

HB

428

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 3, 2000

FURTHER REFERRALS:

Date of Committee Action: 3/29/00

The FINANCE Committee considered:

HB 428

HOUSE BILL NO. 428

INTEREST ON CHILD SUPPORT OVERPAYMENTS

"An Act relating to interest on child support overpayments that are disbursed to the obligor."

recommends it be replaced
with the following committee substitute

CS HB 428 (FIN)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) AFC

zero fiscal note(s) _____

| SIGNING WITH RECOMMENDATIONS | | DP | DNP | NR | AM |
|------------------------------|----------------|----|-----|----|----|
| <i>Gene Theriault</i> | Theriault | X | | | |
| <i>Theriault</i> | Mulder | | | X | |
| <i>Mark Bunde</i> | Bunde | ✓ | | | |
| <i>Wm Aude</i> | Austerman | X | | | |
| <i>John M. Davies</i> | Davies | X | | | |
| <i>Ben Smeeding</i> | Crossenert | X | | | |
| <i>Paul E Moses</i> | Moses | X | | | |
| <i>John L. ...</i> | DAVIS | X | | | |
| <i>[Signature]</i> | Laird Phillips | ✓ | | | |
| <i>[Signature]</i> | Foster | X | | | |
| <i>[Signature]</i> | Witt | X | | | |

CHAIR'S SIGNATURE Gene Theriault Theriault

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 428 (FIN)

Revision Date: _____
 Title: Interest on Child Support Overpayments
 Sponsor: House Finance Committee
 Requester: _____

Dept. Affected Revenue
 BRU Child Support Enforcement Div.
 Component Child Support Enforcement Div.
 Component Serial No. 111

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 01 | FY 02 | FY 03 | FY 04 | FY 05 | FY 06 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 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)

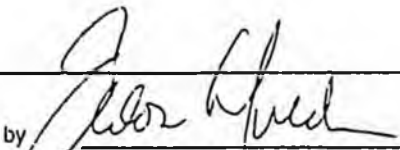
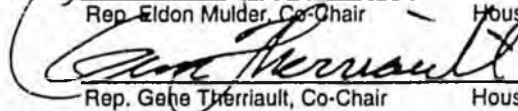
| FUND SOURCE | FY 01 | FY 02 | FY 03 | FY 04 | FY 05 | FY 06 |
|----------------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| 1091 Designated Program Receipts | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY00) cost: _____

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by 
 Rep. Eldon Mulder, Co-Chair House Finance Committee

 Rep. Gehe Therriault, Co-Chair House Finance Committee

Phone 465-2647
 Phone 465-4797
 Date 3/29/00

Adopted

CS FOR HOUSE BILL NO. 428(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to interest on child support overpayments that are disbursed to
2 the obligor."

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

4 * **Section 1.** AS 25.27.062(l) is amended to read:

5 (l) Unless modified or terminated by the agency or the court, an order to
6 withhold income under this chapter remains in effect, except as provided in (k) of this
7 section, until the support order is satisfied. The agency or court may not terminate or
8 modify an income withholding order solely on the ground that the obligor has paid all
9 arrearages. Upon satisfaction of a support order, if the order is

10 (1) being enforced by the agency, the agency shall, within 15 working
11 days, notify all persons served by the agency with the income withholding order that
12 withholding is no longer required; if the agency receives money from an obligor under
13 an income withholding order after the underlying support order has been satisfied and
14 the agency was enforcing the support order at the time it became satisfied, the agency

1 shall immediately return the overpayment to the obligor; if the agency fails to return
2 an overpayment as required under this paragraph, the state is liable to the obligor for
3 the amount of the overpayment, plus interest at the rate of six percent a year
4 [IMPOSED UNDER AS 43.05.225], and a person to whom the agency erroneously
5 disbursed the overpayment is liable to the state for the amount disbursed, plus interest
6 at the rate of six percent a year [IMPOSED UNDER AS 43.05.225];

7 (2) not being enforced by the agency, the obligor shall file a motion
8 in court requesting termination of the withholding order and serve the motion on the
9 obligee; the court shall enter an order terminating the withholding order if the court
10 determines that the support order has been satisfied; the obligor may deliver a copy
11 of the termination order to persons who were served with the income withholding
12 order; when a termination order is entered, the obligee shall, upon request of the
13 obligor, notify the obligor of all persons who have been served with the income
14 withholding order by the obligee.

15 * Sec. 2. AS 25.27 is amended by adding a new section to read:

16 **Sec. 25.27.320. Interest on agency return of certain overpayments.** (a) If
17 the agency disburses money to an obligor because the agency made an error and
18 mistakenly required the obligor to overpay under a support order enforced by the
19 agency, the agency shall include interest with the disbursement at the rate of six
20 percent a year. The interest accrues from the date the payment at issue was received
21 by the agency, regardless of when the payment is determined to be an overpayment.

