

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

1483. SHESS SB 181 (#1 - #2) Q

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

POUCH SA - JUNEAU 99811

CHILD SUPPORT ENFORCEMENT
AGENCY
201 E 9th Avenue, Suite 202
Anchorage, Alaska 99501

April 30, 1981

The Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, AK 99811

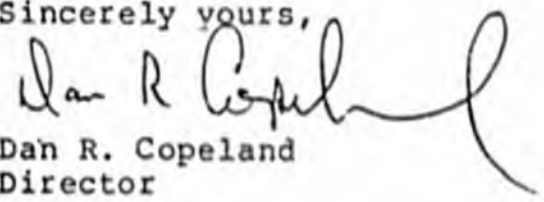
Dear Senator Rodey:

During the Senate HESS hearings regarding child support and SB 181, requests were made for language to facilitate an automatic income assignment and a way to resolve some of the obligor's visitation problems.

The attached drafts are the agency's suggestions to deal with these issues. Both drafts were prepared by attorneys within the Attorney General's Office (Pat Kennedy and Bruce Botelho) who work child support cases daily.

If you may have any questions, please do let me know.

Sincerely yours,



Dan R. Copeland
Director

Enclosures

DRC:cb

1 SUGGESTED WAGE ASSIGNMENT LANGUAGE

2
3 Section ____ AS 09.65 is amended by adding a new section to read:

4 Sec. 09.65.132. INCOME ASSIGNMENT ORDER FOR CHILD SUPPORT.

5 (a) A judgment, court order, or order of the child support
6 enforcement agency (AS 47.23) providing for the support of a minor child
7 shall contain an income assignment order.

8 (b) An income assignment order shall direct the obligor, his
9 employer, future employer, and any person, political subdivision or
10 department of the state to assign money due or to be due the obligor to
11 the child support enforcement agency (AS 47.23) in an amount sufficient
12 to meet the support payments imposed by the court.

13 (c) The income assignment shall not take effect, unless
14 ordered by the court at the time of its entry, until the obligor fails
15 to make support payments. The obligee may make an application to the
16 public agency designated to collect child support for the purpose of
17 enforcing the income assignment. Such application shall include a
18 sworn statement that the obligor has failed to make a support payment in
19 full within 30 days of the date payment is due.

20 (d) At the time of receipt of an application for enforcement
21 of the income assignment, or, where the agency is already acting for the
22 obligee, at the time agency records show the obligor has failed to make
23 a support payment in full within 30 days of the date payment is due,
24 the agency shall send notice of intent to enforce the income assignment
25 to the last address of the obligor by certified mail. The notice shall
26 be postmarked no later than 10 days after the date on which the
27 application was filed and shall inform the obligor that the income
28 assignment will take effect 15 days after the date on which the notice
29 was sent. The notice shall also state that the obligor may request a
30 hearing within the 15 days after the notice was sent. If the obligor
31 requests a hearing, an income assignment may not take effect until the

1 conclusion of the hearing. The agency shall schedule a requested
2 hearing with the court within 15 days after the date the obligor
3 requests the hearing.

4 (e) If the obligor does not request a hearing, or following
5 an order of the court authorizing the use of the income assignment, the
6 agency shall immediately send a copy of the income assignment order by
7 certified mail to persons identified by the obligee, the obligor or the
8 agency as owing money to the obligor. An income assignment made under
9 this section is binding upon a person, employer, political subdivision,
10 or department of the state immediately upon receipt of a copy of the
11 assignment from the court.

12 (f) An employer may not discharge an obligor on the basis of
13 an assignment under this section.

14 (g) An income assignment under this section has priority over
15 all other attachments, executions, garnishments, or other assignments
16 unless otherwise ordered by the court. An income assignment is not
17 limited to the wages of an obligor but may include all money owed to the
18 obligor. The exemptions from execution by judgment debtors under
19 AS 09.35.080(a) and the restrictions from execution by judgment debtors
20 under AS 09.35.080(b) (1) do not apply to income assignments under this
21 section.

22 (h) An obligor, if not the prevailing party, shall pay all
23 court costs involving an income assignment proceeding under this
24 section.

25 Section ____ . AS 47.23.140 is amended by adding a new subsection to
26 read:

27 (c) A decision of the agency determining a duty of support
28 shall include an income assignment order as provided under AS 09.65.132.

29 Section ____ . AS 47.23 is amended by adding new sections to read:

30 Section 47.23.2.3. INCOME ASSIGNMENT ORDERS.

31 (a) The agency shall pay the obligee all money recovered by

1 the agency under an income assignment order except for costs which are
2 recovered from the obligor or amounts withheld under AS 47.23.255(c).

3 (b) Notwithstanding AS 47.23.250, an income assignment order
4 contained in a decision of the agency which has not been set aside by
5 the superior court under AS 47.23.220 shall be enforced under the
6 procedure established in AS 09.65.132.

7 Section ____ AS 47.23.260 is amended to read:

8 Section 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY
9 WITH AN ORDER OR LIEN. If any person, political subdivision, or
10 department of the state (1) fails to make answer to an order to
11 withhold and deliver within the time prescribed in AS 47.23.250;
12 (2) fails or refuses to deliver property in accordance with an order
13 issued under AS 47.23.250; (3) pays over, releases, sells, transfers, or
14 conveys real property subject to a lien filed under AS 47.23.230 to or
15 for the benefit of the obligor or any other person; (4) fails or
16 refuses to honor an assignment of wages or income presented by the
17 agency, the person, political subdivision, or department of the state
18 is liable to the agency in an amount equal to 100 per cent of the amount
19 constituting the basis of the lien, order to withhold and deliver,
20 attachment, or assignment of wages or income, together with costs,
21 interest, and reasonable attorney fees.

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SUGGESTED RESOLUTION FOR VISITATION PROBLEMS

Section _____. AS 47.23.080(c) is amended.

47.23.080(c). The determination of enforcement of a duty of support is unaffected by any interference by the custodian of the child with rights of custody or visitation granted by a court. However, the court may direct the agency to release the name and address of the custodian of the child upon the request of an obligor and for good cause shown and after affording the custodian an opportunity to oppose the obligor's request.



Copy to Parr & Fil

Note to Charley:
I agree that the forms
are an invasion of
privacy. I am sure
they are in violation
of Art 1, Sec 22
of the state
constitution.

Hugh

ALASKA CHAPTER
NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.
P. O. Box 3-3794
Anchorage, Alaska 99501

March 20, 1978

Governor Jay Hammond
Pouch V
Juneau, Alaska 99801

Dear Governor Hammond:

Attached is a copy of a form apparently in use by Alaska's Child Support Enforcement Agency in connection with the establishment of paternity for children whose needs are being met through the Aid to Families with Dependent Children Program.

The Alaska Chapter, National Association of Social Workers is writing to state its strong objections to this form as it constitutes a violation of personal privacy and individual civil rights.

We respectfully request that you take whatever action necessary to discontinue its use immediately and that you take steps to render an official apology to those Alaskan citizens who were insulted by being asked to complete it.

Please advise us as soon as possible of actions taken relative to this form.

Very truly yours,

Margaret Wolfe
Margaret Wolfe, ACSW
President
Alaska Chapter
National Association of Social Workers, Inc.

MW/lw - Atch.

cc: Rep. Hugh Malone
Comm. Helen Beirne
Alaska Legal Services

Sen. John Rader
Comm. Sterling Gallagher
Alaska Chapter NASW

Rep. Lisa Rudd
Mr. Phil Lusk

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

All questions should be answered as truthfully and completely as possible. If necessary, use reverse side of pages to provide additional information or more completely answer any of the questions. Complete a separate questionnaire for each child.

Date _____ File Control Number _____

1. Your name (Print) _____
 Year address _____
 Telephone # (home) _____ (work) _____
2. Your date of birth _____
3. What was the date of birth of the child _____
4. Name of the child _____
5. Where was the child born? If it was at a hospital, give its name.

6. Who was present when child was born? Include name of physician, etc.

7. Was there a birth certificate issued for this child?
 Yes _____ No _____ How long after the birth was this issued?
 If so, state: _____
 (a) Date issued _____
 (b) Name and address of the person who supplied the information for the certificate.

 (c) Name and address of the person who prepared the certificate.

 (d) Name and address of the office that issued the certificate.

 (e) Did the certificate contain the name of the child's father, and, if so, the source of such information.

 (e-1) Did the father agree to having his name entered in the birth certificate? _____ yes _____ no.
 When? _____

3/19/77

(f) Whether the certificate shows if the child was full term, and, if so, the source of such information.

(g) Name and address of the office where the certificate is on file.

8. If possible, attach a copy of the birth certificate to this questionnaire.

9. Were you living together with the child's father during the 10-month period prior to the birth of the child? Yes _____ No _____. If so, where? _____

10. Name and address of each person who was aware of this fact.

11. The estimated number of nights you spent together at the above listed address(es).

12. Number of times you had sexual intercourse with the child's father within the 10-month period prior to the birth of the child.

13. Location(s) where the sexual intercourse occurred.

14. During which incident do you believe the child was conceived? (Give date and place.)

For what reason(s) do you believe this to be true?

15. Did you ever inform the child's father of your condition during the time you were pregnant? Yes _____ No _____

If so, state:

(a) Date you informed him of your condition. _____

(b) Place where this information was given. _____

(c) The words used in giving this information. _____

(d) Name and address of each person who was present when the information was given.

If not, state why he was not told. _____

16. Did you have sexual intercourse with any other person during this 10-month period? Yes _____ No _____
If so, for each person, state:

(a) The name and address of the person. _____

(b) The dates on which intercourse occurred. _____

(c) The address and description of the place at which the intercourse occurred.

17. Did you live with any other person during this 10-month period? Yes _____ No _____

If so, for each person state:

(a) The name and address of the person. _____

(b) The dates on which you lived together. _____

(c) The address at which you lived together. _____

(d) The name and address of each person who knew such facts.

18. Do you have other children born out of wedlock? Yes _____ No _____

If so, state the name and address of each child.

19. Are you now keeping company with anyone with whom you are having sexual relations? Yes _____ No _____

20. Did any other man help you financially during the time you were pregnant with this child? Yes _____ No _____

21. Are you now being helped financially by any man? Yes _____ No _____

22. Did you tell anyone when you became pregnant that the person you feel is the child's father is the father of your child? Yes _____ No _____

If so, for each statement, indicate:

(a) The date of the statement. _____

(b) The name and address of the person you told. _____

(c) The name and address of the person you said is the father. _____

23. Did you ever say to anyone when you became pregnant that you did not know who the father of the child was? Yes _____ No _____

If so, for each statement, indicate:

(a) The date of the statement. _____

(b) The name and address of the person said this to. _____

(c) The reason why you said that the father of the child was unknown. _____

24. Have you ever filed action against any other person to establish paternity of the child? Yes _____ No _____

If so, for each action, state:

(a) The date the action was filed. _____

(b) The name and address of the person against whom the action was filed. _____

(c) The title and address of the court where the trial was held. _____

(d) The file and docket number of the action. _____

(e) The outcome of the action. _____

25. Were you married to the child's father during the time you became pregnant?

26. Were you married to the child's father when the child was born?

27. Was there a common-law marriage between you and the child's father at the time you became pregnant?

28. Was there a common-law marriage between you and the child's father when the child was born?

29. Were you married to any other person when you became pregnant or when the child was born?

If so, state:

(a) The date of marriage. _____

(b) The name and address of the person to whom you were married.

(c) The date you first lived with the person as man and wife.

(d) The name and address of the person who performed the ceremony.

(e) Whether you are still married to the person, and if not, the date and means by which the marriage was ended.

30. If you were married to another, why do you believe that he is not the father of your child?

31. Do you believe the child's father ever admitted to being the father of the child?

If so, state:

(a) The date he admitted such. _____

(b) The name and address of each person to whom he admitted it.

(c) The way in which he admitted it.

(d) If he said it, what words did he use?

If so, state for each payment:

(a) The name and address of the person who made the payment(s)

(b) The date of the payment.

(c) The amount of the payment.

(d) The reason the payment was made.

33. Has anyone made any payments for the support of this child? Yes _____ No _____

If so, for each payment, state:

(a) The name and address of the person who made the payment.

(b) The date of the payment.

(c) The amount of the payment.

(d) The reason the payment was made.

34. Is the child recognized to be that of the person who you claim to be the child's father by the members of your community? Yes _____ No _____

35. Do members of your family recognize the child to be that of the person who you claim to be the child's father? Yes _____ No _____

I hereby certify that the above information is true and correct to the best of my knowledge and belief, and I hereby make voluntary application for the Court to determine the paternity of said child.

Signature _____

SUBSCRIBED AND SWORN to before me this _____ day of _____ 19____.

Notary Public In and for Alaska
My commission expires: _____

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Nancy - Pls call

Kathy Schenker REVENUE

at 2365

ref child protection

legislation

10 am

Thurs

W. Kenner SB 16.

in "Finance"

3-5-81

Child Support Enforcement - House HESS

HB 167, request of Gov

HB 75 Clockwise

Don Cipolandi - Ad. Child Support Enforced. Agency

- sec 6 - use of consumer price index to modify support order
- sec 4 - eliminates mandate to charge fee for non-AFDC file; allows discretion to charge a fee.
- sec 7 - changes procedure to let court order for AFDC assessment
- sec 15 - limit attachment to 5% of obligor's income
- sec 1 - URESA act added together ^{include} consumer.
- sec 8 - eliminates option of obligor to deal w/ child support enforcement by ignoring registered mail notices.

12 Federal Register

Friday
June 19, 1981

Part V

Department of Health and Human Services

Office of Child Support Enforcement

Child Support Enforcement Research—
Demonstration Grants; Notice of
Availability of FY '81 Funds

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Child Support Enforcement Research Demonstration Grants; Notice of Availability of FY '81 Funds

The Director of the Office of Child Support Enforcement gives notice of the availability of fiscal year 1981 funds for child support enforcement research and demonstration (R&D) grants. Also, this provides advance notice of child support enforcement priority research and demonstration projects proposed for funding in Fiscal Year 1982. Funding for grants is authorized under Section 1110 of the Social Security Act.

Closing dates and times for submission requests for grants are presented in a separate section at the end of this notice.

