alaska privacy test because it is least intrusive on the right to privacy. Alaska Wildlife Alliance, 948 P.2d at 980. We believe a court would find that employer reporting, like self-disclosure, constitutes the least intrusive method of obtaining the needed information. Oliver, 636 P.2d at 1167.

Access to Government Records For Child Support Purposes

SB 154 gave child support enforcement agencies access to information in the following government records: vital statistics, state and local taxes, real and personal property, employment security, public assistance, motor vehicles, and corrections. The information may only be used for child support purposes. Under the Alaska Wildlife Alliance test, the first question to ask is whether residents have a legitimate expectation that these government records will not be disclosed for child support purposes. 948 P.2d at 980.

This question must be viewed in light of Alaska's policy favoring open state records. AS 09.25.110 mandates that, unless specifically provided otherwise, the public records of all state agencies are open to inspection by the public. See AS 09.25.110; see also City of Kenai v. Kenai Peninsula Newspapers, Inc., 642 P.2d 1316 (Alaska 1982) (the statute articulates a broad policy of open records).

Specific exemptions to AS 09.25.110 could give rise to a legitimate expectation that the state records protected by the statutory exemptions will not be disclosed. For example, Vital Statistics records are protected from public inspection. See AS 09.25.120(a)(1) and AS 18.50.310. On the other hand, statutory sections like those contained in SB 154, which require that designated portions of state records be made available to child support agencies, make any such expectation of privacy unreasonable.⁷ Therefore, it is unlikely that a court would find that Alaska residents have a legitimate expectation that

⁷ For example, SB 154 amended AS 18.50.330 to provide child support agencies access to vital statistic records for child support purposes. See AS 18.50.333(6).

information concerning them in state records would not be shared with child support agencies.

The analysis of the second prong of the Alaska privacy test is the same as for social security numbers and employer hire information. We believe that the strong state interest in securing payment of child support, and in complying with federal mandates, would greatly outweigh any interest a resident might have in preventing a child support enforcement agency from having access to the information needed to establish or enforce a child support obligation.

If a court found that residents did have a legitimate expectation of privacy, and that disclosure of state records serves a compelling state interest, it would have to determine if the necessary disclosure will occur in that manner which is least intrusive with respect to the privacy right. Alaska Wildlife Alliance, 948 P.2d at 980. We believe the court would make such a finding.

The disclosure statements only require agency-to-agency production of information already in the state records. This limits the scope of information to be released. Without access to government records, child support agencies would be required to make more intrusive investigations which could result in a far greater invasion of privacy.

Financial Records

SB 154 amended the Banking Code, AS 06.05, to require that a bank provide child support agencies, upon request, with a certified copy of a record concerning an individual who either owes or is owed child support. The information could be provided by electronic means and may only be used for child support purposes.

Starting down the now familiar road, we first must determine whether someone who owes or is owed child support has a legitimate expectation that information contained in his or her bank account will not be disclosed to a child support agency. Alaska Wildlife Alliance, 948 P.2d 976 (Alaska 1997); Jones v. Jennings, 788 P.2d 732 (Alaska 1990).

The United States Supreme Court has ruled that bank customers have no legitimate expectation of privacy concerning their bank records. United States v. Miller, 425 U.S. 435, 442, 96 S. Ct. 1619, 1624 (1976). In reaching this conclusion the Court observed:

The checks are not confidential communications but negotiable instruments to be used in commercial transactions. All of the documents obtained, including statements and deposit slips contain only information voluntarily conveyed to banks and exposed to their employees in the ordinary course of business.

Miller, 425 U.S. at 442, 96 S. Ct. at 1624.

While the Miller Court's findings concerning expectations of privacy do not foreclose a challenge under the Alaska Constitution,⁶ they do help establish that one may not have a legitimate expectation, under the Alaska Constitution, that bank records will not be disclosed to a government child support agency.

Even if participants in a child support case had a legitimate expectation that their bank records would not be disclosed to child support agencies, the compelling state interest in establishing and enforcing child support obligations justifies the disclosure. This satisfies the second prong of the Alaska privacy test. Alaska Wildlife Alliance, 948 P.2d at 980.

The only remaining question is whether the bank record provisions of SB 154 provide that the records disclosure will be made in the manner which is least intrusive with respect to the right to privacy. Alaska Wildlife Alliance, 948 P.2d at 980.

The bank record disclosure requirement of SB 154 is contained in AS 06.05.537. That statute only requires disclosure of bank records of the assets and liabilities of individuals who owe or are owed child support. The agency receiving the information may only use it for legal child support purposes. It is hard to imagine a less intrusive way to obtain this information.

Public Utilities Records

SB 154 also requires public utilities to give child support agencies access to locate information concerning their customers. The Alaska Court of Appeals has ruled that a utility customer does not have a reasonable expectation of privacy concerning information about the customer's name and address contained in the utility's records. Chryst, 793 P.2d at 542. Therefore, the customer cannot have a legitimate expectation that

⁶ The right to privacy embodied in the Alaska Constitution is broader than that provided by the U.S. Constitution. Pratt v. Kirkpatrick, 718 P.2d 962 (Alaska 1986).

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the information will not be disclosed and the information is not protected by article I, section 22, of the Alaska Constitution.

CONCLUSION

SB 154 increased the access of child support enforcement agencies, to personal information, such as social security numbers, concerning Alaskan residents. The Governor's child support bill would make even more information available to the agencies. You asked whether these informational mandates would violate the right to privacy of an affected individual, guaranteed by the Alaska Constitution. We believe the answer is no. Federal law required Alaska to adopt laws providing child support agencies such access to personal information for child support purposes. After passage of the federal mandates, it is not reasonable for the residents of Alaska to expect that the designated information about themselves in government and other affected records will not be made available to child support agencies for child support purposes.

