

**HB**

**300**

**CS FOR HOUSE BILL NO. 300(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered:  
Referred:**

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

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to medical support orders for children; amending Rule 90.3,  
2 Alaska Rules of Civil Procedure; and providing for an effective date."

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

4 \* Section 1. AS 11.51.122(a) is amended to read:

5 (a) A person commits the crime of aiding the nonpayment of child support if  
6 the person

7 (1) knows that an obligor has a duty under an administrative or judicial  
8 order for periodic payment of child support or for the provision of health care  
9 coverage for a child under a medical support order; and

10 (2) intentionally

11 (A) withholds information about the residence or employment  
12 of the obligor when that information is requested by a child support  
13 enforcement agency; [OR]

14 (B) being an employer of the obligor, withholds information

1 about the eligibility of the obligor's children for coverage under the  
2 employer's health insurance plan or about the cost of the coverage of the  
3 children under the plan when that information is requested by a child  
4 support enforcement agency; or

5 (C) participates in a commercial, business, or employment  
6 arrangement with the obligor, knowing at the time that the arrangement is made  
7 that it will allow the obligor to avoid paying all or some of the support when  
8 it is due or to avoid having a lien placed on assets for the payment of  
9 delinquent support; receipt of a substantial asset for less than fair market value  
10 from an obligor after the obligor's support order has been established  
11 constitutes a rebuttable presumption that the person receiving the asset knew  
12 that the transfer would allow the obligor to avoid paying all or some of the  
13 support or to avoid having a lien placed on the asset.

14 \* Sec. 2. AS 11.51.122(b) is amended to read:

15 (b) In a prosecution under (a)(2)(B) and (C) [(a)(2)(B)] of this section, it is  
16 a defense that the

17 (1) defendant did not intend to assist the obligor in the nonpayment of  
18 child support or in the avoidance of a duty to provide health care coverage of a  
19 child; or

20 (2) obligor did not intend to avoid paying child support or to avoid  
21 providing health care coverage of a child.

22 \* Sec. 3. AS 25.20.050(k) is amended to read:

23 (k) Upon the motion of the child support enforcement agency or another party  
24 in the action to establish paternity, the tribunal shall issue a temporary order for  
25 support of the child whose paternity is being determined. The order may require  
26 periodic payments of support, health care coverage, or both. The order shall be  
27 effective until the tribunal issues a final order on paternity and a permanent order for  
28 support is issued or the tribunal dismisses the action. The temporary order may only  
29 be issued if the tribunal finds clear and convincing evidence of the paternity of the  
30 putative father on the basis of the results of the genetic tests and other evidence  
31 admitted in the proceeding.

1 \* Sec. 4. AS 25.20.050(l) is amended to read:

2 (l) The tribunal shall consider a completed and signed form for acknowledging  
3 paternity that meets the requirements of AS 18.50.165(a) as a legal finding of paternity  
4 for a child born out of wedlock. For an acknowledgment signed on or after July 1,  
5 1997, the acknowledgment may only be withdrawn by the earlier of the following  
6 dates: (1) 60 days after the date that the person signed it, or (2) the date on which  
7 judicial or administrative procedures are initiated to establish child support in the form  
8 of periodic payments or health care coverage for, or to determine paternity of, the  
9 child who is the subject of the acknowledgement. After this time period has passed,  
10 the acknowledgment may only be contested in superior court on the basis of fraud,  
11 duress, or material mistake. The parent wishing to contest the acknowledgment carries  
12 the burden of proof by a preponderance of the evidence. Unless good cause is shown,  
13 the court may not stay child support or other legal responsibilities while the action to  
14 contest the acknowledgment is pending.

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

16 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition  
17 must state in detail the terms of the agreement between the spouses concerning the  
18 custody of children, child support in terms of periodic payments and in terms of  
19 health care expenses, visitation, spousal maintenance and tax consequences, if any,  
20 and fair and just division of property, including retirement benefits. Agreements on  
21 spousal maintenance and property division must fairly allocate the economic effect of  
22 dissolution and take into consideration the factors listed in AS 25.24.160(a)(2) and (4).  
23 In addition, the petition must state

- 24 (1) the respective occupations of the petitioners;  
25 (2) the income, assets, and liabilities of the respective petitioners at the  
26 time of filing the petition;  
27 (3) the date and place of the marriage;  
28 (4) the name, date of birth, and current marital, educational, and  
29 custodial status of each child born of the marriage or adopted by the petitioners who  
30 is under the age of 19;  
31 (5) whether the wife is pregnant;

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- (6) whether either petitioner requires medical care or treatment;
- (7) whether any of the following has been issued or filed during the marriage by or regarding either spouse as defendant, participant, or respondent:
  - (A) a criminal charge of a crime involving domestic violence;
  - (B) a protective order under AS 18.66.100 - 18.66.180;
  - (C) injunctive relief under former AS 25.35.010 or 25.35.020;
- or
- (D) a protective order issued in another jurisdiction and filed with the court in this state under AS 18.66.140;
- (8) whether either petitioner has received the advice of legal counsel regarding a divorce or dissolution;
- (9) other facts and circumstances that the petitioners believe should be considered;
- (10) that the petition constitutes the entire agreement between the petitioners; and
- (11) any other relief sought by the petitioners.