Program Purpose

Grants funded by OCSE are for research or demonstration projects which will add to existing knowledge and improvements of new methods and techniques for the planning, management, coordination and delivery child support enforcement activities related to the eligible population.

Program Goals

In general, the Office of Child Support Enforcement (OCSE) intends to support the following types of projects.

(1) Those which develop and demonstrate new financing mechanisms, administrative procedures, and technological innovations for improving the effectiveness and efficiency of child support enforcement programs at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the child support enforcement programs.

Program Priorities for Research and Demonstration Funding

Research and demonstration projects will be directed toward priorities derived from State administration and program issues. OCSE has identified certain specific priority projects which reflect these administrative and program issues, and which are described in more detail in the Application Kit.

Applicants may also submit proposals for projects not specifically identified in this announcement but which are relevant to the SSA and OCSE program goals. These proposals will be

designated as nonpriority but will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects.

Priority Projects

Fiscal Year 1981 Projects

Identification of Information and Methods to Encourage the Establishment of Uniform Support Obligations—OCSE-81-1

States are required by Title IV-D of the Social Security Act to establish and to enforce child support obligations of absent parents of recipients of Aid to Families with Dependent Children (AFDC) and non-AFDC recipients. The amounts of the obligation that are being established, however, vary widely not only from jurisdiction to jurisdiction, but also within jurisdictions. Even when comparing cases with similar circumstances, these variations persist.

The purpose of this project is to identify and demonstrate the most effective and efficient method for States to obtain and verify information needed for the use in a standard formula for establishing child support obligation amounts, and to arrive at a recommendation for alternative obligation amounts for the consideration of judiciary or administrative hearings officers.

The first year of this project will be to develop in one or more local child support enforcement agencies alternative methods for identifying, obtaining and verifying the required financial and case characteristics information. It will also develop best methods for using this information to recommend and establish obligation orders. Several methods must be compared with well defined criteria for measuring the effectiveness of information collection and the cost of each method. The study should compare optional methods within one or more jurisdictions. Rigorous research and statistical methods must be used to segregate and compare cases that are processed by the various methods. Prestudy planning must include a site selection process that insures a sufficient variation in methods to be observed.

The second year of the project will involve a demonstration of the method(s) identified as being the most effective and efficient for identifying, obtaining, and verifying the necessary information and presenting recommendations to arrive at an obligation amount or alternative amounts. This project should also be

evaluated by an independent party to determine the effectiveness, desirability, cost and benefit, and ultimate success of various methods demonstrated. The successful methods will then be put into handbook format so that other jurisdictions can use the results.

It is anticipated that SSA will fund one grant for this project for 2 years. It is anticipated that up to \$125,000 in Federal funds will be made available in both FY '81 and FY '82 to do this project.

Demonstration of Administrative Improvements in Child Support Enforcement—OCSE-81-2

The Child Support Enforcement program (Title IV-D of the Social Security Act) is a recently established program. There is considerable emphasis on enlarging the support payments and support obligations of AFDC absent fathers and non-AFDC absent fathers of low income families. Since this is a relatively new program, States have been requesting aid in trying out new pilot projects to improve administration techniques which will aid in improving the program.

This is a series of projects to allow States or localities to try out and test new administrative operational and management concepts that will increase collections and/or contain costs. Such projects can address any of the major Title IV-D functional areas. It is anticipated that eight projects will be funded for this priority up to \$25,000 per project for one year.

Analysis of Child Support Data—OCSE-81-3

This study will examine factors affecting the receipt of child support payments from absent parents. Several data sources are available to study this issue. National data on the status and extent of child support obligations and receipt by AFDC and other mothers were obtained by the Bureau of Census in a supplement to the April 1979 Current Population Survey (CPS) and can be linked to the 1979 CPS which were collected from 1979 CPS. Also, The Social Security Administration, Office of Research and Statistics, coordinated an AFL-CIO case record check by local AFDC caseworkers. This study, the 1979 AFDC Recipient Characteristics Study, has recently been released. Data tapes of these surveys are to be analyzed separately and not merged. The CPS surveys and the 1979 AFDC Survey will be used to examine the patterns of child support receipt in terms of demographic, economic and legal status of recipients.

The results of this research will assist the States' administrators in approving program effectiveness, forecasting, and targeting administrative efforts.

It is anticipated that SSA will fund one grant for this project for one year. It is anticipated that up to \$80,000 will be made available in FY '81.

State Study of Absent Parent's Ability to Pay Child Support—OCSE-81-4

The Child Support Enforcement program is designed to collect support payments from absent parents. At present, the collection process collects only a fraction of potential payments. For example, 1977 figures suggest that over half of the non-custodial parents with a support order did not contribute support, and that only about one fourth of all AFDC cases had a court order or agreement.

One of the important questions involving child support enforcement is whether the absent parent has the ability to pay. This project looks at the issue, focusing on AFDC cases handled by the IV-D agency. It will determine income levels, the number of dependents, and other readily available data concerning the absent parent. It will also compare the ability to pay of absent parents who regularly contribute support to the ability of those who pay sporadically or not at all. In addition, in at least one site, it will look at the availability of other income in the form of State income tax refunds. Controls for the nature of the support order will be used as well.

This project can be conducted in at least two manners. It is possible for the State IV-D agency to use the Internal Revenue's Project 419 in order to obtain information on income levels and dependents. Alternately, States may use their own completed income tax forms. In either case, income levels and dependents can be matched with the same variables in the case records and the extent to which data concerning income can be found will be recorded. At least one State should use the Federal (419) method for obtaining information.

It is anticipated that SSA will fund three grants to States for this project. It is anticipated that up to \$50,000 per State will be made available in FY '81.

FY '82 Projects

The following project is anticipated to be a research priority for FY '82. The amount of funds in support of this project is contingent upon the availability of FY '82 appropriations. However, based on the proposed FY '82 budget it is anticipated that there will be

sufficient funds to finance the project below.

Survey of Non-AFDC Cases Which Receive Child Support Enforcement Services—OCSE-82-1

Child Support Enforcement agencies are reimbursed for enforcement activities on behalf of non-AFDC as well as AFDC recipients. This project involves the study of a stratified sample of closed, new, and continuing non-AFDC Child Support Enforcement program clients involving the demographic, economic, and sociological characteristics of the population. One aspect of this study will be to indicate the extent to which program coverage of this population avoids welfare eligibility.

It is anticipated that the agency will fund one grant for this project for one year. It is anticipated that up to \$400,000 in Federal funds will be made available in FY '82.

Eligible Applicants

Section 1110 Grants. Any State, public, or nonprofit organization or agency may apply for a grant under the Section 1110 authority.

Availability of Funds

It is anticipated that approximately 13 new grant awards will be made pursuant to this announcement in FY '81. Anticipated amounts are:

FY '81 Projects

OCSE-81-1 (Identification of Information and Methods to Enable the Establishment of Uniform Support Obligations). It is anticipated that a total of up to \$125,000 will be available for this grant for one project.

OCSE-81-2 (Demonstration of Administrative Improvements in Child Support Enforcement). It is anticipated that eight grants will be awarded at up to \$25,000 per project.

OCSE-81-3 (Analysis of Child Support Data). It is anticipated that one grant of up to \$80,000 will be awarded.

OCSE-81-4 (State Study of Absent Parent's Ability to Pay Child Support). It is anticipated that three grants of up to \$50,000 each will be awarded.

FY '82 Projects (Funds not yet appropriated)

It is anticipated that this project will be funded in FY '82.

OCSE-82-1 (Survey of Non-AFDC Cases Which Receive Child Support Enforcement Services). It is anticipated that one grant of up to \$400,000 will be awarded.

Recipient Share of the Project Costs

Applicants for grants are expected to contribute some portion of the total cost of the activity in order to receive consideration for funding. Generally 5 percent is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

The Application Process

1. Availability of application forms. Application Kits which contain the prescribed application forms and supplemental descriptive information on the priority projects of the Office of Child Support Enforcement are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, Room 1209, Annex, 6401 Security Boulevard, Baltimore, Maryland 21235. Telephone: (301) 594-0284, Lawrence H. Pulen, Chief, Grants Management Branch.

2. Application submission. To be considered for a grant award, all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency or organization and to assume for the agency or organization the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the application Form SSA-90, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (OCSE-81-1, etc.) for which the application is to compete.

3. Application consideration. Applications are initially screened for relevance to the interests of OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three experts. Written assessment of each application is made.

4. Application approval. Following approval of the applications selected for funding, financial assistance awards will be issued within limits of Federal funds available. The FY '81 grant awards will be issued in September 1981. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the terms and conditions of the award, the budget period for which support is given, the total project period for which support is

contemplated, and the total grantee participation.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria.

1. *Research or Demonstration Design.* Understanding the scope of the work statement and the proposed technical approach to the requirement. This includes clarity of goals and objectives. (30 points)

2. *Knowledge.* Knowledge of the field, literature, and background presentation material. Assurance of timely and acceptable performance. (10 points)

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Is the man-hour effort and propriety of types of manpower reasonable? (15 points)

4. *Experience.* Prior experience and/or new approaches or ideas in the branch of the technology or field involved. (10 points)

5. *Relevance.* Relevance of proposal to IHS priorities and goals; to OCSE Work Plan; and to grants advertised in the Federal Register. (25 points)

6. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. (5 points)

Specificity and adequacy of the budget. Are costs reasonable considering the anticipated results?

Availability of necessary facilities, equipment, convenient location, etc.

7. *Utilization.* Provision of progress and final reports. Quality of evaluation effort. Probability of implementation possibilities (National, State, etc.) (5 points)

Closing Dates and Times

For fiscal year 1981 projects, the closing date will be Friday, July 31, 1981. For fiscal year 1982 projects the closing date will be Tuesday, December 1, 1981.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants

Management Branch, Room 1206, Annex, 6401 Security Boulevard, Baltimore, Maryland 21235.

Applications must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to be received, on time, if the application is sent by registered or certified mail not later than the closing date, as evidenced by the U.S. Postal Service stamp.

A-95 Notification Process. This program is not covered by the requirements of OMB Circular A-95.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research)

Dated: June 12, 1981.

John A. Svahn,
Director, Office of Child Support Enforcement.

[FR Doc. 81-18418 Filed 6-18-81; 8:45 am]
BILLING CODE 4110-07-M

324 Willoughby
Juneau, Alaska 99801
March 30, 1981

Senators Ray and Rodey
Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SB 181
Sen. FARR

Dear Senators:

This letter refers to SB 181, relating to child support, which was sponsored by Senators Ray and Rodey, and proposes that you offer a substitute in light of the following facts and arguments:

1. Re-define "obligor" to include only those who were/are married to the other parent at the time of conception or who have subsequently signed a voluntary support agreement.

WHY: As the person who assisted H&SS in drawing up the first budget for the initial Child Support Enforcement Agency (CSEA), I learned from a case worker, during my budget research, that there are "a number of unmarried mothers who will not assist the state in finding fathers delinquent in paying child support because they do not want the fathers to know that there even is a child." (Italics added.)

That is, there are in this world some number of women--not all, but some--who want children for themselves alone. Men may be used by such women to start children, but those women do not want the fathers to be able in any way to share in the life and affections of the child. Holding fathers financially responsible for the decisions of such women flouts justice and reason....and is practically difficult when those mothers do not assist in finding the fathers.

Furthermore, this is an age in which the decision as to whether or not there shall be a child is exclusively that of the mother alone. Yes, it still takes two to start a child (artificial insemination aside), and yes, contraceptives are available to both partners (though no method is 100% effective).

However, in an age of legal, relatively inexpensive abortions, it is the woman's choice alone as to whether a pregnancy, accidental or intended, shall result in a child. And since it is the woman's choice alone, fathers of children born out of wedlock cannot properly be held accountable for the choices of the mothers.

The children naturally must be taken care of somehow, since they are unable to take care of themselves. That much is obvious. But children are taken care of, through the Aid to Families with Dependent Children (AFDC) program, even when parental child support is not available.

The State and Federal governments which fund AFDC have an understandable interest in reducing AFDC payments by transferring this financial responsibility to the natural parents....but it is the point of this letter to show that the financial burden cannot be transferred to the father with justice or common sense, because it is the mother who alone ultimately decides whether or not there shall be a child. Nature determines that it is the mother's choice alone.

This argument applies even when the unmarried mother may have conceived accidentally and finds the option of abortion morally repugnant to her. It is still not reasonable or just to hold one person responsible for the moral tastes of another, so fathers should not be financially responsible for the decisions of expectant unmarried women--not responsible for 18 years of child support, that is; you may decide they are indeed responsible for half of the costs of an abortion.

Naturally, all of the forgoing applies only to unmarried parents who have not signed voluntary child support agreements. Marriage implies an agreement for child support and voluntary child support agreements are available to those unmarried parents who really do both want children (i.e.; make a joint decision for which it is proper to hold both parties accountable).

2. Leave the jurisdiction of superior courts unrestricted and allow related and collateral matters such as custody and visitation to be considered by courts (Sec. 4 of SB 181 would restrict courts).

WHY: It is unwise, as a general rule, to excessively narrow the view of the courts if overall justice is sought in a situation. Since courts often award dual/joint/partial custody and/or visitation rights to a parent who begins paying child support, it is doubtful that the legislature should interfere with this re-building of the family. That a father should have to pay child support and not be allowed any parental rights may be appropriate in some cases, as a court may decide, but can hardly be set forth with justice as a blanket rule as the unamended bill would do.

3. Require all notices to obligors (and others) to be made by certified mail, return receipt requested, to ensure actual delivery and actual receipt of notice.

WHY: The bill as proposed has different notice requirements for different types of notice, but all notices carry certain legal consequences if not received. It is hardly wise or fair to

March 30, 1981

the intended recipients to trust consequential matters to ordinary first class mail, some portion of which becomes lost by the Postal Service, despite the best efforts of that Service. Certified mail is treated with greater attention by the Service and is received with greater interest by the recipients, making compliance with CSEA requests more likely while preserving the legal rights of all parties involved. The current bill would allow too much to agency convenience and too greatly encourage the agency to seize property and income without following fair procedures. This simple change to certified mail will heighten the fairness of procedures, particularly when any time periods (such as the period for requesting a hearing) begin after receipt of the certified mail, not after the mailing of it).

