

SB

96

<target><bill>SB 96</bill><subject>SB
96</subject><comm>SFIN26</comm></target>

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
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Session: (Jan. - May)
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Senator Bettve, Davis@legis.state.ak.us
<http://www.akdemocrats.org>

SB 96

TITLE: "An Act relating to nonpayment of child support: relating to certain judicial and administrative orders for medical support of a child;."

SPONSOR STATEMENT (B)

In July 2008, the federal government issued new medical support regulations that require states to have guidelines addressing how either or both parents will provide for a child's healthcare needs through accessible health insurance coverage, cash medical support, or both. Under the federal regulations, states must order either or both parents to purchase reasonably-priced, accessible health insurance coverage, provide cash medical support or both. Cash medical support may be required in those cases where no reasonably-priced health insurance coverage is accessible to the child. If a parent is ordered to pay cash medical support, the Child Support Services Division must enforce the ongoing cash medical support obligation as well as collect any cash medical support arrears. Failure to satisfy these mandated jeopardizes 17 million dollars in federal funding for the state's child support program.

This bill adds to existing law the authority for a tribunal to order either or both parents to pay cash medical support, if warranted. In addition, the bill directs CSSD to review child support orders for modification on a federally mandated three-year cycle. The bill adds cash medical support to the definition of arrearage and the definition of support order thereby enabling CSSD to use

its existing enforcement tools to collect a cash medical support obligation on behalf of the child. Finally, the bill removes the language limiting who may request the correction of a clerical mistake in an administrative order or request the vacation of an administrative order based upon a default income.

This bill puts Alaska in compliance with the federal requirements. As explained above, this bill will assure that Alaska's children receive the medical support to which they are entitled.



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

February 27, 2009

SUBJECT: Sectional Summary (CSSB 96()); (Work Order No. 26-LS0485\E))

TO: Senator Betty Davis
Attn: Lynda Zaugg

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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Adds reference to cash medical support to the crime of aiding the nonpayment of child support in the second degree.

Section 2. Adds the Virgin Islands and Indian Tribes to the definition of "state."

Section 3. Amends order of support provision to include both parents, medical support, and insurance.

Section 4. Adds medical support to provision authorizing the initiation of administrative action to establish a duty of support.

Section 5. Amends periodic reviews of support orders to require a three year cycle of review.

Section 6. Deletes motion requirement for correcting an administrative mistake in a support order.

Section 7. Deletes motion requirement for vacating a support order that is based on a default amount.

Section 8. Redefines "arrearage" for child support purposes.

Section 9. Amends the definition of "support order" to include cash medical support.

Section 10. Amends garnishment provision to include insurance and cash medical support.

Section 11. Amends the Alaska Native family assistance program to include obligations for cash medical support.

Section 12. Provides for an indirect court rule amendment to Rule 90.3, Alaska Rules of Civil Procedure for changes made in the bill.

Section 13. Makes bill changes applicable to child support actions filed on or after the bill's effective date.

Section 14. Authorizes the Department of Revenue to proceed to adopt regulations needed under the bill.

Section 15. Provides for a conditional effect for the court rule amendment in sec. 12 only for two-thirds majority vote.

Section 16. Makes sec. 14 effective immediately.

Section 17. Provides for a July 1, 2009, effective date for all other bill sections.

JMM:ljw
09-125.ljw



DEPARTMENT OF HEALTH & HUMAN SERVICES

JAN 29 2009

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

Mr. John Mallonee
Director
Child Support Services Division, MS
550 West 7th Avenue, Suite 310
Anchorage, AK 99501

Dear Mr. Mallonee:

This is in response to your letter dated December 18, 2008 regarding Alaska's request for an exemption from the State plan requirement in section 466(f) of the Social Security Act (the Act), which mandates that on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act (UIFSA), as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform States Laws. Specifically, the State's UIFSA does not include Indian Tribes in the definition of 'State'. Based upon the submitted documentation, the State's request for an authority exemption to exclude Indian Tribes from the definition of State as well as the State's request for an exemption to operate a similar procedure is disapproved.

