

ALABAMA LEGISLATIVE COMMISSION FILES 1901-1902

1686 SJ SB 177 - SB 181

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Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 25, 1981

Mr. Dean K. Otteson
Assistant Principal
Soldotna High School
P.O. Box 3009
Soldotna, Alaska 99669

Dear Mr. Otteson:

Thank you for your letter in support of SB 177. That bill has been assigned to the Judiciary Committee for hearing; however, due to a heavy backlog of legislation to be heard, it is doubtful at this point that it will be scheduled this session.

I will make your comments a part of the committee's permanent file for future consideration of this proposed legislation.

Sincerely,

A handwritten signature in cursive that reads "Pat".

Senator Patrick M. Rodey
Chairman

PMR/ods

*The language in SB 177
is to be incorporated in
a drug bill I expect the
Senate to pass fairly soon.*



SOLDOTNA HIGH SCHOOL

P.O. Box 3009
SOLDOTNA, ALASKA 99669

262-7411

JAMES A. STRANDLIE
PRINCIPAL

DEAN K. OTTESON
ASSISTANT PRINCIPAL

April 1, 1981

RECEIVED

APR 07 1981

Senator Pat Rodey
Chairman, Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I am writing in support of Senate Bill #177, an act providing that a person of 17 years of age be charged, prosecuted and sentenced in the same manner as an adult if accused of selling a drug on school property.

As Assistant Principal of Soldotna High School I have come in contact with numerous drug violations involving young high school students. It has been my experience that the most difficult cases involved discovering the pushers or dealers. I have worked around high schools for the past 16 years and have seen a steady increase in the use of drugs among teenagers, especially marijuana. The profits to those who are selling, in all cases, outweighs the penalty. Seventeen year old dealers know the penalty is not severe and therefore continue their activity.

We are trying to keep drugs out of the school and keep younger students from being influenced. When young dealers are turned loose in a school with very minor consequences, we are only adding to the problem. I feel that every effort should be made in dealing with the teenage drug problem. We need more drug education programs at all levels and involving the total community, but we also need stronger laws.

The Kenai Peninsula Borough School Administrators Association voted unanimously to support this bill.

Sincerely

DEAN K. OTTESON
Assistant Principal

DKO/jm

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AMENDMENT

OFFERED IN THE SENATE:

By: Senate Judiciary

To: Senate Secretary

SENATE BILL No. CSSB 181

HOUSE BILL No. _____

PAGE: 2

LINE: 4

after the word "chapter" add the following: unless required by federal law.

COMMITTEE REPORT
SENATE

4/28/81

FURTHER: None

Date: May 15 1981

Mr. President:

The Committee on JUDICIARY has had SB 181

child support

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title

and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Should the government get involved in child support?

Oleta

Project Intercept proposed by the Reagan administration would give the Internal Revenue Service (IRS) authority to withhold Federal Income Tax refunds from parents who failed to make court-ordered child support payments.

The idea behind the plan is to reduce federal welfare costs for children who are denied child support.

Critics of the program say that it poses a threat to the privacy and rights of taxpayers and represents a misuse of the IRS.

Why the need for such drastic action? How has it come to pass that Reagan, who ran on a platform of decreased federal involvement in the lives of people, has made such an intrusive proposal?



**dr. melvyn berke
& joanne grant** after divorce

Let's take a look at some facts:

- In 1978, 28 percent of all women who were

supposed to receive child support received nothing.

- Only 49 percent of women who were awarded child support in 1978 received their total monthly payments.

• When a child has to be supported by the government because of a parent's failure to meet his/her financial obligation to the child, has that parent not violated the law, defaulted on the child's rights and placed his/her own rights in jeopardy?

- Since tax dollars pay for welfare programs, is this proposal a misuse of the IRS?

• Should one's obligation and relationship with the IRS be kept separate and distinct from personal obligations and responsibilities?

How cost effective would such a program be?

Would the refund be enough to take a child off welfare? Would it cost less to implement and run the program or keep a child on the welfare rolls?

We would like to know what you think. We ask for your yea's and nay's, and your thoughts. We will report back to you and Washington.

Write to us at After Divorce, Box 4994, Des Moines, Iowa 50306.

"Color Me Happy — Ten Steps Any Women Can Take to be Independent," a handbook for the separated, divorced and widowed, provides a realistic and practical roadmap for getting through and beyond your crisis. For your copy send \$1 and a long, stamped, self-addressed envelope with your request to After Divorce, Box 4994, Des Moines, Iowa 50306.

4-27

PROPOSED COMMITTEE SUBSTITUTE FOR SENATE BILL 181, - CHILD SUPPORT ENFORCEMENT

Amendments (by Senate HESS)

certified mail

Colletts: If assessor is late, an automatic garnishment shall be in effect.

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IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the enforcement of child support."
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

(1) "state" includes the State of Alaska and a state, territory, or possession of the United States and the District of Columbia, and a foreign country in which this or a substantially similar reciprocal law has been enacted;

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

(A) schedules for determining the amount an obligor is liable to contribute toward the support of a minor child (AN OPLIGEE) under this chapter and under Title IV-D, Social Security Act;

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

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

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

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

Amendments to Agency to provide for...

except that [if] the obligee is indigent...

1 ~~CIALLY 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:

(4.) "obligee" means the legal custodian or the person who has the primary, physical custody and responsibility for a minor child (A PERSON) to whom a duty of support is owed; not including a parent exercising regular or extended visitation rights.

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 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;

21 (9) "disposable earnings" means that part of the earnings of
22 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 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
26 able to the state under AS 47.25.120(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 (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.-
11 420 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 (b) The notice and finding of financial responsibility served
17 under (a) of th's 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 (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 (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 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 (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 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. 47.23.255. EARNINGS EXEMPT FROM ORDER OR LIEN. (a) Not
11 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 each succeeding interval of payment until the entire amount of the debt
18 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 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.

12 * Sec. 16 AS 47.23 is amended by adding a new section to read:

13 Sec. 47.23.092. REDUCING ARREARS TO JUDGMENT. The agency may
14 submit to the superior court, with notice to the obligor, a certified
15 statement of arrears. Notice may be given to the obligor by mailing by
16 first class mail a copy of the statement to the last known address of
17 the obligor. The court shall treat the certified statement of arrears
18 as a motion for summary judgment under the Alaska Rules of Civil Proce-
19 dure. The court may enter judgment for the amount of support which is
20 due and overdue payment fees.

\$65 million in child payments unpaid 2/9/81

By The Associated Press

More than 30,000 Alaska children are not receiving support payments from absent parents, and most of the children are living at or near poverty level, a new state report shows.

As of Sept. 30, 1980, unpaid child support was estimated at \$63.9 million, the report states. During fiscal 1980, which ended last June, \$5.9 million was collected in support payments — only about 6 percent of the money owed.

The report, done by the House Research Agency at the request of two legislators, shows the vast majority of Alaska children who live in one-parent homes are not being supported by the missing parent — in most cases the father.

In 1976, the Legislature created a state Child Support Enforcement Agency to enforce collection of child support payments. The agency has 63 employees and is located within the Department of Revenue. As of last Sept. 30, a total of 16,900 child support cases were registered with the agency.

According to the report, approximately 48 percent of the agency's cases had not received any support money in over a year, and 24 percent had not received a payment in over three years. The agency estimates the average monthly support payment at \$82.50 per child.

Last year Alaska spent \$561,000 to support the agency, while the federal government pitched in \$2 million. However, the state recovered about \$100,000. When a family is on welfare, the child support collected is retained by state and federal governments to reimburse welfare costs.

Judy Brakel, a representative of a citizen

Continued on Page 2

Child support...

Continued from Page 1

group called Advocates for Child Support, has written legislators urging several changes in Alaska's law. Among the group's recommendations are:

—Require support payments to increase with the cost-of-living. Brakel said inflation eats into support payments, yet parents generally are prevented from seeking amended orders through court action because of legal expenses.

—Establish a state child support pay-

ment revolving loan fund. Payments from the fund would be made directly to the children, and the non-custodial parent then would owe the fund. Since a debt against the fund would be a debt against the state, the state would be empowered to zealously pursue collection of its debt.

—Legislation to provide that automatic wage assignments be made in cases whenever practical.

Brakel argues that one of the biggest

problems faced by a parent who has custody of a child is inconsistent support payments. "Families who do manage to stay off AFDC (Aid to Families with Dependent Children) are often affected by the instability of child support income," she said in a letter to legislators. "Families who have entered into contractual agreements to purchase, such as a house or a car, have lost these purchases when child support income has not been paid, as ordered by the court."



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Ray
Senator Rodey

FROM: Oleta Simmons

DATE: June 21, 1981

SUBJECT: HCS CSSB 181, "An Act relating to child support;
and changing Rule 77 of the Alaska Rules of Civil
Procedure."