Even if such an expectation were reasonable, an Alaskan court would be still likely to order disclosure of mandated information because the disclosure would serve the important state interest in seeing that child support obligations are honored. Finally, the informational disclosure provisions of SB 154 and the Governor's child support bill provide for least intrusive disclosure of personal information.

If this memo does not fully answer your questions, or if I can be of other assistance on this matter, please let me know.

DNB:bap



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

2201 Sixth Avenue, Suite 600
Seattle, WA 98121-1827

JAN 15 1998

Barbara Miklos, Director
Child Support Enforcement Division
550 West 7th, 4th Floor
Anchorage, AK 99501-3556

Dear Ms. Miklos:

This is in response to your request for clarification of:

- The consequences if a State fails to enact laws or otherwise conform to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, and
 - Nationwide information on state compliance with PRWORA.
1. In order for a State to receive Federal funding for the operation of its child support enforcement program, it must have an approved State IV-D plan which meets the requirements of section 454 of the Social Security Act (the Act). One of those requirements, specified at section 454(20)(A), is that the State must have in effect all of the laws required by section 466.

PRWORA made numerous changes to sections 454 and 466 of the Act. When a State fails to comply with all statutory requisites, its plan is subject to disapproval by the Office of Child Support Enforcement (OCSE). In accordance with sections 452(a)(3) and 455(a)(1)(A) of the Act, there would then be no authority to expend Federal funds under Title IV-D of the Act for the operation of the State's child support enforcement program.

Therefore, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. Alaska received approximately \$12.4 million in Title IV-D funding for the administration of its child support program in FY 1997, and over \$3.2 million in Title IV-D performance related child support incentives.

Page 2 - Barbara Miklos

In addition, in order to be eligible for a block grant for Temporary Assistance to Needy Families (TANF), section 402(a)(2) of the Act requires a State to certify that it will operate a child support enforcement program under the State plan approved under part D. Therefore, TANF funding would also be jeopardized if the State failed to enact the required child support legislation on a timely basis. Alaska's Federal funding for IV-A for FY 1997 was approximately \$63 million.

2. Data on state compliance with PRWORA changes frequently. We are therefore unable to provide you with an accurate and up to date listing of which states have fully complied with its provisions. Most states have either passed legislation that has been found complete, or is under review. Alaska is in the category of states which did not pass enabling legislation in 1997, but which have expressed an intent to do so and are working with its Regional Office to develop such legislation. Only one state, Idaho, has failed to enact enabling legislation and has stated it is unwilling to do so. Attached is a "notice of intent" to disapprove Idaho's state plan, with the resulting loss of Federal funding. If proposed legislation is not enacted in Alaska, our office would begin the process of issuing a similar notice of intent to disapprove.

Please contact Michael Furtado at (206) 615-2552, ext. 3045 if you have any further questions.

Sincerely,


Stephen S. Henigson
Regional Administrator

Attachment: Idaho Notice of Intent to Disapprove

Proposed Child Support Legislation to Meet Federal Mandates

HB344 has been introduced to bring Alaska into compliance with mandates of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended. This informal analysis shows how the proposed legislation is designed to comply with specific federal mandates.

- **Action Against Recreational Licenses:** 42 USC 666(a)(16) requires Alaska to have laws giving the state authority to withhold, suspend, or restrict recreational or sporting licenses of individuals owing overdue child support or who have failed, after receiving notice, to comply with a subpoena or warrant relating to paternity or child support. Sections 2, 3, 4, 5, 10, 18, and 20 of the bill are designed to bring Alaska into compliance with 42 USC 666(a)(16). These sections give Alaska courts, in criminal and civil proceedings, the authority to punish contempt of a child support order, or a child support or paternity subpoena, with the loss of hunting or sport fishing licenses.
- **Social Security Numbers on Licenses:** 42 USC 666(a)(13), as amended by technical amendments to the Personal Responsibility and Work Opportunity Act of 1996, now requires Alaska to have laws requiring that applicants for driver's licenses or recreational licenses record their social security numbers on applications and requiring the licensing agencies to share the numbers with the child support agency of this and other states. Sections 6, 7, 8, 9, 27 and 28 are designed to bring Alaska into compliance with 42 USC 666(a)(13).
- **Enforcing Paternity Testing Orders of Other States:** 42 USC 666(c)(1)(A) requires Alaska to have laws which provide for the recognition and enforcement of the genetic testing orders of other states. Section 20 would permit Alaska to honor this commitment by allowing a superior court in Alaska to enforce out of state genetic testing orders with the court's contempt powers.
- **Default Administrative Paternity Orders:** 42 USC 666(a)(5)(H) requires Alaska to have laws which permit the entry of default paternity orders. AS 25.20.050(g) currently allows such orders in court paternity cases. Section 19 of the bill would allow entry of default orders in administrative paternity cases.
- **Additional Amendments to UIFSA:** 42 USC 666(f) requires Alaska to adopt the most current version of the Uniform Interstate Family Support Act (UIFSA). The federal Office of Support Enforcement has stated that states must adopt a verbatim version of the uniform law. Alaska's version of UIFSA is not identical with the uniform law. An attorney for the National Conference of Commissioners on Uniform State Laws has reviewed Alaska's current version of UIFSA and found it acceptable, if amendments are made to two sections of Alaska's UIFSA. Sections 11 and 12 of the bill would make the suggested changes.