The State plan provision at section 454(20) of the Act requires States to have in effect and use the laws and procedures specified in section 466 to improve the effectiveness of child support enforcement programs. However, States may apply for an exemption from implementing one or more of these laws and procedures, which may be approved if a State demonstrates to the satisfaction of the Secretary that the mandated law or procedure would not increase the efficiency or effectiveness of the State IV-D program "through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify." [42 U.S.C. 666(d)]

As indicated in OCSE's October 2, 2008 letter, the authority exemption that Alaska requested requires that the State have an existing law or other legal authority for procedures under which it is operating in compliance with the intent of the Federal mandatory procedure even though the State does not have a statute specifically addressing the matter. Alaska does not have a procedure that is in compliance with or meeting the intent of section 466(f) of the Act; thus the State lacks an essential requirement for an authority exemption.

Your request asserts that the Full Faith and Credit for Child Support Orders Act (FFCCSOA), 28 U.S.C. 1738B, provides sufficient authority to recognize the child support orders of other jurisdictions. However, UIFSA provides necessary and additional procedures, not included in

Page 2 – Mr. John Mallonee

FFCCSOA, for the orderly and efficient recognition and enforcement of inter-governmental child support orders including procedures for: registration of support orders; challenging registration and enforcement of support orders; paternity establishment; direct wage withholding; and long-arm jurisdiction. These procedures apply to tribal child support orders across the United States, but do not apply in Alaska because of the failure to include "Tribes" in the definition of State. As a result, FFCCSOA does not meet the goals and intent of UIFSA and cannot substitute for UIFSA.

Alaska's second request is for an exemption to operate a similar procedure. In addition to the application of FFCCSOA, the request states that the State can recognize tribal child support orders issued outside Indian Country under comity principles. The request fails to provide any description of the similar procedure, i.e., the comity procedure, as is required by AT-07-06.

Section 466(d) of the Social Security Act, 45 CFR 302.70(d)(2) and AT-07-06 also require that the State provide supporting data showing that a mandated law or procedure would not increase the efficiency or effectiveness of the child support program. The requirement to provide supporting data was made clear to the State in the October 2, 2008 letter from Region X to the State (page 2, paragraph 1). According to the exemption request, the State estimates that the cost of operating under a similar procedure is "zero" and that the "required inclusion" would not increase, decrease, or have a minimal impact on the average length of time to take action in a case in Alaska, the number of support orders enforced, and/or the amount of collections. The State, however, failed to fully document the request by describing the similar procedure it would operate; defining the methodology used to reach its conclusion; and identifying the assumptions made and/or sampling approaches used.

As such, Alaska must enact the appropriate laws and implement the mandatory practice as soon as possible. The State must then submit for approval copies of the required laws, written policies and procedures, and administrative regulations or court rules as attachments to their IV-D State plan page for the mandated procedure.

We look forward to working with you to resolve this matter.

Sincerely,



Donna J. Bonar
Acting Commissioner
Office of Child Support Enforcement

cc: Linda Gillett
OCSE Regional Program Manager
Region X

State of Alaska

Department of Revenue
Administrative Services Division



SARAH PALIN, GOVERNOR

333 Willoughby Avenue, 11th Floor
P.O. Box 110400
Juneau, Alaska 99811-0405
Phone: (907) 465-2300
Fax: (907) 465-2394

March 20, 2009

The Honorable Bert Stedman
Chair, Senate Finance Committee
Alaska State Legislature
State Capitol, Room 516
Juneau, AK 99801

Dear Senator Stedman;

The Department of Revenue has requested a hearing to be scheduled for SB96 Child Support / Cash Medical. This bill was introduced by the Senate Health and Social Services Committee with support from the Governor. This letter outlines the need for the legislation to pass during this legislative session both for content of the bill and fiscal impact to the citizens of the state.

The Alaska Child Support Services Division (CSSD) needs to amend state law on three issues.

1. The requirement for cash medical support
2. The three year review cycle
3. The change of the definition of state in UIFSA

The first two amendments are less controversial and only require that child support orders include a provision for obligors to pay cash medical assistance to the custodial parent to help with health costs when insurance is not provided for that child, and that the division performs regular reviews of its cases.