In its present form, HCS CSSB 181 is similar to HB 167 (Rules/Governor, 4/20/81). The present bill incorporates the following provisions not included in either the original bill or in CSSB 181:

1. INCOME ASSIGNMENT ORDER FOR CHILD SUPPORT (amends AS 09.65 to add a new section, sec. 09.65.132). In summary, it provides for the following:
 - income assignments may be requested if the support payment is 30 days overdue.
 - The obligor may request a court hearing and such hearing shall be within 15 days after request.
 - Protection is given the obligor from unlawful discharge by his employer as a result of the income assignment.
 - The income assignment has priority over other garnishments or attachments until entire debt has been satisfied (amends AS 47.23 by adding a new section, AS 47.23.253).
 - Exempts 50% of gross wages, or \$100.00 per week, whichever is less.
 - Remains in effect for 1 year; includes both income and tax refund monies.
 - The Agency may deduct its cost from monies received under income assignments.

Senator Ray
Senator Rodey

2. June 21, 1981

2. TEMPORARY PAYMENT OF CHILD SUPPORT BY AGENCY.
(amends AS 47.23 by adding a new section,
AS 47.23.257).
 - Provides that payments in the amount of the court order may be paid by the agency for 3 months or until all arrearages are satisfied, including interests and costs, whichever comes first. The House version does not contain the "interest" language contained in the original bill.
3. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN ORDER OR LIEN. (amends AS 47.23.260 to include an income assignment and to include the words "or income"--this is in addition to wages.
4. LOCATION OF CHILDREN (amends AS 47.23 to add a new section, 47.23.275). This language was taken from CSHB 167 and provides that:
 - Upon the written request of the obligor and
 - Notice to the obligee,
 - The Agency may disclose location of children if:
 - support payments are current and
 - There is an order for visitation or joint custody.

HCS CSSB 181 contains similar SUBROGATION OF STATE language as contained in your original bill (repeals and reenacts AS 47.23.130).

Like HB 167 and CSSB 181, the House version prohibits the Agency from charging fees for its service unless required by federal law.

MEMORANDUM

Review
State of Alaska

TO: File

DATE: March 3, 1981

FILE NO:

TELEPHONE NO:

FROM: Dan Copeland
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 gainful 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.



JUNEAU, ALASKA

Alaska State Legislature
House

MESSAGE TO THE SENATE


DATE June 20, 1981

MR. PRESIDENT:

The House has passed CSSB 181(HESS) am (relating to the enforcement of child support and changing Rule 56 of the Alaska Rules of Civil Procedure) with the following amendment:

HCS CSSB 181(Jud) (relating to child support; and changing Rule 77 of the Alaska Rules of Civil Procedure)

and it is transmitted herewith for consideration.


Chief Clerk of the house

Original sponsors: Ray and Rodey

Offered: 6/8/81
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR 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 child support; and changing Rule
7 77 of the Alaska Rules of Civil Procedure."

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

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

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

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

14 (b) An income assignment order shall direct the obligor, his
15 employer, future employer, and any person, political subdivision, or
16 department of the state to assign money due or to be due the obligor to
17 the child support enforcement agency (AS 47.23) in an amount sufficient
18 to meet the support payments imposed by the court or by the child
19 support enforcement agency under AS 47.23.140.

20 (c) An obligee or person or public agency designated to receive
21 support payments may request an income assignment order to take effect
22 by alleging in a sworn statement that the obligor has failed to make a
23 support payment in full within ⁴⁵30 days of the date the payment was due.

24 (d) If an application has been filed with the clerk of court,
25 notice shall be sent by certified mail to the last known address of the
26 obligor. The notice shall be postmarked no later than 10 days after
27 the date on which the application was filed and shall inform the obligor
28 that the income assignment will take effect 15 days after the date on
29 which the notice was sent unless the obligor requests a hearing within

*Companion
with
CS HB 167
(HESS)*

added

*may be
retained in
30
days
of
date
payment
was due*

return receipt requested

received -1-

* If child support payments are made before date, the hearing assignment law income not take effect.

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

5 (e) The applicant 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 not otherwise exempt by law. The exemptions from execution
17 by judgment debtors under AS 09.35.080(a) and the restrictions from
18 execution by judgment debtors under AS 09.35.080(b)(1) do not apply to
19 income assignments under this section; however, 50 percent of the gross
20 wages of the obligor or \$100 a week, whichever is less, is exempt from
21 execution under this section.

22 (h) The court may order an obligor to pay all court costs involved
23 in an income assignment proceeding under this section.

24 * Sec. 2. AS 25.25.010(1) is amended to read:

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

29 * Sec. 3. AS 47.23.100 is amended to read:

1 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
2 provide aid to any person due child support under the laws of this
3 state upon application. The agency may not impose a fee for services
4 provided under this chapter unless required by federal law. [IF THE
5 OBLIGEE IS INDIGENT OR OTHERWISE UNABLE TO PAY FOR THESE SERVICES, THE
6 AGENCY SHALL ACT WITHOUT CHARGE TO THE OBLIGEE. IF THE AGENCY DETER-
7 MINES THAT THE OBLIGEE IS FINANCIALLY ABLE TO PAY, COSTS SHALL BE
8 ASSESSED ACCORDING TO REGULATIONS ADOPTED BY THE DEPARTMENT AND BE PAID
9 INTO THE FUND ESTABLISHED IN AS 47.23.030.]

10 * Sec. 4. AS 47.23.110 is amended by adding new paragraphs to read:

11 (7) "earnings" means compensation paid or payable for per-
12 sonal services, whether denominated as wages, salary, commission,
13 bonus, or other similar description and includes the gain derived from
14 the investment of capital, from labor, or from a combination of invest-
15 ment and labor;

16 (8) "disposable earnings" means that part of the earnings of
17 an individual that remains after the deduction from those earnings of
18 any amount required by law to be withheld.

19 * Sec. 5. AS 47.23.130 is repealed and reenacted to read:

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

23 (1) bring an action in the superior court seeking an order
24 of support;

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

27 (3) enforce by execution, in accordance with AS 47.23.230 -
28 47.23.270, or otherwise, a support order entered in favor of the obli-
29 gee.

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

4 (c) The recovery of any amount for which the obligor is liable
5 that exceeds the total assistance granted under AS 47.25.310 - 47.25.-
6 420 shall be paid to the obligee.

7 * Sec. 6. AS 47.23.140 is amended by adding a new subsection to read:

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

10 * Sec. 7. AS 47.23.170(f) is amended to read:

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

16 * Sec. 8. AS 47.23.250(i) is amended to read:

17 (i) The exemptions from execution by judgment debtors under
18 AS 09.35.080(a) and the restrictions from execution by judgment debtors
19 under AS 09.35.080(b)(1) do not apply to proceedings to enforce the
20 payment of child support under AS 47.23.230 - 47.23.270; however, 50
21 percent of the gross wages of the obligor or \$100 a week, whichever is
22 less, is exempt from execution under AS 47.23.230 - 47.23.270.

23 * Sec. 9. AS 47.23 is amended by adding new sections to read:

24 Sec. 47.23.253. EARNINGS SUBJECT TO ; ORDER OR LIEN. (a) A
25 person, political subdivision, or department of the state shall withhold
26 the earnings of the obligor subject to an order or lien at each succeed-
27 ing interval of payment until the entire amount of the debt stated in
28 the order to withhold and deliver has been withheld.

29 (b) An order to withhold and deliver issued to the Department of

1 Revenue remains in effect throughout the calendar year in which it is
2 served. That order applies to any tax refund or other disbursements to
3 which the obligor is entitled even if the tax refund or disbursement is
4 issued more than 30 days after service of the order.

5 Sec. 47.23.255. INCOME ASSIGNMENT ORDERS. (a) The agency shall
6 pay the obligee all money recovered by the agency under an income
7 assignment order except for costs that are recovered from the obligor
8 or amounts withheld under AS 47.23.257(c).

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

13 Sec. 47.23.257. TEMPORARY PAYMENT OF CHILD SUPPORT BY AGENCY.

14 (a) If an obligor fails to make a child support payment subject to an
15 income assignment provision under AS 09.65.132, the agency may pay the
16 obligee the amount of child support due under the order. Payment of
17 child support under this section may continue for three months or until
18 the obligor has paid all arrearages plus interest and costs, whichever
19 occurs first.

