

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988  
4757 HJUD SB 117 - SB 153 8672

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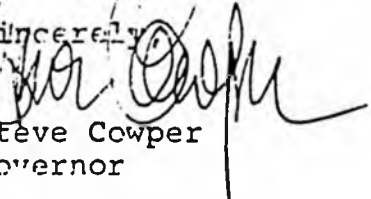
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Hon. Jan Faiks

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decisions. An administrative decision may be appealed to the court under AS 47.23.210. Currently, AS 47.23.180(c) makes it appear that while the administrative process is going on, the obligor can go into court and seek another forum for relief. Often the court will not be informed that the obligor is currently involved in an administrative procedure. Although the court should be available to the obligor as an alternative forum for an appeal, it should not be used to avoid or subvert the administrative procedure.

The amendments in this bill would allow the child support enforcement division to meet its responsibility to collect support in an expeditious and cost-effective manner.

Sincerely,  
  
Steve Cowper  
Governor

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 117 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to spousal support enforcement by  
7 the child support enforcement agency and child sup-  
8 port enforcement."

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

10 \* Section 1. AS 23.20.401 is amended to read:

11 Sec. 23.20.401. CHILD SUPPORT INTERCEPTION. (a) Notwithstand-  
12 ing any other provision of this chapter, an individual filing a new  
13 claim for unemployment compensation must disclose whether child sup-  
14 port obligations as defined in (h) [(g)] of this section are owed by  
15 that individual. If the individual discloses that child support  
16 obligations are owed and the individual is determined to be eligible  
17 for unemployment compensation, the department shall notify the child  
18 support enforcement agency of the Department of Revenue that the  
19 individual has been determined to be eligible for unemployment compen-  
20 sation.

21 (b) The department shall, unless the obligor and obligee agree  
22 otherwise, deduct and withhold from unemployment compensation payable  
23 to an individual who owes child support obligations as defined in (h)  
24 [(g)] of this section

25 (1) the amount specified by the individual to the depart-  
26 ment to be deducted and withheld under this subsection, if neither (2),  
27 nor (3) of this subsection is applicable;

28 (2) the amount specified in an agreement submitted to the  
29 department under section 42 U.S.C. 654(20)(B)(i) (Sec. 454 (20)(B)(i)),

1 Social Security Act), by the child support enforcement agency of the  
2 Department of Revenue, unless (3) of this subsection is applicable; or

3 (3) any amount required to be deducted and withheld through  
4 legal process, as defined in 42 U.S.C. 662(e) (Sec. 462(e), Social  
5 Security Act), properly served upon the department.

6 (c) The child support enforcement agency may order the depart-  
7 ment to deduct and withhold the allowance paid for a dependent minor  
8 child under AS 23.20.350(f), if the child support enforcement agency  
9 finds that the individual claiming the allowance has a support obliga-  
10 tion to the child and the child is not in the physical custody of the  
11 individual and is dependent on the individual for more than 50 percent  
12 of support.

13 (d) The department shall pay an amount deducted and withheld  
14 under (b) and (c) of this section to the child support enforcement  
15 agency of the Department of Revenue.

16 (e) [(d)] An amount deducted and withheld under (b) and (c) of  
17 this section shall for all purposes be treated as if it were paid to  
18 the individual as unemployment compensation and paid by that indi-  
19 vidual to the child support enforcement agency of the Department of  
20 Revenue in satisfaction of the individual's child support obligations.

21 (f) [(e)] In (a) - (e) [(d)] of this section, "unemployment  
22 compensation" means compensation payable under this chapter, including  
23 amounts payable under an agreement under a federal law providing for  
24 compensation, assistance, or allowances with respect to unemployment.

25 (g) [(f)] This section applies only if appropriate arrangements  
26 have been made for reimbursement by the child support enforcement  
27 agency of the Department of Revenue for the administrative costs  
28 incurred by the department under this section.

29 (h) [(g)] In this section, "child support obligations" includes

1 only obligations that are being enforced under a plan described in 42  
2 U.S.C. 654 (Sec. 454, Social Security Act), which has been approved by  
3 the United States Secretary of Health and Human Services under 42  
4 U.S.C. 651-665 (Part D of Title IV of the Social Security Act).

5 \* Sec. 2. AS 25.24.170 is amended by adding a new subsection to read:

6 (b) For the purposes of a motion to modify or revoke child  
7 support, the adoption or enactment of guidelines or a significant  
8 amendment to guidelines for determining support is a material change  
9 in circumstances, if the guidelines are relevant to the motion.

10 \* Sec. 3. AS 25.25.100 is amended by adding a new subsection to read:

11 (b) If admitted to the practice of law in the state, the direc-  
12 tor of the child support enforcement agency, or the director's desig-  
13 nee, may sign a complaint for support and other pleadings on behalf of  
14 the agency in an action under this chapter in which the agency is not  
15 represented by the attorney general.

16 \* Sec. 4. AS 47.23.020 is amended to read:

17 Sec. 47.23.020. DUTIES AND RESPONSIBILITIES OF THE AGENCY. (a)

18 The agency shall

19 (1) seek enforcement of child support orders of the superi-  
20 or courts of the state in other jurisdictions and shall obtain, en-  
21 force, and administer the orders in this state;

22 (2) adopt regulations to carry out the purposes of this  
23 chapter, including regulations that establish

24 (A) schedules for determining the amount an obligor is  
25 liable to contribute toward the support of an obligee under this  
26 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secur-  
27 ity Act);

28 (B) procedures for hearings conducted under AS 47.-  
29 23.170; and

1 (C) subject to AS 47.23.025 and to federal law, a  
2 uniform rate of interest on arrearages of support that shall be  
3 charged the obligor upon notice if child support payments are 10  
4 or more days overdue or if payment is made by a check backed by  
5 insufficient funds; however, an obligor may not be charged inter-  
6 est on late payment of a child support obligation, other than a  
7 payment on arrearages, if the obligor is

8 (i) employed and income is being withheld from  
9 the obligor's wages under an income withholding order;

10 (ii) receiving unemployment compensation and child  
11 support obligations are being withheld from the obligor's  
12 unemployment payments under AS 23.20.401; or

13 (iii) receiving compensation for disabilities under  
14 AS 23.30 and child support obligations are being withheld  
15 from the obligor's compensation payments;

16 (3) administer and enforce the Uniform Reciprocal Enforce-  
17 ment of Support Act (AS 25.25);

18 (4) establish, enforce, and administer child support obli-  
19 gations administratively under [IN ACCORDANCE WITH] this chapter;

20 (5) administer the state plan required under 42 U.S.C.  
21 651 - 665 (Title IV-D, Social Security Act) as amended;

22 (6) disburse support payments collected by the agency to  
23 the obligee, together with interest charged under (2)(C) of this  
24 subsection;

25 (7) establish and enforce administratively under this  
26 chapter, or through the superior courts of the state, child support  
27 orders from other jurisdictions pertaining to obligors within the  
28 state;

29 (8) enforce and administer spousal support orders if a

1 spousal support obligation has been established with respect to the  
2 spouse and if the support obligation established with respect to the  
3 child of that spouse is also being administered; and

4 (9) obtain a medical support order as part of a child  
5 support order if health care coverage is available to the obligor at a  
6 reasonable cost.

7 (b) In determining the amount of money an obligor must pay to  
8 satisfy the obligor's immediate duty of support, the agency shall  
9 consider all payments made by the obligor directly to the obligee or  
10 to the obligee's custodian before the time the obligor is ordered to  
11 make payments through the agency. After the obligor is ordered to  
12 make payments through the agency, the agency may not consider direct  
13 payments made to the obligee or the obligee's custodian unless the  
14 obligor provides clear and convincing evidence of the payment.

15 \* Sec. 5. AS 47.23.020 is amended by adding a new subsection to read:

16 (c) If admitted to the practice of law in the state, the direc-  
17 tor of the agency, or the director's designee, shall sign a complaint  
18 or other pleadings on behalf of the agency in an action to establish  
19 or enforce a support obligation under this chapter in which the agency  
20 is not represented by the attorney general.