The third amendment is more sensitive to certain legislators. The Uniform Interstate Family Support Act (UIFSA) contains a definition of "state." Under federal law, all states must adopt the uniform act's definition of "state" that includes "the United States Virgin Islands" and "an Indian tribe." For Alaska, the impact of adopting a definition that would include Indian tribes, means Indian tribes can issue and serve income-withholding orders on employers. The obligor would be entitled to contest the jurisdiction of the tribe to issue the order and the usual rights to contest the validity or enforcement of an order by an obligor would still apply. The change would also affect the process for state recognition of tribal orders. A tribal child support order would be registered in the Alaska state courts under the UIFSA procedures instead of a comity process. These changes are consistent with the purpose of UIFSA. The purpose of UIFSA is to unify state laws relating to child support orders, to provide efficient procedures for collecting child support in interstate cases, and to eliminate multiple support orders that were permitted under prior child support laws.

One question raised by the changes required by UIFSA is whether the tribal amendment would result in an expansion of tribal authority. The Department of Law has examined this question and came to the

following conclusion:

“UIFSA’s underlying purpose is not to define jurisdiction. Nor does the state have the ability to define tribal jurisdiction. The overall purpose of UIFSA is simply to unify state laws relating to child support orders, to provide efficient procedures for collecting child support in interstate cases, and to eliminate multiple support orders that were permitted under prior child support laws. These purposes do not trigger broader jurisdictional concerns.”

Intent language could be included in the introduced child support legislation (SB 96) to ease concerns of legislators who are not comfortable with issues related to Indian tribes. Or a letter of intent could be attached as a separate letter to the bill. I might suggest the following as an amendment:

LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

(1) failure to bring AS 25.25.101 into compliance with the federal Social Security Act Title IV-D could result in the loss of approximately \$17,000,000 in administrative funding;

(2) of the 33 states that have federally recognized tribes, Alaska is the only state that has not yet passed conforming legislation; and

(3) to bring Alaska into conformity with UIFSA, the legislature finds that it is necessary to amend AS 25.25.101 to include “an Indian tribe” and “the United States Virgin Islands” in the definition of “state.”

(b) It is the intent of the legislature that this Act not alter or expand in any way the governmental relationship between federally recognized tribes and the state.

A zero fiscal note accompanies the legislation because passage of the bill would result in no additional impact to the Department of Revenue, Child Support Services Division. The fiscal impact to non-passage of SB96, or another like bill, could be detrimental to 62,000 Alaska’s children under age 19. If the state remains out of compliance after this legislative session, CSSD could lose nearly the entire operating budget required to operate the child support activities mandated by state and federal law and could jeopardize the entire TANF block grant received by the Department of Health and Social Services, Division of Public Assistance. (The division currently has a budget of \$174,000 General Funds.)

\$11,000,000 Federal receipts paid through Title IV-D of the Social Security Act for child support services.

\$12,708,403 Each year CSSD collects funds from families who also receive state benefits through the State’s TANF (Temporary Assistance for Needy Families) program. The collections received on behalf of the children receiving funding through TANF are retained by CSSD and used as match to obtain additional federal funding for child support, \$6,070,137 state match, and \$6,638,266 to be used as part of the total federal receipts to be paid to CSSD for its services. *FY08 totals

\$ 1,025,761	Annual collections from obligors whose children are in state foster care are sent to the Department of Health and Social Services to help pay for foster care costs. *FY08 totals
\$ 860,560	Annual collections from obligors whose children are institutionalized are sent to the Department of Health and Social Services to help pay for non-federal foster care. *FY08 totals
\$60,000,000	Federal TANF Block Grant is part of the Social Security Act. If any part of the Act is not in compliance, the State would risk losing the entire block grant. The majority of this funding is appropriated in the Department of Health and Social Services. Action Transmittal OCSE-AT-97-05 dated April 28, 1997 describes that CSSD funding would be lost and that non-compliance could also put at risk Title IV-A funding. The language from this Action Transmittal follows:

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

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

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

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

As stated above, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. If a State is dissatisfied with OCSE's decision, reconsideration may be requested pursuant to 45 CFR 301.14. Withholding of Federal payments cannot be stayed pending reconsideration.

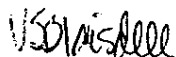
Section 402(a)(2) of the Act (as amended by PRWORA) provides that the chief executive officer of a State must certify that it will operate a child support enforcement program under an approved IV-D plan as a condition of eligibility for a TANF block grant under title IV-A of the Act. Therefore, States should be aware that TANF funds may also be at risk.