\* Sec. 6. AS 25.27.020(a) is amended to read:

(a) The agency shall

- (1) seek enforcement of child support orders of the state in other jurisdictions and shall obtain, enforce, and administer the orders in this state;
- (2) adopt regulations to carry out the purposes of this chapter and AS 25.25, including regulations that establish
  - (A) procedures for hearings conducted under AS 25.27.170 and for administrative enforcement of support orders;
  - (B) subject to AS 25.27.025 and to federal law, a uniform rate of interest on arrearages of support that shall be charged the obligor upon notice if child support payments are 10 or more days overdue or if payment is made by a check backed by insufficient funds; however, an obligor may not be charged interest on late payment of a child support obligation, other than a payment on arrearages, if the obligor is
    - (i) employed and income is being withheld from the

1 obligor's wages under an income withholding order;

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

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

8 (C) procedures for establishing and disestablishing paternity  
9 under AS 25.27.165 and 25.27.166, including procedures for hearings; and

10 (D) procedures under which the agency shall enter into contracts  
11 or agreements with financial institutions, including brokerage houses, insurance  
12 companies, and other companies providing individual investment, transaction,  
13 or deposit accounts, doing business in the state to develop and operate an  
14 automated data match system as required by 42 U.S.C. 666(a)(17); the agency  
15 may pay a reasonable fee to a financial institution for conducting a data match  
16 under a contract or agreement under this subparagraph; the fee may not exceed  
17 the actual costs incurred by the financial institution for conducting the data  
18 match;

19 (3) administer and enforce AS 25.25 (Uniform Interstate Family  
20 Support Act);

21 (4) establish, enforce, and administer child support obligations  
22 administratively under this chapter;

23 (5) administer the state plan required under 42 U.S.C. 651 - 669 (Title  
24 IV-D, Social Security Act) as amended;

25 (6) disburse support payments collected by the agency to the obligee,  
26 together with interest charged under (2) (B) of this subsection;

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

30 (8) enforce and administer spousal support orders if a spousal support  
31 obligation has been established with respect to the spouse and if the support obligation

1 established with respect to the child of that spouse is also being administered; and

2 (9) obtain a medical support order that meets [AS PART OF A CHILD  
3 SUPPORT ORDER IF HEALTH CARE COVERAGE IS AVAILABLE TO THE  
4 OBLIGOR AT A REASONABLE COST; THE AGENCY SHALL CONSIDER  
5 WHETHER ADEQUATE HEALTH CARE IS AVAILABLE TO THE CHILD  
6 THROUGH THE INDIAN HEALTH SERVICE OR OTHER INSURANCE  
7 COVERAGE BEFORE IT ORDERS AN OBLIGOR TO PROVIDE HEALTH CARE  
8 COVERAGE THROUGH INSURANCE OR OTHER MEANS; THE MEDICAL  
9 SUPPORT ORDER MUST MEET] the requirements of AS 25.27.060(c) and  
10 25.27.063;

11 (10) act on behalf of the Department of Health and Social Services in  
12 the enforcement of AS 47.07.025(b);

13 (11) establish or disestablish, administratively under AS 25.27.165 -  
14 25.27.166 or through court action, the paternity of a child;

15 (12) promptly provide to the Bureau of Vital Statistics, in a format  
16 approved by the bureau, any final agency decision administratively establishing or  
17 disestablishing the paternity of a child born in this state; and

18 (13) act as the central registry for all child support orders and exchange  
19 information as required by federal law.

20 \* Sec. 7. AS 25.27.060(c) is amended to read:

21 (c) In a court or administrative proceeding where the support of a minor child  
22 is at issue, the court or agency, as applicable, may order either or both parents to pay  
23 the amount necessary for support, maintenance, nurture, and education of the child.  
24 Regardless of whether a support order for periodic payments is issued, the [THE]  
25 court or agency shall issue a medical support order. The medical support order  
26 shall require health care insurance coverage for the child [AS PART OF A CHILD  
27 SUPPORT ORDER] if health care insurance coverage is available to either parent  
28 for the child [THE OBLIGOR] at a reasonable cost. The court or agency shall  
29 consider whether the child is eligible for services through the Indian Health Service  
30 or other insurance coverage before ordering either parent [THE OBLIGOR] to  
31 provide health care coverage through insurance or other means. The court or agency

1 shall allocate equally the cost of health care insurance for the child between the  
2 parents unless there is good cause to allocate the costs unequally. If the obligor  
3 has the duty to make periodic payments for non-medical child support, the  
4 obligor's periodic payments shall be decreased by the amount of the other  
5 parent's portion of payments for health insurance ordered by the court or agency  
6 and actually paid by the obligor. If the obligor has a duty to make periodic  
7 payments for non-medical child support, the periodic payments shall be increased  
8 by the obligor's portion of payments for health insurance if the other parent is  
9 ordered to and actually does obtain and pay for insurance. Except as otherwise  
10 provided in this subsection for uncovered expenses exceeding \$5,000, the court or  
11 agency shall allocate equally between the parents the cost of reasonable health  
12 care expenses not covered by private insurance or government assistance unless  
13 there is good cause to allocate the costs unequally. One parent shall reimburse  
14 the other parent for the first parent's share of the uncovered expenses paid by the  
15 parent within 30 days after receipt by the first parent of the bill for the health  
16 care, payment verification, and, if applicable, a health insurance statement  
17 indicating what portion of the cost is uncovered. Reasonable, uncovered expenses  
18 exceeding \$5,000 in a calendar year shall be allocated based on the parents'  
19 relative financial circumstances when the expenses occur, as determined by the  
20 court or agency. The medical support order must meet the requirements of  
21 AS 25.27.063. Upon a showing of good cause, the court may order the parents  
22 required to pay support to give reasonable security for payments.

23 \* Sec. 8. AS 25.27.062(a) is amended to read:

24 (a) Unless the court or agency is establishing only a medical support order,  
25 a [A] judgment, court order, or order of the agency under this chapter providing for  
26 support must contain an income withholding order. Except as provided in (m) of this  
27 section, the income withholding order must provide for immediate income withholding  
28 if the support order is

29 (1) being enforced by the agency and was issued or modified on or  
30 after July 8, 1994; or

31 (2) not being enforced by the agency and was issued on or after July 8,

1 1994.