HB344 is the companion bill to SB 252 - Provided by Dept of Revenue

- **High Volume Enforcement of Interstate Orders:** 42 USC 666(a)(14) requires Alaska to have laws which permit child support agencies from other states to make electronic requests for high volume automated administrative enforcement of their out of state orders if Alaska provides such enforcement for Alaska orders. Sections 13, 14 and 26 would permit other states to make such a requests.
- **Requirements for honoring interstate withholding orders:** 42 USC 666(b)(6)(A)(I)(V) requires Alaska to have a law stating that employers who receive a withholding order from another state, must follow the laws of the issuing state concerning any terms of withholding that are not stated in the order. Section 14 would satisfy this requirement.
- **Definition of Income:** Section 15 of the bill would amend AS 25.27.062 so that income withholding orders issued by courts will reach all earnings which qualify as "income" under the federal definition of the term set out in 42 USC 666(b)(8). It would do this by replacing the word, "wages" with "earnings" and the words "an employer" with "a person receiving an income withholding order" in AS 25.27.062(e). The current version of AS 25.27.900(4) sets out a definition for "earnings" that is the same definition provided for "income" by 42 USC 666(b)(8). Since 666(b)(8) provides the definition of "income" for the mandatory income withholding provisions of 42 USC 666, section 15 would insure that Alaska will comply with those mandatory income withholding provisions.
- **Medical Support Orders:** In cases where a child support obligor changes employment and the new employer offers health care coverage for the obligor's children, 42 USC 666(a)(19) requires Alaska to have laws which require CSED to send a copy of a medical support order to the new employer. The federal mandate also requires Alaska to have laws which require that the obligor's children will be automatically enrolled in the health care coverage. Section 16 of the bill would comply with the mandates.
- **Employer New Hire:** 42 USC 653A requires Alaska to have a law requiring all employers in the state to report each new hire, rehire, or return to work of every employee to CSED within 20 days of the event. Section 17 of the bill would bring Alaska into compliance with this mandate.
- **Liens:** 42 USC 666(a)(4) requires Alaska to have laws which provide that child support liens arise by operation of law when the obligor is in arrears on his child support debt. The federal law also mandates that Alaska give full faith and credit to the child support liens of other states, and requires Alaska to allow the enforcement of intrastate and interstate child support liens without judicial notice or hearing. These mandates would be satisfied with the passage of sections 21, 22, and 23 of the bill.
- **Income Withholding:** 42 USC 666(c)(1)(G) requires Alaska to have laws which permit the seizure of a child support obligor's assets without the need to first obtain leave from the court or an administrative tribunal if the obligor is in arrears on his obligation. Section 24 would satisfy this mandate.

- **Definition of Support Order:** 42 USC 653(p) provides a definition of "support order" for purposes of the federal child support laws. In SB 154, Alaska adopted the then-current definition of "support order," however Congress subsequently amended 653(p). Section 25 of the bill would make corresponding amendments to "support order" in AS 25.27.900.
- **Definition of Arrearage:** 42 USC 666(b)(3)(B) describes what constitutes an arrearage for purposes of its mandatory income withholding provisions. Section 26 would adopt the same definition for Alaska's child support laws, thereby helping to insure that the Alaska income withholding provisions comply with the federal mandate.
- **Repealing Sunset Provision of SB 154:** In 1997 the Alaska Legislature passed SB 154 in an effort to comply with the mandates of the federal Personal Responsibility and Work Opportunity Reconciliation Act. Section 148(c) of SB 154 provides that all these necessary changes to state law will be repealed on July 1, 1999. Section 29 of the bill would repeal this sunset provision, thereby protecting Alaska from being found drastically out of compliance with federal law.

**THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY
RECONCILIATION ACT OF 1996
TITLE III -- CHILD SUPPORT
State Requirements Summary**

This report summarizes State legislation enacted as a result of Title III of the PRWORA and technical amendments to PRWORA found within the Budget Reconciliation Act of 1997.

This report is divided into three (3) sections. Part I summarizes provisions within the PRWORA that amend 42 USC 666. This section requires States to have certain laws in effect requiring the use of certain procedures.

Part II summarizes provisions within the PRWORA that amend 42 USC 654. This section sets forth State plan requirements.

Part III summarizes other Title III provisions of the PRWORA that require certain services by States but do not require enabling legislation.

Please note that this analysis does not summarize provisions of Title III of the PRWORA that amend Federal statutes or place certain mandates on Federal agencies. For a more detailed summary of all the Title III provisions, please see the Title III Summary.

Part I: State Law Requirements

Sec. 314 Income Withholding

- Must have procedures for withholding, based on an arrearage of one month or more, in cases:
 - (a) being serviced by the agency; or
 - (b) based on orders issued or modified before 1/1/94, and subject to withholding if arrearages occurred.
- Employer must forward withholding to State disbursement unit within 7 business days after payday.
- Employee's principal place of employment determines which State law the employer must comply with.
- Employers may not punish any employee subject to withholding, or fail to withhold support as ordered.
- Agency must send notice to employee that withholding has begun and of opportunity to contest based on mistake of fact.
- Employers may charge and deduct an administrative withholding fee, established by the State, and are not required to vary pay cycles to comply with withholding orders.

National Conference of State Legislatures

- Provided by:

2/5/98
1

(h.) public assistance agency,

(i.) department of corrections;

- Obtain, pursuant to an administrative subpoena, records of cable TV companies, utility companies, and financial institutions;
 - Order change in payee in assignment circumstances, after notice to obligor and obligee;
 - Order income withholding;
 - Seize periodic or lump sums from workers and unemployment compensation, lotteries, judgments, and settlements to satisfy arrearages;
 - Attach assets in financial institutions and retirement funds to satisfy arrearages;
 - Force the sale of property and impose liens to satisfy arrearages;
 - Increase monthly support payments, subject to due process considerations of notice, opportunity to contest, and opportunity to appeal to a judicial or administrative tribunal.
-
- Each party to a paternity or child support case is required to register with the agency their name, social security number, residential and mailing addresses, telephone number, driver's license number, and name, address and telephone number of their employer. Any subsequent notice service based on this registered information will be deemed to satisfy due process requirements.
 - Statewide jurisdiction.