21 \* Sec. 6. AS 47.23.060(c) is amended to read:

22 (c) In a court proceeding where the support of a minor child is  
23 at issue, the court may order either or both parents to pay the amount  
24 necessary for support, maintenance, nurture, and education of the  
25 child. The court shall issue a medical support order as part of a  
26 child support order if health care coverage is available to the obli-  
27 gor at a reasonable cost. Upon a showing of good cause the court may  
28 order the parents required to pay support to give reasonable security  
29 for payments.

1           (d) An order for prospective child support may be modified or  
2           revoked under AS 25.24.170 [AS THE COURT CONSIDERS NECESSARY].

3 \* Sec. 7. AS 47.23.062(g) is amended to read:

4           (g) An income withholding order under this section has priority  
5           over all other attachments, executions, garnishments, or other legal  
6           process brought under state law against the same property [MONEY]  
7           unless otherwise ordered by the court. An income withholding order is  
8           not limited to the wages of an obligor but may include all money owed  
9           to the obligor not otherwise exempt by law. Exemptions under AS 09.38  
10           do not apply to income withholdings under this section.

11 \* Sec. 8. AS 47.23.062(1) is repealed and reenacted to read:

12           (1) An obligor may petition the court to terminate or modify an  
13           income withholding order if the obligor has made payments under the  
14           order for at least 12 months and all arrearages have been paid. Upon  
15           receipt of the petition under this subsection, the court may terminate  
16           or modify the income withholding order unless the court finds good  
17           cause to deny the petition due to the obligor's payment history or  
18           other grounds. The court may not terminate or modify an income with-  
19           holding order solely on the ground that the obligor has paid all  
20           arrearages.

21 \* Sec. 9. AS 47.23.100 is amended to read:

22           Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
23           provide aid to any person due child support under the laws of this  
24           state upon application. The agency may, by regulation, [NOT] impose a  
25           fee for services provided under this chapter [AS 47.23.010 - 47.23.280  
26           UNLESS REQUIRED BY FEDERAL LAW].

27 \* Sec. 10. AS 47.23.105 is amended to read:

28           Sec. 47.23.105. AUDIT OF COLLECTIONS. Within 30 [10] working  
29           days after receipt of a written request from an obligor, [OR] the

1 obligor's legal representative, the obligee, or the obligee's legal  
2 representative, the agency shall provide an audit of all child support  
3 payments made by the obligor and received by the agency. The audit  
4 shall include the date and amount of each payment, the name of the  
5 obligee, and the total amount of arrearages of support past due and  
6 amount of unpaid penalties and interest imposed under AS 47.23.020(a)-  
7 (2)(C). The agency is required to provide only one [AN] audit each  
8 year for: each obligee and [AN] obligor under this section [ONLY ONCE  
9 EACH YEAR].

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

11 Sec. 47.23.135. LIMITATION ON ACTIONS TO ESTABLISH CHILD SUPPORT  
12 OBLIGATION. If the same causes of action concerning a duty of child  
13 support are pending concurrently in court and before the agency, the  
14 second action filed may be abated upon the motion of a party or the  
15 agency. The court or the agency may award full costs and attorney  
16 fees to the party prevailing on the abatement motion.

17 \* Sec. 12. AS 47.23.150(a) is amended to read:

18 (a) Action to enforce a support order administratively under  
19 AS 47.23.230 - 47.23.270 is initiated by the agency serving a notice  
20 on the obligor of the obligor's liability under the support order.  
21 Notice under this subsection shall be served upon the obligor by the  
22 agency by certified mail to the last known address of the obligor.  
23 Service by mail is effected when the notice is properly addressed,  
24 certified, and mailed.

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

26 (e) Modification or termination of future periodic support pay-  
27 ments may be ordered upon a showing of good cause and material change  
28 in circumstances. The adoption or enactment of guidelines or a sig-  
29 nificant amendment to guidelines for determining child support is a

1 material change in circumstances, if the guidelines are relevant to  
2 the petition.

3 \* Sec. 14. AS 47.23.250(e) is amended to read:

4 (e) Any person, political subdivision, or department of the  
5 state served with an order to withhold and deliver is required to make  
6 true answers to inquiries contained in the order under oath and in  
7 writing within 14 [30] days after [OF] service of the order, and is  
8 further required to answer all inquiries subsequently put.

9 \* Sec. 15. AS 47.23.250(f) is amended to read:

10 (f) If a [ANY] person, political subdivision, or department of  
11 the state upon whom service of an order to withhold and deliver has  
12 been made possesses property due, owing, or belonging to the obligor,  
13 that person, subdivision, or department shall withhold the property  
14 immediately upon receipt of the order and shall deliver the property  
15 to the agency upon demand after the expiration of the 14-day [30-DAY]  
16 period from the date of service of the order. The agency shall hold  
17 property delivered under this subsection in trust for application  
18 against the liability of the obligor under AS 47.23.130 or for return,  
19 without interest, depending on final determination of liability or  
20 nonliability under this chapter. The agency may accept a good and  
21 sufficient bond conditioned upon final determination of liability in  
22 lieu of requiring delivering of property under this subsection.

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

24 (i) An order to withhold and deliver under this section has  
25 priority over all other attachments, executions, garnishments, or  
26 other legal process brought under state law against the same property  
27 unless otherwise ordered by the court. Exemptions under AS 09.38 do  
28 not apply to proceedings to enforce the payment of child support under  
29 AS 47.23.230 - 47.23.270; however, net disposable earnings are exempt

1 from execution as provided in 15 U.S.C. 1673(b). In this subsection,  
2 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

3 \* Sec. 17. AS 47.23.255 is amended by adding a new subsection to read:

4 (c) An obligor may petition the agency to terminate or modify an  
5 income withholding order if the obligor has made payments under the  
6 order for at least 12 months and all arrearages have been paid. Upon  
7 receipt of the petition under this subsection, the agency may termi-  
8 nate or modify the income withholding order unless the agency finds  
9 good cause to deny the petition due to the obligor's payment history  
10 or other grounds. The agency may not terminate or modify an income  
11 withholding order solely on the ground that the obligor has paid all  
12 arrearages. The agency shall notify the obligor in writing of the  
13 reason for denying a petition under this subsection.

go0547sBv  
Utermohle  
4/19/88

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 117 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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14 port obligations as defined in (h) [(g)] of this section are owed by  
15 that individual. If the individual discloses that child support  
16 obligations are owed and the individual is determined to be eligible  
17 for unemployment compensation, the department shall notify the child  
18 support enforcement agency of the Department of Revenue that the  
19 individual has been determined to be eligible for unemployment compen-  
20 sation.

21 (b) The department shall, unless the obligor and obligee agree  
22 otherwise, deduct and withhold from unemployment compensation payable  
23 to an individual who owes child support obligations as defined in (h)  
24 [(g)] of this section

25 (1) the amount specified by the individual to the depart-  
26 ment to be deducted and withheld under this subsection, if neither (2)  
27 nor (3) of this subsection is applicable;

28 (2) the amount specified in an agreement submitted to the  
29 department under section 42 U.S.C. 654(20)(B)(i) (Sec. 454 (20)(B)(i),

1 Social Security Act), by the child support enforcement agency of the  
2 Department of Revenue, unless (3) of this subsection is applicable; or

3 (3) any amount required to be deducted and withheld through  
4 legal process, as defined in 42 U.S.C. 662(e) (Sec. 462(e), Social  
5 Security Act), properly served upon the department.

6 (c) The child support enforcement agency may order the depart-  
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9 finds that the individual claiming the allowance has a support obliga-  
10 tion to the child and the child is not in the physical custody of the  
11 individual and is dependent on the individual for more than 50 percent  
12 of support.

13 (d) The department shall pay an amount deducted and withheld  
14 under (b) and (c) of this section to the child support enforcement  
15 agency of the Department of Revenue.

16 (e) [(d)] An amount deducted and withheld under (b) and (c) of  
17 this section shall for all purposes be treated as if it were paid to  
18 the individual as unemployment compensation and paid by that indi-  
19 vidual to the child support enforcement agency of the Department of  
20 Revenue in satisfaction of the individual's child support obligations.

