

HB

513

LEGAL SERVICES

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

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Juneau, Alaska 99801-1182
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MEMORANDUM

March 24, 2004

SUBJECT: Suspension of drivers' licenses for child support enforcement purposes (CSHB 513()); version "H")

TO: Representative Pete Kott
Attn: John Main

FROM: Jean Mischel
Legislative Counsel



Enclosed is a blank CS for HB 513.

The new language you asked for is primarily in a new subsection (q), added in sec. 8 of the draft. It was not sufficient to provide just for reinitiating proceedings against an obligor who fell behind after a two-year payment history under a payment schedule; it was also necessary to provide for revocation of the release previously granted to the obligor when the original payment schedule was negotiated and to distinguish this revocation from the revocations under subsections (o) and (p), which are added by sec. 8 of the draft and referred to in secs. 3, 5, and 6 of the draft.

Since the general rule under AS 25.27.246(c), as amended in sec. 3 of the draft, is that a revoked release leads immediately to suspension of a drivers' license, and the general rule under AS 25.27.246(h), as amended in sec. 5 of the draft, is that an obligor can challenge an agency decision to revoke a release, I have drafted the new subsection (q) to provide clearly that the process after a release is revoked under (q) is different, i. e., paragraph (q)(1) provides that the revocation cannot be challenged and does not lead to immediate suspension of the obligor's drivers' license, and paragraphs (q)(2) and (3) provide, as you requested, that the process to be followed after revocation of a release under (q)(1) is to initiate a new enforcement action against the obligor, starting with placement of the obligor's name on the list maintained under AS 25.27.246(a) and continuing with the other procedures applicable to a person whose name is on the list.

Because of the interplay of subsections in AS 25.27.246, there are minor conforming changes made in secs. 2 and 7 of the draft and in subsection (p), added by sec. 8 of the draft.

If there are other conforming changes that are needed, or if the draft does not conform to your intent in any way, please do not hesitate to let me know.

JMM:mdr
04-113.mdr

Enclosure

23-LS1638VH
Mischel
3/24/04

CS FOR HOUSE BILL NO. 513()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES KOTT, Coghill, Harris, Hawker, McGuire, Rokeberg, Anderson, Lynn,
Dahlstrom**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the enforcement of support orders through suspension of drivers'
2 licenses; changing the name of the child support enforcement agency to the child
3 support services agency; amending Rules 90.3 and 90.5, Alaska Rules of Civil
4 Procedure; and providing for an effective date."

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

6 * **Section 1.** AS 25.27.010 is amended to read:

7 **Sec. 25.27.010. Creation of child support services [ENFORCEMENT]**
8 **agency.** There is created in the Department of Revenue the child support services
9 **[ENFORCEMENT] agency.**

10 * **Sec. 2.** AS 25.27.246(a) is amended to read:

11 (a) The agency shall compile and maintain a list of obligors who have a
12 driver's license, and either (1) are not in substantial compliance with a support order,
13 or (2) whose names are required to be placed on the list under (a)(2) [PAYMENT
14 SCHEDULE NEGOTIATED UNDER (f)(1)] of this section. The agency may not

1 include an obligor on the list unless the agency has sent to the obligor, at the obligor's
2 most recent address on file with the agency, written notice of the arrearages at least 60
3 days before placement on the list. The list must include the names, social security
4 numbers, dates of birth, and last known addresses of the persons. The list shall be
5 updated by the agency on a monthly basis.

6 * **Sec. 3.** AS 25.27.246(c) is amended to read:

7 (c) If the licensee fails to obtain a release during the 150-day period following
8 notice under (b) and (d) of this section or if the agency revokes a release of a
9 person's license under (o) or (p) of this section, the agency shall notify the
10 department that the licensee's driver's license should be suspended and further
11 renewals or applications should be denied until the agency sends the department a
12 release for the licensee. Upon receiving the agency's notice under this subsection, the
13 department shall suspend the licensee's driver's license and may not issue or renew a
14 driver's license for the licensee until the department receives a release to do so from
15 the agency. If a license is suspended or an application is denied under this section,
16 money paid by the applicant or licensee may not be refunded by the department.

