

SB

154

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
Division of Public Assistance

IMPACT OF FAILURE TO PASS SB 154
CHILD SUPPORT ENFORCEMENT LEGISLATION

This legislation brings Alaska statutes into compliance with the child support provisions of PL 104-193. If enacted and adequately funded to insure effective implementation, it should increase child support collections. Presuming that the increase in collections includes additional support payments for dependent children receiving assistance from the Alaska Temporary Assistance Program (ATAP), the Division of Public Assistance should see an increase in designated general fund program receipts.

If it is not passed, the Child Support Enforcement Division (CSED) will be out of compliance with provisions of federal law (PL104-193). Failure to comply with federal law would result in CSED being unable to develop an approved State Plan which results in the following penalties:

1. Immediate suspension of all federal payments for Alaska's child support program with payment withheld until the State's IV-D plan is approved.
2. Penalty of up to 5% of the federal Temporary Assistance to Needy Families (TANF) block grant. The block grant payable to the state would be reduced following this schedule:
 - For the first quarter and each subsequent quarter that ends before the first quarter that the state is found to be in compliance, not less than 1% and not more than 2%.
 - For the second consecutive finding that the state is out of compliance not less than 2% and no more than 3%;
 - For the third and subsequent findings of non-compliance not less than 3% and not more than 5%.

The penalty for non-compliance could be as much as \$3,150,000 in the first year.

3. Federal law also requires that in the year following a reduction in the TANF grant due to a penalty, the state must increase its spending by an amount equal to the penalty.
4. The federal Administration for Children and Families indicated that, under the general penalty provisions of PL104-193 (Sec. 409. Penalties.), state would be penalized for not increasing state funding to make up for losses due to penalties levied for substantial non-compliance with child support provisions. This penalty could be up to an additional 5 percent of the block grant.

Federal Office of Child Support Enforcement (OCSE) indicates they are closely monitoring the state's enactment of mandatory laws. Alaska must have conforming legislation in place by the first calendar quarter following the closure current legislative session.. If conforming legislation is enacted and the CSED State Plan approved, OCSE will audit compliance with the plan. The penalties mentioned in 2 above would be imposed for failure to meet CSED requirements such as not meeting paternity determination targets.

CSSB154 (FIN)
FEDERAL CHILD SUPPORT REQUIREMENTS
Child Support Enforcement Bill

Background

Congress and President Clinton have stressed the correlation between strong child support efforts and a successful welfare reform program. This bipartisan effort to strengthen child support laws recognizes the responsibility of ALL parents to support their children.

The new Federal Welfare Reform Law (PRWORA Act) makes substantial changes to child support mandates for all states and requires a major overhaul of Alaska child support operations. Many of these changes require only operational or regulatory changes. Listed below are the changes requiring statutory revisions.

Penalties

Without passage of the bill this year, Alaska can lose ALL federal funds for the child support program. The Public Assistance Division will lose \$8+ million in state reimbursements collected by CSED. Additionally, Alaska can lose a portion of their TANF block grant — possibly up to \$3.2 million.

Federal Mandates

- All employers must report new hires or rehires within 20 days (presently employers with 20 or more employees must report within a month). CSED must send data to feds within 7 days of receiving information.
- Employer must send withheld money to CSED in 7 days (presently 10 days)
- No prior notice of withholding order to obligors (presently prior notice given)
- Financial institutions and other entities must match data quarterly with CSED (reduces need for subpoenas to get financial information)
- Existing licensing statutes amended to:
 - make revocable for noncompliance with subpoena or warrant
 - add: hunting (for non-personal use); fishing (non-subsistence) and commercial fishing (crew members only - not limited entry) licenses
- Payments disbursed according to federal law - past AFDC recipients must receive all child support payments before state can collect to reimburse itself
- Social security numbers required on state licenses, permits and other documents, such as divorce decrees and death certificates. SSN must be shared with all state child support agencies.
- Various state agencies must provide information to all child support agencies - for child support purposes only
- Entities providing information or honoring CSED actions are immune from prosecution if acting in good faith
- Expanded paternity establishment requirements
 - after a 60-day period, a signed acknowledgment of paternity can't be rescinded - except in a court and based on fraud, duress, or material mistake of fact