21 (f) [(e)] In (a) - (e) [(d)] of this section, "unemployment  
22 compensation" means compensation payable under this chapter, including  
23 amounts payable under an agreement under a federal law providing for  
24 compensation, assistance, or allowances with respect to unemployment.

25 (g) [(f)] This section applies only if appropriate arrangements  
26 have been made for reimbursement by the child support enforcement  
27 agency of the Department of Revenue for the administrative costs  
28 incurred by the department under this section.

29 (h) [(g)] In this section, "child support obligations" includes

1 only obligations that are being enforced under a plan described in 42  
 2 U.S.C. 654 (Sec. 454, Social Security Act), which has been approved by  
 3 the United States Secretary of Health and Human Services under 42  
 4 U.S.C. 651-665 (Part D of Title IV of the Social Security Act).

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6 (b) For the purposes of a motion to modify or revoke child  
 7 support, the adoption or enactment of guidelines or a significant  
 8 amendment to guidelines for determining support is a material change  
 9 in circumstances. *if relevant to facts of case.*

10 \* Sec. 3. AS 25.25.100 is amended by adding a new subsection to read:

11 (b) If admitted to the practice of law in the state, the direc-  
 12 tor of the child support enforcement agency, or the director's desig-  
 13 nee, may sign a complaint for support and other pleadings on behalf of  
 14 the agency in an action under this chapter in which the agency is not  
 15 represented by the attorney general.

16 \* Sec. 4. AS 47.23.020 is amended to read:

17 Sec. 47.23.020. DUTIES AND RESPONSIBILITIES OF THE AGENCY. (a)  
 18 The agency shall

19 (1) seek enforcement of child support orders of the superi-  
 20 or courts of the state in other jurisdictions and shall obtain, en-  
 21 force, and administer the orders in this state;

22 (2) adopt regulations to carry out the purposes of this  
 23 chapter, including regulations that establish

24 (A) schedules for determining the amount an obligor is  
 25 liable to contribute toward the support of an obligee under this  
 26 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secur-  
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8 (i) employed and income is being withheld from  
9 the obligor's wages under an income withholding order;

10 (ii) receiving unemployment compensation and child  
11 support obligations are being withheld from the obligor's  
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16 (3) administer and enforce the Uniform Reciprocal Enforce-  
17 ment of Support Act (AS 25.25);

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19 gations administratively under [IN ACCORDANCE WITH] this chapter;

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22 (6) disburse support payments collected by the agency to  
23 the obligee, together with interest charged under (2)(C) of this  
24 subsection;

25 (7) establish and enforce administratively under this  
26 chapter, or through the superior courts of the state, child support  
27 orders from other jurisdictions pertaining to obligors within the  
28 state;

29 (8) enforce and administer spousal support orders if a

1 spousal support obligation has been established with respect to the  
2 spouse and if the support obligation established with respect to the  
3 child of that spouse is also being administered; and

4 (9) obtain a medical support order as part of a child  
5 support order if health care coverage is available to the obligor at a  
6 reasonable cost.

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8 satisfy the obligor's immediate duty of support, the agency shall  
9 consider all payments made by the obligor directly to the obligee or  
10 to the obligee's custodian before the time the obligor is ordered to  
11 make payments through the agency. After the obligor is ordered to  
12 make payments through the agency, the agency may not consider direct  
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20 is not represented by the attorney general.

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22 (c) In a court proceeding where the support of a minor child is  
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24 necessary for support, maintenance, nurture, and education of the  
25 child. The court shall issue a medical support order as part of a  
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10          do not apply to income withholdings under this section.

11 \* Sec. 8. AS 47.23.062(1) is repealed and reenacted to read:

12          (1) An obligor may petition the court to terminate or modify an  
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15          receipt of the petition under this subsection, the court may terminate  
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25          fee for services provided under this chapter [AS 47.23.010 - 47.23.280  
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3 payments made by the obligor and received by the agency. The audit  
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5 obligee, and the total amount of arrearages of support past due and  
6 amount of unpaid penalties and interest imposed under AS 47.23.020(a)-  
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21 Notice under this subsection shall be served upon the obligor by the  
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25 \* Sec. 13. AS 47.23.190(e) is amended to read:

26 (e) Modification or termination of future periodic support pay-  
27 ments may be ordered upon a showing of good cause and material change  
28 in circumstances. The adoption or enactment of guidelines or a sig-  
29 nificant amendment to guidelines for determining child support is a

*if relevant to facts of case*

1 material change in circumstances.

2 \* Sec. 14. AS 47.23.250(e) is amended to read:

3 (e) Any person, political subdivision, or department of the  
4 state served with an order to withhold and deliver is required to make  
5 true answers to inquiries contained in the order under oath and in  
6 writing within 14 [30] days after [OF] service of the order, and is  
7 further required to answer all inquiries subsequently put.

8 \* Sec. 15. AS 47.23.250(f) is amended to read:

9 (f) If a [ANY] person, political subdivision, or department of  
10 the state upon whom service of an order to withhold and deliver has  
11 been made possesses property due, owing, or belonging to the obligor,  
12 that person, subdivision, or department shall withhold the property  
13 immediately upon receipt of the order and shall deliver the property  
14 to the agency upon demand after the expiration of the 14-day [30-DAY]  
15 period from the date of service of the order. The agency shall hold  
16 property delivered under this subsection in trust for application  
17 against the liability of the obligor under AS 47.23.130 or for return,  
18 without interest, depending on final determination of liability or  
19 nonliability under this chapter. The agency may accept a good and  
20 sufficient bond conditioned upon final determination of liability in  
21 lieu of requiring delivering of property under this subsection.

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

23 (i) An order to withhold and deliver under this section has  
24 priority over all other attachments, executions, garnishments, or  
25 other legal process brought under state law against the same property  
26 unless otherwise ordered by the court. Exemptions under AS 09.38 do  
27 not apply to proceedings to enforce the payment of child support under  
28 AS 47.23.230 - 47.23.270; however, net disposable earnings are exempt  
29 from execution as provided in 15 U.S.C. 1673(b). In this subsection,

1 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

2 \* Sec. 17. AS 47.23.255 is amended by adding a new subsection to read:

3 (c) An obligor may petition the agency to terminate or modify an  
4 income withholding order if the obligor has made payments under the  
5 order for at least 12 months and all arrearages have been paid. Upon  
6 receipt of the petition under this subsection, the agency may termi-  
7 nate or modify the income withholding order unless the agency finds  
8 good cause to deny the petition due to the obligor's payment history  
9 or other grounds. The agency may not terminate or modify an income  
10 withholding order solely on the ground that the obligor has paid all  
11 arrearages. The agency shall notify the obligor in writing of the  
12 reason for denying a petition under this subsection.

13 \* Sec. 18. AS 47.23.180(c) is repealed.  
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go0547sE

Utermohl

4/16/88

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 117 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to spousal support enforcement by  
7 the child support enforcement agency and child sup-  
8 port enforcement."

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

10 \* Section 1. AS 23.20.401 is amended to read:

11 Sec. 23.20.401. CHILD SUPPORT INTERCEPTION. (a) Notwithstand-  
12 ing any other provision of this chapter, an individual filing a new  
13 claim for unemployment compensation must disclose whether child sup-  
14 port obligations as defined in (h) [(g)] of this section are owed by  
15 that individual. If the individual discloses that child support  
16 obligations are owed and the individual is determined to be eligible  
17 for unemployment compensation, the department shall notify the child  
18 support enforcement agency of the Department of Revenue that the  
19 individual has been determined to be eligible for unemployment compen-  
20 sation.

21 (b) The department shall, unless the obligor and obligee agree  
22 otherwise, deduct and withhold from unemployment compensation payable  
23 to an individual who owes child support obligations as defined in (h)  
24 [(g)] of this section

25 (1) the amount specified by the individual to the depart-  
26 ment to be deducted and withheld under this subsection, if neither (2)  
27 nor (3) of this subsection is applicable;

28 (2) the amount specified in an agreement submitted to the  
29 department under section 42 U.S.C. 654(20)(B)(i) (Sec. 454 (20)(B)(i),

1 Social Security Act), by the child support enforcement agency of the  
2 Department of Revenue, unless (3) of this subsection is applicable; or

3 (3) any amount required to be deducted and withheld through  
4 legal process, as defined in 42 U.S.C. 662(e) (Sec. 462(e), Social  
5 Security Act), properly served upon the department.