17 * **Sec. 4.** AS 25.27.246(f) is amended to read:

18 (f) If a licensee wishes to challenge being included on the list, the licensee
19 shall submit to the agency a written request for review within 30 days after the notice
20 under (b) of this section was personally delivered or postmarked by using the form
21 developed under (d) of this section. Within 30 days after receiving a written request
22 for review, the agency shall inform the licensee in writing of the agency's findings.
23 The agency shall immediately send a release to the department and the licensee if any
24 of the following conditions is met:

25 (1) the licensee is found to be in substantial compliance with each
26 support order applicable to the licensee or has negotiated an agreement with the
27 agency for a payment schedule on arrearages and is in substantial compliance with the
28 negotiated agreement; [IF THE LICENSEE FAILS TO BE IN SUBSTANTIAL
29 COMPLIANCE WITH AN AGREEMENT NEGOTIATED UNDER THIS
30 PARAGRAPH, THE AGENCY SHALL SEND TO THE DEPARTMENT A
31 REVOCATION OF ANY RELEASE PREVIOUSLY SENT TO THE ENTITY FOR

1 THAT LICENSEE;]

2 (2) the licensee has submitted a timely request for review to the
3 agency, but the agency will be unable to complete the review and send notice of
4 findings to the licensee in sufficient time for the licensee to file a timely request for
5 judicial relief within the 150-day period before the licensee's license will be suspended
6 under (c) of this section; this paragraph applies only if the delay in completing the
7 review process is not the result of the licensee's failure to act in a reasonable, timely,
8 and diligent manner upon receiving notice from the agency that the licensee's driver's
9 license will be suspended in 150 days;

10 (3) the licensee has, within 30 days after receiving the agency's
11 findings following a request for review under (2) of this subsection, filed and served a
12 request for judicial relief under this section, but a resolution of that relief will not be
13 made within the 150-day period before license suspension under (c) of this section;
14 this paragraph applies only if the delay in completing the judicial relief process is not
15 the result of the licensee's failure to act in a reasonable, timely, and diligent manner
16 upon receiving the agency's notice of findings; or

17 (4) the licensee has obtained a judicial finding of substantial
18 compliance.

19 * Sec. 5. AS 25.27.246(h) is amended to read:

20 (h) If the agency refuses to release the license under (f) of this section or
21 the agency revokes a release under (o) or (p) of this section, the [EXCEPT AS
22 OTHERWISE PROVIDED IN THIS SECTION. THE AGENCY MAY NOT ISSUE
23 A RELEASE IF THE LICENSEE IS NOT IN SUBSTANTIAL COMPLIANCE
24 WITH THE ORDER FOR SUPPORT OR WITH AN AGREEMENT NEGOTIATED
25 UNDER (f)(1) OF THIS SECTION. THE] agency shall notify the licensee in writing
26 that the licensee may request any or all of the following: (1) judicial relief from the
27 agency's decision not to issue a release or the agency's decision to revoke a release
28 under (o) or (p) [(f)(1)] of this section; (2) a judicial determination of substantial
29 compliance; (3) a modification of the support order. The notice must also contain the
30 name and address of the court in which the licensee may file the request for relief
31 [AND INFORM THE LICENSEE THAT THE LICENSEE'S NAME SHALL

1 REMAIN ON THE LIST IF THE LICENSEE DOES NOT REQUEST JUDICIAL
 2 RELIEF WITHIN 30 DAYS AFTER RECEIVING THE NOTICE]. The licensee shall
 3 comply with all statutes and rules of court implementing this section. This section
 4 does not limit a licensee's authority under other law to request an order to show cause
 5 or notice of motion to modify a support order or to fix a payment schedule on
 6 arrearages accruing under a support order or to obtain a court finding of substantial
 7 compliance with a support order [OR A COURT FINDING OF COMPLIANCE
 8 WITH SUBPOENAS AND WARRANTS DESCRIBED IN (a) OF THIS SECTION].

9 * **Sec. 6.** AS 25.27.246(i) is amended to read:

10 (i) A request for judicial relief from the agency's decision not to issue a
 11 release under (f) of this section or from the agency's decision to revoke a release
 12 under (o) or (p) of this section must state the grounds on which relief is requested,
 13 and the judicial action shall be limited to those stated grounds. Judicial relief under
 14 this subsection is not an appeal and shall be governed by court rules adopted to
 15 implement this section. Unless otherwise provided by court rule, the court shall hold
 16 an evidentiary hearing within 20 calendar days after the filing of service on the
 17 opposing party. The court's decision shall be limited to a determination of each of the
 18 following issues, as applicable:

- 19 (1) whether there is a support order or a payment schedule on
- 20 arrearages;
- 21 (2) whether the petitioner is the obligor covered by the support order;
- 22 and
- 23 (3) whether the obligor is in substantial compliance with the support
- 24 order or payment schedule.

25 * **Sec. 7.** AS 25.27.246(k) is amended to read:

26 (k) If a licensee is in substantial compliance with a support order or payment
 27 schedule, the agency shall mail to the licensee and the department a release stating that
 28 the licensee is in substantial compliance. The receipt of a release shall serve to notify
 29 the licensee and the department that, for the purposes of this section, the licensee is in
 30 substantial compliance with the support order or payment schedule unless the agency

31 (1) [,] under (a) of this section, certifies subsequent to the issuance of a

1 release that the licensee is once again not in substantial compliance with a support
2 order ; or

3 (2) under (o), (p), or (q) of this section, revokes a release because
4 the licensee is not in substantial compliance with a payment schedule negotiated
5 under this section [OR PAYMENT SCHEDULE].