2 \* Sec. 9. AS 25.27.063(b) is amended to read:

3 (b) If a parent [AN OBLIGOR] who is required to provide health care  
4 coverage under a medical support order is eligible for family health coverage through  
5 an employer, the court or agency issuing the medical support order shall send a copy  
6 of the medical support order to the employer. If the agency has notice that the parent  
7 [OBLIGOR] has changed or will be changing employment and is or will be eligible  
8 for family health coverage through the new employer, the agency shall send a copy of  
9 the medical support order to the new employer.

10 \* Sec. 10. AS 25.27.140(a) is amended to read:

11 (a) If a [NO] support order has not been entered, the agency may establish  
12 paternity and a duty of support, which may include periodic payments of support,  
13 a medical support order, or both, utilizing the procedures prescribed in  
14 AS 25.27.160 - 25.27.220 and may enforce a duty of support utilizing the procedure  
15 prescribed in AS 25.27.230 - 25.27.270. Action under this subsection may be  
16 undertaken upon application of an obligee, or at the agency's own discretion if the  
17 obligor is liable to the state under AS 25.27.120(a) or (b).

18 \* Sec. 11. AS 25.27.140(c) is amended to read:

19 (c) Unless the agency is establishing only a medical support order, a [A]  
20 decision of the agency determining a duty of support shall include an income  
21 withholding order as provided under AS 25.27.062.

22 \* Sec. 12. AS 25.27.160(b) is amended to read:

23 (b) Except as provided in (c) of this section, the [THE] notice and finding  
24 of financial responsibility served under (a) of this section must state

25 (1) the sum or periodic payments for which the alleged obligor is found  
26 to be responsible under this chapter;

27 (2) the name of the alleged obligee and the obligee's custodian;

28 (3) that the alleged obligor may appear and show cause in a hearing  
29 held by the agency why the finding is incorrect, should not be finally ordered, and  
30 should be modified or rescinded, because

31 (A) no duty of support is owed; or

1 (B) the amount of support found to be owed is incorrect;

2 (4) that, if the person served with the notice and finding of financial  
3 responsibility does not request a hearing within 30 days, the property and income of  
4 the person will be subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270  
5 in the amounts stated in the finding without further notice or hearing.

6 \* Sec. 13. AS 25.27.160 is amended by adding a new subsection to read:

7 (c) If the agency is establishing only a medical support order, the notice and  
8 finding of financial responsibility must state

9 (1) that health care insurance shall be provided for the child to whom  
10 the duty of support is owed if health care insurance is available to the alleged obligor  
11 at a reasonable cost and that the alleged obligor and the other parent shall share  
12 equally the cost of the health care insurance and the costs of reasonable health care  
13 expenses not covered by insurance;

14 (2) the name of the alleged obligee and the obligee's custodian;

15 (3) that the alleged obligor may appear and show cause in a hearing  
16 held by the agency why the finding is incorrect, should not be finally ordered, and  
17 should be modified or rescinded, because

18 (A) no duty of support is owed;

19 (B) health care insurance for the child is not available to the  
20 alleged obligor at a reasonable cost;

21 (C) adequate health care is available to the child through the  
22 Indian Health Service or other insurance coverage; or

23 (D) there is good cause to allocate the costs of health insurance  
24 or uninsured health care expenses unequally between the parents;

25 (4) that, if the person served with the notice under this subsection does  
26 not request a hearing within 30 days, a copy of the medical support order will be sent  
27 to the person's employer under AS 25.27.063(b) without further notice or hearing for  
28 inclusion of the child in family health coverage if it is available through the person's  
29 employer.

30 \* Sec. 14. AS 25.27.170(d) is amended to read:

31 (d) Except as provided in (g) of this section, the [THE] hearing officer shall

1 determine the amount of periodic payments necessary to satisfy the past, present, and  
2 future liability of the alleged obligor under AS 25.27.120, if any, and under any duty  
3 of support imposable under the law. The amount of periodic payments determined  
4 under this subsection is not limited by the amount of any public assistance payment  
5 made to or for the benefit of the child.

6 \* Sec. 15. AS 25.27.170(f) is amended to read:

7 (f) Except as provided in (g) of this section, if [IF] the alleged obligor  
8 requesting the hearing fails to appear at the hearing, the hearing officer shall enter a  
9 decision declaring the property and income of the alleged obligor subject to execution  
10 under AS 25.27.062 and 25.27.230 - 25.27.270 in the amounts stated in the notice and  
11 finding of financial responsibility.

12 \* Sec. 16. AS 25.27.170 is amended by adding a new subsection to read:

13 (g) If the agency is establishing only a medical support order, the hearing  
14 officer shall enter a decision about the parents' respective responsibilities for the child's  
15 health care expenses that complies with the requirements of AS 25.27.060(c).

16 \* Sec. 17. AS 25.27.180(a) is amended to read:

17 (a) Within 20 days after the date of the hearing, the hearing officer shall adopt  
18 findings and a decision determining whether paternity is established and whether a  
19 duty of support exists, and, if a duty of support is found, the decision must specify

20 (1) unless a medical support order only is being established, the  
21 amount of periodic payments or sum for which the alleged obligor is found to be  
22 responsible; and

23 (2) the parents' respective responsibilities for the costs of the child's  
24 health care; this medical support order must be in compliance with  
25 AS 25.27.060(c).