6 (c) The child support enforcement agency may order the depart-  
7 ment to deduct and withhold the allowance paid for a dependent minor  
8 child under AS 23.20.350(f), if the child support enforcement agency  
9 finds that the individual claiming the allowance has a support obliga-  
10 tion to the child and the child is not in the physical custody of the  
11 individual and is dependent on the individual for more than 50 percent  
12 of support.

13 (d) The department shall pay an amount deducted and withheld  
14 under (b) and (c) of this section to the child support enforcement  
15 agency of the Department of Revenue.

16 (e) [(d)] An amount deducted and withheld under (b) and (c) of  
17 this section shall for all purposes be treated as if it were paid to  
18 the individual as unemployment compensation and paid by that indi-  
19 vidual to the child support enforcement agency of the Department of  
20 Revenue in satisfaction of the individual's child support obligations.

21 (f) [(e)] In (a) - (e) [(d)] of this section, "unemployment  
22 compensation" means compensation payable under this chapter, including  
23 amounts payable under an agreement under a federal law providing for  
24 compensation, assistance, or allowances with respect to unemployment.

25 (g) [(f)] This section applies only if appropriate arrangements  
26 have been made for reimbursement by the child support enforcement  
27 agency of the Department of Revenue for the administrative costs  
28 incurred by the department under this section.

29 (h) [(g)] In this section, "child support obligations" includes

1 only obligations that are being enforced under a plan described in 42  
 2 U.S.C. 654 (Sec. 454, Social Security Act), which has been approved by  
 3 the United States Secretary of Health and Human Services under 42  
 4 U.S.C. 651-665 (Part D of Title IV of the Social Security Act).

5 \* Sec. 2. AS 25.24.170 is amended by adding a new subsection to read:

6 (b) For the purposes of a motion to modify or revoke child  
 7 support, the adoption or enactment of guidelines or a significant  
 8 amendment to guidelines for determining support is a material change  
 9 in circumstances.

10 \* Sec. 3. AS 25.25.100 is amended by adding a new subsection to read:

11 (b) The director of the child support enforcement agency, or the  
 12 director's designee, shall sign a complaint for support and other  
 13 pleadings on behalf of the agency in an action under this chapter in  
 14 which the agency is not represented by an attorney.

15 \* Sec. 4. AS 47.23.020 is amended to read:

16 Sec. 47.23.020. DUTIES AND RESPONSIBILITIES OF THE AGENCY. (a)

17 The agency shall

18 (1) seek enforcement of child support orders of the superi-  
 19 or courts of the state in other jurisdictions and shall obtain, en-  
 20 force, and administer the orders in this state;

21 (2) adopt regulations to carry out the purposes of this  
 22 chapter, including regulations that establish

23 (A) schedules for determining the amount an obligor is  
 24 liable to contribute toward the support of an obligee under this  
 25 chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Secur-  
 26 ity Act);

27 (B) procedures for hearings conducted under AS 47.-  
 28 23.170; and

29 (C) subject to AS 47.23.025 and to federal law, a

1 uniform rate of interest on arrearages of support that shall be  
2 charged the obligor upon notice if child support payments are 10  
3 or more days overdue or if payment is made by a check backed by  
4 insufficient funds; however, an obligor may not be charged inter-  
5 est on late payment of a child support obligation, other than a  
6 payment on arrearages, if the obligor is

7 (i) employed and income is being withheld from  
8 the obligor's wages under an income withholding order;

9 (ii) receiving unemployment compensation and child  
10 support obligations are being withheld from the obligor's  
11 unemployment payments under AS 23.20.401; or

12 (iii) receiving compensation for disabilities under  
13 AS 23.30 and child support obligations are being withheld  
14 from the obligor's compensation payments;

15 (3) administer and enforce the Uniform Reciprocal Enforce-  
16 ment of Support Act (AS 25.25);

17 (4) establish, enforce, and administer child support obli-  
18 gations administratively under [IN ACCORDANCE WITH] this chapter;

19 (5) administer the state plan required under 42 U.S.C.  
20 651 - 665 (Title IV-D, Social Security Act) as amended;

21 (6) disburse support payments collected by the agency to  
22 the obligee, together with interest charged under (2)(C) of this  
23 subsection;

24 (7) establish and enforce administratively under this  
25 chapter, or through the superior courts of the state, child support  
26 orders from other jurisdictions pertaining to obligors within the  
27 state;

28 (8) enforce and administer spousal support orders if a  
29 spousal support obligation has been established with respect to the

1 spouse and if the support obligation established with respect to the  
2 child of that spouse is also being administered; and

3 (9) obtain a medical support order as part of a child  
4 support order if health care coverage is available to the obligor at a  
5 reasonable cost.

6 (b) In determining the amount of money an obligor must pay to  
7 satisfy the obligor's immediate duty of support, the agency shall  
8 consider all payments made by the obligor directly to the obligee or  
9 to the obligee's custodian before the time the obligor is ordered to  
10 make payments through the agency.

11 \* Sec. 5. AS 47.23.020 is amended by adding a new subsection to read:

12 (c) The director of the agency, or the director's designee,  
13 shall sign a complaint or other pleadings on behalf of the agency in  
14 an action to establish or enforce a support obligation under this  
15 chapter in which the agency is not represented by an attorney.

16 \* Sec. 6. AS 47.23.060(c) is amended to read:

17 (c) In a court proceeding where the support of a minor child is  
18 at issue, the court may order either or both parents to pay the amount  
19 necessary for support, maintenance, nurture, and education of the  
20 child. The court shall issue a medical support order as part of a  
21 child support order if health care coverage is available to the obli-  
22 gor at a reasonable cost. Upon a showing of good cause the court may  
23 order the parents required to pay support to give reasonable security  
24 for payments.

25 (d) An order for prospective child support may be modified or  
26 revoked under AS 25.24.170 [AS THE COURT CONSIDERS NECESSARY].

27 \* Sec. 7. AS 47.23.052(1) is repealed and reenacted to read:

28 (1) An obligor may petition the court to terminate or modify an  
29 income withholding order if the obligor has made payments under the

1 order for at least 12 months and all arrearages have been paid. Upon  
2 receipt of the petition under this subsection, the court may terminate  
3 or modify the income withholding order unless the court finds good  
4 cause to deny the petition due to the obligor's payment history or  
5 other grounds. The court may not terminate or modify an income with-  
6 holding order solely on the ground that the obligor has paid all  
7 arrearages.

8 \* Sec. 8. AS 47.23.100 is amended to read:

9 Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
10 provide aid to any person due child support under the laws of this  
11 state upon application. The agency may, by regulation, [NOT] impose a  
12 fee for services provided under this chapter [AS 47.23.010 - 47.23.280  
13 UNLESS REQUIRED BY FEDERAL LAW].

14 \* Sec. 9. AS 47.23.105 is amended to read:

15 Sec. 47.23.105. AUDIT OF COLLECTIONS. Within 30 [10] working  
16 days after receipt of a written request from an obligor, [OR] the  
17 obligor's legal representative, the obligee, or the obligee's legal  
18 representative, the agency shall provide an audit of all child support  
19 payments made by the obligor and received by the agency. The audit  
20 shall include the date and amount of each payment, the name of the  
21 obligee, and the total amount of arrearages of support past due and  
22 amount of unpaid penalties and interest imposed under AS 47.23.020(a)-  
23 (2)(C). The agency is required to provide an audit for an obligor  
24 under this section only once each year.

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

26 Sec. 47.23.135. LIMITATION ON ACTIONS TO ESTABLISH CHILD SUPPORT  
27 OBLIGATION. (a) A person or the agency may establish a duty of child  
28 support in an administrative action under AS 47.23.160 - 47.23.220 or  
29 a judicial action brought in the superior court. A person or the

1 agency may not maintain concurrent administrative and judicial actions  
2 for establishment of the same child support obligation.