In conclusion:

1. Monthly distribution of child support payments to custodial parents averages \$9,350,000.
2. One out of six citizens (approximately 125,000 people) in Alaska are somehow involved in a child support case.
3. If this legislation does not pass in the next 30 days, Alaska risks losing its entire child support services program and could lose its state TANF block grant that serves low-income citizens in every community.

Thank you for working with us on this issue.

Sincerely,



Ginger Blaisdell
Director

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/09

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 96

SB 96 CHILD SUPPORT/ CASH MEDICAL SUPPORT

"An Act relating to nonpayment of child support; relating to certain judicial and administrative orders for medical support of a child; relating to periodic review and adjustment of child support orders; relating to relief from administrative child support orders; relating to child support arrearages; relating to medical support of a child and the Alaska Native family assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB96 (FIN)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____


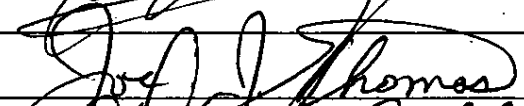
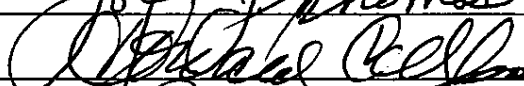
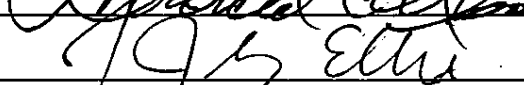
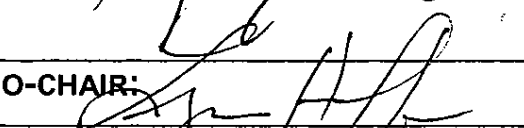
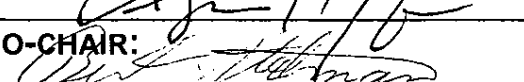
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	12/15/08			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Huggins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	OLSON	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	ELLIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Sperman	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 96(HSS)
(S) Publish Date: 3/3/09

Identifier (file name): CSSB96(HSS)-DOR-CSS-03-02-09

Dept. Affected: Revenue

Title: Cash Medical Support for Minor Children

RDU: Child Support Services Division

Component: Child Support Services Division

Sponsor

Requester: Governor

Component Number: 111

Expenditures/Revenues

(Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0
CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()								

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

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

This legislation does not require any additional funding.

Prepared by: John Mallonee
Division: Child Support Services Division

Phone: 269-6801

Date/Time: 12/12/2008 / 5:00pm

Approved by: Jerry Burnett
Department of Revenue

Date: 12/15/2008

Adopted 4.9.09

26-LS0485VP
Mischel
4/7/09

CS FOR SENATE BILL NO. 96()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to nonpayment of child support, to the definition of the term "state"**
2 **for the purposes of the Uniform Interstate Family Support Act, to certain judicial and**
3 **administrative orders for medical support of a child, to periodic review and adjustment**
4 **of child support orders, to relief from administrative child support orders, to child**
5 **support arrearages, and to medical support of a child and the Alaska Native family**
6 **assistance program; amending Rule 90.3, Alaska Rules of Civil Procedure; and**
7 **providing for an effective date."**

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

9 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
10 to read:

11 **DEFINITION OF "STATE"; LEGISLATIVE INTENT.** (a) It is the intent of the
12 legislature that in order to bring Alaska into conformity with the nationwide Uniform
13 Interstate Family Support Act (UIFSA), as approved by the American Bar Association on

1 February 9, 1993, and as in effect on August 22, 1996, including any amendments officially
2 adopted as of that date by the National Conference of Commissioners on Uniform State Laws,
3 it is necessary to amend AS 25.25.101 to include "an Indian tribe" and "the United States
4 Virgin Islands" in the definition of "state."