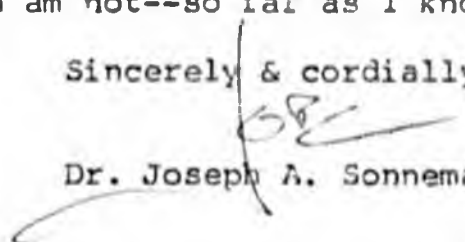
4. Ensure that hearing officers consider the needs of the child(ren), whether or not both parents are "obligors", and the income of obligor parents.

WHY: This would bring the bill into consonance and agreement with the changes following upon the redefinition of "obligor", as outlined in point 1 of this letter, and would insure that the total income from one or both obligated parents would be considered. (The current language of Sec. 19 prohibits the hearing officer from considering the assets of "the alleged obligee"--usually the mother--in making a decision.) Again, this change is one towards greater justice, since all income and assets properly obligated to child support will be considered, rather than only some, and the question of proper obligation will also be considered.

Thank you for your kind consideration of these few, but important, points regarding child support.

Some of these points have also been made to the Senate HESS committee in person; please accept this letter as my testimony to you and your committee. I am making this information available to you as a private person having appropriate background experience in the subject area; I am also a registered lobbyist for Five Star Consulting and Research and am not--so far as I know---a father.

Sincerely & cordially,


Dr. Joseph A. Sonneman

cc: House Judiciary (HB 167)

324 Willoughby
Juneau, Alaska 99801
March 30, 1981

Senator Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SEN. FISCHER

Dear Senator Fischer:

Enclosed please find a courtesy copy of my further statements to Legislative Committees on SB 1 .

I am sending you a copy of this letter to let you know that I have accepted some of the points you raised in the Senate HESS hearing on this bill. Specifically, in regard to contraceptive your remarks helped me realize that this is essentially a moot question for two reasons: 1) no form of contraception is completely effective, and, more importantly, 2) the option of abortion postdates conception. In other words, the mother alone has the final option--an option that continues to exist for quite a number of months--on whether or not there shall be a child. This order of choice points is determined by Nature.

So I appreciate your remarks as having made me realize that the issue of contraception is a red herring and apologize for any confusion my raising that issue may have created. Clearly, since the choice of whether or not there shall be a child is that of the married or unmarried mother alone, unmarried fathers should not be held financially responsible for the choices made by unmarried mothers.

Thanks again for helping to set me straight on that.

Sincerely & cordially,

JAC
Dr. Joseph A. Sonneman

cc: Senator Grosek

Box 422
Fairbanks, Alaska 99707

February 20, 1981

Governor Jay Hammond
Pouch A
Juneau, Alaska 99811

Re: Charging of Fees for Collection of Child Support

Dear Governor Hammond:

I am contacting you today to plea with you to please do what you can to see that the proposal to subtract fees from child support payments never comes about.

The Department of Revenue, Child Support Division, has contacted me, as one of their cases (copy enclosed), to explain to me that all along there has been, on the books, a requirement of their agency to collect a service charge from the recipient of the child support payments, for that agency's services.

When I first contacted this agency for assistance in the enforcement of my divorce decree which allotted my child-support payments, there was never mention of any fees at any time, with the exception of a \$50.00 filing fee. At the time I contacted them I did so because I was bringing home \$625.00 per month and could not afford \$75.00 per hour for an attorney. I have no idea of the figures, of course, but I know that probably the majority of the families collecting the child support are poor, probably on welfare and need that money desperately or they wouldn't have gone through all the trouble to collect in the first place.

I furnished that agency with every single bit of information that they used to secure a judgement against my ex-husband. He is in the military in another state (Washington), I had been receiving an allotment which he stopped, and I needed that support badly to raise two teen-age children. As I mentioned before, I had a divorce decree which required him to pay the child support, all I needed was someone to help me get that court order enforced. They (the agency) did not have to spend months and months trying to locate him, garnish his wages, or anything else. All that was involved was maybe a few phone calls to Washington, or a minimum of paperwork to set up a court date.

Governor Jay Hammond
Page 2

As it is now, with all the bureaucratic hoopla that is involved I never see that check until 20 days after the day that my ex-husband pays it in Washington State.

My contention is, if my ex-husband had been obeying the court in the first place I never would have had to ask the Child Support Division for help. Now I am being penalized for having to beg for what is lawfully and morally mine. If anyone should be paying, it should be the person who is disobeying the law. Where is the justice in this legislation?

Please, please Governor Hammond, see what you can do to get this outrageous and unfair legislation changed.

In my opinion, this is a classic case of the rich getting richer and the poor getting poorer. Where will it stop?

Respectfully,

Patricia L. Wightman

cc Bob Bettisworth
Sally Smith
Ken Fanning
Jack Randolph
Brian Rogers
Fied Brown
Charlie Parr
Bettye Fahrenkamp
Don Bennett



DETACH THIS PORTION BEFORE DEPOSITING.
 DO NOT CHANGE OR ALTER
 WHEN PAID THE ABOVE CHECK BECOMES A RECEIPT IN FULL
 PAYMENT OF THE FOLLOWING ACCOUNT. NO OTHER RECEIPT NECESSARY.

MO. | HI. | DAY | YEAR
 01 | 15 | 81

STATE OF ALASKA
 CHILD SUPPORT ENFORCEMENT AGENCY

No. 37476

CASE NO.	COURT	R. S. CASE or CAUSE DESCRIPTION	YEAR TO DATE	ARREARS	CODE	AMOUNT
BAN 79- 2621 WIPA	ANCHORAGE	0870201 PAYOR-NIGHTMAN, DWAYNE HAROLD PAYEE-NIGHTMAN, PATRICIA	275.00	2,625.00		275.00
<p>IMPORTANT INFORMATION ABOUT YOUR MONEY</p> <p>YOUR CHECK MAY BE LESS IN APRIL MAKE YOUR POSITION KNOWN ON THIS</p> <p>THE AGENCY IS REQUIRED BY CURRENT STATE LAW TO CHARGE A FEE TO YOU FOR SERVICES. STATEWIDE PUBLIC HEARINGS ABOUT THIS FEE WILL BE HELD IN EARLY MARCH. CALL ZENITH 3300 (276-3441 IN ANCHORAGE)</p>						



Income Withholding for Child Support Enforcement

Income withholding in a variety of forms is currently being used by Utah, Wisconsin, New Jersey, New York, Maine, Rhode Island, California, Oregon and Washington. It is also being considered on the Federal level since it has been proven to be a highly effective technique for collection.

Voluntary Income Assignment

The person owing support agrees to an assignment of a portion of his/her wages to be withheld and transferred to the person to whom the support is owed. This is agreed to at the time the new support order is established in the court.

Involuntary Income Withholding

If the person owing support should be late for a payment, the CSEA will send written notice by registered mail following a 20 day default accompanied by a sworn statement of arrears from the person to whom the money is owed. Following receipt of notice, there will be a 15 day period when the person owing support can file for a hearing. If the notice by mail is refused, or a motion for a court date is not filed, there will be an automatic income assignment made. Every new order for support will have a mandatory income assignment clause activated by default of payment as outlined above.

The income assignment is made from any employer, government agency, public trust or corporation, pension or retirement fund, worker's compensation fund, death or disability fund and annuity.

An income assignment is binding and applies to any current or future employer.

An employer may not dismiss an employee because of income withholding.

The employer will be liable for the child support payments if he/she refuses to comply with income withholding.

The employer may deduct \$2.00 per pay period for administering the withholding order.

The due date for support payments will be the date specified in the court order, if no date is specified the due date will be the last day of the month.

The employer will continue to withhold and deliver the payments until notice is received from CSEA to discontinue payment.

An assignment order will become effective 10 days after notice is given to the employer by registered mail by the CSEA.

Support obligations have first priority over all other voluntary deductions.

The person owing support must notify the CSEA of termination of employment and the place of future employment.

Under the petition of the obligated parent, the assignment order may be quashed to prove full payment of the order.

A person entitled to support payments under a pre-existing order may apply to modify the order to include a mandatory assignment under the default regulations listed above.

Both parties involved in a child support enforcement case must notify the CSEA of a new address in a reasonable time following a change of address.

Definitions:

"income" includes wages, salaries, income, commissions, interest from any source and all monies payable as an annuity, retirement, disability, death or other benefit.

"employer" includes employers, trustees, and the federal, state and local government.

In some states the willful or negligent failure to make child support payments ordered by the court is a special kind of contempt which can lead to a jail sentence of up to one year. Defendants can obtain an early release by paying arrearages or working out a payment schedule satisfactory to the court. Many states have a self initiated warning system and a high incidence of jail sentences--THESE STATES HAVE THE HIGHEST PERCENTAGE OF COLLECTION RATES.

AT LAST! HELP IN COLLECTING CHILD SUPPORT

Susan Gray



For the millions of mothers who receive little or nothing in child support from their ex-husbands, here's expert advice on how to collect.

By KATHRYN B. STECHERT

• Between 1966, when Louise Unger was divorced, and 1980, she didn't receive one dollar of the \$105 a month child support the court had ordered her husband to pay for their three children.

• When Barbara Geary was divorced in 1974, her husband was ordered to pay \$350 a month support for their four teenagers. He paid only intermittently and within four years was \$7,000 behind.

These mothers are not unusual. A recent Census Bureau study found that only 2.5 million of the nation's 7.1 million custody mothers were receiving child support—and only half of those were receiving the full court-ordered amount.

Today, however, a new federal program and new state laws are streamlining the often costly and time-consuming task of making fathers meet their child-support obligations. Thanks to the work of support enforcement officials, Louise got her first child-support check in January 1980 and has been paid regularly since. Barbara is getting \$250 a month—\$100 for current child support (only one child is still under eighteen) and \$150 toward the past-due amount.

In similar cases all over the country a total of \$1.47 billion was collected in 1980 on behalf of custody

parents by the Office of Child Support Enforcement (OCSE). That was more than double the amount collected in 1976. The OCSE, which requires that states try to locate and collect from absent parents, grew out of 1975 legislation designed to trim the cost of welfare programs by getting fathers to assume more responsibility. The same services are available to families *not* on welfare.

The system can help divorced mothers who aren't receiving court-ordered support, women who've been abandoned and need help getting a court order, and even those whose divorce decrees included little or no child support. About half of the states charge nonwelfare women a fee for the service, but it's seldom more than \$20. (The program is available to any custody parent, but it's almost always the mother.)

Many custody mothers still aren't getting the support they are due, however, because they either don't know their rights or are reluctant to press for them. A woman might be so glad to have her ex-husband out of her life that she's loath to stir up trouble or afraid he'll try to get custody if provoked. She may feel intimidated by legal proceedings or embarrassed to admit she can't support her family on her own.

The OCSE (continued on page 44)

Now! Fast-Working Rheaban Tablets for Diarrhea.

NO CHALKY TASTE
NO LARGE DOSES
NO PRESCRIPTION NEEDED



And almost before you know it,
RELIEF FROM DIARRHEA!

Also available in pleasant-tasting liquid concentrate.
Use only as directed. © Pfizer Inc. 1980.

HELP IN COLLECTING CHILD SUPPORT *continued*

cannot solve all support problems or guarantee success, but it has provided significant help with two major obstacles: inability to afford or find an attorney and inability to locate the father. In most states the OCSE helps pay the salaries of public attorneys who do only support-enforcement work. The government also operates a computerized service that helps find absent parents' addresses from records kept by the Internal Revenue Service, social security and the military. The Uniform Reciprocal Enforcement of Support Act, which calls for cooperation between states, also makes it harder for fathers to escape payment by moving to another state.

Since the actual collection work is left up to the states, the effectiveness varies. But many now have laws allowing the garnishment of wages and seizure of property to meet child-support obligations, plus stiffer penalties—even jail—for noncompliance. Louis B. Hays, deputy director of the OCSE, estimates that the overall success rate is about 90 percent—including cases in which the father is unemployed or in jail or paternity can't be established. The success rate is much better for women whose ex-husbands are employed.

The first step for a custody mother is to find the local agency that handles child support enforcement. In most states application can be made through the welfare, human services or district attorney's office. She can also write to the federal Office of Child Support Enforcement, 6110 Execu-

tive Blvd., Rm. 900, Rockville, Md. 20852.

Lawyers and others involved in support enforcement offer the following advice to parents seeking child support:

- **Get help immediately.** "Women wait too long—often six months or more—to enforce a court order," says North Carolina District Court Judge John Hill Parker. "By then the father is really behind and getting used to not paying. It's a lot harder to collect \$2,000 than \$200."

All is not lost, however, even if many years have passed. It was ten years after her divorce that Louise Singer first sought aid. It took four more years for Iowa officials to find her ex-husband—he was moving from state to state to elude the authorities—but once they got him into court, he began making regular payments.

- **Play an active role.** "Women are often afraid to take the initiative to corner delinquent fathers and enforce payments," says Judge Parker. "But if they don't, nothing happens." The woman's cooperation is often crucial to the agency's success. Details of past attempts to collect support and clues to where the absent father lives or works are very helpful.

A woman's most important action, however, is getting her case opened. Carolyn Sutton, an attorney with The Women's Legal Center in San Diego, suggests clients take a day off from work, if necessary, to make a personal visit to the district attorney or enforcement office; that usually insures more immediate and effective attention than a telephone call. "I always tell women to be polite but firm," she says. "It's the most expedient way to get results."

- **Have patience.** The enforcement process can be long and arduous. Many court dockets are crowded and social service agencies are often busy; sometimes the father is hard to find. But patience can pay off, as one California mother found out. Divorced in 1973 after thirteen years of marriage, she was awarded custody of her three children and \$180 a month for child support. Over the next five years her ex-husband paid occasionally but was soon several thousand dollars behind. The mother got a local court to attach the father's wages; he then left his job and the state. California authorities traced him to Oregon, but the situation looked hopeless: he had no income (his new wife was supporting him) and no money. The local district attorney persisted, however, and discovered the man had property for sale in Oregon. When it sold, the amount he owed his ex-wife—nearly \$6,000—was given to her. Since then he's found a job and has been making steady monthly payments.

- **Be persistent.** "The father needs to know that if he doesn't pay, he'll be taken to court again," Judge Parker says. Sometimes a phone call or letter from the enforcement officer is all it takes to get a father to pay. In other cases, the mother can go to the courthouse and fill out the proper forms herself as soon as a payment is late. The county then notifies the father to appear for contempt of court or face the possibility of being jailed—and that usually brings the check.