3 (b) If an action to establish a child support obligation under  
4 AS 47.23.160 - 47.23.220 is pending before the agency, a person may  
5 not bring a judicial action to establish the same child support  
6 obligation during the pendency of the administrative action.

7 (c) If the agency intervenes in a judicial action to abate the  
8 action because there is a preexisting administrative action to estab-  
9 lish the same child support obligation and the court finds that an  
10 administrative action had been commenced with the agency to establish  
11 a child support obligation before the commencement of a judicial  
12 action to establish the same obligation, the court shall dismiss that  
13 portion of the judicial action that is subject to the preexisting  
14 administrative action and shall award to the agency full costs and  
15 attorney fees for the intervention.

16 \* Sec. 11. AS 47.23.150(a) is amended to read:

17 (a) Action to enforce a support order administratively under  
18 AS 47.23.230 - 47.23.270 is initiated by the agency serving a notice  
19 on the obligor of the obligor's liability under the support order.  
20 Notice under this subsection shall be served upon the obligor by the  
21 agency by certified mail to the last known address of the obligor.  
22 Service by mail is effected when the notice is properly addressed,  
23 certified, and mailed.

24 \* Sec. 12. AS 47.23.190(e) is amended to read:

25 (e) Modification of future periodic support payments may be  
26 ordered upon a showing of good cause and material change in circum-  
27 stances. The adoption or enactment of guidelines or a significant  
28 amendment to guidelines for determining child support is a material  
29 change in circumstances.

1 \* Sec. 13. AS 47.23.250(e) is amended to read:

2 (e) Any person, political subdivision, or department of the  
3 state served with an order to withhold and deliver is required to make  
4 true answers to inquiries contained in the order under oath and in  
5 writing within 14 [30] days after [OF] service of the order, and is  
6 further required to answer all inquiries subsequently put.

7 \* Sec. 14. AS 47.23.250(f) is amended to read:

8 (f) If a [ANY] person, political subdivision, or department of  
9 the state upon whom service of an order to withhold and deliver has  
10 been made possesses property due, owing, or belonging to the obligor,  
11 that person, subdivision, or department shall withhold the property  
12 immediately upon receipt of the order and shall deliver the property  
13 to the agency upon demand after the expiration of the 14-day [30-DAY]  
14 period from the date of service of the order. The agency shall hold  
15 property delivered under this subsection in trust for application  
16 against the liability of the obligor under AS 47.23.130 or for return,  
17 without interest, depending on final determination of liability or  
18 nonliability under this chapter. The agency may accept a good and  
19 sufficient bond conditioned upon final determination of liability in  
20 lieu of requiring delivering of property under this subsection.

21 \* Sec. 15. AS 47.23.250(i) is amended to read:

22 (i) An order to withhold and deliver under this section has  
23 priority over all other attachments, executions, garnishments, or  
24 other legal process brought under state law against the same money  
25 unless otherwise ordered by the court. Exemptions under AS 09.38 do  
26 not apply to proceedings to enforce the payment of child support under  
27 AS 47.23.230 - 47.23.270; however, net disposable earnings are exempt  
28 from execution as provided in 15 U.S.C. 1673(b). In this subsection,  
29 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

LO62(9)

1 \* Sec. 16. AS 47.23.255 is amended by adding a new subsection to read:

2 (c) An obligor may petition the agency to terminate or modify an  
3 income withholding order if the obligor has made payments under the  
4 order for at least 12 months and all arrearages have been paid. Upon  
5 receipt of the petition under this subsection, the agency may termi-  
6 nate or modify the income withholding order unless the agency finds  
7 good cause to deny the petition due the obligor's payment history or  
8 other grounds. The agency may not terminate or modify an income  
9 withholding order solely on the ground that the obligor has paid all  
10 arrearages. The agency shall notify the obligor in writing of the  
11 reason for denying a petition under this subsection.

12 \* Sec. 17. AS 47.23.180(c) is repealed.

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1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 117

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

8 \* Section 1. AS 47.23.020(a)(7) is amended to read:

9 (7) establish and enforce administratively in accordance  
10 with this chapter, or through the superior courts of the state, child  
11 support orders from other jurisdictions pertaining to obligors within  
12 the state;

*sk*

13

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

14

(b) In determining the amount of money an obligor must pay to  
15 satisfy the obligor's immediate duty of support, the agency shall  
16 consider all payments made by the obligor directly to the obligee or  
17 to the obligee's custodian before the time the obligor is ordered to  
18 make payments through the agency.

??

19

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

20

Sec. 47.23.100. ALL PERSONS MAY USE AGENCY. The agency shall  
21 provide aid to any person due child support under the laws of this  
22 state upon application. The agency may, by regulation, [NOT] impose a  
23 fee for services provided under AS 47.23.010 -- 47.23.280 [UNLESS  
24 REQUIRED BY FEDERAL LAW].

*fee schedule*

25

\* Sec. 4. AS 47.23.105 is amended to read:

26

Sec. 47.23.105. AUDIT OF COLLECTIONS. Within 30 [10] working  
27 days after receipt of a written request from an obligor or the  
28 obligor's legal representative, the agency shall provide an audit of  
29 all child support payments made by the obligor and received by the

1 agency. The audit shall include the date and amount of each payment,  
2 the name of the obligee, and the total amount of arrearages of support  
3 past due and amount of unpaid penalties and interest imposed under  
4 AS 47.23.020(a)(2)(C). The agency is required to provide an audit for  
5 an obligor under this section only once each year.

6 \* Sec. 5. AS 47.23.226 is amended to read:

7  
8  
9  
10 Sec. 47.23.226. COLLECTION OF SUPPORT. To collect the payment  
11 due, the custodian of a child, or the agency on behalf of that person,  
12 shall file with the court (1) [A MOTION REQUESTING ESTABLISHMENT OF A  
13 JUDGMENT; (2)] an affidavit that states that one or more payments of  
14 support are 30 or more days past due and that specifies the amounts  
15 past due and the dates they became past due; and (2) [(3)] notice of  
16 the obligor's right to respond. Service on the obligor must be in the  
17 manner provided in AS 47.23.265. The child's custodian, or the agency  
18 on behalf of the custodian, shall file with the court proof of service  
19 of the [PETITION,] affidavit[,] and notice. The obligor shall respond  
20 no later than 15 days after service by filing an affidavit with the  
21 court. If the obligor's affidavit states that the obligor has paid  
22 any of the amounts claimed to be delinquent, describes in detail the  
23 method of payment or offers any other defense to the custodian's or  
24 agency's affidavit [PETITION], then the obligor is entitled to a  
25 hearing. After the hearing, if any, the court shall enter a judgment  
26 for the amount of money owed. If the obligor does not file an affida-  
27 vit under this section, the court shall enter a default judgment  
28 against the obligor.

29 \* Sec. 6. AS 47.23.250(e) is amended to read:

(e) Any person, political subdivision, or department of the  
state served with an order to withhold and deliver is required to make  
true answers to inquiries contained in the order under oath and in

*Judgment*  
*statute*  
*change made by*  
*proposing*  
*to court*

1 writing within 14 [30] days after [OF] service of the order, and is  
2 further required to answer all inquiries subsequently put.

3 \* Sec. 7. AS 47.23.250(i) is amended to read:

4 (i) An order to withhold and deliver under this section has  
5 priority over all other attachments, executions, garnishments, or  
6 other legal process brought under state law against the same money  
7 unless otherwise ordered by the court. Exemptions under AS 09.38 do  
8 not apply to proceedings to enforce the payment of child support under  
9 AS 47.23.230 -- 47.23.270; however, net disposable earnings are exempt  
10 from execution as provided in 15 U.S.C. 1673(b). In this subsection,  
11 "net disposable earnings" has the meaning given in 15 U.S.C. 1672.

12 \* Sec. 8. AS 47.23.180(c) is repealed.

Mb working draft

go0547sBb  
Utermohle

A M E N D M E N T

Offered in the HOUSE

By Gruenber

TO: HCS SB 117(Judiciary)

# 1

Page 3, line 8:

Delete "is"

Insert "may be considered"

Page 7, line 28:

Delete "is"

Insert "may be considered"

# 2

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS SB 117(Judiciary)

Page 3, lines 11 - 14:

Delete all material.