26 \* Sec. 18. AS 25.27.244(s)(6) is amended to read:

27 (6) "substantial compliance" regarding a support order or payment  
28 schedule means that, with respect to periodic payments required under a support  
29 order or a negotiated payment schedule under (g) of this section, whichever is  
30 applicable, the obligor has

31 (A) no arrearage;

1 (B) an arrearage in an amount that is not more than four times  
2 the monthly obligation under the support order or payment schedule; or

3 (C) been determined by a court to be making the best efforts  
4 possible under the obligor's circumstances to have no arrearages under any  
5 support order that requires periodic payments or under a negotiated payment  
6 schedule relating to child support.

7 \* Sec. 19. AS 25.27.246(n)(5) is amended to read:

8 (5) "substantial compliance" regarding a support order or payment  
9 schedule means that, with respect to periodic payments required under a support  
10 order or a negotiated payment schedule under (f) of this section, whichever is  
11 applicable, the obligor has

12 (A) no arrearage;

13 (B) an arrearage in an amount that is not more than four times  
14 the monthly obligation under the support order or payment schedule; or

15 (C) been determined by a court to be making the best efforts  
16 possible under the obligor's circumstances to have no arrearages under any  
17 support order that requires periodic payments or under a negotiated payment  
18 schedule relating to child support.

19 \* Sec. 20. AS 25.27.900(5) is amended to read:

20 (5) "duty of support" includes a duty of support imposed or imposable  
21 by law, by a court order, decree, or judgment, or by a finding or decision rendered  
22 under this chapter whether interlocutory or final, whether incidental to a proceeding  
23 for divorce, legal separation, separate maintenance, or otherwise, and includes the duty  
24 to pay arrearages of support past due and unpaid together with penalties and interest  
25 on arrearages imposed under AS 25.27.020(a)(2)(B) and the duty to provide health  
26 care coverage in compliance with AS 25.27.060(c) and 25.27.063;

27 \* Sec. 21. AS 25.27.900(11) is amended to read:

28 (11) "support order" means any judgment, decree, or order that is  
29 issued by a tribunal for the support and maintenance of a child or of a parent with  
30 whom the child is living; "support order" includes a judgment, decree, or order

31 (A) on behalf of a child who has reached the age of majority

1 if the judgment, decree, or order was lawfully issued; and

2 (B) for any or all of the following:

3 (i) monetary support, including arrearages;

4 (ii) payment of health care costs or maintenance of  
5 health insurance;

6 (iii) reimbursement of related costs;

7 (iv) payment of attorney fees and legal costs and other  
8 fees; or [AND]

9 (v) penalty, interest, and other relief as required by a  
10 tribunal;

11 \* Sec. 22. AS 47.07.025(b) is amended to read:

12 (b) Through the child support enforcement agency or on its own behalf, the  
13 department may garnish the wages, salary, or other employment income of a person  
14 who

15 (1) is required by a medical support order under AS 25.27.060(c)  
16 [AS 25.27.063] to provide coverage of the costs of medical care to a child who is  
17 eligible for medical assistance under this chapter;

18 (2) has received payment from a third party for the costs of the  
19 services; and

20 (3) has not used the payments to reimburse, as appropriate, the other  
21 parent or custodian of the child, the provider of the services, or the department.

22 \* Sec. 23. AS 25.27.063(a) is repealed.

23 \* Sec. 24. The uncodified law of the State of Alaska is amended by adding a new section  
24 to read:

25 **INDIRECT AMENDMENT OF COURT RULE.** This Act amends Rule 90.3, Alaska  
26 Rules of Civil Procedure, by specifying that a medical support order may be issued even when  
27 a support order for periodic monetary payments is not issued and by setting the requirements  
28 for medical support orders.

29 \* Sec. 25. This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION

WES - PLEASE DISTRIBUTE  
to the committee members.

TONY KNOWLES, GOVERNOR

Please Reply To:

CSED, MS

550 W. 7<sup>th</sup> Ave., Suite 310  
Anchorage, AK 99501-6699  
907-269-6800  
800-478-3300 Toll Free in Alaska  
907-269-6860 FAX  
TTY: (907) 269-6894  
Toll Free Alaska TTY: (800) 370-6894

February 29, 2000

The Honorable Fred Dyson  
Alaska State Legislature  
State Capitol, Room 106  
Juneau, AK 99801-1182

HB 300

Dear Representative Dyson:

At the meeting of the House HESS committee on February 24, the committee asked four questions about House Bill 300.

1. *If this bill passes, what can be done about existing cases where a financial support amount was put on the order and the custodial parent did not want financial support?*

If the bill passes and CSED is able to establish separate medical orders, we will establish regulations allowing us to vacate the financial portion of the support order in these cases.

2. *Where in state and federal statute does it say that CSED may only enforce medical support by using insurance to offset Medicaid expenditures?*

State and federal laws do not limit the type of medical support that can be collected. However, we believe that focusing on health insurance is the most cost-effective way of addressing this issue. We have recently met with a contractor for the Division of Medical Assistance who will help us find non-custodial parents and identify their insurance carriers. We believe that working together we will be able to increase reimbursement for the State.

Federal law only requires that CSED assure that parents provide health insurance at a reasonable cost. 45CFR303.31 describes the requirements for coverage. State law goes one step further, allowing that uncovered medical expenses be allocated between the parents.

3. *What is the definition of reasonable that is used in Sections 1, 2, 3, 8, 11, and 12 of HB300?*

Reasonable is defined in federal regulations, 45CFR303.31(a)(1). "Health insurance is considered reasonable in cost if it is employment related, or other group health insurance, regardless of the service delivery mechanism." Our policy is to follow the federal definition. However, if the cost of the insurance appears excessive when compared to the amount of the order, we will review the case.

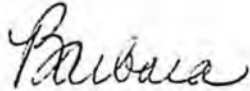
Representative Fred Dyson  
February 29, 2000  
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4. *What is the definition of adequate that is in Sections 1 and 11 of HB300?*

The word adequate was added into the existing statute in 1994. There have been instances where courts have found that Indian Health service was not adequate given the special health needs of the child.

