

SB

19

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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CS SB 19 (HES)
(S) Publish Date: 02/15/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Child Support Enforcement / BRU: Child Support
Social Security Numbers Component: Child Support
Sponsor: Rules Committee
Requester: Senate Finance Component Number: 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact from this legislation. However, failure to adopt this legislation would move the state out of compliance with federal law for child support enforcement programs and would expose the state to the penalty of losing about \$70 million a year in federal funding for Alaska's child support enforcement program and Alaska's Temporary Assistance Program (ATAP).

Prepared by: Barbara Miklos, Director Phone 269-6800
Division: Child Support Enforcement Division Date/Time Feb. 13, 2001
Approved by: Larry Persily, Deputy Commissioner Date Feb. 13, 2001
Agency: Department of Revenue

For distribution information, call the Governor's Legislative Office

Sunset Provisions of Various Versions of SB19/HB41

Version	Sunset Applies to:	Sunset Dates
Existing Statute	Most subjects in 1997/1998 CSED legislation*	July 2001
Original SB19/HB41	Most subjects in 1997/1998 CSED legislation*	Removed
SB19 as Passed by the Senate	Social Security Number Requirements & Financial Institution Data Match	July 2006
	All Other Subjects removed in original bills.	Removed
SB19/HB41 as Amended in House Hess	Social Security Number Requirements & Financial Institution Data Match	July 2003
	All Other Subjects removed in original bills.	Removed

*Provisions of 1998 Act which were not subject to the July 1, 2001, sunset of the 1997 and 1998 Acts:

- (1) Repeal of statute of limitations – AS 09.10.040(b) (§§ 2 and 54(a) of 1998 Act).
- (2) Changes to license suspension statutes (removing subpoena noncompliance as a reason for license suspension and adding best efforts to the driver's license suspension statute) – AS 25.27.244 and AS 25.27.246 (§§ 34 – 46 of the 1998 Act).
- (3) Language concerning tax dependents and certification of arrears – AS 25.24.152, AS 25.24.232, and AS 25.27.107 (§§ 13, 18, and 27 of 1998 Act).
- (4) Minor changes to UIFSA – AS 25.25.602 and AS 25.25.611 (§§ 19 and 20 of 1998 Act).
- (5) Access to certain records of vital statistics concerning remarriage and court records – AS 18.50.310, AS 22.35.020, and 25.27.300 (§§ 10, 11, and 48 of 1998 Act).
- (6) Requiring SSN's to be in the record: rather than on the face of the order or acknowledgment – AS 25.20.050(n), AS 25.24.160, AS 25.24.210, and AS 25.24.230 (§§ 12, 14, 15, and 17 of 1998 Act).
- (7) Minor changes to administrative paternity statutes – AS 25.27.165 (§§ 28 and 29 of 1998 Act).
- (8) Changes to "support order" definition and addition of definitions for "arrearage" and "high-volume automated administrative enforcement" – AS 25.27.900 (§§ 49 – 50 of the 1998 Act).

CHILD SUPPORT ENFORCEMENT "SUNSET" SUMMARY

Legislation passed in 1997 and 1998 contained sunset provisions that will take effect in 2001. These laws support programs and activities at CSED that have resulted in a significant increase in child support payments, and improved services to families in Alaska. If the sunset is allowed to occur, these improvements will be diminished, and by being out of compliance with welfare reform laws Alaska will be in jeopardy of losing \$80,000,000 in federal public assistance and child support funding.

Below is an outline of key parts of the 1997 and 1998 legislation, as well as a description of how the sunset provisions would affect CSED's work. Each of these segments is a requirement of federal compliance.

Availability of Records/Access to Information

The subject statutes allow CSED to obtain certain types of information electronically and through administrative action. If these provisions are repealed, CSED may be required to contact sources of information separately for each case, and take the difficult and time-consuming avenue of obtaining a court order to request basic information. The time lost would severely hamper our child support enforcement efforts.