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

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

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

29 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN

1 ORDER OR LIEN. If any person, political subdivision, or department of
2 the state (1) fails to make answer to an order to withhold and deliver
3 within the time prescribed in AS 47.23.250; (2) fails or refuses to
4 deliver property in accordance with an order issued under AS 47.23.250;
5 (3) pays over, releases, sells, transfers, or conveys real property
6 subject to a lien filed under AS 47.23.230 to or for the benefit of the
7 obligor or any other person; (4) fails or refuses to surrender upon
8 demand property attached; (5) fails or refuses to honor an assignment
9 of wages or an income assignment under AS 09.65.132 presented by the
10 agency, the person, political subdivision, or department of the state
11 is liable to the agency in an amount equal to 100 percent of the amount
12 constituting the basis of the lien, order to withhold and deliver,
13 attachment, or assignment of wages or income, together with costs,
14 interest, and reasonable attorney fees.

15 * Sec. 11. AS 47.23 is amended by adding a new section to read:

16 Sec. 47.23.275. LOCATION OF CHILDREN. Upon the written request
17 of the obligor and notice to the obligee, the agency shall release
18 information concerning the location of children to whom a duty of
19 support is owed if the obligor has paid all support payments that are
20 due and there is a visitation or joint custody agreement or order in
21 effect.

22 * Sec. 12. AS 09.65.132 added in sec. 1 of this Act has the effect of
23 changing Rule 77 of the Alaska Rules of Civil Procedure by establishing a
24 procedure and time limits for court review of an income assignment order
25 which differ from those generally applicable in civil actions.



JUNEAU, ALASKA 99801

Alaska State Legislature

Senate

June 22, 1981

MESSAGE TO THE HOUSE

Date:

MR. SPEAKER

The Senate failed to concur in the House amendment to CS FOR SENATE BILL NO. 181 (HESS) am (enforcement of child support and changing Rule 56 of the Alaska Rules of Civil Procedure), namely, HOUSE CS FOR CS FOR SENATE BILL NO. 181 (Jud) (child support; and changing Rule 77 of the Alaska Rules of Civil Procedure), and respectfully requests the House to recede from its amendment. In the event the House fails to recede, the President has appointed the following to a FREE CONFERENCE COMMITTEE to meet with a like committee in the House to consider the bills:

Senator Parr, Chairman

Senator Stimson

Senator Eliason

CATO - CH
 CLOCKSIN -
 MARTIN

(0-19-1)

PARR - CH.

Senate Secretary

STIMSON
 ELIASON

Original sponsors: Ray and Roder

Offered: 4/28/81
Referred: Judiciary

Does not include income assignment

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 181 (HESS)

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 recipro-
14 cal law has been enacted;

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

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

20 * Sec. 3. AS 47.23 is amended by adding a new section to read:

21 Sec. 47.23.092. REDUCING ARREARS TO JUDGMENT. The agency may
22 submit to the superior court, with notice to the obligor, a certified
23 statement of arrears. Notice may be given to the obligor by mailing by
24 certified mail a copy of the statement to the last known address of the
25 obligor. The court shall treat the certified statement of arrears as a
26 motion for summary judgment under the Alaska Rules of Civil Procedure.
27 The court may enter judgment for the amount of support which is due and
28 overdue payment fees.

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

1 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
2 provide aid to any person who receives or pays [DUE] child support,
3 under the laws of this state upon application. The agency may not
4 impose fees for services provided under this chapter [IF THE OBLIGEE IS
5 INDIGENT OR OTHERWISE UNABLE TO PAY FOR THESE SERVICES, THE AGENCY
6 SHALL ACT WITHOUT CHARGE TO THE OBLIGEE. IF THE AGENCY DETERMINES THAT
7 THE OBLIGEE IS FINANCIALLY ABLE TO PAY, COSTS SHALL BE ASSESSED ACCORD-
8 ING TO REGULATIONS ADOPTED BY THE DEPARTMENT AND BE PAID INTO THE FUND
9 ESTABLISHED IN AS 47.23.030].

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

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

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

16 (7) "earnings"

17 (A) means compensation paid or payable for
18 personal services, whether denominated as wages, salary, commission,
19 bonus, or other similar description and includes the gain derived from
20 the investment of capital, from labor, or from a combination of in-
21 vestment and labor; and

22 (B) does not include profit gained from the
23 sale or conversion of a capital asset;

24 (8) "disposable earnings" means that part of the earnings of
25 an individual which remains after the deduction from those earnings of
26 any amount required by law to be withheld.

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

28 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
29 able to the state under AS 47.23.120(a) or (b), the state is subrogated

1 to the rights of the obligee to

2 (1) bring an action in the superior court seeking an order
3 of support or modifying an existing order of support;

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

6 (3) enforce by execution, in accordance with AS 47.23.230 -
7 47.23.270, or otherwise, a support order entered in favor of the obli-
8 gee.

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

12 (c) The recovery of any amount for which the obligor is liable
13 which exceeds the total assistance granted under AS 47.25.310 - 47.25.-
14 420 shall be paid to the obligee.

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

16 (c) Refusal by the obligor to accept the notice under (a) of this
17 section is considered service as of the time of the refusal.

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

19 (b) The notice and finding of financial responsibility served
20 under (a) of this section shall state

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

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

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

1 finally ordered, and should be modified or rescinded, because (A) no
2 duty of support is owed, or (B) the amount of support found to be owed
3 is incorrect;

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

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

10 (c) Refusal by the obligor to accept the notice under (a) of this
11 section is considered service as of the time of the refusal.

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

13 *Amended* ~~(e)~~ ^{who appoints?} The hearing officer shall consider the following in making
14 his determination under (d) of this section:

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

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

19 (3) the intent of the legislature that children be supported
20 as much as possible by their natural parents;

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

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

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

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

29 (a) Unless a support order has been entered, the obligor, or the

1 obligee [OR HIS CUSTODIAN], may petition the agency or its designee for
2 a modification of the finding or decision of responsibility previously
3 entered with regard to future periodic support payments.

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

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

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

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

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

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

27 * Sec. 16. AS 47.23.092 added in sec. 3 of this Act has the effect of
28 changing Rule 56 of the Alaska Rules of Civil Procedure by permitting a
29 certified statement of arrears from the child support enforcement agency to

Oesta

Original sponsor: Rules/Governor

Offered: 4/20/81
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 167 (HESS)

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; and changing Rule
7 77 of the Alaska Rules of Civil Procedure."

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

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

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

11 A judgment, court order, or order of the child support enforcement
12 agency (AS 47.23) providing for the support of a minor child shall
13 contain an income assignment order. *p. 2. line 15*

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

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

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

*Any order
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ordered.*

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

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

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

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

21 (h) The court may order an obligor to pay all court costs involved
22 in an income assignment proceeding under this section.

23 * Sec. 2. AS 25.25.010(1) is amended to read:

24 (1) "state" includes the State of Alaska and a state, terri-
25 tory, or possession of the United States and the District of Columbia,
26 and foreign country in which this or a substantially similar reciproc-
27 atory law has been enacted;

28 * Sec. 3. AS 47.23.100 is amended to read:

29 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall

*no reference to
fees: neither a
ref flag nor an
authority*

1 provide aid to any person due child support under the laws of this
2 state upon application. [IF THE OBLIGEE IS INDIGENT OR OTHERWISE
3 UNABLE TO PAY FOR THESE SERVICES, THE AGENCY SHALL ACT WITHOUT CHARGE
4 TO THE OBLIGEE. IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINAN-
5 CIALY ABLE TO PAY, COSTS SHALL BE ASSESSED ACCORDING TO REGULATIONS
6 ADOPTED BY THE DEPARTMENT AND BE PAID INTO THE FUND ESTABLISHED IN
7 AS 47.23.030.]

8 * Sec. 4. AS 47.23.110 is amended by adding new paragraphs to read:

9 (7) "earnings" means compensation paid or payable for per-
10 sonal services, whether denominated as wages, salary, commission,
11 bonus, or other similar description and includes the gain derived from
12 the investment of capital, from labor, or from a combination of invest-
13 ment and labor;

14 (8) "disposable earnings" means that part of the earnings of
15 an individual which remains after the deduction from those earnings of
16 any amount required by law to be withheld.

17 * Sec. 5. AS 47.23.130 is repealed and reenacted to read:

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

21 (1) bring an action in the superior court seeking an order
22 of support;

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

25 (3) enforce by execution, in accordance with AS 47.23.230 -
26 47.23.270, or otherwise, a support order entered in favor of the obli-
27 gee.

28 (b) To establish or enforce an order of support, based on the
29 subrogation of the state, the agency is not limited to the amount of

*Question
by
Brown*

1 assistance being granted to the minor child.

2 (c) The recovery of any amount for which the obligor is liable
3 which exceeds the total assistance granted under AS 47.25.310 - 47.25.-
4 420 shall be paid to the obligee.