Sec. 331, 332 Paternity Establishment

- Allow establishment anytime before child turns 18.
- Must have procedures requiring paternity tests at the request of a child or parent alleging or denying paternity. Good cause exception.
- Party requests for tests must be accompanied by a sworn statement.
- Must pay for State-ordered tests, subject to recoupment from the challenging party.
- Must order second set of tests if the first results are contested. State may require advance payment for test costs by contestant.
- Must have procedures for simple civil process to voluntarily acknowledge paternity available at birth records agencies and hospitals.
- Father's name on birth certificate only if both parents sign an acknowledgment of paternity or subject to a court order.
- Must give written and oral notice of consequences of acknowledgment to parents prior to signing. Audio and video equipment may be utilized.
- File paternity orders and acknowledgments with birth records agency for comparison with State Case Registry.
- Voluntary paternity affidavits must be used and developed in accordance with standard issued by the Secretary of HHS.
- Affidavits become legal finding if not contested in 60 days, then legal challenges only permitted due to fraud, duress, or mistake of fact. Support responsibility may not be suspended during the challenge.
- Must grant full faith and credit to other States' affidavits.

- Must have ratification of unchallenged paternity acknowledgment without judicial or administrative proceedings.
- Must admit genetic test results in evidence without foundation and may limit objections to results to specific number of days after receipt.
- Must create rebuttable (or conclusive) presumption of paternity upon tests indicating a threshold of probability of paternity.
- Must admit medical and testing bills without foundation and must constitute prima facie evidence.
- Must issue temporary support order during paternity proceedings based on clear and convincing evidence of probable paternity, upon party motion.
- Putative father must be able to initiate paternity action.
- No right to a jury trial in a paternity proceeding.

Sec. 351 Simplified Review Process

- Must review and adjust, if appropriate, support orders at least every 3 years, (1.) upon the request of either parent, or (2.) if there is a IV-D assignment, upon the request of either parent or the IV-D agency.
- Adjustments not mandatory.
- Best interests of the child are controlling.
- Substantial change in circumstances necessary to obtain review outside prescribed period.
- Orders may be adjusted (1.) on a case-by-case basis, (2.) by a cost of living increase (with an opportunity for review), or (3.) by automated means.
- Party may contest adjustment within 30 days.
- Must notify IV-D caseload of their right to review at least every 3 years.

Sec. 364 Voiding of Fraudulent Transfers

Must have in effect:

- Uniform Fraudulent Conveyance Act of 1981;
 - Uniform Fraudulent Transfer Act of 1984; or
 - a similar law to prevent fraudulent transfer of personal property to avoid support obligations.
- If aware of such a transfer, must seek to void it and obtain a settlement in the best interests of the child.

Sec. 365 Work Requirements

- Court or administrative process may be used to issue orders to pay past-due support for a child receiving public assistance according to a payment plan or by participating in work activities.

Sec. 367 Reporting Arrearages to Credit Bureaus

- Must report arrearages and amounts to consumer credit bureaus after obligor has been afforded all due process required under State law and after the entity has been established to be a consumer reporting agency.

Sec. 368 Liens

- Liens must arise by operation of law against real and personal property for overdue support.
- Must afford full faith and credit to liens arising in other States based on child support obligations.
- Party seeking to enforce lien must comply with all procedural rules in the new State, except that such rules may not require judicial notice or hearing prior to enforcement of the lien.

Sec. 369 Suspension of Licenses

- Must have authority to withhold, suspend, or restrict:
 - (1.) driver's licenses;
 - (2.) professional licenses;
 - (3.) occupational licenses; and
 - (4.) recreational licenses.
- Applies to individuals who owe overdue child support or fail, after notification, to comply with subpoenas or warrants in such cases.

Sec. 372 Financial Institution Data Matches

- Must make agreements with financial institutions in the State to conduct data matching to identify noncustodial parents with institution accounts, as identified by the State by name and social security number.
- Financial institution information must include:
 - (1.) account holder's name;
 - (2.) address;
 - (3.) social security number or other taxpayer ID number;
 - (4.) confirmation of account existence.
- State may pay reasonable fee for service.
- Matching to occur each quarter.
- Financial institution not liable for disclosure of information or surrendering assets in compliance with a lien or levy.

Sec. 373 Grandparent Liability

- May enforce support orders against parents of a minor, noncustodial parent if the custodial parent is receiving TANF/IV-A assistance.

Sec. 382 Health Care Coverage

- All IV-D order must include health care coverage.
- Notice to new employers is sufficient to enroll child in noncustodial parent's health plan, unless contested.

Part II. State Plan Requirements

Sec. 301 General Obligations

- Operate a IV-D child support enforcement program.
- Service every child, resident or non-resident, who is (1.) receiving or formerly received IV-A assistance. (2.) receiving IV-E assistance or Medicaid, or (3.) applying for IV-D services.

Sec. 303 Privacy Safeguards

- Unauthorized use or disclosure of information about paternity establishment or child support obligations must be prohibited.
- Prohibitions against the release of information if protective order has been entered, or if release of information may result in physical or emotional harm to the party.

Effective date: 10/1/97

Sec. 304 Right to Notification Hearings

- Parties must have notice of all support obligation hearings, and copies of all orders issued, within 14 days of issuance.