- **Don't assume you can't be helped.** Many women who tried to get help in the past and failed have given up the fight, but the chances are much better today. As Oregon district attorney Earl Woods says, "Before the federal office was created, we weren't very effective, but we're ten times more efficient now."

Woods recommends that a custody mother initiate a case even if she thinks her ex-husband is out of work, has no money or is hiding to avoid payment. "If she opens up a file," he says, "we can put the information in our computer and monitor his activities. Once he does have an income—and most eventually do—we'll get him."

- **Recognize the limitations of lawyers.** It is often difficult to find a private attorney willing to take an ordinary support case. And it can be expensive. As one attorney says, "It doesn't make much sense for a woman to spend \$5,000 to collect \$20 a week." Although low-cost legal help is often available through a women's center or legal aid society, trained support-recovery officers and prosecuting attorneys may be more effective. One such officer, Renee Cameron of Davenport, Iowa, says her office can do more than most private lawyers. "We have the facilities for locating absent parents and can monitor payments," she explains. "Those are the keys to effective support enforcement."

- **Know the law.** There is no reason to feel embarrassed or hesitant about forcing a father to meet his child-support obligations. After all, the money is for the children. Moral and legal rights are on the side of a mother struggling to provide for children who have a father capable of contributing to their support. "We're not talking about a missed car payment," says Renee Cameron. "We're talking about feeding and clothing human beings." **WD**

Testimony on SB 181
(child support enforcement)
Phoned in 4/8/81

by Gail Bills
536 Park St. Apt. A
Juneau, AK 99801

- (1) Supports bill for purpose of larger budget so Child Support Enforcement can handle other than AFDC cases
- (2) Would like to see study of child support laws - especially as they relate to inter-state coordination
- (3) Would like to see automatic withholding system option (income assignment)

Reason: knows of cases of court settlements made and no money ever received



This testimony was taken over the telephone by Laura Fleming of Senator Fischer's staff.

1733 Crosson Avenue
Fairbanks, AK 99701
4 March 1981

Charlie Parr
Pouch V
Juneau AK 99811

Dear Charlie:

I have attached a copy of a letter I sent to the Administrator of the Child Support Enforcement Agency. It is my feelings on the Department of Revenue's proposal to amend 15 AAC 147.120 to now add fees for agency services.

Being the custody parent of my children has increased my parental responsibility more than two-fold. Now being concerned regarding an additional monetary drain certainly doesn't make things any easier.

Would appreciate any help you could give in this matter.

Sincerely,



TULA G. BELTON

1732 Crosson Avenue
Fairbanks, AK 99701
4 March 1981

Mr. Dan Copeland
Administrator, CSEA
201 E. 9th Avenue--Suite 202
Anchorage, AK 99501

Dear Mr. Copeland:

I recently have been made aware of the proposed regulations under Title 15 of the Alaska Administrative Code which deal with establishing fees based upon my ability to pay for services provided to me by the Child Support Enforcement Agency. Furthermore, these fees are based on whatever status I am above "poverty level."

In this day and age in the State of Alaska where there is so much state money and our legislators are looking for ways to distribute the money equitably, it doesn't seem logical for the Department of Revenue proposing to get more money from individuals like me through the Child Support Enforcement Agency because I am the parent who requested and was granted custody of my children at the time of my divorce.

I may not be considered at poverty level and because of my many years of working are a little above that level, but I do have to account for every penny in order to make ends meet. There have been numerous occasions where my children have asked for a small luxury which they were accustomed to having when there were two salaries providing the income but now, due to financial circumstances I have to tell them "sorry, I cannot afford it." I have learned to live within my means, barely, and my children are realizing what is happening, but how can I explain to them that our budget may be somewhat less in the future because of the fee imposed on the child support checks.

I am grateful for the service that is provided by this agency and, fortunately, am receiving my monthly support checks. If a fee is imposed, I am sure there will be many custody parents that will take the chance that their checks will arrive monthly through the good conscious of the other parent rather than have to pay the proposed fees. They really are in double jeopardy making this decision but feeling this monetary burden leaves them no alternative.

I sincerely feel that this proposed regulation is unfair to not only the custody parent but the children involved. Consideration should be given to the fact that in a great state such as ours, poverty level is no level for proposing an additional monetary drain on the parent who is struggling to provide a comfortable, loving and peaceful way of life for their children.

Please, Department of Revenue, reconsider your proposal.

Sincerely,

TULA G. BELTO.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811

March 19, 1981

The Honorable Charles Parr
Chairman
Senate Health, Education and Social
Services Committee
Room 209 - Capitol Building
Juneau, Alaska

Dear Senator Parr:

Re: Senate Bill No. 181

Senate Bill No. 181, an Act relating to child support and changing Rule 56 of the Alaska Rules of Civil Procedure, was introduced in the Senate on February 16, 1981 and was referred to the Senate Health, Education and Social Services and Judiciary Committees.

For the consideration of the Senate Health, Education and Social Services Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Gary L. Jenkins, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Patrick M. Rodey
Chairman
Senate Judiciary Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary L. Jenkins, Director
Audit Division
Department of Revenue

MEMORANDUM


State of Alaska

TO: File

DATE: March 3, 1981

FILE NO:

TELEPHONE NO:

FROM:  Dan Cleveland
Director

SUBJECT: HB 167 vs SB 181 on all points
HB 167 vs HB 175 on the fee issue

The two bills are very similar in nature, both making identical technical changes to clarify legal terms. Each bill then goes on to deal with four common points, with HB 167 providing language which provides a better overall approach and technical applicability.

HB 167 includes a good clarification of an income exemption for the obligor. This point is critical as the obligor's gainfull employment as well as the reasons to stay that way are most important for continued collections.

SB 181 makes four additional changes which are not of great importance to the operation of the agency. The first change requires changing civil procedure rules and the second may require a rule change. This makes final passage into law more difficult. The agency does not feel the changes which can be accomplished by operational shifts are worth the increased difficulty in getting final approval. The third change is to cover a potential problem if the agency starts to have trouble registering foreign orders. The fourth is a title change in a section which is not critical in any way.

The current statute mandates the agency to charge reasonable fees to those that can afford to pay for the services. HB 175 takes the opposite approach and mandates providing the services to everyone regardless of conditions. HB 167 provides the Department of Revenue the discretion to charge fees to those that could afford it, if financial or other requirements mandated it.

My opinion as the State of Alaska, Child Support Director is that HB 167 rather than HB 175 or SB 181 would be of considerable benefit to the State of Alaska.

MEMORANDUM

State of Alaska

TO: File

DATE: March 3, 1981

FILE NO:

TELEPHONE NO:

FROM: Dan R. Copeland
Director

SUBJECT: Senate Bill 181

The following is a detailed commentary on SB 181.

Section: 1 AS 09.55.220 The new subsection to be added to AS 09.55.220 will be used in the effort to modify an existing child support order. Allowing the change in consumer price index to be used as prima facie evidence of a change in circumstances will cut the handling time required by the court system and reduce the contact required from both parties. Each side will have a better idea as to when a modification may be requested. The index will be used as one of the burdens of proof but can not be used to require automatic modifications. All child support orders and subsequent modifications are based upon two factors; ability of the obligor to pay and the needs of the child. This change appears to be aimed at automatic modification upon a 20% change in the index. Actually both parties may use the change to support an increase or decrease. Section 3 of HB 167 accomplishes much the same thing without clouding the issue.

Section: 2 AS 25.55.010(1) Adding new language to AS 25.55.010(1) will allow the agency to enter into reciprocal agreements with foreign countries that have a similar Uniform Reciprocal Enforcement of Support Act. This would include such countries as Federal Republic of Germany (West Germany), Great Britain, Canada, and other commonwealth countries. This would allow the agency to obtain child support order when the absent parent is located or resides in a foreign country.

Section: 3 AS 25.25.010(6) Adding new language to AS 25.25.010(6) will provide the obligor in URESA cases with an incentive to make payments on a current basis. The overdue fee will be charged and subsequently collected or reduced to judgment. This additional charge will make the delinquent obligor, who in fact creates the need for the agency, pay for a portion of the agency cost.

Section: 4 AS 25.15.010(11) Adding new language to AS 25.25.010(11) will simply provide an explanation as to what interest means. This amendment should be changed to read "or at the rate established by the Department of Revenue (not the Department of Health and Social Service)

Section: 5 AS 25.25.258 Adding a new sub-section to AS 25.25.258 will allow the agency to register a support order from another state when the obligee is not a resident of Alaska and the obligor is a resident of

Alaska without opening the matter of custody and visitation. This will simplify obtaining an Alaska order by reducing handling; legal processing, and court time when the obligee has already obtained a child support order in another state. Some states do request the State of Alaska to register their orders under the current statute. No problems have been noted to date in this matter of reopening custody or visitation. This statute change would ensure that it stays this way.

Section: 6 AS 47.23.020(2)(A) The additions and deletions to AS 47.23.020(2)(A) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "obligee".

Section: 7 AS 47.23.020(2)(C) Adding new language to AS 47.23.020(C) requires the agency to notify the obligor as to when an overdue or insufficient funds fee is assessed.

Section: 8 AS 47.23.020(b) Adding a new subsection to AS 47.23.020 will clarify when notification is required in section 7 above. Notification in this case requires mailing by first class mail a copy of the appropriate documents to the last known address of the obligor available to the agency. All court orders currently require the obligor to notify the agency of any change in address.

Section: 9 AS 47.23.045 The additions and deletions to AS 47.23.045 corrects the existing title. Currently the title implies that this section deals with the determination of support obligations. The section actually deals with the agency right to intervene in support obligation cases.

Section: 10 AS 47.23.092 Adding a new section as 47.23.092 will allow the agency to obtain a judgment on court ordered support payments that are past due and unpaid by the obligor. This change will allow the agency to submit a certified statement of such arrearages to the Superior Court, and at the same time notify the obligor of the arrears and the agency's request for a judgment. If the obligor does not present a defense, the Superior Court may then reduce the arrearages to judgment and include any overdue charges and interest due. This would simplify the obtaining of judgment by reducing handling, legal processing and court time when the obligor has failed to comply with a court order. This is a change in the Alaska rules of Civil Procedure.

Section: 11 AS 47.23.100 The additions and deletions to AS 23.100 will correct the current language to allow the Department of Revenue the discretion as to whether or not the agency should charge fees. The current language does not allow the department to make this decision. The agency is now required to determine each obligor's ability to pay and then assess costs or fees accordingly. The statute change will allow the agency to charge fees when funding or other requirements dictate it, but will not require the agency to maintain fee regulations unless those regulations are to be utilized.

Section: 12 AS 47.23.110(3) Adding new language to AS 46.23.110(3) will provide the obligor with an incentive to make payments on a current basis. The overdue fee will be charged and subsequently collected or reduced to judgment. This additional charge will make the delinquent obligor, who in fact creates the need for the agency, pay for a portion of the agency cost.

Section: 13 AS 47.23.110(4) The additions and deletions to AS 47.23.110(4) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child" and "custodial parent".

Section: 14 AS 47.23.110(7) Adding new language to AS 47.23.110(7) will simply provide an explanation as to what interest means. This amendment should be changed to read "or at the rate established by the Department of Revenue".

Section: 15 AS 47.23.130 The additions and deletions to AS 47.23.130 will allow the agency to establish child support orders based upon an obligor's full ability to pay rather than limiting the order to the public assistance issued. Making regular collections for orders established based on an obligor's full ability to pay will in some cases take the obligee off of the AFDC roles. Any collections over the assistance granted will be given to the obligee for the care of the child.

Section 7 of HB 167 accomplishes the same thing but with more direct language which clearly explains the entire process.

Section: 16 AS 47.23.150 Adding a new subsection AS 47.23.150(C) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 17 AS 47.23.160(b) The additions and deletions to AS 47.23.160(b) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "minor child", "obligee" and "custodian".

Section: 18 AS 47.23.160(c) Adding a new subsection AS 47.23.160(c) will eliminate part of the obligor's option to simply ignore the child support obligation.

Section: 19 AS 47.23.170(e) The additions and deletions to AS 47.23.170(e) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "minor child" and "obligee".

Section 20 AS 47.23.170(f) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of terms "finding" and "filing".

Section 21 AS 47.23.182

Adding a new section AS 47.23.182 will allow the agency to file all administratively established child support obligations with the Superior Court. The Superior Court will review the determination and allow the obligor a thirty day appeal period. Upon completion of the review and the appeal period, the Superior Court may issue a court order confirming the entire process and making the order enforceable through either the courts or administrative means. This may be a change in the Alaska Rules of Civil Procedures.

Section 22: AS 47.23.190(a)

The deletions to AS 47.23.190(a) will correct the existing language. There will be no change in the meaning of the section, only a clarification in the use of the terms "obligee" and "custodian".

Section 23: AS 47.23.190(c)

The deletions to AS 47.23.190(c) will correct the existing language. There will be no change in the meaning of the section, only a clarification of the use of the terms "obligee" and "custodian".

Section 24: AS 47.23.250

Rewriting AS 47.23.250 will make an order to withhold and deliver more efficient by requiring less repetitive paperwork. This new section will allow a third party to continue holding fifty percent of wages or earnings as it becomes due to the delinquent obligor, until the total arrearages stated in the notice of the delinquent obligor liability has been satisfied. Prior to issuing a withhold and deliver attachment, the obligor is formally notified of the delinquency and is given thirty days to make arrangements with the agency to satisfy the delinquency. The agency and the third party will only have to serve and receive the order to withhold and deliver once in those cases where the obligor has not made payments as required by court order.

Rewriting the section will also allow the agency to attach any tax refunds or any other distributions made by the state to delinquent obligors, up to the amount of arrearage stated in the order to withhold and deliver. Section 15 of House Bill 167 accomplishes the same thing, but more clearly in language, which clearly explains the entire process. Several terms are also defined in House Bill 167 which further explain the working process of withhold and deliver attachments.

Section 25: AS 47.23.092

This section simply points out that this act has the effect of changing Civil Procedure rules. This will require a larger majority in each house of the legislature for the act to become a potential law available for the Governor's signature.