5 * Sec. 6. AS 47.23.140 is amended by adding a new subsection to read:

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

8 * Sec. 7. AS 47.23.170(f) is amended to read:

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

14 * Sec. 8. AS 47.23 is amended by adding new sections to read:

15 *Established*
16 *or*
17 *continuing*
18 *lien*
19 Sec. 47.23.253. EARNINGS SUBJECT TO AN ORDER OR LIEN. (a) A
20 person, political subdivision, or department of the state shall withhold
21 the earnings of the obligor subject to an order or lien at each succeed-
22 ing interval of payment until the entire amount of the debt stated in
23 the order to withhold and deliver has been withheld.

24 *for*
25 *removal*
26 *from*
27 *debt*
28 (b) An order to withhold and deliver issued to the Department of
29 Revenue remains in effect throughout the calendar year in which it is
served. That order applies to any tax refund or other disbursements to
which the obligor is entitled even if the tax refund or disbursement is
issued more than 30 days after service of the order.

25 Sec. 47.23.255. INCOME ASSIGNMENT ORDERS. (a) The agency shall
26 pay the obligee all money recovered by the agency under an income
27 assignment order except for costs which are recovered from the obligor
28 or amounts withheld under AS 47.23.257(c).

29 (b) Notwithstanding AS 47.23.250, an income assignment order

1 contained in a decision of the agency which has not been set aside by
2 the superior court under AS 47.23.220 shall be enforced under the
3 procedure established in AS 09.65.132.

4 Sec. 47.23.257. TEMPORARY PAYMENT OF CHILD SUPPORT BY AGENCY.

5 (a) If an obligor fails to make a child support payment subject to an
6 income assignment provision under AS 09.65.132, the agency may pay the
7 obligee the amount of child support due under the order. Payment of
8 child support under this section may continue for three months or until
9 the obligor has paid all arrearages plus interest and costs, whichever
10 occurs first.

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

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

19 * Sec. 9. AS 47.23.260 is amended to read:

20 Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
21 ORDER OR LIEN. If any person, political subdivision, or department of
22 the state (1) fails to make answer to an order to withhold and deliver
23 within the time prescribed in AS 47.23.250; (2) fails or refuses to
24 deliver property in accordance with an order issued under AS 47.23.250;
25 (3) pays over, releases, sells, transfers, or conveys real property
26 subject to a lien filed under AS 47.23.230 to or for the benefit of the
27 obligor or any other person; (4) fails or refuses to surrender upon
28 demand property attached; (5) fails or refuses to honor an assignment
29 of wages or an income assignment under AS 09.65.132 presented by the

*Date
Resolving
fund - up
only to 3 months
have income
assignment
order*

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

6 * Sec. 10. AS 47.23 is amended by adding a new section to read:

7 Sec. 47.23.275. LOCATION OF CHILDREN. Upon the written request
8 of the obligor and notice to the obligee, the agency shall release
9 information concerning the location of children to whom a duty of
10 support is owed if the obligor has paid all support payments which are
11 due and there is a visitation or joint custody agreement or order in
12 effect.

13 * Sec. 11. AS 09.65.132 added in sec. 1 of this Act has the effect of
14 changing Rule 77 of the Alaska Rules of Civil Procedure by establishing a
15 procedure and time limits for court review of income assignment order which
16 differ from those generally applicable in civil actions.

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.

*Automatic
a condition for
a challenge
to occur:
(Collector)*

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. Lowering 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

Give WA and other states jurisdiction of custody & visitation (Parr)

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". *technical amendments*

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. *How much fine? (Parr) 20 do up*

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 obligee'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 direct 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 his 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.

Pat's Copy

December 22, 1980

The Honorable Patrick Rodey
Alaska State Senate
Pouch W
Juneau, Alaska 99801

Dear Senator Rodey:

Enclosed is a copy of proposed legislation drafted by the Child Support Enforcement Agency which, it is our understanding, the Administration intends to introduce. We support this legislation. However, we understand that two sections, Section 47.23.092 Reducing Arrears to Judgement, and Section 47.23.182 Ratification by Court of Administrative Orders, have been deleted. The purpose for the deletion appears to be to make the legislation more palatable to the Legislature.

The Child Support Enforcement Agency and the Office of the Attorney General would be saved both time and money by the inclusion of these two sections and it is, therefore, our feeling that they should be a part of new legislation. Change in the law demanded by Section 47.23.092 is long overdue. Once a payment is missed it should become a debt owed.

The proposed legislation would amend Section 47.23.100 to say that costs may be assessed the obligee according to regulations adopted by the Department, whereas the existing statute makes it mandatory to levy a fee against the obligee (and hence the child). The monetary support due the obligee (custodial parent) is for the care of the child. Therefore, it seems cruel to further penalize the child by assessing a fee against the support legally due the child. The cause of the work of the Child Support Enforcement Agency is the obligor, not the obligee or the child. All concepts of basic justice point toward levying these fees on the delinquent obligor rather than on the obligee (and hence the child).

O.K.

The proposed legislation does an admirable job for the areas it addresses. It is not enough. Areas of concern to us are outlined below:

Inflationary Adjustment

Divorce decrees make no provision for the monetary support obligation of the non-custodial parent to be increased through the years. What may have been a sufficient amount for a child's support five or ten years ago is totally inadequate today. Court orders presently processed through the Child Support Enforcement Agency average less than \$100 per month per child. A statute building in an inflationary (cost of living) adjustment

DOESNT THIS JUST INSTITUTIONALIZE
INFLATION? ARE THERE ANY DUE PROCESS
PROBLEMS WITH JACKING UP PAY
SCHEDULES W/OUT A HEARING?

is necessary at this time. An example might be an increase each year according to the Anchorage C P I. This statutory provision would keep existing support orders from falling beneath the buying power they presently have. However, there must be a method for raising the long outdated support orders to the level of current inflation. This could be done by the Agency under present statutory authority if the Agency were properly funded and directed for this purpose by the Legislature.

Currently custodial parents are prevented from seeking amended support orders through private court action because the cost to them (and hence to the child) is normally several thousand dollars. Further, if all the custodial parents in Alaska who should have their orders raised were to privately go to the court to do so, the courts would be swamped.

Unreliable Support Income

HOW MANY TIMES HAVE I HEARD THIS?

The awesome responsibilities of the single parent are too often greatly increased by the unreliability of receiving child support income. For instance a family on AFDC may receive child support for several months in a row, long enough for them to lose their eligibility for AFDC. Then no child support may be received for months, but there is a time lag in getting back on to the AFDC rolls. During this time the family has had no or greatly reduced income. Children should not be subjected to the terror of knowing there is nothing with which to pay the rent or purchase the essential boots.

Families who do manage to stay off AFDC are often severely affected by the instability of child support income. Families who have entered into contractual agreements to purchase, such as a house or a car, have lost these purchases when child support income has not been paid, as ordered by the Court. Two concepts of dealing with this subject of un dependable child support income have thus far been suggested.

A. The State of Alaska would establish a Child Support Payment Pool or Loan Fund. Currently the State of Alaska provides financial assistance to various segments of our State through loan funds to aid historical district restoration, commercial fishing, small businesses, fisheries enhancement, child care facilities, mining, residential care facilities, to name a few. A revolving fund or payment pool to benefit children in single-parent families would be an enlightened step a State, concerned about the welfare of a major portion of its people, could take.

The pool would operate under a revolving loan fund concept. Child Support payments registered through the Child Support Enforcement Agency would be made regularly from the Child

THE STATE WOULD
BE IN THE POSITION OF ASSUMING
SUPPORT PAYMENT COSTS - WHICH
WOULD BE & MORE
EFFECTIVE METHOD OF
INSURING PAYMENT

Support Payment Pool/Revolving Fund. The children affected would no longer be subjected to the vagaries of unreliable income. The obligor, or noncustodial parent, would then owe the Child Support Payment Pool/Revolving Fund. A debt against this Pool/Fund, being a debt against the State, would be collected by the State. The State is empowered to zealously pursue and effectively collect its debts.

B. A selfactivating enforcement mechanism such as that used in many of Michigan's counties. All child support orders are registered with the County's Friends of the Court. A child support payment which is late by a determined number of days evokes a computer signal. The Friends of the Court make a telephon call to the obligor. Letters of warning are also sent. The Friends of the Court may begin enforcement procedures as soon as a payment is late. Unlike the Alaska agency, they do not have to wait for the obligee to come to the agency and make a complaint. This procedure combined with Michigan's practice of jailing for nonsupport has made it the most effective state in the nation in collecting child support.

WHAT IS
ALASKA METHOD
NOW?

Additionally legislation should be enacted to provide that automatic wage assignments can be made in cases whenever practical. One obligor has stated that this method of meeting his child support obligation is the best for him because it is so "painless," he never sees it. The wage assignment would create a bookkeeping burden for employers. There would have to be a way to provide some type of reimbursement to employers who must bear this added bookkeeping expense. This cost cannot be borne by the child.