5 * **Sec. 2.** AS 11.51.122(a) is amended to read:

6 (a) A person commits the crime of aiding the nonpayment of child support in
7 the second degree if the person knows that an obligor has a duty under an
8 administrative or judicial order for periodic payment of child support, for cash
9 medical support, or for the provision of health care coverage for a child under a
10 medical support order or a cash medical support order, or both and

11 (1) being a person with a statutory duty to disclose information to a
12 child support enforcement agency intentionally withholds the information when it is
13 requested by a child support enforcement agency;

14 (2) being an employer of the obligor, intentionally withholds
15 information about the residence or employment of the obligor, the eligibility of the
16 obligor's children for coverage under the employer's health insurance plan, or the cost
17 of the coverage of the children under the plan, when that information is requested by a
18 child support enforcement agency or when the employer is required by state or federal
19 law to report the information without a request by a child support enforcement agency;
20 or

21 (3) intentionally participates in a commercial, business, employment,
22 or other arrangement with the obligor, knowing at the time that the arrangement is
23 made that it will allow the obligor to avoid paying all or some of the support when it is
24 due or to avoid having a lien placed on assets for the payment of delinquent support;
25 receipt of a substantial asset for less than fair market value from an obligor after the
26 obligor's support order has been established constitutes a rebuttable presumption that
27 the person receiving the asset knew that the transfer would allow the obligor to avoid
28 paying all or some of the support or to avoid having a lien placed on the asset.

29 * **Sec. 3.** AS 25.25.101(19) is amended to read:

30 (19) "state" means a state of the United States, the District of
31 Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or

1 any territory or insular possession subject to the jurisdiction of the United States; the
2 term "state" includes an Indian tribe and a foreign jurisdiction that has enacted a law
3 or established procedures for issuance and enforcement of support orders that are
4 substantially similar to the procedures under this chapter or under the Uniform
5 Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal
6 Enforcement of Support Act;

7 * Sec. 4. AS 25.27.060(c) is amended to read:

8 (c) In a court or administrative proceeding where the support of a minor child
9 is at issue, the court or agency, as applicable, may order either parent or both parents
10 to pay the amount necessary for support, maintenance, nurture, and education of the
11 child. Regardless of whether a support order for periodic payments is issued, the court
12 or agency shall issue a medical support order, a cash medical support order, or
13 both. The medical support order shall require health care insurance coverage for the
14 child if health care insurance coverage is available to either parent or both parents for
15 the child at a reasonable cost. The court or agency shall consider whether the child is
16 eligible for services through the Indian Health Service or other insurance coverage
17 before ordering either parent or both parents to provide health care coverage through
18 insurance, cash medical support, or other means or a combination of insurance,
19 cash medical support, or other means. The court or agency shall allocate equally the
20 cost of health care insurance for the child between the parents unless there is good
21 cause to allocate the costs unequally. If the obligor has the duty to make periodic
22 payments for non-medical child support, the obligor's periodic payments shall be
23 decreased by the amount of the other parent's portion of payments for health insurance
24 ordered by the court or agency and actually paid by the obligor. If the obligor has a
25 duty to make periodic payments for non-medical child support, the periodic payments
26 shall be increased by the obligor's portion of payments for health insurance if the other
27 parent is ordered to and actually does obtain and pay for insurance. The court or
28 agency shall allocate equally between the parents the cost of reasonable health care
29 expenses not covered by private insurance unless there is good cause to allocate the
30 costs unequally. One parent shall reimburse the other parent for the first parent's share
31 of the uncovered expenses paid by the parent within 30 days after receipt by the first

1 parent of the bill for the health care, payment verification, and, if applicable, a health
2 insurance statement indicating what portion of the cost is uncovered. The medical
3 support order must meet the requirements of AS 25.27.063. Upon a showing of good
4 cause, the court may order the parents required to pay support to give reasonable
5 security for payments.

6 * Sec. 5. AS 25.27.160(c) is amended to read:

7 (c) If the agency is establishing only [A] medical support [ORDER], the
8 notice and 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 sum of periodic payments of cash medical support for
15 which either parent or both parents are found to be responsible under this
16 chapter;

17 (3) the name of the alleged obligee and the obligee's custodian;

18 (4) [(3)] that the alleged obligor may appear and show cause in a
19 hearing held by the agency why the finding is incorrect, should not be finally ordered,
20 and should be modified or rescinded, because

21 (A) no duty of support is owed;

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

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

26 (D) there is good cause to allocate the costs of health insurance,
27 cash medical support, or uninsured health care expenses unequally between
28 the parents;

29 (5) [(4)] that, if the person served with the notice under this subsection
30 does not request a hearing within 30 days, a copy of the medical support order will be
31 sent to the person's employer under AS 25.27.063(b) without further notice or hearing

1 for inclusion of the child in family health coverage if it is available through the
2 person's employer.