TESTIMONY OF FRANCES A. WOODBURY
ON
SB.181, "AN ACT RELATING TO CHILD SUPPORT AND CHANGING
RULE 56 OF THE ALASKA RULES OF CIVIL PROCEDURE"

(Presented at the Senate Health,
Education. & Social Services Com-
mittee meeting on March 25, 1981)

Honorable Chairman Parr and Committee Members - Good Afternoon. My name is Frances A. Woodbury, originally from Juneau, a working woman, and the mother of four sons. They are the reason I am here today to express my concerns about the Child Support Enforcement Agency. I know your Committee will be considering pieces of legislation affecting the Agency and ultimately my children, as well as many others. I hope that you will take a serious look at the testimony offered by custodial parents as they are the ones that can best describe the treatment they have received from that Agency.

In May of 1980, I was granted a Dissolution of Marriage by the Superior Court of the State of Alaska. Since that time, I have had an on-going dialogue with the Child Support Enforcement Agency without positive results. I have not received one payment through their efforts. In fact, I have on a number of occasions even told them where my ex-husband was reported to have been working and this did not help.

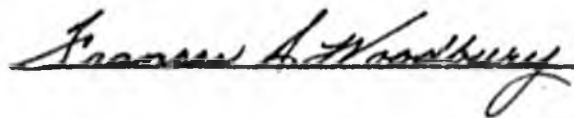
I realize that the Agency, like many others, may have been underfunded and that they were not given a strong enough enforcement capability, but it is still disheartening to go to them thinking that they could do more that I could do - only to be told they cannot! In fact, in one of my initial meetings with an Agency Representative, my files could not be found. As it turned out it had been put in the file that they had on my now ex-husband's first wife. I know things like

this can happen in even the most effective agencies, but in listening to some of the problems friends in similar circumstances have had, I begin to wonder whether the Child Support Enforcement Agency is doing anything. This sounds drastic, but when contacts with the Agency result in only negative feelings what can the legislative expect?

Upon approaching the Agency, we are told things such as: Due to limited resources, we have to act on cases on a priority basis, so it may be a while before we can get to yours; or we are going to have to take a certain percentage of the payment as a service charge. Why must the children pay for a service which is mandated by the Legislature? Shouldn't the Legislature appropriate enough money to cover administrative and program costs?

I am in favor of anything which will benefit my children or that will not unduly penalize them. I would like to urge you at this time to do everything in your power to assure that the children and the custodial parents are not placed under any undue hardship while the Agency carries out it's mandate.

Thank you.

A handwritten signature in cursive script, reading "Frances A. Woodbury". The signature is written in dark ink and is positioned to the right of the "Thank you." text.

Contact: Frances A. Woodbury
(907) 586-1432, Ext. 241 (Business Phone)

POSITION PAPER

ON

Senate Bill No. 181

"An Act relating to child support and changing rule 56 of the alaska rules of civil procedure."

Among numerous other changes, this bill would expand the Department of Revenue's authority to adjust child support payment amounts to keep pace with inflation, and to more easily obtain on absent parents' money and property in order to satisfy an obligation to support.

This Department is aware that other states have adopted measures similar to those proposed in this bill, with strikingly effective results. We have no doubt that these changes would increase the effectiveness of Alaska's Child Support Enforcement Agency. From our perspective, improvements would be most noticeable in the following ways:

1. Court-ordered child support payment amounts in our Aid to Families with Dependent Children (AFDC) recipients' cases tend to be inadequate when the court order is new. With the effects of years of increases in living costs, they get more and more inadequate. Even if child support is being collected it is not likely to be in an amount sufficient to enable the children to go off of assistance and live in dignity and independence.

There would undoubtedly be at least two beneficial effects from promoting revision of ordered amounts to keep pace with the actual costs of raising children: (a) single-parent families now able to exist without public assistance payments will be less likely to come on the AFDC rolls if the cost of living would no longer erode the purchasing power of their child support payments; and (b) Those families now receiving AFDC assistance on whose behalf the Agency is collecting child support are more likely to reach a level of child support collections which will eventually exceed the AFDC qualifying income standards. They would therefore leave the AFDC program and be able to live independently.

2. Similarly, the expanded ability of the Child Support Enforcement Agency to establish and adjust child support obligations, with its expanded ability to more easily compel withholding and delivery of the absent parents' earnings, will have positive preventive and corrective effects. Efficiency in these areas help insure that modest-income single parent families will be less likely to need or want financial assistance of all types, including AFDC and Medicaid. Similarly, improving the capability of CSEA to collect substantial child support will be reflected by a decrease in the total amount of public funds paid to recipients, and by an increase in the number of families who are able to leave the assistance rolls.

It is our understanding that House Bill No. 167 contains many of the changes proposed in SB No. 181, but that there are some differences between the two bills. We lack the technical expertise to comment on those differences. However, this Department believes passage of either measure would be beneficial to child support enforcement activities and would therefore benefit the AFDC program and its recipients.

Recommended By: Rod Betit

Rod Betit, Director
Division of Public Assistance

Date: 2-28-81

Approved By: Helen D. Beirne

Helen D. Beirne
Commissioner

Date: 2-25-81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 181
 Title An Act relating to child support and changing rule 76.
 Requested by Ray and Rodey Date 2/27/81

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Social & Economic Assistance for the General Population
 BRU, Program, or Subprogram(s) Affected Assistance Payments, AFDC

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The Department believes that passage of SB No. 181 may well result in an eventual small reduction in the rate of growth of AFDC expenditures. However, the amount of any such reduction would be contingent upon so many factors that its actual amount cannot be estimated.

IV. DATE 2/27/81 PREPARED BY [Signature]
 AGENCY 1205 13th Avenue ASLETON
 PHONE 116 3147
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) J. Hubbard M&B Approval [Signature] Date 3/2/81

Revised Position Paper

On

House Bill No. 175

"An Act relating to the enforcement of child support."

This measure would amend AS 47.23.100 by preventing the Child Support Enforcement Agency from charging reasonable fees for providing services to those able to pay for child support collection activities. AS 47.23.100 currently mandates fees be charged to obligees who are able to pay.

After reviewing testimony presented in a House HESS Committee hearing on HB 175, the Department wishes to clarify its initial position on this bill. From that testimony, the Department gained a clear understanding that:

- (1) The Child Support Enforcement Agency did not wish to be compelled to collect fees, and if it were compelled to collect them, it would find it more equitable to be free to charge either the obligor or the obligee, depending upon which one was best able to pay fees.
- (2) The collection of fees from obligees could work a hardship on some dependent children and their caretaker relatives, but the fees would not provide CSEA with funds sufficient to expand and improve its services to non-welfare families.

In addition, the Department has just seen documents indicating that the Reagan Administration will attempt to amend federal law to require child support agencies to collect fees from non-welfare clients. We believe that there is a possibility this attempt will succeed. If it does, the change proposed to AS 47.23.100 would place the Child Support Enforcement Agency out of compliance with federal requirements. This level of non-compliance may pose a threat to the large amount of federal funding provided to CSEA.

There is only a possibility that federal law will change, and if it did change, there is only a possibility that non-compliance would truly pose an immediate threat to CSEA funding sources. However under the Aid to Families with Dependent Children federal regulations, the 50% AFDC federal matching funds are dependent upon the state having a child support agency which complies with all federal requirements. Thus all federal AFDC matching funds, approximately \$22,000,000, could be threatened by a CSEA federal compliance issue. We view this as a remote possibility, but one which should be avoided.

To prevent this from occurring, the Department respectfully recommends that HB 175 be modified to replace the word "shall" in AS 47.23.100 with the word "may", and that there be a clear expression of legislative intent that this discretionary power would not be used without prior approval from the Legislature.

Reccommended By:

Rod Betit
Rod Betit, Director

Date:

March 10, 1981

Approved By:

Helen D. Beirne
Helen D. Beirne
Commissioner

Date:

3/12/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 175
 Title An Act relating to the enforcement of child support
 Requested by Clocksion Date 2/27/81

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Social & Economic Assistance for the General Population
 BRU, Program, or Subprogram(s) Affected Assistance Payments AFDC
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

House Bill No. 175 will have no measurable impact on AFDC expenditures.

IV. DATE 2/27/81 PREPARED BY [Signature]
 AGENCY HEALTH AND SOCIAL SERVICES
 PHONE 465-2447
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M. Hubbard M&B Approval [Signature] Date 3/2/81

INCOME WITHHOLDING

Rising divorce rates over the last two decades have had a tremendous impact on the emotional and financial well-being of the children of divorce. With the divorce rate approaching 50 percent, the number of one-parent families is increasing faster than two-parent families. In addition, nearly 15 percent of all children are born out-of-wedlock. In 1978, 19 percent of all families with children under 18 were one-parent families. Seventy-five percent of those children in one-parent households receive no support from the absent parent.

In 1975, the Child Support Enforcement Program (Title IV-D of the Social Security Act) was established to locate parents who have deserted their families, establish the paternity of children born out-of-wedlock, establish a legal obligation on the part of the absent parent to support that child, and enforce that obligation. The law establishes a system of federal supervision, and 75 percent reimbursement for the costs of state administration and local enforcement of the program. The responsible state governmental unit is commonly referred to as the IV-D agency.

A child support order is meaningless until the order is enforced and the payment is delivered. If absent parents resist paying their child support obligations several options for enforcing payment exist. Many states jail parents for non-support, some states seize and sell the property of an absent parent owing support. Because courts are often hesitant to enforce harsh penalties, new methods of enforcement have been tried and found successful. This Information Release focuses on income withholding for the enforcement of child support obligations. As a remedy for non-support, the income withholding is becoming the single most effective tool for enforcing support obligations.

Interest in the use of income withholding is growing among not only child support administrators but also legislators interested in effective programs. In 1980 the National Conference of State Legislatures (NCSL) received many requests for technical assistance and information on income withholding. Several states investigated it as an option, some states proceeded to adopt income withholding laws, and orders for mandatory income withholding were served for the first time in many states.

What is Income Withholding?

Income withholding as it applies to support of dependents, is the act of withholding income from any employee or beneficiary by:

- an employer,
- government agency,
- public trust or corporation,
- pension or retirement fund,
- workers compensation fund,
- death or disability benefit fund, or
- annuity

and paying the money withheld to the party which has support rights either directly or through a third party. Withholding may be authorized by the court or by statute. The most effective withholding laws are mandatory, binding on the employer, remain in effect continuously, and follow an employee from job to job. The results are support payments which are as regular as payroll deductions for a credit union loan or car payment. The broader term "income," instead of "wage," is used to denote the withholding's effect upon sources of income including and in addition to wages. Pensions, workers compensation and disability benefits and unemployment benefits are being assigned to pay support obligations in some states, for example.

Income withholding can take several forms, variously called wage assignments, wage attachments, wage garnishments, and orders to withhold earnings. All of these terms are used to describe essentially the same process. The name varies from state to state but the effect is the same on the absent parent who is trying to avoid his or her obligation to pay child support.

The first section of this Information Release on Federal Income Withholding presents the proposals of two attorneys searching for effective methods of enforcing the payment of child support obligations beyond existing state remedies. (Page 3)

Section two on State Use of Income Withholding explains the concepts of voluntary, involuntary and mandatory withholding or assignment laws, the success states are having with their use, and the major types of laws in effect. (Page 6)

Section three on Key Elements of Effective Income Withholding Laws focuses on specific sections of the laws currently being used. It provides an overview of some of the major concepts necessary for the successful operation of such a law. (Page 10)

Finally a description is given of the services available to legislators through the National Conference of State Legislatures' Child Support Enforcement Project. (Page 12)

I. FEDERAL INCOME .. WITHHOLDING

State income withholding laws are one of the most effective remedies for enforcing child support payments. Even so, only a few states have such remedies and where they do exist they are used unevenly. In addition, difficulties arise because of the limitations and variations among the states. In order to benefit from the success of income withholding, but overcome the difficulties of the state laws, it has been suggested that one federal system be established. A federal wage withholding law that is mandatory for everyone with a child support obligation and enforced consistently among the 50 states has been suggested as the best possible solution for ten million children who are not receiving support from absent parents. Federal legislation is being considered because states have been slow to adopt wage withholding laws even though they are being used effectively in the states that have them.

The concept of federal income withholding is being discussed widely among academics and legal experts searching for a remedy to the problem of non-support. The following description of how a federal wage withholding system would work is based on the ideas of two creative child support experts who are frustrated by the current system and searching for alternatives. Each has worked on the concept separately but their ideas are so similar that they are outlined in combination here to provide the reader with the fullest picture of how a federal law would work.

David L. Chambers is a professor of law at the University of Michigan Law School and the author of *Making Fathers Pay: The Enforcement of Child Support*. His book is based on a study of child support enforcement in Michigan including an assessment of the financial problems facing families without support, the characteristics of absent parents who do not pay, and the system operating to enforce the payment of child support obligations. The conclusion of his book is an exploration of methods for improving the current system for the benefit of the children in need of support and absent parents who are going to jail for non-support. A federal income withholding law is one of his proposals.

David Clayton Carrad is an attorney in private practice in Wilmington, Delaware. His work provides him with a view of child support enforcement from both sides. He defends and prosecutes absent parents for non-payment of child support. From his viewpoint it is a national disgrace that there is no "fair, cheap and easy means of enforcing child support obligations." In his article "A Modest Proposal to End Our National Disgrace" from the Fall 1979 issue of the American Bar Association Family Law Section's *Family Advocate*, Mr. Carrad writes: "The failure of our legal system to provide an effective and economical means of collecting child support has not just created a major social problem. It has also fostered an attitude of contempt and disrespect for our courts, their decrees and the legal profession as well, on the part of both the immune obligor [parent who owes support] and the destitute obligee [family to whom support is owed]." To end this disgrace Carrad suggests a "federal floating wage attachment."

David Chamber's study in Michigan shows that three out of four wage assignments were followed by a period of steady payment. David Carrad believes that it is successful because wages are the major source of wealth for most absent parents and income withholding taps it at its source, taking the control of making the payment out of the hands of the obligor.

How Would It Work?

David Chambers proposes a federal income withholding system that would be initiated with the child support order and travel with the parent from job to job until the obligation ended. A computer system based on the parent's Social Security number would be used to keep track of job information and support obligations. Employers would be required to check with the Social Security Administration to inquire whether support payments are to be withheld for each new employee.