I BET JUST
ONCE

Studies show that throughout the nation the amount of child support dollars collected is in direct proportion to the amount of child support agency budget dollars appropriated. The Legislature should increase the Child Support Enforcement Agency budget substantially in order to adequately pursue the task of providing for the needs of a great percentage of Alaska's child population.

BUDGET IN CREAS

We are grateful for your willingness to obtain solutions for these children.

Sincerely,

ADVOCATES FOR CHILD SUPPORT

Judy Brakel
Kathy Jensen

Enclosures



Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

May 19, 1981

Ms. Esther B. Clark
907 3rd Street
Juneau, Alaska 99801

Dear Ms. Clark:

Thank you for your letter and your support of SB 181.

The Senate Judiciary Committee held hearings on this legislation on Friday May 15, and voted unanimously to pass the bill from committee. The bill is now in the Senate Rules Committee, and I have taken the liberty of forwarding a copy of your letter to that committee's chairman, Senator Tim Kelly.

I will continue my efforts to ensure that this legislation is adopted when it comes before the Senate floor for vote, and I am optimistic of its passage this session.

Thank you again for your letter of support for this important legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat".

Senator Patrick M. Rodey
Chairman

PMR/ods

cc: Senator Tim Kelly, Chairman
Senate Rules Committee

907 3rd
Dunbar 99801

RECEIVED

MAY 19 1981

May, 1981

① My name is Esther B. Clark

I became interested in this bill through a personal tragedy. Unfortunately, it takes one to make one aware of some thing like the "Child support enforcement" bill.

My young daughter passed away early in January of 1980, leaving behind a boy age 5. What brought her to her sudden end is why I got involved with this bill.

My daughter divorced her husband because of cruelty. After the separation and divorce she had to leave town because the boy's father harassed her. In the 2 some odd years they were divorced the boy's father did not send any support money. She moved to a nearby village which did not have any work to offer. She did what she could, waitress work when available, bartending when available. She was not a lazy young woman - she even went out piece - sewing, and worked in the cannery, but that was seasonal work, and one could not live on what one made in the cannery all winter. My daughter would send the boy in to her brother or aunt, but that was no good - she needed the boy

(2)

with her so she would come and get him or her sister would take him back to her. She applied for aid which she received but the red tape involved and her ^{former husband} made to feel a pauper, made her very unhappy. A year before she passed away she came to see me - we talked and I offered to help her get the support money from the boy's father. Her answer to me was "Mama, I'm not asking anyone for any thing, any more." I looked at her and I became afraid because I heard terrible defeat in her voice. Her brother and sister helped her all they could. Every time they went to this village to see her they took groceries, but by this time, any thing we did to help her made her feel like a charity case. Things went from bad to worse for her. She came back here to live, but had to return to the village before the week was over. She realized she could not live in this town with the boy's father constantly harassing her. We as her family who loved her cannot even begin to guess the mental agony she was going thru.

(3)

She wanted to do it for her son and her self and she couldn't. January 4, 1980 she, knowing we would take care and love the boy committed suicide. At age 2 $\frac{1}{2}$ my daughter was defeated by life. Had she received the child support money the boy's father was to pay - it would have helped her - given her hope.

Today the boy's father is married again to a woman with children - which he supports. I have met too many women today in the same position. Women caring for their children the best they can - but the children's father has remarried and starting his second set of children with a second wife or married to a woman with children and supporting them! He does not concern himself with the first set of children - and they are the ones that are suffering - they who end up in the street because they do not get enough at home. We call them "juvenile delinquents". Because of this I believe our divorce laws are too lax - at least where children are concerned. It should be made mandatory in our courts that when a child or children are

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involved that both mother and father appear in court so they both are told their responsibility to the child or children at the divorce hearing.

As for the fee asked of the women. I have just testified to how one young woman was pushed over the edge. I think the fee should be removed. Make it as easy for women as possible. Let's not make them feel like paupers, let's help them instead. Maybe there will be a few women who will cheat the system, but over-all, I think they are basically honest. It will be an investment in our future Alaskans, and relieve a small pressure on the mother. Today there are many working mothers "trying" to make ends meet. A mother has one big problem trying to keep the child or children dressed because at the age the child or children are going to school the child or children are growing by leaps and bounds and next to impossible to keep dressed properly. They eat more as they grow - they need dental work etc. At some times comes one big

(5) night mare for a woman alone. I know. I've been there.

I am urging the passage of this bill at the earliest time. Too many mothers and children are suffering. Fathers must be made to stand up to their obligations. A divorce between man and a woman does not mean a divorce between father and child or children. To protect the children - our courts must have stronger laws concerning "Child Support".

Alcohol and women was mentioned at one of the hearings. "Yes, its wrong to go out and drink because you are a mother. No one can realize how frightening it is not to have enough money for your childrens needs, and some times no matter what you do - you cannot make ends meet. Alcohol is an easy relief - an easy way to relief even for a short while, but some times it helps. Lets not condemn when we dont know what its all about.

Thank you for your attention.
Esther B. Clark



Alaska State Legislature

TWELFTH LEGISLATURE - FIRST SESSION

SENATE CALENDAR

OFFICIAL BUSINESS OF THE SENATE

FRIDAY
May 22, 1981
10:00 a.m.

One Hundred Thirty-first Legislative Day

Chaplain: Reverend Arthur Knight , Douglas United Methodist Church

SECOND READING OF SENATE BILLS

SB 23

*Passed
17-0*

Increasing state aid to school districts under the public school foundation program

_____ eff date

(HESS offered CS pg 1001 "relating to state aid to school districts under the public school foundation program; eff date" FY note SS #40, SS #43, Finance offered CS(Fin) title same as original bill, pg 1154 FY note SS #45)

SB 181

*Jakundanga
amendment
accepted
18-2
1/17/81*

Relating to child support and changing Rule 56 of the Alaska Rules of Civil Procedure

(HESS offered CS(HESS) "Relating to the enforcement of child support and changing Rule 56 of the Alaska Rules of Civil Procedure" pg 887, Judiciary offered amd, pg 1124:

Pg2, line 4: after "chapter" add "unless required by federal law")

SB 360

Relating to refunds of 1980 state income taxes
_____ eff date

Finance report pg 1156, FY notes SS # 45)

PUBLICATION NOTICE

Honoring Anthony Andrews
by Representative Fuller and Senator Ferguson

Honoring Students of Bartlett High School
by Senators Fischer, Kelly and Bradley

*Noting
agreed:
Fuller
Atkinson
Parr*

Requires 3/4 vote

P.

BILL SYNOPSIS FOR CSSB 181 (HESS)
"An Act relating to the enforcement of child support."

Original Sponsors: Ray and Rodey

Committees of Referral:

HESS
Judiciary
Rules

Committee Activity:

Senate HESS

Committee substitute adopted and passed from committee on 4/28/81. The substitute changed the original bill to:
1) delete the provision for an automatic increase in support payments; 2) prevent the agency from imposing fees; and 3) provide some "clean-up" language.

Senate Judiciary

Amended to require the imposition of fees by the agency if required by federal law. Amendment adopted and passed from committee on 5/18/81.

Senate Rules

Passed from committee on 5-21-81.

Intent of Legislation:

Among other changes, this bill will expand the Department of Revenue's authority to more easily obtain an absent parent's money and property in order to satisfy an obligation of child support. Other states have adopted similar measures, with effective results, and it is anticipated that this bill will increase the effectiveness of Alaska's Child Support Enforcement Agency.

Hopefully, 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.

Original sponsors: Ra, and Rodey

Offered: 4/28/81
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 181 (HESS)

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
and changing Rule 56 of the Alaska Rules of Civil
Procedure."

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

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

11

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

SAME

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

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

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* Sec. 3. AS 47.23 is amended by adding a new section to read:

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

Handwritten notes and signatures on the left margin, including "ES" and "S" with lines through them.

1 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall
2 provide aid to any person who receives or pays [DUE] child support
3 under the laws of this state upon application. The agency may not
4 impose fees for services provided under this chapter [IF THE OBLIGEE IS
5 INDIGENT OR OTHERWISE UNABLE TO PAY FOR THESE SERVICES, THE AGENCY
6 SHALL ACT WITHOUT CHARGE TO THE OBLIGEE. IF THE AGENCY DETERMINES THAT
7 THE OBLIGEE IS FINANCIALLY ABLE TO PAY, COSTS SHALL BE ASSESSED ACCORD-
8 ING TO REGULATIONS ADOPTED BY THE DEPARTMENT AND BE PAID INTO THE FUND
9 ESTABLISHED IN AS 47.23.030].