Please let me know if you have any other questions.

Sincerely,



Barbara Miklos  
Director

cc: Larry Persily, Deputy Commissioner, Department of Revenue

TONY KNOWLES

OF

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 19, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

Thanks to the inception of Denali Kid Care in March 1999, 12,000 more Alaska children and pregnant women have basic medical care. The success of this program will have far-reaching and long-term effects on the health and well-being of Alaskans.

The vast success of Denali Kid Care has brought more into focus, however, an ongoing problem with Medicaid benefits and its effect on Alaska's child support system. This bill corrects the problem by clarifying that a child support order need not be automatically established when a custodial parent receives medical benefits through Medicaid.

The Child Support Enforcement Division (CSED) must, under federal law, issue a medical support order whenever a custodial parent receives medical benefits through Medicaid. The support order requires either parent to provide health care coverage for the child if it is available at a reasonable cost. Currently, the CSED cannot establish a medical support order only; it must be in conjunction with a child support order that seeks monthly support payments. The custodial parent, however, may not want to pursue child support for various reasons. The current requirement to do so, then, becomes a disincentive to seek valuable medical benefits through Denali Kid Care. To allow more flexibility in such cases, this bill gives parents the option of requesting a medical support order only, without an accompanying child support order.

This bill also amends the medical support statutes to provide that either parent, not simply the obligor parent, may be required to provide health care coverage if coverage is available to the parent at a reasonable cost. By making this change, the bill assures that

Governor

The Honorable Brian Porter  
January 19, 2000  
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the statutory requirements for medical support orders are consistent with the requirements of Alaska Civil Rules and related federal law. This bill also makes it clear that a medical support order can be issued regardless of whether health care coverage is currently available to either parent. This makes medical support a continuing obligation on the part of either parent to provide health care coverage for the child whenever it is available at a reasonable cost.

In the interest of the health of Alaska's children. I urge your prompt and favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles", written in a cursive style.

Tony Knowles  
Governor

# STATE OF ALASKA

WED - PLEASES SCHEDULE  
HB 300

## DEPARTMENT OF REVENUE CHILD SUPPORT ENFORCEMENT DIVISION

TONY KNOWLES, GOVERNOR

Please Reply To:

CSED, MS

550 W. 7<sup>th</sup> Ave., Suite 310  
Anchorage, AK 99501-6699  
907-269-6900  
800-478-3300 Toll Free in Alaska  
907-269-6650 CSC FAX  
TTY: (907) 269-6894  
Toll Free Alaska TTY: (800) 370-6894

January 28, 2000

The Honorable Fred Dyson  
Alaska State Legislature  
10928 Eagle River Road  
Suite 140  
Eagle River, AK 99577

Dear Representative Dyson:

I am requesting that the House Health, Education and Social Services Committee hear HB300. This bill will help parents and assure that the State of Alaska is in compliance with federal requirements.

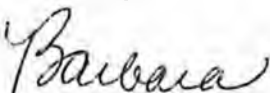
The Child Support Enforcement Division (CSED) is required to establish medical support orders whenever someone receives medical benefits through Denali Kid Care and other Medicaid programs. Alaska law requires that we establish a medical order in conjunction with a monthly financial order. This bill allows us to establish medical support orders only, without an accompanying financial support order.

There are times when the custodial parent does not want us to establish a monthly financial order. Right now, we are required to establish a monthly support amount and then suspend enforcement of the financial order. However, the debt does not go away. This can lead to problems. Also, there have been cases when the custodial parent will choose not to receive Medicaid benefits for the children because he/she does not want to have a child support case set up.

This bill also amends the statutes to provide that either parent, not simply the obligor parent, may be required to provide health care coverage if coverage is available to the parent at reasonable cost. The bill also clarifies language so that CSED can issue a medical support order before health care coverage is available. The order, however, must require that a parent provide health care coverage only if coverage is available to the parent at a reasonable cost.

We believe that this bill is a win-win bill for all parties and hope we can have a hearing soon. Please call me if you have any questions.

Sincerely,



Barbara Miklos  
Director

cc: Larry Persily, Deputy Commissioner, Department of Revenue

### **Sectional Analysis House Bill 300**

**“An Act relating to the establishment and enforcement of medical support orders for children and providing for an effective date.”**

This bill makes three changes to child support statutes. First, under existing statutes, an order for medical support can only be established in conjunction with a financial support order. This bill changes the law so that a medical support order may be established on its own. Second, this bill amends the medical support statutes to provide that either parent, not simply the obligor parent, may be required to provide health care coverage. Third, this bill amends the law to require that a medical support order be issued regardless of whether health care coverage is currently available to either parent.

Since so many statutes address child support, changes must be made to many different sections.

Section 1 removes the requirement in AS 25.27.020(a) (9) that a medical support order be issued only as part of a child support order. It also amends the statutes to provide that either parent, not simply the obligor parent, may be required to provide health care coverage.

Section 2 accomplishes the same as Section 1. However, this section amends AS 25.27.060(c), which addresses court orders.

Section 3 amends AS 25.27.063(a) so that either parent may be ordered to provide medical support, not just the obligor. It also adds language clarifying that the parent must provide health insurance only if the health insurance is available at a reasonable cost. This makes this section consistent with other statutes.

Section 4 amends AS 25.27.063(b) so that either parent may be ordered to provide medical support, not just the obligor.

Section 5 amends AS 25.27.140(a) to allow CSED to establish a medical support order as part of a duty of support.

Section 6 amends AS 25.27.140(c) so that it is clear that CSED will not send out an income withholding order with a medical support order only.