Federal Child Support Requirements

Child Support Enforcement Bill

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- parents must be informed of rights and consequences of signing an acknowledgment of paternity
- acceptance of paternity establishments from other states
- putative father can request blood tests and establishment of paternity
- DHSS to decide "good cause" exceptions to required genetic testing and CSED decides noncompliance
- parties to paternity establishment must provide employer information - so that the support order can be established and a withholding order can be sent quickly
- Location of custodial parent or children to be withheld if risk to health, safety or liberty (presently in interstate law, but not domestic law)
- Conformance with ALL provisions of Uniform Interstate Family Support Act
- Authority to contract out child support disbursement functions
- State authority to require delinquent obligors to participate in appropriate work activities
- Fraudulent transfers voided when used to evade child support collections
- Recognizing liens from other states
- Legal service by first class mail if diligent efforts made for in-person delivery
- No "statute of limitations" on reporting arrears to credit bureaus



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

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

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MAR 20 1997

MAR 12 1997

Glenda Straube
Director
Child Support Enforcement Division
550 West 7th, 4th Floor
Anchorage, Alaska 99501-3556

CSED-DIRECTOR

Dear Ms. Straube:

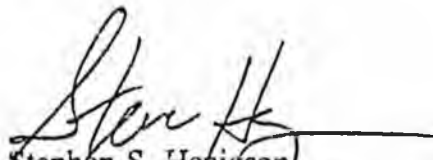
Thank you for your inquiry concerning the child support enforcement provisions of the recently enacted Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), often referred to as Federal welfare reform.

As you know, PL 104-193 introduced several new child support enforcement requirements which, pursuant to Sections 454 and 466 of the Social Security Act, must be reflected in State law in order for a State to maintain an approved Title IV-D State Plan. If a State fails to enact any of the required State laws or procedures under section 466, or otherwise fails to comply with any State plan requirement under section 454, they are at risk of having their State plan disapproved and of losing all Federal IV-D funding.

Alaska received approximately \$11.2 million in Title IV-D funding for the administration of its child support program in FY 1996, as well as nearly \$3 million in Title IV-D performance-related child support incentives. Furthermore, under section 409(a)(3) of the Social Security Act a State failing to comply with the requirements of title IV-D of the Act could also lose a portion of its Federal funding under the Title IV-A (Temporary Assistance to Needy Families) program. Alaska's Federal funding for IV-A for FY 1997 will be about \$63 million dollars.

As always, we in the Regional Office are available to review and discuss issues concerning the implementation of Federal welfare reform requirements with you or with any other representatives of the state. Please let me know if we can be of any assistance.

Sincerely,


Stephen S. Henigson
Regional Administrator

State Plan Disapproval

PROGRAM INSTRUCTION

ACTION TRANSMITTAL

OCSE-AT-97-05

April 28, 1997

TO: STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT PLANS APPROVED UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS

SUBJECT: Procedures for Determining That a State IV-D Plan is Disapproved

BACKGROUND: Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, made a number of amendments to sections 454 and 466 of the Social Security Act (the Act), requiring States to either establish new, or modify existing, procedures effective either October 1, 1996, March 1, 1997 or October 1, 1997. For States which require legislation in order to conform their State IV-D plans to the revised statute, section 395(b)(2) of PRWORA provides a grace period until not later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of enactment of PRWORA (August 22, 1996). In cases which require that the State constitution be amended, section 395(c) of PRWORA provides a grace period until one year after the effective date of the State constitutional amendment, but no later than five years after the date of enactment of PRWORA.

CSE is tracking the progress of each of the States in enacting the new State plan requirements and mandatory laws, and is noting the date when each State's 1997 legislative session ends in order to ascertain when these laws are required to be in effect and when the State must submit new or amended State plan material for approval by OCSE in order to operate a Child Support Enforcement program according to the requirements of title IV-D of the Act. If a State fails to submit the necessary State plan amendments, OCSE will have to determine that the State does not have an approvable State plan. 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.

STATUTORY

AUTHORITY: Section 455(a)(1)(A) of the Act specifies that funds appropriated under title IV-D shall be paid to States with approved State IV-D plans. There is no authority to expend Federal funds under title IV-D of the Act for the operation of a Child Support Enforcement program unless such State has an approved State IV-D plan.