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

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

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

16 (7) "earnings"

17 (A) means compensation paid or payable for
18 personal services, whether denominated as wages, salary, commission,
19 bonus, or other similar description and includes the gain derived from
20 the investment of capital, from labor, or from a combination of in-
21 vestment and labor; and

22 (B) does not include profit gained from the
23 sale or conversion of a capital asset;

24 (8) "disposable earnings" means that part of the earnings of
25 an individual which remains after the deduction from those earnings of
26 any amount required by law to be withheld.

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

28 Sec. 47.23.130. SUBROGATION OF STATE. (a) If the obligor is li-
29 able to the state under AS 47.23.120(a) or (b), the state is subrogated

* CPI increase deleted in HESS.

1 to the rights of the obligee to

2 (1) bring an action in the superior court seeking an order
3 of support or modifying an existing order of support;

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

6 (3) enforce by execution, in accordance with AS 47.23.230 -
7 47.23.270, or otherwise, a support order entered in favor of the obli-
8 gee.

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

12 (c) The recovery of any amount for which the obligor is liable
13 which exceeds the total assistance granted under AS 47.25.310 - 47.25.-
14 420 shall be paid to the obligee.

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

16 (c) Refusal by the obligor to accept the notice under (a) of this
17 section is considered service as of the time of the refusal.

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

19 (b) The notice and finding of financial responsibility served
20 under (a) of this section shall state

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

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

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

1 finally ordered, and should be modified or rescinded, because (A) no
2 duty of support is owed, or (B) the amount of support found to be owed
3 is incorrect;

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

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

10 (c) Refusal by the obligor to accept the notice under (a) of this
11 section is considered service as of the time of the refusal.

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

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

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

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

19 (3) the intent of the legislature that children be supported
20 as much as possible by their natural parents;

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

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

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

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

29 (a) Unless a support order has been entered, the obligor, or the

1 obligee [OR HIS CUSTODIAN], may petition the agency or its designee for
2 a modification of the finding or decision of responsibility previously
3 entered with regard to future periodic support payments.

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

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

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

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

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

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

27 * Sec. 16. AS 47.23.092 added in sec. 3 of this Act has the effect of
28 changing Rule 56 of the Alaska Rules of Civil Procedure by permitting a
29 certified statement of arrears from the child support enforcement agency to

1 be treated as a motion for summary judgment under Rule 56.

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Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

April 25, 1981

Dr. Joseph A. Sonneman
324 Willoughby
Juneau, Alaska 99801

Dear Dr. Sonneman:

Thank you for your comments on SB 181, an act relating to child support enforcement.

The Senate Committee on Health, Education, and Social Services has passed an amended version of the bill and, in this form, does incorporate some of the suggestions you have made.

I expect to be holding hearings on SB 181 in the Judiciary Committee within the next few weeks, and will include your comments in each member's file for his consideration and review.

Thank you again for expressing your views on this proposed legislation.

Sincerely,

A handwritten signature in cursive script that reads "Pat".

Senator Patrick M. Rodey
Chairman

PMR/ods

324 Willoughby
Juneau, Alaska 99801
March 30, 1981

Senators Ray and ~~Rodey~~ ^{Committ}
Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Sen Rodey
RECEIVED
APR 01 1981

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 foregoing applies only to unmarried parents who have not signed voluntary child support agreements. Marriage implies the 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 to 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 their 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,
ely & c


Dr. Joseph A. Sonneman

cc: House Judiciary (HB 167)

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 1/2 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 30 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 corral 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

WOMAN'S DAY 4/28/81



Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

A G E N D A

Friday, May 15, 1981 - 1:30 p.m.
Butrovich Committee Room

CALL TO ORDER

LEGISLATION BEFORE COMMITTEE:

- SB 181 "An Act relating to the enforcement of child support and changing Rule 56 of the Alaska Rules of Civil Procedure."
- SJR 20 Proposing an amendment to the Constitution of the State of Alaska relating to appropriations.
- SJR 39 Proposing an amendment to the Constitution of the State of Alaska relating to incurring general obligation indebtedness for housing.
- SB 331 "An Act relating to the disqualification, suspension, removal, retirement, and censure of judges; and implementing Art. IV, Sec. 10 of the state constitution."

HEARING OF TESTIMONY

ADJOURN

House HESS

Thurs., 3/5

House Bill 167

H.B. 175

OLC+A
Simmons
RESEARCH
ANALYST, JUDIC.
SEN.

Identifying

Wan Copeland, Administrator, Enforcement Agency

Fed. govt. enforced a support agency for state to receive matching funds

- "use of CPI" - (as increase).
- 167 - Removes the mandate to charge a fee.
- changes procedure for obtaining AFDC court order based on the full amt of the obligor's ability to pay.
- Car garnishes wages - up to 50%

167-

Section 1-

- " 2 - legal term correction
- " 3 - CPI
- " 4 - ^{chrg} mandatory requirement to charge fees to discretion of charging fees
- 5 - legal term changed
- 6 - definitions
- 7 - establishing child support order
- 8 - eliminated obligor's option to ignore.
- 9 - terminology
- 10 -
- 11 - terms
- 12 -

B. 4, line 13 - ? (Clockan) B. 4, line 15 - ^{why change} "Statute"

12 - 14 - Clarification of terms

Clarkson
Bierne
Cato
Mackin

* 18: what is attachable. (Administrative
attach attachment of wages - 50% allowable).
2500 cases new on welfare cases
10,000 without support orders
7000 with support orders; modifications
(Sec. 3) ~ 50.60/mo.

Sec. 3: how after modifying - yearly?
what circumstances other than inflation?
Don't need evidence if CPI has increased.
fiscal note?

- Automatic wage assignment - Administrative
wage attachment

Sec. 4: fees: changes from mandatory
to optional.

Weldon Landis - Health & Social Security -
out of compliance w/ Fed Govt? more of a
technical requirement.

if fees, who would you charge? "Ability to
Pay", look at both parties."

- Education of Areas to Judgment -
A. 3, Section 7 - Repeal then re-enacted?

- State only has authority to collect the amt of
the outstanding AFDC.

Mandatory nature?

Public Assistance

↓
Enforcement Agency

Teleconference 7:00 - 9:00 Tonight.

7:00 Teleconference
HB 167
Dan Capeland -

Section 8

Section 15 - prior to this, must file
notice of Liability - they have 30
days to respond.

Enforcement Agency only collects
about 38% monthly.

25 m dollars of current arrearages.

Ann Lowe
Jan Eddy

Mat Du
Shirley Muedt

Clare Deneford (Dunbar) Single parent -
- Enforcement Agency only does
welfare cases first - ??

testifying

Dan - In the absence of a legal agreement, is there anything the Enforcement Agency can do?

Matty Callison (Anch) - concerned with change of language from minor child to beliager
Use against 167 + support 175.

Kathy Pchenker (Juneau)
Anti- Enforcement Agency

~~James~~ revolving fund? arguments: socialistic?
goal? believe origin of his responsibility?

Nena Abraham (Daldotna)
supports 175.
167 -

suggests automatic billing -
payments to bank acct in child's name -
why can't you write off support
amount from taxes due?
application fee, filing fee? - \$900.00
(Chairman asked she send written comments).

James Durdall (Ketchikan)
pays support - objects to fee.
Enforc. Agency pays back more than
they collect.

suggests investigation

47.23 - sec. 15 255 -

Chassis - 9.35.080 - can't take more
than 25%.

- thinks law should be stronger.
- If agency takes a fee from tax amt awarded for support, may be held in contempt of court.
- Use of tax payers funds? - No revolving fund!

Mat Du (Shirley Mike)

- opposes language in 167 re fee.
- can't do anything about self-employed obligor?

Archie (Losa Mc Connell)

- supports concept of Enforcement Agency
- supports 167 - objects to fee
- Supports 175.

Esther Clark (Gusman)

- favors increased in support to keep pace with inflation.

Ana Laine (Ditka)

? Eddy - objects to fee.

- supports 175.

167 - Doesn't go far enough.

David Evelyn Hatfield -

- opposes fee

- service of process

sec. 15 - leave alone

Do letna

Elenna Wazett
(didn't testify)

Ditka - Ann Lane

Arch

Carol Huntington, atty
supports 175
opposed fee in 167 - accept to
place burden of cost on obligee.

Gayce Mansfield Rucis - now
opposed fee except against defaulding
party.
Supports 175
Supports cost-of-living increases.

Will hold more hearings

Copeland: implementing fees?

Clarkson

1. Held off? ^{on fees} yes
2. Fee process -

Effective date of regulations
extended to July 15.

fee-compliance of federal regs?