Effective date: 10/1/97

Sec. 311 State Case Registry

- Automated case registry containing records on all cases being serviced, and each support order established or modified after 10/1/98.
- May link local registries.
- Standardized elements must be used:
 - (a) names of both parents
 - (b) social security numbers and other uniform identification numbers
 - (c) dates of birth
 - (d) case ID numbers
 - (e) case status info.
- Case record information must include:
 - (a) payment records
 - (b) distribution records
 - (c) liens imposed
- Must be updated and monitored for accuracy
- Able to perform comparison activities with:
 - (a) the Federal Case Registry of Child Support Orders
 - (b) the FPLS
 - (c) temporary family assistance and Medicaid agencies

(d) intrastate and interstate comparisons

Sec. 312 State Disbursement Unit

- May be managed directly or contracted out.
- May link local disbursement units if it will not cost more or take more time to establish and operate.
- Payments must be processed for:
 - 1.) IV-D cases
 - 2.) interstate IV-D cases
 - 3.) non-IV-D orders initially issued on or after 1/1/94 and subject to immediate withholding
 - 4.) non-IV-D orders issued or modified before 10/1/96 and subject to withholding if arrearage occurs.
- Need only send withholding orders in IV-D cases.
- Must notify obligor that withholding has begun.
- Not required to convert and maintain in automated format records prior to 10/1/96.
- Must have sufficient staff.
- Must disburse payments within 2 business days of receipt, unless challenged.
- Must transmit withholding orders to employers within 2 business days, and may use electronic means.
- May process through local courts until 10/30/99.
- Must use automated means to the greatest extent feasible.
- \$50.00 disregard repealed as of 10/1/96, but States can't stop disbursements until law is changed or new plan is approved.

Effective date: 10/1/98

Sec. 324 Interstate Enforcement Forms

- Must begin using forms promulgated by the Secretary of HHS by 3/1/97.
- Must use Federal income withholding, liens, and subpoena forms for interstate cases.

Sec. 333 Applicant Cooperation

- Agency to determine applicant cooperation. Definition of cooperation must be based on best interests of the child standard.
- Applicants and recipients must assign support rights, including distribution, to the State.
- Applicants must provide father's name and participate in genetic tests, subject to good cause and other exceptions.
- Recipients cannot be forced to acknowledge paternity or otherwise waive their rights.
- May require additional information and cooperation, including attendance at hearings.
- Exceptions must be based on the best interests of the child.
- Individual must be notified if noncooperation is determined.
- Must reduce IV-A assistance by at least 25% for failure to cooperate and may impose full-family sanction.

- May disqualify noncustodial parents with arrearages from receiving food stamps, unless a court is allowing delayed payment or the individual is complying with a court or agency payment plan.

Sec. 344 Automated Data Processing Requirements

- Must have single, statewide automated data processing and information retrieval system, which serves as a central repository and maintains requisite data on paternity establishment and child support cases and calculates PEP.
- Must be a central or linked registry for all IV-D cases, all support orders established or modified in the State after 10/1/98.
- Must have written policies restricting access to information, systems controls, and monitoring of access.
- Specific and limited personnel must be trained to use and access information.
- Must have administrative penalties for unauthorized disclosure or use.
- Deadline for current systems extended to 10/1/97.
- Deadline for new systems is 10/1/2000.
- Must:
 - (a) transmit withholding orders to employers;
 - (b) monitor payment defaults;
 - (c) use automatic enforcement procedures.
- Final regulations available 10/1/98.

Sec. 371 International Support Enforcement

- Must honor enforcement requests from reciprocating countries, as designated by the Secretary of State with the assistance of the HHS Secretary.

Sec. 375 Indian Tribes

- May enter into cooperative agreements with tribes that have organized child support enforcement systems.

Part III: Requirements Without State Plan or Legislative Authority

Sec. 302 Distribution of Child Support Collections

- Important Definitions:
 1. "Permanently assigned arrears": amounts of past due support that are assigned to the State before 10/1/97, or during any period in which the family receives assistance. The State permanently retains the right to collect these arrears, but can only retain an amount equal to the amount of unreimbursed assistance paid out.
 2. "Temporarily assigned arrears": past due support that accrued prior to the family's application for assistance, that are assigned to the State as a condition of receiving assistance. The State retains the right to collect these arrears until 10/1/00, but can only retain an amount equal to the amount of unreimbursed assistance paid out. These arrears are considered assigned for tax offset purposes only.

3. "Previously assigned arrears": exist only after the State implements the assignment requirements that must be in place by 10/1/00. "Previously assigned arrears" are "temporarily assigned arrears" for a family that no longer receives assistance. The State cannot retain the assignment for these arrears when the family leaves assistance. Therefore, when assistance terminates, these arrears are owed to the family. The State is required to distribute collections to these arrearages ahead of collections assigned to the State, as part of the "Families First" program. The exception is that the State may still use tax offset to collect these previously assigned arrears and retain the amounts so collected to reimburse the State for unreimbursed assistance paid out.

- States must distribute collections accordingly:

Support is permanently assigned to the State during the assistance period, but only up to the amount of assistance paid out.

- a. Period prior to 10/1/97, pre-assistance support arrears are permanently assigned.
- b. Period 10/1/97-9/30/00, pre-assistance support arrears are temporarily assigned.
- c. Period after 10/1/00, pre-assistance support arrears are temporarily assigned to the State, only until assistance terminates.

Assistance Cases:

1. Repeal of the \$50.00 pass-through: Title I repeals Sec. 402(a)(8)(A)(iv) effective July 1, 1997 (or earlier if the state opts into the TANF block grant) requiring AFDC to disregard (but not pay) the first \$50.00 per month of nondelinquent child support if it is paid according to a IV-D distribution statute. In Title III, the \$50.00 pass-through or disregard is repealed *de facto* as of October 1, 1996. However, a State with a distribution law that requires the \$50.00 disregard cannot discontinue the program until the law has been changed and the new TANF plan approved by the Secretary. Thus, in the intervening time between October 1, 1996 and a State's plan submission, the State must bear the full cost of the \$50.00 disregard. *Reference Title I, Sec. 103; Title III, Sec. 302.*

2. Repeal of B-3 money: Excess current (B-3) was eliminated as well. B-3 money was the amount of current support collected in a given month that exceeded the amount of assistance paid out. This money was previously paid to clients and used to determine if assistance should be ceased. Now, States keep the child support paid on current obligations, and only give the client money if their collections exceed the total amount of assistance paid out.