6 * Sec. 8. AS 25.27.246 is amended by adding new subsections to read:

7 (o) If the agency releases a license under (f)(2) or (3) of this section because
8 the review could not be completed within the 150-day period, the review process,
9 including any request for judicial relief, may be completed after the 150-day period.
10 If, at the completion of the review process, the licensee is found not to be in
11 substantial compliance with each support order applicable to the licensee and has not
12 entered into a payment schedule under this section, the agency shall send to the
13 department a revocation of the release previously sent to the department for that
14 licensee. The agency shall send notice of the revocation to the licensee as provided in
15 (h) of this section.

16 (p) Except as provided in (q) of this section, if the licensee fails to be in
17 substantial compliance with a payment schedule negotiated under this section, the
18 agency shall send to the department a revocation of any release previously sent to the
19 department for that licensee. The agency shall send notice of the revocation to the
20 licensee as provided in (h) of this section.

21 (q) If a licensee fails to be in substantial compliance with a payment schedule
22 negotiated under this section but paid the monthly obligation under the payment
23 schedule for at least two years immediately after the schedule was negotiated, the
24 agency shall

25 (1) revoke the release previously granted to the licensee under this
26 section and notify the department and licensee that the release has been revoked; the
27 licensee may not challenge the revocation of this release; upon receiving the agency's
28 notice under this paragraph, the department may not suspend the licensee's driver's
29 license or refuse to issue or renew a driver's license for the licensee unless the
30 department subsequently receives a new notice to do so from the agency under (c) of
31 this section;

1 (2) initiate new proceedings against the licensee under this section by
 2 placing the licensee's name on the list compiled under (a) of this section after
 3 following the procedures required under (a) of this section;

4 (3) follow the procedures of this section with respect to the licensee as
 5 if it were the first time that the licensee's name had been placed on the list compiled
 6 under (a) of this section, except that the agency may either negotiate a new payment
 7 schedule under (f)(1) of this section or seek to enforce the previously negotiated
 8 payment schedule.

9 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 **INDIRECT COURT RULE AMENDMENT.** Section 1 of this Act has the effect of
 12 changing Rule 90.3, Alaska Rules of Civil Procedure, by changing the name of the child
 13 support enforcement agency to the child support services agency.

14 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 15 read:

16 **INDIRECT COURT RULE AMENDMENT.** Sections 1 - 8 of this Act have the effect
 17 of changing Rule 90.5, Alaska Rules of Civil Procedure, by changing the name of the child
 18 support enforcement agency to the child support services agency and by changing the
 19 procedure for expedited relief from action against a driver's license for unpaid support.

20 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **TWO-THIRDS VOTE NOT REQUIRED FOR RULE 90.3 AMENDMENT.** Because
 23 Rule 90.3, Alaska Rules of Civil Procedure, was adopted under the Alaska Supreme Court's
 24 interpretive authority exercised under art. IV, sec. 1, Constitution of the State of Alaska, sec. 1
 25 of this Act takes effect for the purpose of amending Rule 90.3, Alaska Rules of Civil
 26 Procedure, without needing to meet the two-thirds vote requirement normally applicable to
 27 changing court rules under art. IV, sec. 15, Constitution of the State of Alaska.

28 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 **REVISOR OF STATUTES AND REGULATIONS ATTORNEY INSTRUCTIONS.**

31 (a) The revisor of statutes is instructed to change the term "child support enforcement

1 agency" to "child support services agency" throughout the Alaska Statutes when to do so
2 would be consistent with sec. 1 of this Act.

3 (b) The regulations attorney is instructed to change the term "child support
4 enforcement agency" to "child support services agency" throughout the Alaska Administrative
5 Code when to do so would be consistent with sec. 1 of this Act.

6 * Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **CONDITIONAL EFFECT FOR RULE 90.5 AMENDMENTS.** Sections 2 - 8 of this
9 Act take effect only if sec. 10 of this Act receives the two-thirds majority vote of each house
10 required by art. IV, sec. 15, Constitution of the State of Alaska.

11 * Sec. 14. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
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Fax (907) 465-2819

Interim: (June-Dec)
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Anchorage, AK 99501-2133
(907) 269-0155
(907) 269-0154 Fax

Pete Kott Speaker of the House

Date: March 2, 2004

From: Representative  Pete Kott

To: Senator Ralph Seekins, Chair
Senate Judiciary Committee

Re: HB 513, "CSED name change/driver's license suspension"

I respectfully request that House Bill 513 be scheduled for a hearing in the Senate Judiciary Committee at your earliest convenience. Attached to this memo are the following:

1. HB 513
2. Sponsor Statement
3. Sectional Analysis
4. Fiscal Notes

If you have any questions please feel free to contact me personally, or my staff, John Main, at ext. #3777.