3/23 Dan Copeland

75% of money is fed;

staff of 67-

Hearing

Sen. HESS Committee

Behrens fm 209

3:00 3/25

Referral: Judiciary

JUDY BRAKEL

(- COM. FISHERY ENTRY COMMISSION)

RE: CHILD SUPPORT ENFORCEMENT

WASHINGTON - COUNTY BY COUNTY

DATE McLAUGHLIN - HEARING OFFICER

TOM ~~FISHER~~ STEWART (JUDGE) HAS EXPERIENCE

15
1
50



1
3-400

NAWCY DETRICH
DARR / HESS

CHILD SUPPORT ENFORCEMENT:
ALASKA'S PROGRAM IN PERSPECTIVE

House Research Agency
Alaska State Legislature
January 1981

House Research Agency Report 80-7

See entire document in LRL

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 181
 Title An Act relating to the enforcement of Child Support
 Requested by Senate Health, Education & Social Service Date March 18, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue
 Program Category Affected Revenue Collection and Management
 BRU, Program, or Subprogram(s) Affected Audit Division
 (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) NONE

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

See the attached memorandum to R. D. Stevenson dated March 17, 1981.

IV. DATE March 18, 1981

PREPARED BY Gary L. Jenkins
 AGENCY Audit Division
 PHONE 465-2320

Original: Legislative Finance
 cc: Budget and Management
Prime Sponsor (First Legislator Named)

MEMORANDUM

State of Alaska

TO: Robert D. Stevenson
Legislative Assistant

DATE: March 17, 1981

FILE NO:

TELEPHONE NO: 465-2320

FROM: Gary L. Jenkins
Director, Child Support Division

SUBJECT: Analysis of
Senate Bill 181

Senate Bill 181 is apparently based on an early draft for proposed legislative changes prepared by CSEA during the summer of 1980. There was considerable concern that the proposed language was not as clear as it could be and that it included civil procedure rules changes. After very careful review by the Department of Law and the staff of the Child Support Enforcement Agency, a final draft was prepared which was introduced by the Governor as House Bill 167. The final language generally accomplishes the same things, does not require any changes in civil procedure rules and gives a clearer picture of the processes which it will change.

The language in SB 181 could cause a person to believe that because a change in the consumer price index of 20% is prima facie evidence of a change in circumstances and it would result in an automatic modification of a support order. The language in HB 167 makes it clear that the consumer price index change can be used as one source of information in the modification process.

The current language in AS 47.23.100 mandates the agency to adopt regulations to charge the custodial parent who has the ability to pay such fees, a reasonable fee for collecting child support payments. At the public hearings regarding these regulations, the public unanimously requested this mandate be eliminated. As no fees have been collected to date, there would be no fiscal impact on eliminating the requirement to assess these fees. Although the agency does not anticipate charging a fee at any time in the foreseeable future, it is recommended that the law retain maintaining the discretion to charge reasonable fees, if needed, to those individuals with the ability to pay such fees. This discretion would be critical if the federal government changed its position with regard to the 75% funding or a mandatory requirement for fees.

SB 181 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's 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.

SB 181 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 with more direct 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.

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - FIRST SESSION
A BILL

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

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

* Section 1. AS 25.25.010 (1), (6) and (11) are amended to read:

(1) "state" includes the State of Alaska and a state, territory or possession of the United States and the District of Columbia and foreign countries in which this or a substantially similar reciprocal law has been enacted;

(6) "duty of support" includes a duty of support imposed or imposable by law, or by a court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance or otherwise, and includes the duty to pay arrearages of support past due and unpaid; plus overdue payment fees and interest.

(11) "interest" means post judgment interest accrued on a judgment of arrears, and the rate shall be 10 percent or the rate established according to regulations adopted by the department whichever is higher.

* Section 2. AS 25.25.258 is amended by adding a new sub-section to read:

(d) Registration of a foreign support order does not subject the obligee to the general jurisdiction of the courts of this state unless the obligee is a resident of this state. The jurisdiction of the superior court over a non-resident obligee and the duty of the child support enforcement agency to represent any obligee are confined to those matters identified in (a) and (c) of this section, and collateral matters such as custody and visitation may not be addressed in proceedings under this chapter.

* Section 3. AS 47.23.020 (2)(A) and (C) are amended to read:

(A) Schedules for determining the amount an obligor is liable to contribute toward the support of a minor child (AN OBLIGEE) under this chapter and under Title IV-D, Social Security Act; and

(C) a uniform schedule of fees which may be charged to the obligor upon notice if the child support payments are 10 or more days overdue or if payment is made by a check backed by insufficient funds. Notice means at a minimum mailing by first class mail a copy of the document or documents to the last known address of the obligor available to the agency.

* Section 4. AS 47.23.045 is amended to read:

Section 47.23.045. AGENCY RIGHT TO INTERVENE (DETERMINATION OF SUPPORT OBLIGATIONS) The agency may appear in an action seeking an award of support in behalf of a child owed a duty of support, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee, or at the agency's own discretion if the obligor is liable to the state under Sec. 120(a) or (b) of this chapter.

* Section 5. AS 47.23 is amended by adding new sections to read:

Sec. 47.23.048. STANDARDS OF PROOF FOR MODIFICATIONS. In any proceeding to modify the obligation to pay future support, a change of 20 percent or more in the consumer price index since the establishment or subsequent modification of judicial or administrative support order for future support payments shall be prima facie evidence of a change in circumstances.

Sec. 47.23.092. REDUCING ARREARS TO JUDGMENT. The agency may submit to the superior court, with notice to the obligor, a certified statement of arrears. Notice means at a minimum mailing by first class mail a copy of the document or documents to the last known address of the obligor available to the agency. The court shall treat the certified statement of arrears as a motion for judgment on the pleadings under the Civil Rules of Court. After due consideration, the court may enter judgment for the amount of support which is due and owing, including overdue payment fees.

* Section 6. AS 47.23.100 is amended to read:

Sec. 47.23.100. ALL PERSONS MAY USE THE AGENCY. The agency shall provide aid to any person due child support under the laws of this state upon application. If the obligee is indigent or otherwise unable to pay for these services, the agency shall act without charge to the obligee. The agency may impose fees for services provided under this chapter. If the agency decides to establish fees for services (IF THE AGENCY DETERMINES THAT THE OBLIGEE IS FINANCIALLY ABLE TO PAY) costs shall be assessed according to regulations adopted by the department and be paid into the fund established in Sec. 30 of this chapter.

* Section 7. AS 47.23.110(3) and (4) are amended to read:

(3) "duty of support" includes a duty of child support imposed or imposable by law, by a court order, decree or judgment, or by finding or decision rendered under this chapter whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance, or otherwise, and includes the duty to pay arrearages of support past due and unpaid, plus overdue payment fees and interest;

(4) "obligee" means the custodial parent or person who has physical custody and responsibility for the minor child to whom a duty of support is owed; (A PERSON TO WHOM A DUTY OF SUPPORT IS OWED;)

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

(7) "consumer price index" means the All Urban Consumer Price Index (CPIU) as compiled by the United States Department of Labor, Bureau of Labor Statistics, for Anchorage, Alaska or, if the obligor and obligee live in the same judicial district the index for a municipality within a judicial district if the United States Department of Labor compiles an index.

(8) "interest" means post judgment interest accrued on a judgment of arrears, and the rate shall be 10 percent or the rate established according to regulations adopted by the department whichever is higher.

* Section 9. AS 47.23.130 is amended to read:

If the obligor is liable to the state under AS 47.23.120(a) or (b), the state is subrogated to the rights of the obligee to either bring an action seeking a support order or to proceed under AS 47.23.160 - 47.23.270 to establish and enforce a duty of support and further to enforce by execution, in accordance with AS 47.23.230 - 47.23.270 or otherwise, any support order already entered in favor of the obligee. The recovery of any amount for which the obligor is liable in excess of (, UP TO) the amount (FOR WHICH THE OBLIGOR IS LIABLE TO THE STATE UNDER AS 47.23.120 (a) AND (b)) of the total assistance granted under AS 47.25.310 - 47.25.420 shall be given to obligee.

* Section 10. AS 47.23.150 is amended by adding a new sub-section to read:

(c) refusal by the obligor to accept the notice shall be considered service as of the time of refusal.

* Section 11. AS 47.23.160 (b) is amended to read:

(b) The notice and finding of financial responsibility served under (a) of this section shall state (1) the sum or periodic payments for which the alleged obligor is found to be responsible, calculated by taking into consideration the need of the minor child, (THE ALLEGED OBLIGEE) the alleged obligor's liability to the state under Sec. 130 of this chapter, if any, and his duty of support under the law;

(2) the name of the alleged obligee and minor child;
(HIS CUSTODIAN)

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

(4) that if the person served with the notice and finding of financial responsibility does not request a hearing within 30 days, the property of the person will be subject to execution in accordance with Sec. 230 - 270 of this chapter in the amounts stated in the finding without further notice or hearing.