22 (b) The provisions of (a) of this section do not apply to situations where the
23 agency is ordered by a court to return money to an obligor based on the obligor's being
24 the prevailing party in a court action.

25 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section
26 to read:

27 **APPLICABILITY.** This Act applies to disbursements to an obligor on or after the
28 effective date of this Act.

Alaska State Legislature



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House District 33

House Of Representatives

House Bill 428

Sponsor: Representative Gene Therriault

Sponsor Statement

House Bill 428 requires the Child Support Enforcement Division to pay interest on the return of overpayments of child support when the overpayment is due to a mistake made by the agency. The agency would be required to pay obligors six percent, the same amount of interest the agency can charge on child support arrearages imposed under 25.27.020(a)(2)(B). The requirement to pay interest on returns of overpayment is not a new precedent; AS 43.05.280 imposes a similar requirement on the Department of Revenue when refunding or crediting an overpayment of tax.

HB 428 is in response to an inequity in the child support collection system that allows the agency to charge interest when an obligor is late paying support, but does not require the agency to pay interest when returning overpayments that are the direct result of a mistake made by the agency. This bill would provide incentive to the agency to be more careful when calculating support and more prompt about returning overpayments. This bill carries no fiscal note as the agency would be expected to absorb the cost of paying the interest out of its annual budget.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB428

| | | | |
|-----------------------------------------|---------------------------|----------------|------------------------------------|
| Revision Date/Time (Note if correction) | | Dept. Affected | Department of Revenue |
| Title | Interest on Child Support | BRU | Child Support Enforcement Division |
| | Overpayments | Component | Child Support Enforcement Division |
| Sponsor | House Finance Committee | | |
| Requester | House Finance Committee | Component No. | 111 |

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| TOTAL OPERATING | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |

Estimate of any current year (FY2000) cost: _____

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

A portion of CSED's collections balance earns interest in an interest-bearing account. This interest goes into the state's General Fund -- it is not part of the CSED budget. This fiscal note is to give us the authority to use a small portion of those earnings to pay 6% interest (annual rate) on erroneous child support collections refunded to non-custodial parents, as required in HB428. Though this revenue would be included in the division's General Fund program receipts, it would be identified through the use of a separate collocation code.

| | | | |
|--------------------------|------------------------------------|-----------|-----------------|
| Prepared by: | Barbara Miklos, Director | Phone | |
| Division | Child Support Enforcement Division | Date/Time | 3/20/00 1:45 PM |
| Approved by Commissioner | Wilson L. Condon | Date | 03/20/2000 |
| Agency | Revenue | | |

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House District 33

CSHB 428(FIN)

Sponsor: Representative Gene Therriault

Sponsor Statement

CSHB428(FIN) requires the Child Support Enforcement Division to pay interest on the return of overpayments of child support when the overpayment is due to a mistake made by the agency. The agency would be required to pay obligors six percent, the same amount of interest the agency can charge on child support arrearages set out in AS 25.27.025, imposed under AS 25.27.020(a)(2)(B). The requirement to pay interest on returns of overpayment is not a new precedent; AS 43.05.280 imposes a similar requirement on the Department of Revenue when refunding or crediting an overpayment of tax.

CSHB 428(FIN) also changes the amount of interest the Division of Child Support Enforcement must pay under 25.27.062(l)(1) when it is delinquent returning overpayments that have been withheld by an employer after the support order has been satisfied. Under current law, the rate of interest is set out in AS 43.05.225 at "five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter." CSHB 428(FIN) changes the rate to a consistent six percent.

CSHB 428(FIN) is in response to an inequity in the child support collection system that allows the agency to charge interest when an obligor is late paying support, but does not require the agency to pay interest when returning overpayments that are the direct result of a mistake made by the agency. This bill would provide incentive to the agency to be more careful when calculating support and more prompt about returning overpayments. This bill carries no fiscal note as the agency would be expected to absorb the cost of paying the interest out of its annual budget.

CSHB 428 (FIN)

Sponsor: Representative Gene Therriault

Explanation of Changes

The Committee Substitute for HB 428 changes the amount of interest the Division of Child Support Enforcement must pay under AS 25.27.062(1)(1) when it is delinquent returning overpayments that have been withheld by an employer after the support order has been satisfied. Under current law, the rate of interest is set out in AS 43.05.225 at "five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter." CSHB 428(FIN) changes the rate to six percent to make it consistent with the rate set in AS 25.27.320.