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Pete Kott **Speaker of the House**

SPONSOR STATEMENT

HB 513

“An Act relating to the enforcement of support orders through suspension of driver’s licenses; changing the name of the child support enforcement agency to the child support services agency; amending Rules 90.3 and 90.5, Alaska Rules of Civil Procedure; and providing for an effective date.”

HB 513 changes the name from “Child Support Enforcement Division” to “Child Support Services.” This change will foster positive public and client attitudes about child support payments.

HB 513 also closes an expensive and time-consuming loophole in CSED’s licensing program. When an obligor signs a payment agreement, the agency must release the obligor’s driver’s license. If the obligor fails to comply with the payment agreement, the agency can revoke that release. However, before the obligor’s license can be suspended, the agency must go through the entire notice and review process again. This legislative proposal would allow the agency to suspend an obligor’s driver’s license after revoking a release of the license because the obligor failed to comply with the payment agreement, without going through the entire review process again. Instead, the obligor would have 30 days to request a judicial review of the decision revoking the release. Law must hold the judicial review held within 20 days after the review is requested. This would simplify the process by which a release can be revoked while at the same time ensuring an obligor receives due process before the license is actually revoked. CSED’s ability to use this option to suspend for noncompliance would be limited to five years. In other words, if the obligor has been complying with a payment plan for five years, but then becomes noncompliant, CSED would not be able to automatically suspend, and must restart the more lengthy suspension process.

This legislation will show that CSED is a service-oriented agency dedicated to serve the public in a positive and informative manner, while at the same time, closes a loophole that has allowed individuals to use the system to the detriment of their children. I respectfully request the committee’s favorable consideration of HB 513.

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MEMORANDUM

February 19, 2004

SUBJECT: Child Support Enforcement Agency Name Change and Driver's License Suspension (HB 513)

TO: Representative Pete Kott
Attn: John Main

FROM: Jean M. Mischel
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Changes the name of the child support enforcement agency to "child support services" agency.

Section 2. Deletes language pertaining to a payment schedule for purposes of maintaining and compiling a list of obligors who have a driver's license and who are not in substantial compliance with a support order.

Section 3. Adds driver's license release revocations, added in another section of this bill, for child support enforcement purposes.

Section 4. Deletes reference to payment schedules for revocation release purposes.

Section 5. Deletes a restriction on release of driver's license and adds a provision regarding refusal of the agency to release a driver's license. Also adds a cross-reference to new sections added by the bill and deletes some of the notice requirements. Deletes opportunity to seek a court finding of compliance with a subpoena and warrant for child support.

Section 6. Adds limiting language to a request for judicial relief from an agency's decision.

Section 7. Adds a cross-reference to new sections in the bill pertaining to a revocation of release of a driver's license as an exception to evidence of substantial compliance.

Section 8. Adds two new sections pertaining to a release and revocation of a release of a driver's license, including failure to be in substantial compliance with a payment schedule or for delay caused by the agency.

Section 9. Adds a new section to the uncodified law regarding an indirect court rule amendment to Rule 90.3, Alaska Rules of Civil Procedure due to the name change in the bill.

Section 10. Adds a new section to the uncodified law regarding an indirect court rule amendment to Rule 90.5, Alaska Rules of Civil Procedure due to the name change in the bill and the change to judicial procedure.

Section 11. States that a 2/3 vote of the legislature is not required for a Rule 90.3 amendment.

Section 12. Adds a revisor's instruction to make conforming amendments as a result of the agency name change in the bill.

Section 13. States that sections 2-8 of the bill are effective only on the condition of a 2/3 vote of the legislature.

Section 14. Adds an effective date.

JMM:med
04-206.med

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 513
(H) Publish Date: 2/24/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title CSED Name Change/ BRU Alaska Court System
Driver's License Suspension Component Trial Courts
Sponsor Representative Kott Component No. _____
Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 513.

Prepared by: Doug Wooliver Administrative Attorney
Division: Alaska Court System
Approved by: Stephanie Cole Administrative Director by Doug Wooliver
Agency: Alaska Court System

Phone 463-4750
Date/Time 2/23/04 11:35 AM
Date 2/23/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 513
 (H) Publish Date: 2/24/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title CSED Name Change/ RDU Revenue Programs & Services
Driver's License Suspension Component Child Support Enforcement
 Sponsor Representative Kott
 Requester House Judiciary Component No. 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 There will be no measurable fiscal impact from this legislation. The driver's license suspension portion of the bill will save staff time which will allow the staff to be work license suspension action in a more timely manner.

Prepared by: John Mallonee Phone (907) 269-6802
 Division Child Support Enforcement Date/Time 2/23/04 9:26 AM
 Approved by: Steve Porter, Deputy Commissioner Date 2/23/2004
 Agency Department of Revenue