3 * **Sec. 6.** AS 25.27.193 is amended to read:

4 **Sec. 25.27.193. Periodic review or adjustment of support orders.** As
5 necessary to comply with 42 U.S.C. 666, the agency, by regulation, shall provide
6 procedures and standards for the modification, through a three-year cycle of
7 [PERIODIC] review or adjustment, of a support order. Regulations adopted under this
8 section must include procedures for periodic notice of the right to request review,
9 procedures for hearings, and standards for adjustments regarding future periodic
10 support payments. A modification under this section may be made without a showing
11 of a material change in circumstances.

12 * **Sec. 7.** AS 25.27.195(a) is amended to read:

13 (a) A clerical mistake in an administrative order issued by the agency or an
14 error arising from an oversight or omission by the agency may be corrected by the
15 agency at any time [ON THE MOTION OF AN OBLIGOR].

16 * **Sec. 8.** AS 25.27.195(b) is amended to read:

17 (b) The [UPON THE MOTION OF AN OBLIGOR, THE] agency may, at any
18 time, vacate an administrative support order issued by the agency under AS 25.27.160
19 that was based on a default amount rather than on the obligor's actual ability to pay.

20 * **Sec. 9.** AS 25.27.900(2) is repealed and reenacted to read:

21 (2) "arrearage" means a debt that is past due and equal to at least one
22 monthly obligation under the support order for one or more of the following:

23 (A) monetary support;

24 (B) cash medical support;

25 (C) payment of health care costs or maintenance of health
26 insurance;

27 (D) reimbursement of related costs;

28 (E) payment of attorney fees and legal costs and other fees;

29 (F) penalty, interest, and other relief as required by a support
30 order;

31 * **Sec. 10.** AS 25.27.900(12) is amended to read:

1 (12) "support order" means any judgment, decree, or order that is
2 issued by a tribunal for the support and maintenance of a child or of a parent with
3 whom the child is living; "support order" includes a judgment, decree, or order

4 (A) on behalf of a child who has reached the age of majority if
5 the judgment, decree, or order was lawfully issued; and

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

7 (i) monetary support, including arrearages;

8 (ii) payment of health care costs or maintenance of
9 health insurance;

10 (iii) payment of cash medical support;

11 (iv) reimbursement of related costs;

12 (v) [(iv)] payment of attorney fees and legal costs and
13 other fees; or

14 (vi) [(v)] penalty, interest, and other relief as required
15 by a tribunal;

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

17 (b) Through the child support services agency or on its own behalf, the
18 department may garnish the wages, salary, or other employment income of a person
19 who

20 (1) is required by a medical support order, cash medical support
21 order, or both, under AS 25.27.060(c) to provide insurance or cash coverage of the
22 costs of medical care to a child who is eligible for medical assistance under this
23 chapter;

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

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

28 * Sec. 12. AS 47.27.200(o) is amended to read:

29 (o) The applicability of AS 25.27 in the case of a recipient under an Alaska
30 Native family assistance program includes the following:

31 (1) an obligor is liable to the Alaska Native family assistance program

1 in the amount of the family assistance provided by the program to a child to whom the
2 obligor owes a duty of support except that, if a support order has been entered, the
3 liability of the obligor for assistance provided by an Alaska Native family assistance
4 program may not exceed the amount of support provided for in the support order, and,
5 if a medical support order, cash medical support order, or both, [ORDER OF
6 SUPPORT] has been entered, the liability of the obligor for assistance granted under
7 AS 47.07 may not exceed the amount of support provided for in the medical support
8 order, cash medical support order, or both [ORDER OF SUPPORT]; the child
9 support services agency shall send notice of accruing liability under this paragraph in
10 the same manner as required under AS 25.27.120(c), and, if the agency fails to comply
11 with the notice requirement of this paragraph, interest does not accrue on the liability
12 to the Alaska Native family assistance program unless a support order or medical
13 support order, or cash medical support order, as applicable, has been entered;