Section 7 amends AS 25.27.160 to include the establishment of medical support orders in the same procedures used to establish child support orders. The section

clarifies that CSED must serve the obligor with a notice and finding of financial responsibility to establish a medical support order only. However, it exempts medical support orders from certain requirements, including the requirement that the notice set a periodic payment amount and that the notice inform the obligor of the possibility that the obligor's property and assets will be subject to execution.

Section 8 adds a new section to AS 25.27.160 that delineates the requirements for a notice and finding of financial responsibility for a medical support order.

Sections 9 and 10 amend AS 25.27.170(d) and 25.27.170(f) so that hearing officers of the Department of Revenue have clear direction when holding hearings for medical support orders only. In Section 9, when the hearing relates to medical support only, the hearing officer is not required to determine the amount of periodic payments. In Section 10, when the hearing relates to medical support only, the obligor's property and income is not subject to immediate execution if the obligor fails to appear at the hearing.

Section 11 describes what must happen in a hearing for a medical support order only. The hearing officer shall determine whether either parent is required to provide health care coverage, taking into consideration whether coverage is available to either parent at a reasonable cost and whether adequate health care is available through Indian Health Service or other insurance coverage.

Section 12 adds the requirement that a decision issued by a hearing officer include a medical support order. It removes the requirement that the hearing officer determine the amount of periodic payments if a medical support order only is being established.

Section 13 adds the duty to provide health care coverage to the definition of duty to support.

Section 14 specifies that the legislation takes effect immediately.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 300**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_ Revenue \_\_\_\_\_  
 Title Medical Support Orders for Children BRU Child Support Enforcement  
 Component Child Support Enforcement  
 Sponsor Governor  
 Requester House Health, Education and Social Services 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						
Equipmen:						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The main feature of this legislation would allow the Child Support Enforcement Division to issue a medical support order without it having to be in conjunction with an order for financial support. Under existing statutes, an order for medical support can only be established in conjunction with a financial support order. This bill changes the law so that a medical support order may be established on its own.

Prepared by: Barbara Miklos, Director Phone \_\_\_\_\_  
 Division Child Support Enforcement Division Date/Time 2/3/00 1:34 PM  
 Approved by: Wilson Condon, Commissioner Date \_\_\_\_\_  
 Agency Department of Revenue

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## MEMORANDUM

April 11, 2000

**SUBJECT:** Medical Support Orders (CSHB 300(HES), draft version "D")

**TO:** Representative Fred Dyson  
Attn: Wes Keller

**FROM:** Terri Lauterbach  
Legislative Counsel 

Enclosed is a draft CS for HB 300. There is quite a bit of new material in the draft. This has been the first chance for the Legal Services Division to clarify this Governor's bill and to ensure that all affected laws have been considered. There seem to me to be many laws not in HB 300 that need amending in order to accommodate the concept of medical support orders being authorized separately from orders for periodic monetary payments. In this regard, I have added secs. 1-5, 8, 18-19, 21-22, and 24.

You directed that HB 300 be re-worked to accomplish the following:

- (1) allow separate medical support orders;
- (2) not allow CSED to "second-guess" the courts; and
- (3) keep responsibility for a child's health care coverage with the parents, when financially feasible for the parents.

To meet the first directive, the enclosed draft removes all statutory language that requires medical support orders to be "part of a child support order." Such language is deleted from current law in secs. 6 and 7, and additional clarifications about medical support being separate from orders for periodic payments are added in secs. 1-5, 10, 11, 13, and 16-21.

To meet the second directive, the enclosed draft enacts in the statutes the requirements currently applicable to court decisions. This new language appears in sec. 7 of the draft. The courts apply these requirements in court cases. Under this draft, the CSED will apply these requirements in agency cases. The requirements for medical support orders are consolidated in sec. 7 (AS 25.27.060(c)) in order to avoid the need for duplicative provisions elsewhere in the statutes. Therefore, duplicative details about medical support orders in sec. 6 of this draft are shown as deleted in this CS, and duplicative details about medical support orders that had been proposed in secs. 8, 11, and 12 of the original HB 300 have been omitted from this CS. Instead, references to AS 25.27.060(c) are used, where applicable, such as in secs.

Representative Fred Dyson  
April 11, 2000  
Page 2

6, 16-17, 20, and 22 of the enclosed draft, and AS 25.27.063(a) is repealed because it merely repeated the provisions of AS 25.27.060(c). Consolidating the provisions relating to medical support should help readability of the statutes as well as ensure consistency between court and CSED treatment of medical support orders.

To at least partially meet the third directive, the requirements for medical support orders in sec. 7 of the draft include a requirement that parents share the costs of health care expenses not covered by the Indian Health Services, insurance, or government assistance. Since government assistance is based on the household income of the household where the child lives and examining the noncustodial parent's finances is normally part of determining the parent's ability to make periodic child support payments, I am not sure how you would propose to take into consideration the financial ability of a non-custodial parent to reimburse the state for health care provided through Medicaid when only a medical support order is being established, not an order for periodic payments.

Consequently, this draft is still unclear in one very important respect. AS 25.27.120(a) says that an obligor is liable to the state in the amount of assistance granted under AS 47.07 (which is the law establishing Medicaid, including Denali Kid Care) up to the amount of support provided for in a medical order of support. I am not aware of any law that requires an "amount" in a medical order of support. According to AS 47.07.025(b), this apparently means only that, when the obligor provides insurance for a child covered by Medicaid, the obligor must send payments received from the insurance company to the state. Does the HESS Committee want to set the maximum liability differently for an obligor's responsibility to reimburse the state for Medicaid costs for their children (including Denali Kid Care costs)? If so, how would you like to amend AS 47.07.025(b)? (This law appears in sec. 22 of the enclosed draft.