Insert a new subsection to read:

"(b) If admitted to the practice of law in the state, the director of the child support enforcement agency, or the director's designee, may sign a complaint for support and other pleadings on behalf of the agency in an action under this chapter in which the agency is not represented by the attorney general."

Page 5, lines 12 - 15:

Delete all material.

Insert a new subsection to read:

"(c) If admitted to the practice of law in the state, the director of the agency, or the director's designee, shall sign a complaint or other pleadings on behalf of the agency in an action to establish or enforce a support obligation under this chapter in which the agency is not represented by the attorney general."

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS SB 117(Judiciary)

# 3

Page 5, line 10, after "agency"

Insert ". After the obligor is ordered to make payments through t  
agency, the agency may not consider direct payments made to the obligee  
the obligee's custodian unless the obligor provides clear and convinci  
evidence of the payment"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS SB 117(Judiciary)

#4

Page 6, line 27, after "OBLIGATION." through page 7, line 15:

Delete all material.

Insert "If the same causes of action <sup>concerning child or spouse</sup> (to establish a duty of <sup>child</sup> support <sup>are</sup> [is] pending concurrently in court and before the agency, the second action filed may be abated upon the motion of a party or the agency. The court or the agency may award full costs and attorney fees to the party prevailing on the abatement motion."

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS SB 117(Judiciary)

#5

Page 7, lines 20 - 23:

Delete all material

*add 1st sentence*  
Insert "Notice under this subsection shall be served personally or by registered, certified, or insured mail, return receipt requested, for restricted delivery only to the obligor or to the person authorized by federal law to receive the obligor's restricted delivery mail. Service by mail is <sup>effective?</sup> effective when the notice is properly addressed, registered, certified, or insured, <sup>received at</sup> and mailed to the obligor's last known address; however, if the notice is returned because it is undeliverable or for a similar reason, the notice is effective on the date of the first attempted delivery."

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TC: HCS SB 117(Judiciary)

# 6

Page 7, line 25, after "Modification":

Insert "or revocation"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS SB 117(Judiciary)

#7

Page 7, line 28:

Delete "child"

FISCAL NOTE

REQUEST: \_\_\_\_\_

Revision Date: February 11, 1988  
Title: An Act Relating to Child Support Enforcement  
Sponsor: Rules  
Requestor: Governor

Agency Affected: Revenue  
ERU: Child Support Enforcement  
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	*	*	*	*	*	*

(see Note below)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Note on Fiscal Analysis

\* Estimated annual income generation of one hundred thousand by imposing fee structure.

Prepared By: Holli Ploog, Director Phone: 263-6270  
Division: Child Support Enforcement Division Date: February 11, 1988  
Approved by Commissioner: Hugh Malone Date: February 11, 1988  
Agency: Department of Revenue

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

# Alaska State Legislature

## Committees:

Chair-State Affairs  
V. Chair-Judiciary  
Telecommunications  
Special Ethics  
Legislative Council  
Finance Subcommittee  
for the University of Alaska  
Joint Committee  
on Economic Recovery



P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4947

**REPRESENTATIVE FRAN ULMER**

## M E M O R A N D U M

TO: Representative John Sund  
FROM: Representative Fran Ulmer  
SUBJECT: Child Support Amendments  
DATE: March 10, 1988

Several weeks ago, I held a work session in my office with you, several other members of the Judiciary Committee and Holli Ploog, Director of Child Support Enforcement Division. The purpose was to address some of the constituent issues regarding child support with which we have all been dealing these past months.

Based on the consensus at that meeting, four amendments have been drafted which could be proposed to Senate Bill 117, which is now in the Judiciary Committee. I have worked closely with Holli in drafting the amendments and have been assured of her support.

I hope you will review the amendments and let me know of any concerns.

Attachments

3-23-88

Note:

Amendment #1 updated 3-21-88  
Amendments #2,3,4 dated 3-4-88

Revised 3/21/88

A M E N D M E N T #1

Offered in the HOUSE

By Ulmer

TO: SB 117

Page 1, after line 7:

Insert a new bill section to read:

"\* Section 1. AS 23.20.401 is amended to read:

Sec. 23.20.401. CHILD SUPPORT INTERCEPTION. (a) Notwithstanding any other provision of this chapter, an individual filing a new claim for unemployment compensation must disclose whether child support obligations as defined in (h) [(g)] of this section are owed by that individual. If the individual discloses that child support obligations are owed and the individual is determined to be eligible for unemployment compensation, the department shall notify the child support enforcement agency of the Department of Revenue that the individual has been determined to be eligible for unemployment compensation.

(b) The department shall, unless the obligor and obligee agree otherwise, deduct and withhold from unemployment compensation payable to an individual who owes child support obligations as defined in (h) [(g)] of this section

(1) the amount specified by the individual to the department to be deducted and withheld under this subsection, if neither (2) nor (3) of this subsection is applicable;

(2) the amount specified in an agreement submitted to the

department under section 42 U.S.C. 654(20)(B)(i) (Sec. 454 (20)(B)(i), Social Security Act), by the child support enforcement agency of the Department of Revenue, unless (3) of this subsection is applicable; or

(3) any amount required to be deducted and withheld through legal process, as defined in 42 U.S.C. 662(e) (Sec. 462(e), Social Security Act), properly served upon the department.

(c) The child support enforcement agency may order the department to deduct and withhold the allowance paid for a dependent minor child under AS 23.20.350(f), if the child support enforcement agency finds that the individual claiming the allowance has a support obligation to the child and the child is not in the physical custody of the individual and is dependent on the individual for more than 50 percent of support.

(d) The department shall pay an amount deducted and withheld under (b) and (c) of this section to the child support enforcement agency of the Department of Revenue.

(e) [(d)] An amount deducted and withheld under (b) and (c) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by that individual to the child support enforcement agency of the Department of Revenue in satisfaction of the individual's child support obligations.

(f) [(e)] In (a) - (e) [(d)] of this section, "unemployment compensation" means compensation payable under this chapter, including amounts payable under an agreement under a federal law providing for compensation, assistance, or allowances with respect to unemployment.

(g) [(f)] This section applies only if appropriate arrangements

have been made for reimbursement by the child support enforcement agency of the Department of Revenue for the administrative costs incurred by the department under this section.

(h) [(g)] In this section, "child support obligations" includes only obligations that are being enforced under a plan described in 42 U.S.C. 654 (Sec. 454, Social Security Act), which has been approved by the United States Secretary of Health and Human Services under 42 U.S.C. 651-665 (Part D of Title IV of the Social Security Act)."

Page 1, line 8:

Delete "Section 1."

Insert "Sec. 2."

Renumber the following bill sections accordingly.

A M E N D M E N T

#2

Offered in the HOUSE

By Ulmer

TO: SB 117

Page 1, following line 7:

Insert a new bill section to read:

"\* Section 1. AS 25.24.170 is amended by adding a new subsection to read:

(b) For the purposes of a modification of a child support obligation under this section, the adoption or enactment by the legislature, the state supreme court, or the child support enforcement agency of guidelines or a significant amendment to guidelines for determining the amount of a support obligation is a material change in circumstances."

Page 1, line 8:

Delete "\* Section 1."

Insert "\* Sec. 2."

Renumber the following bill section accordingly.

Page 1, following line 18:

Insert a new bill section to read:

"\* Sec. 4. AS 47.23.060(c) is amended to read:

(c) In a court proceeding where the support of a minor child is

at issue, the court may order either or both parents to pay the amount necessary for support, maintenance, nurture, and education of the child. The court shall issue a medical support order as part of a child support order if health care coverage is available to the obligor at a reasonable cost. Upon a showing of good cause the court may order the parents required to pay support to give reasonable security for payments.

(d) An order for prospective child support may be modified or revoked under AS 25.24.170 [AS THE COURT CONSIDERS NECESSARY]."

Renumber the following bill sections accordingly.