14 (2) the child support services agency may appear in an action
15 authorized under AS 25.27.045 at the agency's own discretion if an obligor under
16 AS 25.27 is liable to the Alaska Native family assistance program under (1) of this
17 subsection;

18 (3) an Alaska Native family assistance program to which the child
19 support services agency erroneously disburses an overpayment of child support under
20 an income withholding order is liable to the state for the amount disbursed, plus
21 interest at the rate imposed under AS 25.27.062(l)(1);

22 (4) when the right to receive child support has been assigned to an
23 Alaska Native family assistance program, an agreement under AS 25.27.065(a) that
24 has not been adopted as an administrative order of the child support services agency is
25 not effective during a period when the obligee is receiving assistance under an Alaska
26 Native family assistance program;

27 (5) the child support services agency, on behalf of an Alaska Native
28 family assistance program, shall take all necessary action permitted by law to enforce
29 child support orders entered under AS 25.27, including petitioning the court for orders
30 to aid in the enforcement of child support;

31 (6) if an obligor under AS 25.27 is liable to an Alaska Native family

1 assistance program under (1) of this subsection, the state is subrogated to the rights of
2 the obligee to take actions authorized under AS 25.27.130(a);

3 (7) notwithstanding AS 25.27.130(c), the recovery of an amount for
4 which an obligor under AS 25.27 is liable that exceeds the total assistance granted
5 under AS 47.07 and this chapter shall be paid to the obligee;

6 (8) except as provided in AS 25.27.130(f), if an obligee under
7 AS 25.27 is not receiving assistance under AS 47.07 or this chapter at the time the
8 state recovers money in an action under AS 25.27.130(d) or (1) of this subsection, the
9 recovery of any amount for which the obligor is liable shall be distributed to the
10 obligee for support payments, including medical support payments, that had become
11 due and unpaid since the termination of assistance under AS 47.07 or this chapter
12 under a support order in favor of the obligee;

13 (9) after payment to the obligee under (8) of this subsection, the state
14 may retain an amount not to exceed the total unreimbursed assistance paid on behalf
15 of the obligee under AS 47.07 or this chapter;

16 (10) if an alleged obligor is liable to an Alaska Native family
17 assistance program under (1) of this subsection, and a support order has not been
18 entered, the child support services agency may, at its own discretion, undertake an
19 action to establish paternity and a duty of support using the procedures prescribed in
20 AS 25.27 and may enforce a duty of support using the procedures prescribed in
21 AS 25.27; the agency may also institute administrative proceedings to determine the
22 paternity of a child born out of wedlock upon application of an Alaska Native family
23 assistance program; the agency may not recover costs of genetic tests required under
24 this paragraph from a person who is a recipient of assistance under an Alaska Native
25 family assistance program;

26 (11) when a hearing officer makes a determination under
27 AS 25.27.170(d), the hearing officer shall, in addition to the factors described in
28 AS 25.27.170(e), consider the amount of the alleged obligor's liability to an Alaska
29 Native family assistance program under (1) of this subsection;

30 (12) notwithstanding AS 25.27.255(a), the child support services
31 agency may not pay to an obligee any money that has been assigned to an Alaska

1 Native family assistance program.

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

4 INDIRECT COURT RULE AMENDMENT. AS 25.27.060(c), amended by sec. 4 of
5 this Act, has the effect of changing Rule 90.3, Alaska Rules of Civil Procedure, by changing
6 standards for issuance of medical and other support orders by the court.

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

9 APPLICABILITY. This Act applies to actions filed on or after the effective date of
10 this section and to motions filed on or after the effective date in proceedings filed before, on,
11 or after the effective date of this section.

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

14 TRANSITION: REGULATIONS. The Department of Revenue may proceed to adopt
15 regulations necessary to implement this Act. The regulations take effect under AS 44.62
16 (Administrative Procedure Act), but not before July 1, 2009.

17 * Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 CONDITIONAL EFFECT. Section 4 of this Act takes effect only if sec. 13 of this Act
20 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
21 of the State of Alaska.

22 * Sec. 17. Section 15 of this Act takes effect immediately under AS 01.10.070(c).

23 * Sec. 18. Except as provided in sec. 17 of this Act, this Act takes effect July 1, 2009.