* Section 12. AS 47.23.160 is amended by adding a new sub-section to read:

(c) Refusal by the obligor to accept the notice shall be considered service as of the time of refusal.

* Section 13. AS 47.23.170(e) and (f) are amended to read:

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

(1) the needs of the minor child, (ALLEGED OBLIGEE) disregarding the income or assets (OF THE CUSTODIAN) of the alleged obligee;

(2) the amount of the alleged obligor's liability to the state under Sec. 125 of this chapter if any;

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

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

(f) If the alleged obligor requesting the hearing fails to appear at the hearing, the hearing officer shall enter a decision declaring the property of the alleged obligor subject to execution in accordance with section 230 - 270 of this chapter in the amounts stated in the notice and finding (FILING) of financial responsibility.

* Section 14. AS 47.23 is amended by adding a new section to read:

Sec. AS 47.23.182 RATIFICATION BY COURT OF ADMINISTRATIVE ORDERS. An administrative support order issued under Secs. 160(4), 170(f) and 180(a) of this chapter may be forwarded to the superior court. Unless a notice of appeal under AS 47.23.210 is filed within thirty (30) days of the administrative support order the court may enter an order confirming the administrative support order.

* Section 15. AS 47.23.190(a) and (c) are amended to read:

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

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

* Section 16. AS 47.23.250 is amended by changing sub-section designators as follows:

Present sub-sections F, G, H, & I shall be changed to sub-sections H, I, J, & K, respectively.

* Section 17. AS 47.23.250 is amended by adding new sub-sections to read:

(f) A person, political subdivision, or department of the state which regularly incurs additional indebtedness to the obligor shall continue to withhold and deliver money as it comes due and owing until the liability of the obligor under AS 47.23.150 has been satisfied.

(g) An order to withhold and deliver issued to the Department of Revenue will be effective within one (1) day after service and effective throughout that calendar year. It shall be sufficient to subject any tax refund or other disbursements due to be issued to the obligor in that year to the provisions of this section even though the tax refund or disbursement may be issued more than thirty (30) days after the order.

January 27, 1981

The Honorable Jalmar Kerttula
President, Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Subject: Status of Child Support Agency Fee Development

Dear Mr. President:

Since 1975 the Federal Government has provided 75% of the funds to operate each state's child support enforcement program. This federal funding was unlimited as long as the state provided the matching 25% and all program activities were directly related to child support enforcement. The funding covered both the Aid to Families with Dependent Children (AFDC) and non-AFDC child support cases. However, on March 31, 1980 the federal funding for the non-AFDC caseload terminated and reinstatement of this funding did not appear possible in FY 82.

When this problem was brought to the attention of the legislature by the department and concerned obligees, immediate action was taken. The Budget Free Conference Committee added \$300,900 to the Child Support Enforcement Agency (CSEA) FY 82 budget to specifically fund staff to handle the non-AFDC caseload. The committee also added the following intent language to the budget:

"The Department of Revenue will establish a sliding scale collection fee schedule for the non-AFDC caseload based upon an individual's economic ability to pay. The amount of the General Fund appropriation is to be reduced by the amount of those non-AFDC case collection fee receipts."

In June of 1980, Congress unexpectedly passed legislation which reinstated the federal funding for the non-AFDC caseload. As a result of this legislation, all of the additional \$300,900 will be returned to the General Fund at the end of the fiscal year. In my letter of October 13, 1980 to each member of the legislature, the funding situation was explained in detail.

Even though all the additional funds provided will be returned to the General Fund, the Department has proceeded to implement the intent language. In reviewing the intent language the question is raised as to which party, the obligor, as the absent parent, or the obligee, as the child's custodial parent, should pay the fees. The Alaska Statutes address this issue directly by stating that the obligee may be assessed a fee. AS 47.23.100 states in part:

"If the agency determines that the obligee is financially able to pay, costs shall be assessed according to regulations adopted by the department."

Consideration has also been given to charging fees to the obligor. In this regard, our initial review indicated clearly that charging the obligor a fee, in most cases, would simply deprive the children of some part of those funds which are currently being collected because of the detrimental effect the fee had on overall collections.

Based on their experiences prior to the creation of the Child Support Enforcement Agency, the Alaska Court System has advised against charging the obligor a fee for services. The Court system dealt with charging the obligor for a number of years. Initially they did not provide for a charge, this was followed by a change to charging the obligor and then they changed back to not charging either party. Prior to March 1, 1965, a 3% collection fee was deducted from the money sent to the obligee on cases where the State of Alaska provided reciprocal action. After that, from March 1, 1965 to June 30, 1974 a 3% collection fee was added to the required payment from the obligor. On July 1, 1974 the courts abolished all fees to either party. The fees were dropped for the following reasons:

1. The 3% level was too low to make the fee administratively effective.
2. Collecting the fee from the obligor had a strong tendency to discourage payment altogether.
3. Collecting the fee from either party had a tendency to encourage people to not use the system at first. In most cases the people returned to the system because of subsequent collection problems. The cases were then far more difficult to handle and required substantial work to collect all of the information for the periods the system was not used.
4. In view of the generally high payment delinquency, it was determined that all money collected should be used to provide the needed support of the children.

As an additional preparatory step in establishing a sliding scale fee schedule, in July 1980 the agency completed a study of the thirty states in the nation which charge a fee of any type for child support services. The two main conclusions which resulted from doing this study are as follows:

1. When a fee is collected in sufficient amount to have any significant financial impact on the agency, the fee acts as a deterrent to the non-AFDC client seeking services.
2. When the ability to pay determinations are made with a formal screening process, that process itself takes substantial effort. For example, the necessity to update the ability to pay determination periodically throughout the eighteen year emancipation period would be very time consuming.

The directors of each state's child support program hold an annual meeting to discuss national legislation and exchange views on various issues such as Alaska's fee program. In the September 1980 meeting, the two conclusions developed in the Fee study and the court system's experiences were analyzed further. The other directors concurred with the conclusions we had reached.

Proposed regulations as required by AS 47.23.100 were then prepared for public hearing. The regulations were drafted to make administration of the program as simple as possible. However, the requirement to initially determine and periodically review the obligees ability to pay the fee will require four full time positions. These positions would either have to come from our present enforcement staff or would need to be authorized as additional positions if the current staff assignments are to remain unchanged. The fee program is projected to collect \$321,600 annually and the direct personnel cost will be \$102,330 annually. It is impossible to measure the effect of the reduction in collection effort if the four positions were taken from current staff.

Public hearings on the proposed regulations were conducted in December, 1980, in Anchorage, Fairbanks, Juneau and teleconferenced to Sitka. Comments were received from obligors, obligees, interested individuals and organizations. The following organizations provided both written and oral comment: Alaska Legal Services, Aiding Women from Abuse and Rape Emergencies, Advocates for Child Support, Alaska Commission of the Status of Women, Women in Crisis, Coalition

for Economic Justice, National Organization for Women, Federally Employed Women, Radical Women's Group, Women's Resource Center, Valley Women's Group, Fairbanks Child Protection Task Force, and the Alaska Court System.

All of the testimony either generally opposed the imposition of a fee on either party or made salient points about the operation or funding of the agency. In the operational area it was pointed out that the agency should not attempt to replace the Courts in deciding ability to pay, parental responsibility, or the amount of money due from the obligor. It was also stated that when the obligee approaches the agency, they are not requesting a service, but are filing a complaint of noncompliance with an established court order. With regard to the general funding of the agency several people pointed out that the state is only required to fund 25% of the agency's costs and these costs to the state were reduced even further by one half of the AFDC collections. The apparent abundance in the state Treasury and the state's limited funding requirement made most people suggest a change in the law to delete the imposition of fees on either party.

In regard to the issue of funding, it should be noted that the state's 25% funding requirement for the CSEA FY 82 budget is \$655,300 of General Fund matching funds. The projection for the collection of AFDC by the agency for FY 82 is \$1,250,000. This will return \$625,000 directly to the General Fund. In addition to this, our projection is that we will collect \$75,000 in program receipts which all go into the General Fund. Thus, at this level of collection, even without the fee program, CSEA will actually produce receipts in excess of the state's appropriation and will return to the General Fund in FY 82 \$44,700 more than the amount required to operate the program.

In conclusion, the primary testimony from all parties was in opposition to the fee program. The following were the main points of objection:

1. The terminated federal funding which created the agency's financial need for the fee program has been reinstated.
2. Administering a fee schedule will either take people away from the current enforcement effort and thereby reduce the current collection potential or will require additional staff.
3. All money collected should be used for the child, not to pay the state which is already receiving more funds from the collection efforts than the general fund appropriation.