Section 466 of the Act requires that all States, as a condition for approval of their State IV-D plan, must have in effect laws requiring the use of mandatory procedures to increase the effectiveness of their Child Support Enforcement programs. As a condition for State plan approval, section 454(20) of the Act provides that, to the extent required by section 466, States must have laws in effect and implement the procedures prescribed in or pursuant to such laws.

Section 454 of the Act sets the statutory requisites for the State IV-D plan. In addition, regulations at 45 CFR 301.10 define the State IV-D plan as a comprehensive statement submitted by the IV-D agency describing the nature and scope of its program. The State IV-D plan contains all the information necessary for the Office of Child Support Enforcement (OCSE) to determine whether the plan can be approved, as a basis for Federal financial participation in the State IV-D program.

Section 452(a)(3) of the Act requires that OCSE review and approve State plans for Child Support Enforcement programs under title IV-D of the Act. The authority to approve State plans is delegated to the Regional Office, but OCSE retains authority for determining that a State IV-D plan is not approvable.

As stated above, 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. If a State is dissatisfied with OCSE's decision, reconsideration may be requested pursuant to 45 CFR 301.14. Withholding of Federal payments cannot be stayed pending reconsideration.

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 of eligibility for a TANF block grant under title IV-A of the Act. Therefore, States should be aware that TANF funds may also be at risk.

Although it is not required under Title IV-D of the Act, OCSE will give States an advance notice of "Intent to Disapprove" a previously approved State IV-D plan. The State will then be permitted the opportunity to waive reconsideration of the OCSE's final decision and to exercise, prior to the State plan approval/disapproval decision, the right to a hearing under the procedures set forth a 45 CFR Part 213. If the State elects to pursue its hearing rights prior to issuance of OCSE's decision, no further administrative appeal will be allowed.

ATTACHMENT: Instructions for State Plan Disapproval
Timetable of Effective Dates 1997 Legislative Calendar

SUPERSEDED

MATERIAL: OCSE-AT-86-21

INQUIRIES: ACF Regional Administrators

/ S /

Anne F. Donovan
Acting Deputy Director
Office of Child Support

Enforcement

April 25, 1997

The Honorable Gary Wilken
Alaska State Legislature
State Capitol, Room 510

Dear Senator Wilken:

SB 154 brings Alaska statutes into compliance with the child support provisions of PL 104-193. Passage and implementation of this conforming legislation is needed to avoid fiscal penalties imposed against the state's TANF block grant. The following provides additional information on the penalties that will be imposed if the state is not in compliance with the federally mandated child support provisions of PL 104-193.

Under federal law, failure to comply with paternity establishment and child support enforcement requirements under part D of PL104-193 results in a penalty of up to 5% of the federal TANF block-grant. The block grant payable to the state would be reduced following this schedule:

- For the first quarter and each subsequent quarter that ends before the first quarter that the state is found to be in compliance, not less than 1% and not more than 2%.
- For the second consecutive finding that the state is out of compliance not less than 2% and no more than 3%;
- For the third and subsequent findings of non-compliance not less than 3% and not more than 5%.

Federal law also stipulates that in the fiscal year following a reduction in the TANF grant due to a penalty, states must increase their state spending by an amount equal to the penalty.

If this legislation is not enacted and implemented and the federal penalties are applied, the state would have to voluntarily replace lost federal funds in the first year of the penalty in order to maintain ATAP funding at adequate levels. Federal law, however, mandates that the state must replace these funds in subsequent years. Under a worse case scenario, the maximum penalty that could be levied for non-compliance would be approximately \$3.2 million and the state would be required to offset the loss dollar for dollar in the fiscal year following the year the penalty was imposed.

The net affect of not complying with child support provisions of PL104-193 is a substantial increase in GF spending. However, passage and implementation of this legislation would likely increase child support collections for ATAP children and generate additional general fund program receipts for ATAP.

If you have any questions or need additional information, please contact me or my assistant, Ron Kreher, at 465-3349.

Sincerely,

Jim Nordlund
Director of Public Assistance

Cc: Glenda Straube, Director
Child Support Enforcement Division