'Best Efforts' Language

Adopted in 1998, this language allows a non-custodial parent who is found by a court to be making the 'best efforts possible under the circumstances to have no child support arrearages' to avoid the loss or suspension of a driver's or other license. The act adds commercial crewmember fishing licenses to existing license statute, and removes subpoena noncompliance as a reason for general license suspension. Instead, the act allows license suspension for subpoena noncompliance only in the context of a civil contempt action.

Central Registry

The law requires courts to automatically forward child support orders to CSED, and authorizes CSED to exchange this and other critical information within strict confidentiality guidelines. These procedures allow CSED to serve clients with improved timeliness and accuracy, efficiencies that will be diminished if the statutes are repealed.

Credit Bureau Reporting

Current state law requires child support debt to be reflected on a delinquent parent's credit bureau report until it has been paid. The sunset would have the effect that unpaid child support arrears could not be reported after 10 years.

Definitions: Duty of support, earnings, tribunal, arrearages

The 1997 and 1998 acts redefined a number of key terms used in child support enforcement, and this nationwide uniformity is essential to cooperative enforcement efforts between the states.

Due Process

The 1997 and 1998 acts strengthened due process protections by requiring additional notices to parents of their rights and responsibilities in paternity and child support proceedings and by providing additional opportunities for parents and other persons to request and obtain administrative and judicial review of agency actions and decisions.

Financial Institution Data Match and Immunity from Liability

Current statutes allow us to match the names of parents who owe arrears with the names on accounts at financial institutions. This makes it much more difficult for delinquent parents to hide their assets, simplifies the search for funds in multi-state institutions, and allows the institutions to cooperate without fear of retaliatory lawsuits. Few banks would participate in the FIDM if this protection were repealed. Searching for hidden assets would require sweeps of all banks for each and every case. For many children our ability to collect support would be seriously compromised.

Income Withholding

In direct response to federal requirements from PRWORA, the 1997 and 1998 acts have simplified the way a non-custodial parent pays child support through withholding, and shortened to 7 days the time between the request for withholding and the commencement of withholding by the employer. Within 2 days of receipt of withheld funds, CSED forwards the payment to the family. In out-of-state cases, we can request income withholding directly (without going through the other state's child support agency), often saving several months' delay. If these laws are allowed to sunset, it will be harder for CSED to collect monthly payments and arrearages; these collections may take months to implement, rather than immediately; and it will be easier for delinquent parents to avoid payment of their child support obligations by moving to another job before income withholding can be established.

Liens

The subject legislation simplified the statute so that CSED or a parent may assert a lien when the obligor owes an arrearage under a support order being enforced by the agency. Also, Alaska cooperates with other jurisdictions by giving full faith and credit to liens arising by operation of law in other states, *if the person seeking to enforce the lien complies with this state's procedural requirements for recording and serving liens*. The simplified statutes, and the reciprocity with regard to liens, allow us to collect lawfully established support payments and arrearages that might otherwise be unreachable.

Miscellaneous

The subject statutes provide procedures and definitions relating to the following subjects, and bring Alaska into conformance with language in PRWORA.

- exchange information
- application for services
- payments to the agency
- audit of collections
- notice of public assistance
- order establishment
- service of papers
- regulations
- fees for services
- state registry information

Modification

The subject statutes require that parties be given periodic notice of their right to seek review of child support orders. They allow review of orders every three years and clarify CSED's authority to modify administrative orders where out of state court orders also exist. If allowed to sunset, all parties' rights to due process will be weakened because state agencies will no longer be required to have written regulations setting out procedures and standards governing the modification process.

New Hire Reporting

Under the current law, all employers in the state are required to report to CSED new hires and rehires. This information helps CSED locate parents, and establish and enforce child support orders. New Hire reporting is currently responsible for about 12% of total child support collections. If the acts sunset, we will revert to a previous statute that only required employers to report new hires if notified by CSED, and which created a number of classes of exempt employers. Reversion to the old statute will *increase* to \$1000 the civil penalties that can be levied against employers for not reporting

Non-Cooperation

Current and previous laws require ATAP recipients to cooperate with child support proceedings. The 1997 act clarified who would make the determination of non-cooperation (CSED) and who would decide if the party had good cause for non-cooperation (DHHS). This clarification promotes cooperation in matters of paternity and child support, and protects parties who may have reasons for not cooperating, such as threats of domestic violence. These protections would be jeopardized by the sunset.