PA  
No insurance  
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State pays  
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not liability

I have enclosed a sectional summary and a copy of Civil Rule 90.3(d) and AS 25.27.120(a). Please let me know if I can be of further assistance.

TML:jdr:pl  
00-155.jdr

Enclosures

Govt is there for picking  
up pieces of broken families  
perhaps by default  
I presumed that we don't want  
to make more pieces  
- Easy when looking @ desire for  
quality care for our kids + looking  
@ good deal re Denali Kid Care  
unintentionally send  
message that Govt is ultimately  
responsible

graphs (a) and (b) were applied. An order under this paragraph may be issued only with respect to a child whose parents are both minors, and the order terminates when either parent becomes 18 years of age. The court must specify in writing the reasons why it considers it to be appropriate to order a grandparent to pay child support under this paragraph and the factors considered in setting the amount of the child support award. In this paragraph, "grandparent" means the natural or adoptive parent of the minor parent.

**COURT  
RULES  
ON  
MEDICAL  
COVERAGE**

**Rule 90.3,  
Alaska  
Rules of  
Civil  
Procedure**

**(d) Health Care Coverage.**

(1) *Health Insurance.* The court shall address coverage of the children's health care needs and require health insurance for the children if insurance is available to either parent at a reasonable cost. The court shall consider whether the children are eligible for services through the Indian Health Service (or any other entity) or other insurance coverage before ordering the obligor to provide health care coverage through insurance or other means. The court shall allocate equally the cost of this insurance between the parties unless the court orders otherwise for good cause. An obligor's child support obligation will be decreased by the amount of the obligee's portion of health insurance payments ordered by the court and actually paid by the obligor. A child support award will be increased by the obligor's portion of health insurance if the obligee is ordered to, and actually does obtain and pay for insurance.

(2) *Uncovered Health Care Expenses.* The court shall allocate equally between the parties the cost of reasonable health care expenses not covered by insurance unless the court orders otherwise for good cause. A party shall reimburse the other party for his or her share of the uncovered expenses within 30 days of receipt of the bill for the health care, payment verification, and, if applicable, a health insurance statement indicating what portion of the cost is uncovered. Reasonable, uncovered expenses exceeding \$5,000 in a calendar year will be allocated based on the parties' relative financial circumstances when the expenses occur.

(e) *Child Support Affidavit and Documentation.* Each parent in a court proceeding at which child support is involved must file a statement pleading under oath which states the parent's adjusted annual income and the components of this income as provided in subparagraph (a)(1). This statement must be filed with a party's initial pleading (such as the dissolution petition, divorce complaint or answer, etc.), motion to modify, and any response to a

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date and amount of each payment, the name of the obligee, and the total amount of arrearages of support past due and amount of unpaid penalties and interest imposed under AS 25.27.020(a)(2)(B). The agency is required to provide only one audit each year for each obligee and obligor under this section. (§ 8 ch 118 SLA 1982; am § 10 ch 68 SLA 1988; am § 88 ch 87 SLA 1997)

**Delayed amendment.** — Under § 148(c), ch. 87, SLA 1997, as amended by § 53, ch. 132, SLA 1998, effective July 1, 2001, this section is amended to read: "Within 30 working days after receipt of a written request from an obligor, the obligor's legal representative, the obligee, or the obligee's legal representative, the agency shall provide an audit of all child support payments made by the obligor and received by the agency. The audit shall include the date and amount of each payment, the name of the obligee, and the total amount of arrearages of support past due and amount of unpaid penalties and interest imposed

under AS 25.27.020(a)(2)(C). The agency is required to provide only one audit each year for each obligee and obligor under this section."

**Revisor's notes.** — Formerly AS 47.23.105. Renumbered in 1990.

**Cross references.** — For nonseverability of § 53, ch. 132, SLA 1998 from other provisions of that act, see § 55, ch. 132, SLA 1998 in the 1998 Temporary and Special Acts.

**Effect of amendments.** — The 1997 amendment, effective July 1, 1997, made a subparagraph reference substitution in the next-to-last sentence.

**Sec. 25.27.107. Certification of arrears.** [Effective July 1, 1999.] Within 30 days after receipt of a written request from an obligee or an obligee's personal representative, the agency shall provide the obligee with a document that certifies whether or not the obligor was, at the end of the most recent calendar year,

(1) in arrears under the support order in an amount more than four times the monthly obligation under the order in cases where a payment schedule has not been established for payment of continuing support and accumulated arrears under the support order; or

(2) in arrears under a payment schedule in an amount more than four times the monthly obligation under the payment schedule if a payment schedule has been established for payment of continuing support and accumulated arrears under the support order. (§ 27 ch 132 SLA 1998)

**Effective dates.** — Section 58, ch. 132, SLA 1998 makes this section effective July 1, 1999.

ALASKA STATUTES

**Sec. 25.27.120.** Obligor liable for public assistance furnished obligee. (a) An obligor is liable to the state in the amount of assistance granted under AS 47.07 and AS 47.27 to a child to whom the obligor owes a duty of support except that, if a support order has been entered, the liability of the obligor for assistance granted under AS 47.27 may not exceed the amount of support provided for in the support order, and, if a medical order of support has been entered, the liability of the obligor for assistance granted under AS 47.07 may not exceed the amount of support provided for in the medical order of support.

(b) An obligor is liable to the state in the amount of the cost incurred if the state is maintaining a child to whom the obligor owes a duty of support in a foster home or institution, except that if a support order has been entered, or an agreement for payment of that cost executed between the obligor and the state, the liability of the obligor may not exceed the amount provided in the support order or agreement.