David Carrad's "federal floating wage attachment" would be established through a federal statute pre-empting all state attachment and garnishment laws. It would provide a uniform national remedy for support orders that would still be issued by state courts having jurisdiction over child support matters.

Carrad proposes a federal law that would impose an affirmative duty on the parent to make the support obligation and income withholding order known to his or her employer at the commencement of each new job. Failure to notify the employer to withhold the amount of the support obligation would carry a penalty.

David Carrad's view of how it would work begins with the state court ordering the support. That court would send a copy of the income withholding order along with the parent's Social Security number to Washington, D.C. to be entered in the computer system. There would be no further hearings and the support checks would arrive regularly. The obligor would retain rights to modify or terminate the support obligation in the appropriate state court.

As David Carrad points out, the Federal Parent Locator Service communicates with the Social Security Administration (SSA) and the Internal Revenue Service (IRS) weekly to receive information for the state IV-D agency trying to locate the absent parent. The Social Security Administration responds within seven days and IRS in ten. "Even the most fleet-footed, hostile and determined obligor would find it impossible to change jobs that frequently as a continuing way of life."² The same system that works now providing location information could easily be programmed to print and mail federal income attachments directly to the employer, according to Carrad.

The federal income withholding system would not be perfect. David Chambers states that we have to expect that the self-employed and unemployed would not be affected by the federal income withholding system. However, as Chambers points out, for all of the reasons that obligors have for not paying child support, unemployment is the problem in a minority of the cases.

Other problems in administering the federal system can be expected and would have to be addressed. (1) Not everyone has a child support order so it would not be as simple as having everyone fill out a W-4 form for income tax withholding. (2) In addition to collecting the support payment it will have to be distributed to the family. (3) The amount of the support orders would change as children reach their majority. Chambers cautions that all of these considerations would lead to many errors and will have to be carefully planned for in advance.

David Chambers raises other areas of concern. He points out that there is resentment about involuntary income assignment by the population in general. There are several reasons for this: (1) control over one's earnings is a highly regarded ethic in our culture, (2) the support check is a form of communication and that communication is taken away by an automatic income withholding, (3) federal intrusion into the private lives of workers whose bosses will know about divorces and children born out-of-wedlock and (4) there is resistance among employers who don't want to be bothered with the extra work.

Chambers is just as hopeful that these problems can be overcome with advance planning and sensitivities to all parties concerned. He suggests that to overcome the problem of distribution to the responsible parent and children, the payments would begin as soon as notice is received that the withholding has begun. To ensure that payments are properly credited against the payments made to the families withholding could be carried out beyond the majority of the child. To overcome the potential problem of withholding so much of an obligor's income that he or she would be reduced to poverty, Chambers suggests that any system of income withholding take into consideration the basic needs of those paying support as well as those receiving support.

Both Chambers and Carrad are convinced that the advantages outweigh the disadvantages of having a federal income withholding law. David Carrad states the the speed and ease of the system would result in a high ratio of families receiving support. It would be possible to make deductions from the first weekly paycheck and each succeeding one without interruption. The costs for activating such a system would be small in comparison to the advantages. The cost of modifying the Parent Locator Service to accommodate income withholding shouldn't be more expensive than the repeated court costs, according to Carrad. Employers could be compensated for the time it takes to comply with the withholding notices; several states currently provide for such payments : state orders.

Chambers highlights other advantages. Income withholdings could be ordered as a percentage of income instead of a dollar amount. There would be no need to return to court each time the obligor's wages went up or down: one constant percentage could be deducted from his or her wages each time.

Both authors have turned to proposal for federal income withholding with regret, but view it as a necessary step in assuring children proper support. Chambers writes that although a federal income withholding would create problems it is better than the sit-based system that currently places so many in jail. "Readers who have doubts in this regard should turn themselves in for a weekend at the nearest county jail."³

David Carrad sees the choice as either a federal enforcement system or no enforcement at all. "Those of us who practice family law and our clients know all too well that the present methods of collecting support simply do not work."⁴

NOTES

1. David Clayton Carrad, "A Modest Proposal to End Our National Disgrace," *Family Advocate*, Fall 1979, page 32.
2. *Ibid.*, page 43.
3. David L. Chambers, *Making Fathers Pay: The Enforcement of Child Support*, University of Chicago Press, Chicago, 1979, page 261.
4. Carrad, *op. cit.*, page 43.

II. STATE USE OF INCOME WITHHOLDING

In a variety of forms, income withholding laws are now being used in many states to increase the effectiveness of child support enforcement programs. Variouslly referred to as "The most valuable tool in recent years" (an administrator from Utah), or "A critical factor in the success of our program" (a Wisconsin attorney), the laws take two major forms: assignments of income and orders requiring withholding of income. Assignments may be voluntary or involuntary. The authority of the court to order assignments or withholding may be discretionary or mandatory.

Assignments

In a voluntary assignment the person owing support agrees to an assignment of a portion of his or her income to be withheld and ultimately transferred to the person who has the right to receive the support payment. In an involuntary assignment, the court, at its discretion or by requirement of law, orders the person to assign a portion of his or her income. When state law specifies the conditions under which the court must order an assignment, the court is regarded as being mandated to order it.

Most states give their courts discretion to impose the involuntary assignments. They also allow for voluntary assignments by employees. A few states have also adopted a mandatory assignment law which generally requires an assignment when the person owing support fails to pay child support. The failure to pay, or delinquency, is defined by a specific amount of money, number of missed payments or time period of delay.

States making the most effective use of their voluntary assignment laws are those which make a concerted effort to use them. In these states, child support personnel stress the benefits of the voluntary assignment to the absent parent when the new support order is first established. By encouraging the use of voluntary assignments, Virginia is getting voluntary assignments in an average of one-third of their new cases. In Utah, a state in which the child support enforcement program consistently ranks among the most successful in the country, voluntary assignments are agreed to by the absent parent in an average of 50 percent of the new cases.

Utah credits part of its success also to enlisting the acceptance of the state's employers to the concept of assignments. Early on in the inception of the IV-D program, representatives of the Office of Recovery Services in Utah made a special effort to work with employers, to break down some of the traditional resistance to the idea. They stressed the benefits to the worker of not having to worry about sending the money every month, to the company of encouraging responsible parents and not losing work time because of workers who are called into court for failure to pay, to the children who receive regular support, and to the taxpayers whose money is saved when welfare costs are recovered. The employers not only accepted the concept, but began sending bulk checks containing the earnings withheld for all of their employees covered by the assignments. Every month a check from Geneva Steel to the Office of Recovery Services covers assignments for up to 150 employees. Kennecott Copper, whose check covers about 100 employees, even includes a place on their employee's paycheck stub which lists the child support withholding and transfer made for that pay period. Currently over 400 Utah employers transfer child support payments in one bulk check. The practice is now also common in other states.

Widespread use of the voluntary assignment is dependent upon the agreement of the absent parent owing support. To deal with parents who fail to make their payments, and who do not agree to an assignment, most states give their courts discretion to impose involuntary assignments. However, the benefits to the IV-D program of this enforcement tool is subject to the willingness of the state's courts to use the remedy. Since many courts fail to exercise their option, several states have taken the next step of stipulating the condition under which the court must impose an assignment or withholding, which can take effect immediately or upon default in payments.

These mandatory laws fall into two major categories:

- (1) Those which require that an assignment must be a part of every order for support at the time that it is established, to go into effect immediately or at the time a specified default in payment occurs; and
- (2) Those in which application is made to the court after a specified default has occurred to which the court must respond by ordering the obligor to assign income, or the employer to withhold income.

There is also a third practice being used in some states that has the effect of a mandatory law which is a combination of a garnishment action and a voluntary wage assignment.

Assignments in Every Order

Wisconsin, Rhode Island and New York are examples of states with mandatory laws requiring that every order for support include an assignment or withholding provision, which is triggered to go into effect when there is a specified default in payments.

Wisconsin law (Chapter 767.265) requires that all orders for child support and maintenance payments include an assignment. The assignment could take effect immediately or when the person owing support fails to make a full payment within twenty days of its due date. The court then notifies the delinquent payor of a right to a hearing. If the hearing is not requested within 10 days, the assignment goes into effect. This law is considered a key factor in the success of the Wisconsin program, which was just identified as first in the nation by the Office of Child Support Enforcement in returning dollars to the state from AFDC collections, compared to state dollars spent for the first three quarters of fiscal year 1980. In addition, one year of operation using the new law is considered to be the main reason that collections for September 1979, in Milwaukee County were \$550,000 higher than collections for September of the preceding year.

In 1980 Rhode Island adopted an income assignment law (Chapter 15-5-16-3-1) modeled after the Wisconsin statute. New Jersey (S. 1508) has introduced a similar version which also includes a new element for getting the assignment provision into support orders which were set before the adoption of the proposed law. A person entitled to payments under a pre-existing child support, alimony or maintenance order may apply to the court to modify the order to include an assignment, to take effect at the time of a delinquency.

As of January 1, 1979, New York law (Personal Property Law Section 49-b) requires that all orders for support, which require that payment be made to the support collection unit, must include a withholding order which goes into effect when there is a failure to pay a specified number of payments, as determined by the court at the time the order is set. If the parent owing support fails to make the number of payments set by the court in the order, the support collection unit can take action to put the withholding order into effect. The first step is to notify the delinquent payor that the withholding order will be going into effect in fifteen days, unless the arrearage (missed payments) is paid. If the payor still fails to comply notice is given to the employer to begin withholding an amount from the employee's wages sufficient to meet the support payment.

Of the orders established since January 1979, which include the withholding provision (some courts were slow to comply with the law), and in which the specified delinquency has occurred, steady payments through withholding are now being received in 72.9 percent of the cases. In New York City alone there is an 80 percent payment rate on those orders which include the withholding provision, which may or may

not be in effect, versus a 40 percent payment rate on orders which do not include the withholding provisions.

Assignments Established at Time of Delinquency

California has received a great deal of attention in the popular press for adopting a new income assignment law (Chapter 1341, Section 4700) that is considered to be one of the most stringent. The statute, which takes effect in January 1981, requires the court to issue an order of assignment upon receiving a petition signed under penalty of perjury by the person to whom payment was to be made, that the child support payments are in arrears in a sum equal to one monthly payment within the 24-month period immediately preceding filing of the petition. The order would be issued without notice by the court to the parent owing support. There is a requirement that the parent or representative of the government agency designated to receive support must notify the parent owing support of his or her intent to seek an assignment at least 15 days prior to the date of the filing of the petition. Included in the law is a section specifying the conditions under which the assignment may be terminated.

Under prior California law, the absent parent had to be two months in arrears within the prior 24-month period and a court hearing had to be held to obtain an order for a wage assignment. The court process not only involved a considerable time delay, but also the expense of hiring an attorney. Thus, many custodial parents were unable to take advantage of the wage assignment law, and many of these were forced onto AFDC because of the delay and expense. Under the new law the court can issue a wage assignment without a court hearing and therefore the delay and expense have been eliminated. Consequently, it is expected that there will be a substantial increase in the number of wage assignments ordered in California as those custodial parents previously unable to afford the delay and expense involved in obtaining a wage assignment can now obtain one.

Wage Withholding Orders

A wage withholding order differs from an involuntary assignment in that the court order is directed to the employer, and not the employee. The employer is required by the court to withhold the wages. Where the court orders a wage assignment, the order is directed to the employee, not the employer. The employee is required by the court to assign a portion of income for support payments.

A word of caution is appropriate here. The statutes of many states with various types of income withholding laws speak in terms of "wage assignments" when in reality the order is a wage withholding order. One example of a state with an effective wage withholding statute that does this is Oregon, as described below. It is important to note that there are separate methods of obtaining the desired result of wage withholding.

Oregon has had a mandatory withholding law (Chapter 23.777) in effect for four years which one administrator described as their best enforcement tool. Upon application to the court by the person to whom support is owed or a representative of the child support enforcement program, and notice that there is a delinquency by the person owing support, the court must issue

an order directed to the employer which requires withholding. The order will notify the employer of the parent owing support to withhold and transfer 25 percent of the person's earnings to satisfy the support debt. (Many states set a limit on the amount of earnings that can be assigned and 25 percent is common.)

In addition to the withholding law, Oregon also has instituted an administrative process for handling child support enforcement cases for AFDC recipients. Oregon has the ability to respond to a delinquency on administratively established child support orders by administratively ordering the absent parent to assign his or her income up to that 25 percent maximum level. The state can also apply for court ordered withholding based upon the administrative order.

Combining Enforcement Remedies

Some states have combined the use of a garnishment action with a "voluntary assignment" which results in effect, in an involuntary assignment action. In Utah when there is a delinquency in payments the Office of Recovery Services obtains a garnishment order to take 50 percent of the gross pay (or 100 percent of the bank account) of the parent owing support. This is a continuous garnishment order which stays in effect until it is withdrawn. (Often a garnishment is used only for a one-time taking of assets -- paycheck, property, bank account or whatever -- to satisfy a debt.) The parent against whose assets this garnishment is applied usually finds the action so extreme that he or she soon contacts the IV-D office to try to get the garnishment stopped. The child support personnel respond by offering the person the option of establishing a voluntary assignment in exchange for removing the garnishment order. A voluntary assignment is obtained in 90 percent of these cases. This figure combined with the solely voluntary assignments obtained (described in an earlier section) totals an average of assignments being obtained in 75 percent of the cases handled in any one month through the Utah program.

In Washington state and Maine the combination of using two remedies is similar. Both of these states use administrative procedures to establish and enforce child support enforcement orders (in Washington for AFDC and non-AFDC cases, in Maine only for AFDC). Once the parent owing support has been notified of the support order and a delinquency has occurred, the IV-D agency can issue an "order to withhold and deliver" up to 50 percent of the wages (or other assets). This order also stays in effect continuously until withdrawn or there is change of employment. Again, the parent owing support responds quickly, is given the option of a voluntary assignment, and usually agrees.

III. KEY ELEMENTS OF EFFECTIVE INCOME WITHHOLDING LAWS

Drafters of income withholding legislation may want to take into consideration the following elements which are present in many of the effective laws cited earlier.

- A broad definition of the term "income" to include wages, salaries, income, commissions, interest from any source and all money payable

as an annuity, retirement, disability, death or other benefit.