Nondisclosure of Information

The 1997 statute allows CSED to refuse to disclose the address or other identifying information of a parent or child if the health, safety, or liberty of that person would be unreasonably put at risk by such disclosure. Under the sunset, Alaska law will revert to a requirement to make such information available regardless of the risk if the obligor is current on child support obligations and has a previous visitation or joint custody agreement.

Paternity

The 1997 and 1998 acts include detailed requirements for the form, use, and legal effect of voluntary acknowledgments of paternity, and for proceedings to establish paternity. Acknowledgement forms must include a statement setting out the legal consequences, rights, responsibilities and alternatives to signing the form and listing the restrictions to rescinding the acknowledgment. The acts also addressed a variety of substantive and procedural requirements for the establishment of paternity, including genetic testing, consideration of the best interests of the child, recovery of costs of testing, and allowing a putative father to request genetic testing. Reversion to previous law will diminish due process provisions and safety considerations, and will complicate the paternity determination process.

Seek Work Orders

In cases where support is owed a child who is receiving public assistance, the 1997 statute allows CSED to order an obligor to seek work, or to ask a court to order an obligor to seek work, unless the obligor enters into and complies with an approved payment plan. Without this statute, CSED would have to request a seek work order from the court in the context of a civil contempt proceeding.

Social Security Numbers

The 1997 and 1998 acts required applicants for state licenses, including professional, business, occupational, driver's, recreational and marriage licenses, to include their social security numbers. These numbers help CSED locate parents and collect child support, and reduce the number of cases of mistaken identity. (Requirements for social security numbers on hunting and fishing licenses have been waived and will be allowed to sunset even if the sunset repealer is passed.)

Subpoenas

The current statutes establish procedures that give CSED the authority to subpoena financial or other information needed to establish, modify, or enforce a child support order. They require that subpoenas be served in person, or by registered, certified or insured mail. They allow a claim of good cause excusing compliance, provide a direct avenue of appeal of penalty decisions to the Superior court, and specify that CSED will enforce a subpoena from another state in the same manner. Repeal will restrict CSED's ability to obtain critical information, limiting the establishment, modification and enforcement of child support orders; and will diminish parties' due process rights with regard to administrative subpoenas.

UIFSA

The 1998 act revised the previous UIFSA statute to be clearer and more consistent. Without the changes, interstate cooperation in child support cases would be very difficult.

HOUSE CS FOR CS FOR SB NO. 19 (HES)

Original

Sponsor: Senate Rules Committee by Request of the Governor

Short Title: CHILD SUPPORT ENFORCEMENT/SOC SEC. #

Long Title: An Act relating to federal child support enforcement requirements regarding social security number information, employer reports about employees, and certain kinds of automated data matching with financial institutions; relating to child support payments; repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date.

Brief:

CSSB19 (HES) removes most of the sunset provisions that were attached to child support legislation passed in 1997 and 1998, as well as a nonseverability clause, ensuring that Alaska will stay in compliance with federal law and thus remain eligible for approximately \$70,000,000 in public assistance and child support funding. The Senate reinstated a 5-year sunset on the sections dealing with Social Security Number requirements and Financial Institution Data Match, and added Section 11, which provides that failure on the part of an employer comply with new hire reporting requirements does not give rise to a private cause of action. House HESS added Section 12, which allows the agency to characterize a support payment received during the last five business days of the month as having been received on the first day of the next month when that's what was intended; and, also in House HESS, the reinstated sunset provisions were reduced to two years.

Note: The reinstated sunset provisions are accomplished by removing the subject matter from the statutes, and setting the effective date for the removal to 2003.