3. States may elect whether to pay temporarily assigned arrears before permanently assigned arrears.

4. State retains collections to reimburse assistance paid out, or may pay amounts to the family out of the State share.

5. State gap-budgeting payments may continue.

Non-assistance (Formerly Assistance) Cases:

1. State will distribute payments in excess of current support obligation to "Families First."
2. After 9/30/00, states must pay previously assigned arrears before permanently assigned arrears. States may use tax offset to collect previously assigned arrears and retain any collections up to the assistance expended.
3. States may elect not to implement all distribution provisions by 10/1/98 in order to avoid making two sets of changes.
4. "Hold harmless" provision: If the State share collected in any fiscal year are less than the State share in FY 95, the State share for the fiscal year shall be equal to the share in FY 95.
5. Foster care payments shall be retained to reimburse the current maintenance payment, with any excess paid to the agency, then applied to arrearages for that accrued to foster care.
6. States must attribute all support arrearages collected after October 1, 2000 first to the period after the family ceased to receive assistance, then to the period before the family received assistance, then to the period while the family received assistance.

Non-assistance Cases: States must distribute to the family.

- The Federal share must be based on the Medicaid rate in effect on September 30, 1996.
- The total Federal share retained and the total State share retained may not exceed the total amounts that have been paid to the family as assistance by the State.
Effective date: October 1, 1996.

Sec. 313 State Directory of New Hires

- Automated directory required. If current one in use, new requirements by 10/1/98, but must still report to FPLS by 10/1/97.
- Must conduct data matches between new hire directory and case registry by 5/1/98.
- Must inform employer if match occurs between new hire directory and case registry.
- Employers must report new hires within 20 days or not more than 12-16 apart (2x per month) if done electronically. States may impose an earlier deadline.
- Employer must report:
 - (a) name
 - (b) address
 - (c) social security number
- Multi-state employers may designate one state in which to report.
- Employers may use W-4 or equivalent.
- Employer noncompliance penalties of not more than \$25.00 per failure to report; \$500.00 if conspiracy involved.
- Must enter new hires within 5 business days of receipt.
- Must transmit data to national directory within 3 business days of entry in State directory.

- Must send withholding notice to employer within 2 business days of entry in directory.
- May utilize contractors.
- Use directory to:
 - (1.) locate obligors
 - (2.) verify program eligibility
 - (3.) administer employment security and workers compensation programs
- Exception for Federal or State employee performing intelligence or counterintelligence work.

Sec. 316 Confidentiality of FPLS

- HHS Secretary to provide access to any authorized person investigating a child kidnapping or for child support enforcement purposes.
- No information may be disclosed, without a court order, if:
 - (1) such disclosure would contravene national policy or national security;
 - (2) reasonable evidence of domestic violence or child abuse exists.

Sec. 353 Obligations of Financial Institutions

- Institutions not liable for disclosure of information records to IV-D agency.
- Agency may only disclose to the extent necessary to enforce the support obligations.
- Good faith immunity for civil servants, but civil damages available for knowing or negligent disclosure. Such damages shall be the greater of: \$1,000 per act of unauthorized disclosure, or the sum of the actual damages received.
- Additional punitive damages and damages for attorneys' fees available for willful disclosure.

STATE OF ALASKA

DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION

TONY KNOWLES,
GOVERNOR
Please Reply To:

CSED, MAILSTOP DIR
550 W. 7th Ave., Suite 280
Anchorage, AK 99501-6699
907-269-6900
800-478-3300 Toll Free In Alaska
TTY: (907)269-6894
907-269-6813/269-6914 FAX
CSC Fax: (907)269-6650

March 9, 1998

Senator Gary Wilken
State Capitol, Room 510
Juneau, AK 99801-1182

Dear Senator Wilken:

We have been working with members of the Senate HESS committee to address concerns expressed by the committee members regarding SB252. We have explored the issues and have proposals for changes to the bill.

1. We were asked about the possibility of not having the Division of Motor Vehicles put the social security numbers on drivers' licenses. Right now, that is an option for regular licenses, and SB252 does not change anything. People who apply for regular drivers' licenses may request that their number not be displayed on the license and it will not be displayed. In the case of commercial drivers' licenses, the social security numbers are displayed on those licenses.
2. Senator Greene asked for assurances that CSED staff will not be able to gain access to the social security numbers of people who do not have cases with CSED. In working with state agencies, we will give case information to an agency such as Division of Motor Vehicles and they will provide the social security numbers only for cases. This will all transpire on the computer and CSED will not see the social security numbers unless we have a case. The only exception will be the information gained from employers. A very small number of staff who will enter the information gained from employers will have access to the numbers. These staff will be required to hold those numbers in confidence. Any material collected with this information will be kept in a locked filing cabinet until we are able to shred it.
3. We have been requested to compare our legislation with that introduced in Idaho. We have done that and will continue to review the bills that have been submitted in Idaho. Many of the provisions are different than ours because last session each state passed legislation that met different provisions of the federal welfare reform legislation. For example, Idaho passed legislation establishing a new hire program. They have reported that after one month of operating the program, 5.8% of the people who started jobs that month had wages withheld to pay back child support. They consider the initial new hire efforts to be very successful. We have been told that the Idaho legislature is continuing to work on the legislation.

Page 2 of 2

Re: SB252

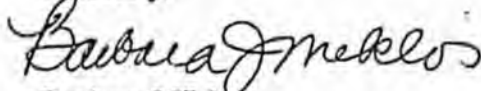
Date: March 9, 1998

4. We have been asked to assure the committee that there are no items in the bill that are not required by federal law. Attorneys from the Department of Law have reviewed the bill, compared it with comments from the staff person of the National Conference of State Legislators and discussed the provisions with representatives from the federal government. Based on this analysis, we feel that we can delete and revise some of the sections. The recommended amendments are attached. These amendments do not include the deletion of Sec. 29, which repeals the sunset provisions. Technically, this repeal does not need to happen this year, it just means we will have to address the legislation again when it is due to sunset.