- A broad definition of the term "employer" that includes employers, trustees, and the federal, state and local governments as employers.
- Stipulate that the assignment or withholding applies to current and future employers to make it continuous.
- Make the assignment or withholding binding on the current and future employers. The absence of this provision in assignment laws renders the assignment meaningless unless the employer agrees to comply. States could also stipulate that the employer would be liable for the support obligation or that there would be a penalty levied against the employer for failure to comply.
- A requirement that the parent owing support, or the employer, must notify the IV-D agency or the clerk of the court or other government agency to which the payment is made of termination of employment and information on the next employer if known. Some states have penalties for not notifying the agency of changes.
- Prohibit the employer from using the assignment or withholding order for any disciplinary or discharge action against the employee.
- Hold the employer harmless from any liability for that portion of the employee's income withheld and transferred to comply with the assignment or withholding order. This removes employers who do not desire such laws.
- Some laws give the employer the option of deducting one or two dollars from the remaining money to be paid to the employee to offset the cost of complying with the assignment or withholding orders. This overcomes another employer objection.
- Make the assignment or withholding order a priority before other voluntary deductions and garnishments which are a subsequent in time. If the child support deduction is not made a priority, a boat or camper may take precedence over support obligations.
- Require both the parent owing support and the parent receiving the payment to notify the agency processing the payment of any change of address to ensure proper payment of support.
- Require that all child support payments be made through an agency designated by the state or county so that there can be proof of payments made or missed. A single statewide central registry can simplify the process of monitoring payments. Without central collection and distribution points for all support payments, lengthy hearings may be necessary to verify whether a payment has been made. This further delays any action which might be taken against a delinquent parent.

The following are some of the major elements to consider in drafting mandatory legislation:

- Making assignments or withholding orders part of every child support order to go into effect at the time the order is issued or after some specified delinquency; or requiring that after a specified delinquency has occurred, application can be made to the court. Unless mitigating circumstances defined in the law exist, the court would respond by ordering compliance with the assignment or withholding.
- Stipulating the delinquency which triggers an assignment or withholding order, whether it be letting the court determine on an individual case basis (New York), or by a time period such as not paying within 20 days of the due date (Wisconsin and Rhode Island) or by an amount of money such as "an amount equal to one monthly payment within the previous 24-month period" (California), or by simply not defining it (Oregon). The shortest time period that considers the rights of the parent owing support is desirable.
- Giving the delinquent payor notice that the assignment or withholding order will be going into effect. Determine who must give that notice -- the enforcement agency? the parent to whom support is owed? Finally, consider what is the most efficient form of service. Many states are now using certified mail in place of personal service.
- Defining the conditions under which the assignment or withholding order can be terminated, as California does.
- Making the law applicable to AFDC and non-AFDC cases.
- Setting a ceiling on how much of the income can be assigned or withheld, or letting the federal guidelines apply.
- Identifying the means by which the law applies to support orders in effect prior to the effective date of the statute.
- Specifying who applies to the court or administrative agency to get the assignment or wage withholding order put into effect -- the person to whom the support is paid or a representative of the enforcement agency?

A FINAL NOTE

This Information Release has focused on income withholding as one of the most effective remedies for enforcing the payment of child support. Because states have been slow to adopt such laws, a description was given of proposals for federal income withholding legislation. Successful state laws which include such common concepts as being mandatory, binding on the employer, remaining in effect continuously and following an employee from job to job were highlighted. Finally, key elements for consideration by drafters of withholding legislation were identified.

A variety of services are available from NCSL for legislators and staff interested in improving their child support enforcement programs. Included are an information clearinghouse service, publications in the form of A Legislator's Guide to Child Support Enforcement and a series of three information releases, and a technical assistance program.

This Information Release is the second of three being produced by the Project during this contract year. The First Information Release includes a report of 1980 legislative activity on child support enforcement and a reference list of materials available to legislators and staff from the Project's information clearinghouse.

Technical assistance is available to help legislators assess problems and work toward solutions to improve state programs. This may include help with drafting legislation, providing testimony in committee hearings, conducting state workshops, or other activities geared to the particular needs of the state.

If you are interested in technical assistance in any area, including the development of income withholding legislation, or if you would like copies of the information releases, clearinghouse materials or the Guide, please contact Deborah Bennington or Carolyn Royce, Child Support Enforcement Project, National Conference of State Legislatures, 1125 17th Street, Denver, Colorado, 80202, (303) 623-6600.

1 IN THE HOUSE

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to child support."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.65 is amended by adding a new section to read:

9 Sec. 09.65.132. INCOME ASSIGNMENT ORDER FOR CHILD SUPPORT. (a)

10 A judgment, court order, or order of the child support enforcement
11 agency (AS 47.23) providing for the support of a minor child shall
12 contain an income assignment order.

13 (b) An income assignment order shall direct the obligor, his
14 employer, future employer, and any person, political subdivision or
15 department of the state to assign money due or to be due the obligor to
16 the child support enforcement agency (AS 47.23) in an amount sufficient
17 to meet the support payments imposed by the court.

18 (c) An income assignment order shall take effect upon the applica-
19 tion to the clerk of court of an obligee or person or public agency
20 designated to receive the support payments. An application shall
21 include a sworn statement that the obligor has failed to make a support
22 payment in full within 30 days of the date the payment was due.

23 (d) If an application is received by the clerk of court, notice
24 shall be sent by certified mail to the last known address of the obli-
25 gor. The notice shall be postmarked no later than 10 days after the
26 date on which the application was filed and shall inform the obligor
27 that the income assignment will take effect 15 days after the date on
28 which the notice was sent. The notice shall also state that the obligor
29 may request a hearing within the 15 days after the notice was sent. If

1 the obligor requests a hearing, an income assignment may not take
2 effect until the conclusion of the hearing. The court shall hold a
3 hearing requested under this section within 15 days after the date the
4 obligor requests the hearing.

5 (e) The clerk of court shall immediately send a copy of an income
6 assignment order by certified mail to persons identified by the obligee.
7 An income assignment made under this section is binding upon a person,
8 employer, political subdivision, or department of the state immediately
9 upon receipt of a copy of the assignment from the court.

10 (f) An employer may not discharge an obligor on the basis of an
11 assignment under this section.

12 (g) An income assignment under this section has priority over all
13 other attachments, executions, garnishments, or other assignments
14 unless otherwise ordered by the court. An income assignment is not
15 limited to the wages of an obligor but may include all money owed to
16 the obligor. The exemptions from execution by judgment debtors under
17 AS 09.35.080(a) and the restrictions from execution by judgment debtors
18 under AS 09.35.050(b)(1) do not apply to income assignments under this
19 section.

20 (h) An obligor ^{if not prevailing party} shall pay all court costs involved in an income
21 assignment proceeding under this section.

22 * Sec. 2. AS 47.23.140 is amended by adding a new subsection to read:

23 (c) A decision of the agency determining a duty of support shall
24 include an income assignment order as provided under AS 09.65.132.

25 * Sec. 3. AS 47.23 is amended by adding new sections to read:

26 Sec. 47.23.253. INCOME ASSIGNMENT ORDERS. (a) The agency shall
27 pay the obligee all money recovered by the agency under an income
28 assignment order except for costs which are recovered from the obligor
29 or amounts withheld under AS 47.23.255(c).

(b) Notwithstanding AS 47.23.250, an income assignment order contained in a decision of the agency which has not been set aside by the superior court under AS 47.23.220 shall be enforced under the procedure established in AS 09.65.132.

Sec. 47.23.255. TEMPORARY PAYMENT OF CHILD SUPPORT BY AGENCY.

Temporary while wage assignment is being figured

(a) If an obligor fails to make a child support payment subject to an income assignment provision under AS 09.65.132, the agency may pay the obligee the amount of child support due under the order. Payment of child support under this section may continue until the obligor has paid all arrearages plus interest and costs.

(b) In order to receive temporary child support payments under this section the obligee must file an application under AS 09.65.132(c) and file a copy of the application with the agency. The obligee must cooperate fully with the agency in enforcing an income assignment provision under AS 09.65.132.

(c) The agency is entitled to reimbursement for payments made under this section from any arrearages recovered from the obligor under AS 09.65.132.

* Sec. 4. AS 47.23.260 is amended to read:

Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN ORDER OR LIEN. If any person, political subdivision, or department of the state (1) fails to make answer to an order to withhold and deliver within the time prescribed in AS 47.23.250; (2) fails or refuses to deliver property in accordance with an order issued under AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys real property subject to a lien filed under AS 47.23.230 to or for the benefit of the obligor or any other person; (4) fails or refuses to surrender upon demand property attached; (5) fails or refuses to honor an assignment of wages or income presented by the agency, the person, political

1 subdivision, or department of the state is liable to the agency in an
2 amount equal to 100 percent of the amount constituting the basis of the
3 lien, order to withhold and deliver, attachment, or assignment of wages
4 or income, together with costs, interest, and reasonable attorney fees.
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Child Support Enforcement Admendment

The Agency shall provide to the obligor upon his request the address of the obligee under the following conditions:

- 1) The obligor is current in child support payments
- 2) There is a court order granting the obligor visitation rights.

The address of the obligee shall not be provided to the obligor if the agency knows of any court order forbidding contact between the obligee and obligor.

*Notice to custodial parent
15 days to object.*

Original sponsors: Ray and Rodey

Offered: 4/28/81
Referred: Judiciary

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 FCC CS FOR SENATE BILL NO. 181 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the enforcement of child support
7 and changing Rule 56 of the Alaska Rules of Civil
8 Procedure."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 25.25.010(1) is amended to read:

11 (1) "state" includes the State of Alaska and a state, terri-
12 tory, or possession of the United States and the District of Columbia,
13 and a foreign country in which this or a substantially similar recip-
14 cal law has been enacted;

15 * Sec. 2. AS 47.23.100 is amended to read:

16 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
17 provide aid to any person due child support under the laws of this
18 state upon application. The agency may not impose a fee for services
19 provided under this chapter unless required by federal law. (IF THE
20 OBLIGEE IS INDIGENT OR OTHERWISE UNABLE TO PAY FOR THESE SERVICES, THE
21 AGENCY SHALL ACT WITHOUT CHARGE TO THE OBLIGEE. IF THE AGENCY DETER-
22 MINES THAT THE OBLIGEE IS FINANCIALLY ABLE TO PAY, COSTS SHALL BE
23 ASSESSED ACCORDING TO REGULATIONS ADOPTED BY THE DEPARTMENT AND BE PAID
24 INTO THE FUND ESTABLISHED IN AS 47.23.030.)

25 * Sec. 3. AS 47.23.110(4) is amended to read:

26 (4) "obligee" means the legal custodial parent or person who
27 has the primary physical custody and responsibility for the minor child
28 [A PERSON] to whom a duty of support is owed and does not include a
29 parent who exercises regular or extended visitation rights:

1 * Sec. 4. AS 47.23.130 is repealed and reenacted to read:

2 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
3 able to the state under AS 47.23.120(a) or (b), the state is subrogated
4 to the rights of the obligee to

5 (1) bring an action in the superior court seeking an order
6 of support;

7 (2) proceed under AS 47.23.160 - 47.23.270 to establish a
8 duty of support; or

9 (3) enforce by execution, in accordance with AS 47.23.230 -
10 47.23.270, or otherwise, a support order entered in favor of the obli-
11 gee.

12 (b) To establish or enforce an order of support, based on the
13 subrogation of the state, the agency is not limited to the amount of
14 assistance being granted to the minor child.

15 (c) The recovery of any amount for which the obligor is liable
16 that exceeds the total assistance granted under AS 47.25.310 - 47.25.-
17 420 shall be paid to the obligee.

18 * Sec. 5. AS 47.23.170(f) is amended to read:

19 (f) If the alleged obligor requesting the hearing fails to appear
20 at the hearing, the hearing officer shall enter a decision declaring
21 the property of the alleged obligor subject to execution in accordance
22 with AS 47.23.230 - 47.23.270 in the amounts stated in the notice and
23 finding [FILING] of financial responsibility.

24 * Sec. 6. AS 47.23 is amended by adding a new section to read:

25 Sec. 47.23.255. EARNINGS EXEMPT FROM ORDER OR LIEN. (a) Not
26 more than 50 percent of the disposable earnings of the obligor is
27 exempt from an order to withhold and deliver under AS 47.23.250. The
28 exempt part of the disposable earnings may be paid to the obligor even
29 if the earnings are paid monthly, weekly, or at other intervals.

1 (b) A person, political subdivision, or department of the state
2 1 withhold the nonexempt part of the earnings of the obligor at
3 each succeeding interval of payment until the entire amount of the debt
4 stated in the order to withhold and deliver has been withheld.

5 (c) An order to withhold and deliver issued to the Department of
6 Revenue remains in effect throughout the calendar year in which it is
7 served. That order applies to any tax refund or other disbursements to
8 which the obligor is entitled even if the tax refund or disbursement is
9 issued more than 30 days after service of the order.

10 * Sec. 7. AS 47.23.260 is amended to read:

11 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
12 ORDER OR LIEN. If any person, political subdivision, or department of
13 the state (1) fails to make answer to an order to withhold and deliver
14 within the time prescribed in AS 47.23.250; (2) fails or refuses to
15 deliver property in accordance with an order issued under AS 47.23.250;
16 (3) pays over, releases, sells, transfers, or conveys real property
17 subject to a lien filed under AS 47.23.230 to or for the benefit of the
18 obligor or any other person; (4) fails or refuses to surrender upon
19 demand property attached; (5) fails or refuses to honor an assignment
20 of wages presented by the
21 agency, the person, political subdivision, or department of the state
22 is liable to the agency in an amount equal to 100 percent of the amount
23 constituting the basis of the lien, order to withhold and deliver,
24 attachment, or assignment of wages or income, together with costs,
25 interest, and reasonable attorney fees.

26
27 * Sec. 8. AS 47.23 is amended by adding a new section to read:

28 Sec. 47.23.275. LOCATION OF CHILDREN. Upon the written request
29 of the obligor and notice to the obligee, the agency shall release

1 information concerning the location of children to whom a duty of
2 support is owed if the obligor has paid all support payments that are
3 due and there is a visitation or joint custody agreement or order in
4 effect.