Page 2, following line 5:

Insert a new bill section to read:

"\* Sec. 7. AS 47.23.190(e) is amended to read:

(e) Modification of future periodic support payments may be ordered upon a showing of good cause and material change in circumstances. Each obligor and each obligee or obligee's custodian may petition for a modification under this subsection only once in a period of 24 months. For the purposes of this subsection, the adoption or enactment by the agency, the legislature, or the state supreme court of guidelines or a significant amendment to guidelines for determining the amount of a support obligation is a material change in circumstances."

Renumber the remaining bill sections accordingly.

A M E N D M E N T #3

Offered in the HOUSE

By Ulmer

TO: SB 117

Page 1, lines 8 - 12, following "\* Section 1.":

Delete all material and insert:

"AS 47.23.020(a) is amended to read:

(a) The agency shall

(1) seek enforcement of child support orders of the superior courts of the state in other jurisdictions and shall obtain, enforce, and administer the orders in this state;

(2) adopt regulations to carry out the purposes of this chapter, including regulations that establish

(A) schedules for determining the amount an obligor is liable to contribute toward the support of an obligee under this chapter and under 42 U.S.C. 651 - 665 (Title IV-D, Social Security Act);

(B) procedures for hearings conducted under AS 47.-23.170; and

(C) subject to AS 47.23.025 and to federal law, a uniform rate of interest on arrearages of support that shall be charged the obligor upon notice if child support payments are 10 or more days overdue or if payment is made by a check backed by insufficient funds; however, an obligor may not be charged interest on late payment of a child support obligation, other than a

payment on arrearages, if the agency receives the payment within 30 days after the payment is due and the obligor is

(i) employed and income is being withheld from the obligor's wages under an income withholding order;

(ii) receiving unemployment compensation and child support obligations are being withheld from the obligor's unemployment payments under AS 23.20.401; or

(iii) receiving compensation for disabilities under AS 23.30 and child support obligations are being withheld from the obligor's compensation payments;

(3) administer and enforce the Uniform Reciprocal Enforcement of Support Act (AS 25.25);

(4) establish, enforce, and administer child support obligations administratively in accordance with this chapter;

(5) administer the state plan required under 42 U.S.C. 651 - 665 (Title IV-D, Social Security Act) as amended;

(6) disburse support payments collected by the agency to the obligee, together with interest charged under (2)(C) of this subsection;

(7) establish and enforce administratively under this chapter, or through the superior courts of the state, child support orders from other jurisdictions pertaining to obligors within the state;

(8) enforce and administer spousal support orders if a spousal support obligation has been established with respect to the spouse and if the support obligation established with respect to the

child of that spouse is also being administered; and

(9) obtain a medical support order as part of a child support order if health care coverage is available to the obligor at reasonable cost."

A M E N D M E N T #4

Offered in the HOUSE

By Ulmer

TO: SB 117

Page 1, following line 18:

Insert the following new bill section to read:

"\* Sec. 3. AS 47.23.062(1) is repealed and reenacted to read:

(1) An obligor may petition the court to terminate or modify an income withholding order if the obligor has made payments under the order for at least 12 months and all arrearages have been paid. Upon receipt of the petition under this subsection, the court may terminate or modify the income withholding order unless the court finds good cause to deny the petition due to the obligor's payment history or other grounds. The court may not terminate or modify an income withholding order solely on the ground that the obligor has paid all arrearages."

Renumber the following bill sections accordingly.

Page 3, following line 11:

Insert the following new bill section to read:

"\* Sec. 9. AS 47.23.255 is amended by adding a new subsection to read:

(c) An obligor may petition the agency to terminate or modify an income withholding order if the obligor has made payments under the order for at least 12 months and all arrearages have been paid. Upon

receipt of the petition under this subsection, the agency may terminate or modify the income withholding order unless the agency finds good cause to deny the petition due the obligor's payment history or other grounds. The agency may not terminate or modify an income withholding order solely on the ground that the obligor has paid all arrearages."

Renumber the following bill section accordingly.

SB

146

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Judiciary:*

*1987 - May 16*

Offered: 5/14/87  
Referred: Labor & Commerce  
and Judiciary

5-0597N

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 146 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; citation  
7 authority of employees enforcing weights and measures  
8 limitations; and providing for an effective date."

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

10 \* Section 1. AS 45.75.050(b) is amended to read:

11 (b) The regulations may include

12 (1) standards of net weight, measure, or count, and reason-  
13 able standards of fill, for a [ANY] commodity in package form;

14 (2) rules governing the technical and reporting procedures  
15 to be followed, and the report and record forms and marks of approval  
16 and rejection to be used by inspectors of weights and measures in the  
17 discharge of their official duties;

18 (3) exemptions from the sealing or marking requirements of  
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character  
20 or size that sealing or marking would be inappropriate, impracticable,  
21 or damaging to the apparatus in question; [AND]

22 (4) for [WITH RESPECT TO] classes of weights and measures  
23 of a character that retesting is unnecessary to continued accuracy,  
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for  
25 testing, and schedules fixing the frequency of required retests for  
26 classes of devices exempted; and

27 (5) in the implementation of AS 44.33.020(25), provisions  
28 governing the size, weight, and load limitations established under  
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 \* Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or  
4 an employee of the Department of Commerce and Economic Development who  
5 is authorized by the commissioner of commerce and economic development  
6 to enforce the size, weight, and load limitations adopted by the  
7 Department of Transportation and Public Facilities under AS 19.10.060  
8 may issue a citation to a person who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit  
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under  
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

14 (b) A citation issued under this section must be in writing. A  
15 person receiving the citation is not required to sign a promise to  
16 appear in court.

17 (c) The time specified in the notice to appear on a citation  
18 issued under this section must be at least 15 days after the issuance  
19 of the citation, unless the person cited requests an earlier hearing.

20 (d) The commissioner of public safety is responsible for the  
21 issuance of books containing appropriate citations and shall maintain  
22 a record of each book and each citation contained in it. The commis-  
23 sioner of public safety shall require and retain a receipt for every  
24 book issued to an employee of the Department of Commerce and Economic  
25 Development designated by the commissioner of commerce and economic  
26 development to provide investigative services to enforce provisions of  
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under  
29 this section shall deposit the original or a copy of the citation with

1 a court having jurisdiction over the alleged offense. Upon its  
2 deposit with the court, the citation may be disposed of only by trial  
3 in the court or other official action taken by the magistrate, judge,  
4 or prosecutor. The peace officer or employee who issued the citation  
5 may not dispose of it or copies of it or of the record of its issuance  
6 except as required under this subsection and (f) of this section.

7 (f) The commissioner of public safety shall require the return  
8 of a copy of every citation issued under this section and of all  
9 copies of every citation that has been spoiled or on which an entry  
10 has been made and not issued to an alleged violator. The commissioner  
11 of public safety shall also maintain in connection with every citation  
12 issued a record of the disposition of the charge by the court in which  
13 the original or copy of the citation was deposited.

14 (g) If the form of citation issued under this section includes  
15 the essential facts constituting the offense charged and is sworn to  
16 as required under the laws of this state for a complaint charging  
17 commission of the offense alleged in the citation, the citation when  
18 filed with a court having jurisdiction is considered to be a lawful  
19 complaint for the purpose of prosecution.

20 (h) Unless the citation has been voided or otherwise dismissed  
21 by the magistrate, judge, or prosecutor, or bail has been forfeited  
22 under AS 45.75.133, a person who fails to appear in court to answer a  
23 citation issued under this section, regardless of the disposition of  
24 the charge for which the citation was issued, is guilty of a class B  
25 misdemeanor.

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall  
27 specify by rule or order those violations that are appropriate for  
28 disposition without court appearance, and shall establish a schedule  
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If  
2 the person who has been cited can dispose of the violation without  
3 court appearance, the issuing peace officer or employee shall write on  
4 the citation the amount of bail forfeiture applicable to the viola-  
5 tion.

6 (b) A person cited for a violation for which a bail forfeiture  
7 amount has been established under (a) of this section may, within 15  
8 days after the date of the citation, mail or personally deliver to the  
9 clerk of the court in which the citation is filed by the employee

10 (1) the amount of bail indicated on the citation for that  
11 offense; and

12 (2) a copy of the citation indicating that the right to an  
13 appearance is waived, a plea of no contest is entered and the bail is  
14 forfeited.