We have addressed the issues that we are able to address. We will continue to work with any member of the committee to address concerns. There is a great deal at stake with this bill and we are prepared to do all we can to see that the State of Alaska meets the requirements of federal legislation, so that we will not lose the federal money that supports CSED or the Temporary Assistance block grant.

Thank you for your patience in working with us.

Sincerely,



Barbara Miklos
Director

Attachment: Amendment to: SB252

AMENDMENT

OFFERED IN THE SENATE

BY _____

TO: SB 252

- 1 Page 1, line 2, following "child support;":
2 Delete "and"
- 3 Page 1, line 3:
4 Delete "amending Rule 37(b)(2)(D), Alaska Rules of Civil
5 Procedure;"
- 6 Page 2, line 6:
7 Delete "(A)"
- 8 Page 2, line 7, following "proceeding":
9 Delete ";or"
10 Insert "."
- 11 Page 2, lines 8-9:
12 Delete all material
- 13 Page 2, lines 13-16:
14 Delete all material
- 15 Renumber the following bill sections accordingly.

1 Page 2, lines 20-21, following "AS 11.51.120":

2 Delete "or aiding the nonpayment of child support under AS
3 11.51.122"

4 Page 3, lines 20-25:

5 Delete all materials

6 Renumber the following bill sections accordingly.

7 Page 8, lines 11-14, following "a court.":

8 Delete all materials

9 Page 11, lines 22-29:

10 Delete all materials

11 Renumber the following bill sections accordingly.

Dec-18-97 02:03P ACF-OCSE

202-401-3444

P.02



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

December 18, 1997

Linda Caballero, Director
Department of Health and Welfare
P.O. Box 83720-10th Floor
Boise, Idaho 83720-0036

Dear Ms. Caballero:

In accordance with sections 452(a)(3), 454(20) and 455(a) of the Social Security Act (the Act), and 45 CFR 301.10 and 301.13, this constitutes formal notice of my intent, subject to an opportunity for hearing, to disapprove Idaho's State IV-D plan. The basis for my intent to disapprove is Idaho's failure to enact the following mandated legislation, in whole or in part, required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193:

- ▶ Idaho has failed to enact laws or procedures providing for income withholding in accordance with the requirements at sections 466(a)(1) and (b)(1) of the Act, as amended by section 314 of P.L. 104-193.
- ▶ Idaho has failed to enact laws or procedures providing for the collection and use of social security numbers in accordance with the requirements at section 466(a)(13) of the Act, as amended by Section 317 of P.L. 104-193.
- ▶ Idaho has failed to enact laws or procedures providing for the use of expedited procedures, in accordance with the requirements regarding: a change in payee at section 466(c)(1)(E) of the Act; income withholding at section 466(c)(1)(F) of the Act; an increase in monthly payments to include arrearages at section 466(c)(1)(H) of the Act; and, procedures under which each party to any paternity or child support proceeding is required (subject to privacy safeguards) to update, as appropriate, certain information on location and identity of the party at section 466(c)(2)(A)(i) of the Act, as amended by section 325 of P.L. 104-193.
- ▶ Idaho has failed to enact laws or procedures with respect to work requirements, in accordance with requirements at section 466(a)(15) of the Act, as amended by section 365 of P.L. 104-193.
- ▶ Idaho has failed to enact laws or procedures requiring the State to provide full faith and credit to liens arising in another State, in accordance with requirements at section 466(a)(4), as amended by section 368 of P.L. 104-193.

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Ms. Caballero -- Page 2

As provided in program instructions issued in OCSE-AT-97-05, prior to issuance of a final determination to disapprove your State plan, you have the option to request a hearing under procedures at 45 CFR Part 213. Election of a hearing prior to the final decision to approve or disapprove the State IV-D plan will constitute a waiver of reconsideration hearing rights contained in 45 CFR 301.14.

You have 60 days from the date of this letter to request a formal hearing regarding the matters at issue in the proposed disapproval. Requests for a hearing should be sent to the Assistant Secretary for Children and Families. If Idaho requests such pre-decision review, a Notice of Hearing will be issued setting forth the time and place of the hearing and the issues which will be considered therein. This notice will be published in the Federal Register.

Should the Department of Health and Human Services conclude following the hearing that Idaho does not have an approved State plan, you will be notified that further Federal payments under title IV-D of the Act will not be made until a State IV-D plan is submitted and approved. The effective date for the withholding of Federal funds shall not be earlier than the date of my decision and shall not be later than the first day of the next calendar quarter following such decision.

Should Idaho decline the opportunity for a hearing at this time, a determination will be made whether the IV-D plan must be disapproved for failure to conform with the requirements of section 454 of the Act. If you are dissatisfied with my decision, you may request reconsideration of the decision pursuant to regulations at 45 CFR 301.14. Federal funding, however, will be suspended and may not be stayed pending reconsideration. If I subsequently determine that my original decision was incorrect, restitution of funds withheld or otherwise denied will immediately be certified in a lump sum.

I urge you to take the necessary steps to enact the legislation required by P.L. 104-193 and confirm your compliance with the Regional Office. Although Idaho is completely and independently responsible for preparation, submission, and content of its State IV-D plan, technical assistance may be obtained from our Regional Office.

In addition, section 402(a)(2) of the Act (as amended by PRWORA) provides that the chief executive officer of a State must certify that it will operate a child support enforcement program under an approved IV-D plan as a condition for eligibility for a TANF block grant under title IV-A of the Act. Therefore, Idaho should be aware that TANF funds may also be at risk.

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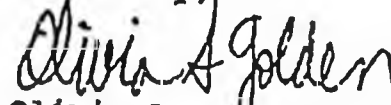
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Should you have any questions in regard to this Notice, please contact your ACF Regional Administrator, Mr. Steve Henigson at (206) 615-2547.