5 * Sec. 9. AS 47.23.092 added in sec. 3 of this Act has the effect of
6 changing Rule 56 of the Alaska Rules of Civil Procedure by permitting a
7 certified statement of arrears from the child support enforcement agency to
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House

4626

Introduced: 2/17/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 167

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the enforcement of child support."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 25.25.010(1) is amended to read:

9 *dk* (1) "state" include: the State of Alaska and a state, terri-
10 tory, or possession of the United States and the District of Columbia,
11 and a foreign country in which this or a substantially similar recip-
12 cal law has been enacted;

13 * Sec. 2. AS 47.23.020(2)(A) is amended to read:

14 (A) schedules for determining the amount an obligor is
15 *out* liable to contribute toward the support of a minor child [AN
16 OBLIGEE] under this chapter and under Title IV-D, Social Security
17 Act;

18 * Sec. 3. AS 47.23.060 is amended by adding a new subsection to read:

19 (d) In any proceeding to modify the duty of support, a change of
20 *out* 20 percent or more in the consumer price index which occurs after the
21 establishment of or modification of a judicial or administrative sup-
22 port order is evidence of a change of circumstances.

23 * Sec. 4. AS 47.23.100 is amended to read:

24 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
25 provide aid to any person due child support under the laws of this
26 state upon application. *pe* If the obligee is indigent or otherwise unable
27 to pay for these services, the agency shall act without charge to the
28 obligee. The agency may impose fees for services provided under this
29 chapter, which [IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINAN-

1 CIALY ABLE TO PAY, COSTS) shall be assessed according to regulations
2 adopted by the department and [BE] paid into the fund established in
3 AS 47.23.030.

4 * Sec. 5. AS 47.23.110(4) is amended to read:

5 *put* (4) "obligee" means the custodial parent or person who has
6 physical custody and responsibility for the minor child [A PERSON] to
7 whom a duty of support is owed;

8 * Sec. 6. AS 47.23.110 is amended by adding new paragraphs to read:

9 (7) "consumer price index" means the All Urban Consumer
10 Price Index as compiled by the United States Department of Labor,
11 Bureau of Labor Statistics, for Anchorage, Alaska or, if the obligor
12 and obligee live in the same judicial district, the index for a muni-
13 *out* cipality within that judicial district, if the United States Department
14 of Labor compiles an index;

15 (8) "earnings" (A) means compensation paid or payable for
16 personal services, whether denominated as wages, salary, commission,
17 bonus, or other similar description and includes the gain derived from
18 the investment of capital, from labor, or from a combination of in-
19 vestment and labor; and (B) does not include profit gained from the
20 sale or conversion of a capital asset; *pe*

21 (9) "disposable earnings" means that part of the earnings of
22 *ok* an individual which remains after the deduction from those earnings of
23 any amount required by law to be withheld.

24 * Sec. 7. AS 47.23.130 is repealed and reenacted to read:

25 *ok* Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
26 able to the state under AS 47.23.120(a) or (b), the state is subrogated
27 to the rights of the obligee to:

28 (1) bring an action in the superior court seeking an order
29 of support *or* modifying an existing order of support

1 (2) proceed under AS 47.23.160 -- 47.23.270 to establish or
2 modify a duty of support; or

3 *gk* (3) enforce by execution, in accordance with AS 47.23.230 --
4 47.23.270, or otherwise, a support order entered in favor of the obli-
5 gee.

6 (b) To establish, ~~modify~~ or enforce an order of support, based
7 upon the subrogation of the state, the agency is not limited to the
8 amount of assistance being granted to the minor child.

9 (c) The recovery of any amount for which the obligor is liable
10 which exceeds the total assistance granted under AS 47.25.310 -- 47.25.-
11 *gk* 420 shall be paid to the obligee.

12 * Sec. 8. AS 47.23.150 is amended by adding a new subsection to read:

13 (c) Refusal by the obligor to accept the notice is considered
14 service as of the time of the refusal.

15 * Sec. 9. AS 47.23.160(b) is amended to read:

16 *out* (b) The notice and finding of financial responsibility served
17 under (a) of this section shall state

18 (1) the sum or periodic payments for which the alleged
19 obligor is found to be responsible, calculated by taking into consid-
20 eration the need of the minor child [ALLEGED OBLIGEE], the alleged
21 obligor's liability to the state under AS 47.23.130 if any, and his
22 duty of support under the law;

23 (2) the name of the alleged obligee and the minor child [HIS
24 CUSTODIAN];

25 (3) that the alleged obligor may appear and show cause in a
26 hearing held by the agency why the finding is incorrect, should not be
27 finally ordered, and should be modified or rescinded, because (A) no
28 duty of support is owed, or (B) the amount of support found to be owed
29 is incorrect;

1 (4) that if the person served with the notice and finding of
2 financial responsibility does not request a hearing within 30 days, the
3 property of the person will be subject to execution in accordance with
4 AS 47.23.230 -- 47.23.270 in the amounts stated in the finding without
5 further notice or hearing.

6 * Sec. 10. AS 47.23.160 is amended by adding a new subsection to read:

7 (c) Refusal by the obligor to accept the notice is considered
8 service as of the time of the refusal.

9 * Sec. 11. AS 47.23.170(e) is amended to read:

10 out (e) The hearing officer shall consider the following in making
11 his determination under (d) of this section:

12 (1) the needs of the minor child [ALLEGED OBLIGEE], disre-
13 garding the income or assets [OF THE CUSTODIAN] of the alleged obligee;

14 (2) the amount of the alleged obligor's liability to the
15 state under AS 47.23.120 [AS 47.23.125] if any;

16 out (3) the intent of the legislature that children be supported
17 as much as possible by their natural parents;

18 (4) the ability of the alleged obligor to pay.

19 * Sec. 12. AS 47.23.170(f) is amended to read:

20 (f) If the alleged obligor requesting the hearing fails to appear
21 at the hearing, the hearing officer shall enter a decision declaring
22 the property of the alleged obligor subject to execution in accordance
23 ok with AS 47.23.230 -- 47.23.270 in the amounts stated in the notice and
24 finding [FILING] of financial responsibility.

25 * Sec. 13. AS 47.23.190(a) is amended to read:

26 mt (a) Unless a support order has been entered, the obligor, or the
27 obligee [OR HIS CUSTODIAN], may petition the agency or its designee for
28 a modification of the finding or decision of responsibility previously
29 entered with regard to future periodic support payments.

1 * Sec. 14. AS 47.23.190(c) is amended to read:

2 (c) If a hearing is granted, the agency shall serve a notice of
3 hearing together with a copy of the petition and affidavits submitted
4 *out* on the obligee [OR HIS CUSTODIAN] and the obligor personally or by
5 registered, certified, or insured mail, return receipt requested, for
6 restricted delivery only to the person to whom the notice is directed
7 or to the person authorized under federal regulation to receive his
8 restricted delivery mail.

9 * Sec. 15. AS 47.23 is amended by adding a new section to read:

10 Sec. 47.25.255. EARNINGS EXEMPT FROM ORDER OR LIEN. (a) Not
11 *out* more than 50 percent of the disposable earnings of the obligor is
12 exempt from an order to withhold and deliver under AS 47.23.250. The
13 exempt part of the disposable earnings may be paid to the obligor even
14 if the earnings are paid monthly, weekly, or at other intervals.

15 (b) A person, political subdivision, or department of the state
16 shall withhold the nonexempt part of the earnings of the obligor at
17 *at* each succeeding interval of payment until the entire amount of the debt
18 *is* stated in the order to withhold and deliver has been withheld.

19 (c) An order to withhold and deliver issued to the Department of
20 Revenue remains in effect throughout the calendar year in which it is
21 *ok* served. That order applies to any tax refund or other disbursements to
22 which the obligor is entitled even if the tax refund or disbursement is
23 issued more than 30 days after service of the order.
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Maryot Dick - 586-6233
re: SB 181 6238

- 1) w/ day care assistance programs
alot of people had problems
w/ getting child support
- 2) wage garnishment clause
good, but needs improvement
- 3) study other states
improve our laws
interstate payment
- 4) 600,000 ^{agency} for 40% of support
due
- 5) other states have a withholding
system (from person's pay)
every month) set up thru
court at divorce hearing
(New York)
(40% - 80%)

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National Conference of State Legislatures



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State
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**Earl S. Mackey,
Executive Director**

NATIONAL CONFERENCE OF STATE LEGISLATURES
CHILD SUPPORT ENFORCEMENT SEMINAR

Denver, Colorado
October 11-12, 1979

AGENDA

THURSDAY, OCTOBER 11

- 8:00-9:00 a.m. REGISTRATION
(Old Supreme Court Chamber
Second Floor, State Capitol -
OSCC)
- 9:00-9:15 a.m. WELCOME
(OSCC)
Program Moderator: Representative Ronald H. Strahle,
Colorado
Fred E. Anderson, Senate President, Colorado
- 9:15-10:00 a.m. KEYNOTE ADDRESS
(OSCC)
"Overview of Child Support Enforcement"

Louis B. Hays, Deputy Director, Office of Child
Support Enforcement, U.S. Department of Health,
Education and Welfare
- 10:00-10:45 a.m. "Putting Faces to Names and Numbers -- Scope of the Problem"
(OSCC)

Judith B. Cassetty, Ph. D., Assistant Professor,
School of Social Work, University of Texas at Austin
- 10:45-11:00 a.m. COFFEE BREAK
(Ground Floor, State Capitol)
- 11:00 a.m.-12:15 p.m. "The Benefits of Effective State Child Support Enforcement
Programs"

Representative John Clawson, Minnesota
Representative Ellen Crowley, Wyoming
- 12:30-2:00 p.m. LUNCHEON
(Radisson Hotel
Colorado Room 4,
Second Floor)
"An Executive Branch Perspective on Child Support Enforcement"

Anthony W. Mitchell, Ph. D., Executive Director,
Department of Social Services, Utah
- 2:00-2:30 p.m. "Program Basics and Major Variations Among the States"
(Radisson Hotel,
Colorado Room 4)

Laven Loynd, Technical Assistance Coordinator,
National Institute for Child Support Enforcement

2:30-3:00 p.m.
(Radisson Hotel,
Colorado Room 4)

"What a State CSE Program Might Need from a State Legislature:
Introduction to Concurrent Session Discussions?"

Panel Moderator:

Dennis C. Cooper, Institute Manager, National
Institute for Child Support Enforcement

Panel:

Topic A: Sherwood Zink, Legal Counsel, Wisconsin Bureau
of Child Support Enforcement

Topic B: Robert E. Keith, Assistant Attorney General,
Iowa

Topic C: R. James Lore, Former Associate Attorney
General, North Carolina

3:15-5:00 p.m.
(State Capitol)

CONCURRENT SESSIONS

(Attendees will break into two groups (I & II) to discuss
Topic A simultaneously)

Topic A: Establishment Legislation

Enabling Legislation

Legislative Advisory Committees

Court Representation

Disclosure

Interest Charges on Arrearages

Debt Set Off Collections

(House Committee Room F,
Ground Floor)

Group I

Moderator:

Representative Irving Newhouse, Washington

*Resource People:

Robert E. Keith

Lawrence R. Young

Lavon Loynd

Kenneth Muroya

(House Committee Room C,
Ground Floor)

Group II

Moderator:

Representative Wint Winter, Kansas

*Resource People:

Sherwood Zink

R. James Lore

Dennis C. Cooper

6:00-7:30 p.m.
(Brown Palace Hotel,
Central City Room,
Mezzanine Level)

CASH BAR RECEPTION

FRIDAY, OCTOBER 12

8:30-10:15 a.m.
(State Capitol)

CONCURRENT SESSIONS

*Affiliations of Resource People Listed at end of Agenda.

(House Committee Room F,
Ground Floor)

Group I
Topic B: Enhancement Legislation I
Public Support of Children
Post Judgment Remedies
Attachment
Judgment Lien
Garnishment
Wage Assignment
Order to Withhold and Deliver
Budgeting
Paternity

Moderator:

Representative Gretchen Kafoury, Oregon

*Resource People:

Sherwood Zink
Robert E. Keith
Lawrence R. Young
Dennis C. Cooper

(House Committee Room C,
Ground Floor)

Group II
Topic C: Enhancement Legislation II
Consent Orders
Alternative Court Systems
Criminal Enforcement
URESAs
Extradition
Uniform Registration of Foreign Judgments

Moderator:

Representative Charles Parr, Alaska

*Resource People:

R. James Lore
Daniels McLean
Lavon Loynd

10:15-10:30 a.m.
(Ground Floor,
State Capitol)

COFFEE BREAK

10:30 a.m.-12:15 p.m.

CONCURRENT SESSIONS

Topic B and C will be repeated. Groups stay in same rooms. Resource people switch rooms.

(House Committee Room F,
Ground Floor)

Group I
Topic C: Enhancement Legislation II

Moderator:

Representative Ann Mary Dussault, Montana

*Resource People:

R. James Lore
Daniels McLean
Lavon Loynd

(House Committee Room C,
Ground Floor)

Group II
Topic B: Enhancement Legislation I

*Affiliations of Resource People listed at end of Agenda.

12:30-2:00 p.m.
(Brown Palace, Onyx Room,
Mezzanine Level)

Moderator:

Dorothy K. Witherspoon, Colorado

*Resource People:

Sherwood Zink

R. James Lore

Dennis C. Cooper

LUNCHEON

LUNCHEON ADDRESS

"Observations on the Seminar -- What are the Benefits of the
Child Support Enforcement Program"

Representative Ronald H. Strahle, Colorado

"Where Can You Get Help -- Description of the NCSL Child
Support Enforcement Project"

Deborah Bennington, NCSL Project Director

WORKSHOP RESOURCE PEOPLE

Dennis C. Cooper, Institute Manager,
National Institute for Child Support Enforcement

Sherwood Zink, Legal Counsel,
Wisconsin Bureau of Child Support

Robert E. Keith, Assistant Attorney General, Iowa

R. James Lore, Former Associate Attorney General,
North Carolina

Lawrence R. Young, Assistant Attorney General, Oregon

Daniels W. McLean, Family Court Referee,
Hennepin County District Court, Minnesota

Lavon Loynd, Technical Assistance Coordinator,
National Institute for Child Support Enforcement

Kenneth Muroya, State IV-D Director, Colorado