SECTIONAL ANALYSIS

- Section 1: Removes Social Security Number requirement on applications for licenses for businesses entering into premium finance agreements or insurance sold under the Premium Financing Act.
- Section 2: Removes Social Security Numbers from the Child Support Enforcement reporting requirements for Centralized Licensing.
- Section 3: Removes requirement that the Alaska Bar Association report an applicant's Social Security Number to Child Support Enforcement.
- Section 4: Removes Social Security Number requirement on presumptive death certificates.

- Section 5: Removes Social Security Number requirement on applications for crewmember fishing licenses.
- Section 6: Removes Social Security Number requirement on applications for resident commercial fishing licenses.
- Section 7: Removes Social Security Number requirement from dissolution, divorce, or annulment of marriage forms.
- Section 8: Removes Social Security Number requirement from application for licensing of boiler operators.
- Section 9: Removes Social Security Number requirement from application for licensing of security guards.
- Section 10: Removes Social Security Number requirement from application for licenses to sell fireworks at wholesale.
- Section 11: States that failure on the part of an employer to comply with new hiring reporting requirements does not give rise to a private cause of action against the employer.
- Section 12: Allows the agency to characterize a support payment received during the last five business days of the month as having been received on the first day of the next month when it was intended as a payment for the next month.
- Section 13: Removes Social Security Number requirement from application for driver s license.
- Section 14: Repeals:
- 1: Social Security Number requirement of application for license for persons making loans of money, credit, goods, or things under the Alaska Small Loans Act.
 - 2: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing application under Premium Financing Act.
 - 3: Social Security Number requirement of application for Centralized Licensing.
 - 4: Social Security Number requirement for renewal of Centralized Licensing license.
 - 5: Social Security Number requirement for application for teacher certificate or a limited teacher certificate.
 - 6: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing of crewmember fishing licenses.
 - 7: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing of commercial fishing licenses.
 - 8: Social Security Number requirement for death registration.
 - 9: Reporting requirements of Social Security Numbers to Child Support Enforcement from divorce, dissolution and annulment forms.

- 10: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing of boiler operators.
- 11: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing of security guards.
- 12: Reporting requirement of Social Security Numbers to Child Support Enforcement from licensing of fireworks wholesalers.
- 13: Social Security Number requirement for application for Division of Insurance licenses.
- 14: Social Security Number requirement for application for marriage license & reporting requirements of Social Security Numbers to Child Support Enforcement.
- 15: Social Security Number requirement for paternity order or acknowledgements.
- 16: Social Security Number requirement in the records of a judgement of divorce or declaring a marriage void for each party involved.
- 17: Social Security Number requirement for petitions filed for dissolution of marriages for each party involved.
- 18: Social Security Number requirement in the records of a judgment of dissolution of marriage for each party involved.
- 19: Financial data matching requirements.
- 20: Reporting requirement of Social Security Numbers to Child Support Enforcement from drivers license applications.

Section 15: Repeals:

- 1: July 1, 2001 repeal date of 1997 CSED legislation.
- 2: Unrelated statutes in Sections of ch. 37, SLA 1998, Austerman's canned salmon processor reporting bill, that have reference to our repealer, are deleted as a clean-up measure.
- 3: July 1, 2001 repeal date of 1997 CSED legislation.
- 4: July 1, 2001 repeal date of sections 3-9, 16, 21-26, 30-33, 47, 51, and 52 of 1998 CSED legislation.
- 5: 1997 repeal & 1998 repeal are to be read consistently even though their language is different.
- 6: Nonseverability of sections 1-12, 14-17, 19-26, 28-53, and 55 of 1998 CSED legislation.
- 7: Definition of "license" stipulation, which states that definition would remain the same if CSED legislation were allowed to sunset. This is basically a housecleaning repealer.
- 8: Revisor's uncodified law changes for no delayed repeal of 1998 amendment to notification guidelines for initiating paternity proceedings. Also a housecleaning repealer.

Section 16: Sections 11, 12 and 15 take effect immediately.

Section 17: Sections 1-10, 13, and 14 take effect July 1, 2003.