Sincerely,



Olivia A. Golden
Assistant Secretary
for Children and Families

Enclosure: OCSE-AT-97-05

cc: Stephen S. Henigson
ACF Regional Administrator
Seattle Regional Office



Alaska State Legislature

Please enter into the record my testimony to the Senate HESS
committee name

committee on SB # 252 dated March 20th '98
bill/subject

I am against this bill for various reasons. Specifically referring to sec. 3, #4, #5, #17, #25, #21, #2.

I believe that sections, #2, #3, #4, #5 are relating to revoking a hunting &/or fishing license of a non-custodial parent. My comment - "When a non-custodial parent is in poverty due to paying child support & has a family to feed why" take their hunting & fishing license away. C.S.E.D & this State take so much money to feed & pay expenses for a child of the custodial parent, then there's no money left to let's support the other family.

I feel that section #17, #25 involving employers. With this reading under sec. 25.27.075 employees will find more difficulty finding work in this state (employees who are non-custodial parents). Work & job hunting is highly competitive why make it any worse. Employers don't want to spend any

Signed: Carol Palmer over →
Testifier

myself & "Parents United for Custodial Justice"
Representing (Optional)

1/2 P.O. Box 2402, Palmer, AK 99645
Address

(907) 746-2863
Phone No.

more time or effort. Thus employers aren't likely to be hiring non-custodial parents as employees. Why make hiring any more difficult for employers. If non-custodial parents can't find work under an employer, they will try self-employment. If that doesn't work - then how can a non-custodial parent support them-selves, let alone paying child support, student loans or property taxes, & other bills are medical concerns & vehicle repairs.

COMPARISON OF 1998 LEGISLATION WITH 1997 LEGISLATION

Section 17, the new hire section, was rejected last year because the federal mandates gave us an extra year to comply.

Sections 21, 22, and 23 were rejected by the Senate Finance committee.

Section 29 would undo the sunset provisions placed into SB 154 last year.

Finally, last year the legislature rejected those provisions of SB 154 which would have made recreational licenses subject to revocation if the license holder was behind on child support or failed to honor a subpoena or paternity order for testing. The approach in SB 154 would have amended the occupational revocation statute, 25.27.244, to make hunting and fishing licenses subject to revocation. The new bill abandons this approach in favor of one whereby someone behind in child support or who fails to honor a child support subpoena or paternity order will be at risk of losing his or her recreational license in a contempt of court action, or as part of a sentence from criminal nonsupport or aiding the nonpayment of child support.

Most of the other provisions of the new bill were drafted in response to technical amendments to the federal PRWORA passed by congress after SB 154 passed. Sections 6, 7, 8, 9 and 27 require applicants for hunting, fishing, and driver's licenses to provide their social security numbers on the application form because the technical amendments added recreational and driver's licenses to the list of state licenses subject to the SSN requirement.

The other sections were designed to fill gaps unintentionally left by SB 154. Sections 11 and 12 will make two changes to UIFSA designed to correct discrepancies between Alaska's version and the uniform act. The Uniform Law Commissioners informed the Department of Law that the affected sections contain the only significant aberrations which could reduce the effectiveness of Alaska's UIFSA. Therefore, it was decided to change these sections and ask the feds if our version of UIFSA satisfies the mandates of PRWORA.

In order to satisfy the federal mandate that we have laws providing for the enforcement of in and out of state paternity testing orders, sections 10 and 20 would permit Department of Law to go to the superior court for an order to seek enforcement of a paternity testing order without filing a full blown suit. This procedure is already available for enforcement of an agency subpoena.

BJM:tmr

FN: LEG98-97

(Rev 2/6/98)

STATE OF ALASKA
DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION

TONY KNOWLES, GOVERNOR

550 WEST 7th AVE, Suite 310, MS DR
ANCHORAGE, AK 99501-8899
PHONE: (907) 269-6800
TOLL FREE IN ALASKA: (800) 478-3300
CASEWORKER FAX: (907) 269-6913/269-0914
C.S.C. FAX: (907) 269-6650
TTY: (907) 269-6894
TOLL FREE ALASKA TTY: (800) 370-6894

March 3, 1998

Senator Jerry Ward
716 W. 4th Ave., Suite 450
Anchorage, AK 99501

Re: SB252

Dear Senator Ward:

As a result of your comments and questions at the Senate HESS Committee hearing on March 2, I have obtained additional information that may be of interest to you. The result of my investigation indicates to me that the Idaho legislature is actively working toward the passage of child support legislation required by Congress.

As you are aware, Idaho received a letter from the federal office of the Department of Health and Human Services (DHSS) giving them formal notice of the intent to disapprove their state IV-D plan. In order to preserve their rights, Idaho requested a formal hearing prior to the expiration of the 60 days. Failure to request a hearing would have allowed DHHS to make the determination without any opportunity for an explanation from Idaho.

A series of bills were pre-filed this year by the Idaho Department of Health and Welfare. The bills included requirements of federal law which were outlined in the disapproval letter. Some of the bills were assigned to a study group which apparently did not move the bills forward. The House leadership then pulled the bills into a subcommittee of the House Judiciary, Rules & Administration to resolve outstanding concerns. The subcommittee has been meeting every morning at 7am on the bills. The subcommittee has revised some of the bills and has recently recommended the bills to the full committee. It is anticipated that action will be taken by the full committee within the next day or so. Some of the revised bills would require an amendment on the House floor.

Senator Jerry Ward
Idaho legislation
March 3, 1998
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I have been told that the governor and legislative leadership acknowledge the need to pass the child support legislation. It is my impression that the Idaho legislators are actively working towards passage of legislation that will allow approval of their state IV-D plan. I hope this information has been of assistance to you.

Sincerely,



Barbara Miklos
Director