(c) Within 30 days after the agency knows the identity and address of an obligor who resides in the state and who is liable to the state under this section, the agency shall send written notification by certified mail to the obligor and the obligee of the obligor's accruing liability and that the obligor shall make child support payments to the agency. The notice required under this subsection must be in clear, concise, and easily readable language. The notice may accompany other communications by the agency.

(d) If the agency fails to comply with (c) of this section, interest does not accrue on the liability to the state unless a support order or medical support order, as applicable, has been entered.

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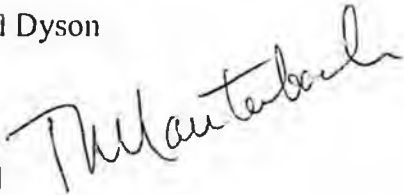
## MEMORANDUM

April 11, 2000

**SUBJECT:** Sectional Summary of CSHB 300(HES). (Draft Version "D")

**TO:** Representative Fred Dyson  
Attn: Wes Keller

**FROM:** Terri Lauterbach  
Legislative Counsel



Following is a sectional summary of CSHB 300(HES), draft version "D".

**Sections 1 and 2.** These two bill sections address the ambiguity of the phrase "child support" in AS 11.51.122(a). The ambiguity arises under HB 300 because "child support" could mean either periodic payments or payments for medical support. Sections 1 and 2 resolve the ambiguity by providing that failure to give information about health insurance coverage is also criminal. However, if you wish, these sections could be clarified the other direction - so that they clearly relate only to child support that is in the form of periodic monetary payments.

**Section 3.** This section allows temporary child support to be restricted to medical support.

**Section 4.** This section clarifies the term "child support." The change clarifies that an acknowledgment of paternity may not be withdrawn after the date on which judicial or administrative procedures are initiated to establish either monetary or medical child support.

**Section 5.** This section is about dissolutions. It clarifies the term "child support" to ensure that agreements between the parties to the dissolution provide for health care expenses of the child.

**Section 6.** This section corresponds to sec. 1 of HB 300, but is in the proper drafting form, which requires setting out the whole subsection, not just paragraph (9). In paragraph (9), rather than specifying the details that must be covered by a medical support order, the language merely refers to the requirements of AS 25.27.060(c) and 25.27.063.

**Section 7.** This section is amended to refer both to court and agency medical support orders. The new language comes from the court rules already applicable to health care coverage except that I have added a reference to "government assistance" on page 7, line 11, based on my understanding that the committee wishes to retain some responsibility for the parents to cover health care expenses that may not be covered by either private insurance or Medicaid,

Representative Fred Dyson

April 11, 2000

Page 2

such as co-payments or uncovered categories of care. Placing the court rule language in the statutes ensures that both CSED and the courts are issuing comparable medical support orders.

**Section 8.** Provides that an income withholding order is not required if only a medical support order is issued. I realize that the option of requiring an income withholding order even if only medical support has been ordered has been discussed by the committee; however, I need further instructions in order to draft that concept. An income withholding order must state an amount to be withheld from the obligor's paycheck during each pay period. How would the level of income withholding be set if only medical support was ordered? How would the CSED or court know ahead of time what the government's cost for the child were going to be?

**Section 9.** Since either parent may have insurance available for the child, "obligor" is changed to "parent" in this section.

**Section 10.** Clarifies that medical support may be separate from periodic payments of support.

**Section 11.** Same concept as sec. 8.

**Section 12.** Refers to an exception explained in the next section of the CS so that the notice and finding of responsibility can be different if only a medical support order is being established.

**Section 13.** This section sets out the contents of a notice and finding of responsibility when only a medical support order is being established.

**Sections 14 - 17.** These sections provide details for a hearing officer to follow when only a medical support order is being established. Section 14 and 15 refer to the language in sec. 16. A reference is used in secs. 16 and 17 (to AS 25.27.060(c)) so that duplicative language doesn't have to be used and all of the requirements of AS 25.27.060(c) will clearly govern the hearing officer's decision.

**Sections 18 - 19.** These sections relate to the laws that allow an occupational license or driver's license to be suspended when a child support obligor is in arrears. The definitions of "substantial compliance" are clarified so that they refer only to arrears in periodic payments, not failure to pay under an order that is only for medical support. If the committee wishes to make these definitions include arrears under medical support orders, let me know how you would want to define "substantial compliance" with respect to medical support.

**Section 20.** This section clarifies that, under a "duty of support" imposed by a court or CSED, there may only be a duty to provide health care coverage, not periodic payments of money.

Representative Fred Dyson

April 11, 2000

Page 3

**Section 21.** This section clarifies that a support order does not necessarily include all of the items listed in subparagraph (B). The word "and" is changed to "or" in (B)(iv) and the introductory language following "(B)" is further clarified.

**Section 22.** This section governs reimbursement to DHSS for the costs of Medicaid for a child when there is a medical support order in effect for the child. Current law requires only that the obligor must send to DHSS any third-party reimbursements that are received by the obligor for the child's health care. The reference is changed here to AS 25.27.060(c) because AS 25.27.060(c) is the section under which medical support orders are issued to the parent, not AS 25.27.063. AS 25.27.063 requires that a copy of the support order be sent to the parent's employer.

**Section 23.** AS 25.27.063(a) is repealed because it unnecessarily overlaps with AS 25.27.060(c).

**Section 24.** Refers to the court rule amendment.

**Section 25.** Immediate effective date. The committee may wish to consider whether there needs to be implementation time for new CSED regulations, amendments to court rules, or other matters.

TML:glc  
00-171.glc

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: January 21, 2000

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 4/11/00

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 300

HOUSE BILL NO. 300

MEDICAL SUPPORT ORDERS FOR CHILDREN

"An Act relating to the establishment and enforcement of medical support orders for children; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 300 (HES)  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) \_\_\_\_\_  
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