15 (c) When the cited person has forfeited bail under (b) of this  
16 section, the court shall enter a judgment of conviction. Forfeiture  
17 of bail is a complete satisfaction for the violation. The clerk of  
18 the court accepting the bail forfeiture shall provide the offender  
19 with a receipt stating that fact.

20 (d) A cited person who fails to pay the bail forfeiture amount  
21 established under (a) of this section or to appear in court as re-  
22 quired, is guilty of a class B misdemeanor.

23 (e) Notwithstanding other provisions of law, if a person cited  
24 for a violation for which a bail forfeiture amount has been estab-  
25 lished under (a) of this section appears in court and is found guilty,  
26 the court may not impose a penalty that exceeds the bail forfeiture  
27 amount for that offense established under (a) of this section.

28 \* Sec. 3. AS 45.75.380 is amended to read:

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 sealing or annual testing requirements by AS 45.75.080 or by a  
2 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

3 (3) disposes of a rejected or condemned weight or measure  
4 in a manner contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or  
6 regulation, a tag, seal, or mark placed on it by the appropriate  
7 authority;

8 (5) sells or [,] offers [OR EXPOSES] for sale less than the  
9 quantity the person represents of a commodity, thing, or service;

10 (6) takes more than the quantity the person represents of a  
11 commodity, thing, or service when, as buyer, the person furnished the  
12 weight or measure that the seller used to determine [BY MEANS OF  
13 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

14 (7) keeps for the purpose of sale, advertises, or offers  
15 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a  
16 condition or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of  
18 packages put up in advance of sale and of medical prescriptions, a  
19 weight or measure that is not so positioned that a customer may accu-  
20 rately read, from a position that may reasonably be assumed by a  
21 customer, its indications [MAY BE ACCURATELY READ] and observe the  
22 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY  
23 REASONABLY BE ASSUMED BY A CUSTOMER];

24 (9) hinders or obstructs the director, an inspector, a  
25 sealer, or a deputy sealer in the performance of official duties under  
26 this chapter;

27 (10) violates a provision of an overweight or oversize  
28 vehicle permit issued under AS 44.33.020(25);

29 (11) violates a weight, load, or size limitation established

1 under AS 19.10.060 or a regulation adopted under AS 19.05.020,  
2 AS 44.33.020(25), or AS 45.75.050(b)(5);

3 (12) violates a provision of this chapter or [OF] a regula-  
4 tion adopted under this chapter for which a specific penalty is not  
5 prescribed.

6 \* Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

7 (b) Notwithstanding the maximum fine for a violation provided  
8 under (a) of this section, a person who violates a regulation or  
9 special permit governing the weight limit of a motor vehicle shall pay  
10 a penalty of \$.05 for each pound of weight over the authorized weight  
11 limit for the vehicle.

12 \* Sec. 5. AS 23.40.050(e) and AS 45.75.360 are repealed.

13 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
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# ALASKA TRUCKING ASSOCIATION, INC.

3443 Minnesota Drive • Anchorage, Alaska 99503 • Phone (907) 276-1149

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April 28, 1987

## POSITION STATEMENT

RE: AS FOR CSSB 146 (Trsp) 4/24/87 and HB 271 (4/15/87)  
(An Act relating to weights and measures; citation authority of  
employees enforcing weights and measures limitations; and  
providing for an effective date.)

It is the position of the Alaska Trucking Association that enforcement  
of Alaska statues pertaining to highway weight and measurement standards  
be continued within the Department of Commerce.

Sincerely



Warren Van Alstine  
President, Alaska Trucking Assoc.

ss

Date referred 5/14/87

FURTHER REFERRALS: Judiciary

DATE: 5/14/87

The Labor & Commerce Committee has considered HCSSB 146 (Trsp)

"An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

**RECOMMENDS:**

- replace with HCSSB SB 146 (Trasp)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 4/9/87
- zero with analysis

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

J. Ellis

Chris Davidson

Steve Kopman

David Dowley

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David Dowley

Chairman's signature

# HOUSE COMMITTEE REPORT

(7)

Date referred: 5/12/87

FURTHER REFERRALS: Labor & Commerce  
Judiciary

DATE: May 13, 1987

The Transportation Committee has considered CSSB 146(Trsp)

"An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

**RECOMMENDS:**

- replace with HCS CSSB 146(Trsp)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published 4/9/87 & 4/9/87
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*Kenneth Springs*  
 \_\_\_\_\_  
*James H. ...*  
 \_\_\_\_\_  
*Bill ...*  
 \_\_\_\_\_  
*Butte ...*  
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**SIGNING OTHER RECOMMENDATIONS:**

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*Butte ...*  
Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version : CS SB 146 LFC  
Publish Date : 4-9-87

Revision Date: \_\_\_\_\_

Agency Affected: Commerce & Econ. Dev.

Title: Act relating to Weights and Measures

BRU: Consumer Protection

Sponsor: Senate Transportation

Components: Measurement Standards

Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Swanson, Director Phone: 345-7750  
Division: Measurement Standards Date: March 9, 1987

Approved by Commissioner: J. Anthony Smith, Commissioner Date: March 9, 1987  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary  
0190k3987b

STATE OF ALASKA 1987 LEGISLATIVE SESSION

FISCAL NOTE SENATE

BILL VERSION: CSSB 146(L&C) b

PUBLISH DATE: 4/9/87

REQUEST

Revision Date: \_\_\_\_\_

Title: "An Act relating to weights and measures."

Sponsor: Transportation Committee

Requestor: Senate Labor & Commerce

Agency Affected: Public Safety

BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS:

No fiscal impact is anticipated.

JMA  
4/16/87

Prepared by: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691

Date: 4/15/87

Approved by Commissioner: \_\_\_\_\_  
Agency: Public Safety

*[Signature]*

Date: 4/15/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary



*Dept. of Transportation & Public Facilities*

# POSITION PAPER

**BILL NO:** CSSB 146 (Transportation)  
**TITLE:** An Act Relating to Weight and Measures  
and Providing for an Effective Date

**APPROVED:** <sup>MSH</sup> Mark S. Hickey  
Commissioner

**DATE:** 4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

# ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman  
Sen. John B. "Jack" Coghill, Vice Chairman  
Sen. Mitch Abood  
Sen. Bettye Fahrenkamp  
Sen. Tim Kelly



P.O. Box V  
Juneau, AK 99811

907-465-4921

## Senate Transportation Committee

### MEMORANDUM

TO: Representative David Donley, Chairman  
House Labor & Commerce Committee

FROM: Senator Lloyd Jones, Chairman *LJ*  
Senate Transportation Committee

DATE: May 14, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

---

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Labor and Commerce Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)  
TO: Senator Lloyd Jones  
FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr  
ml1/131

# ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman  
Sen. John B. "Jack" Coghill, Vice Chairman  
Sen. Mitch Abood  
Sen. Bettye Fahrenkamp  
Sen. Tim Kelly



P.O. Box V  
Juneau, AK 99811

907-465-4921

## Senate Transportation Committee

### MEMORANDUM

TO: Representative Bette Cato, Chairman  
House Transportation Committee

FROM: Senator Lloyd Jones, Chairman  
Senate Transportation Committee

DATE: May 12, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

---

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Transportation Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

S B

153

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99901  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*House Judiciary:*

*5-3-88*

# HOUSE COMMITTEE REPORT

Date referred: 1/27/88

FURTHER REFERRALS:

Finance

DATE: May 3, 1988

The Judiciary Committee has considered SB 153

"An Act relating to the penalty imposed for certain traffic offenses."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published 4-28-88
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

*[Handwritten signatures]*

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**SIGNING OTHER RECOMMENDATIONS:**

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*[Handwritten signature]*

\_\_\_\_\_

Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

5 (State Affairs)  
No Finance  
Referral  
SB 153

Bill Version:  
Publish Date:

**REQUEST:**

Revision Date:  
Title: An act relating to the penalty imposed for certain traffic offenses  
Sponsor: Fahrenkamp  
Requestor:

Agency Affected: Alaska Court System  
BRU: Trial Courts  
Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
REVENUE	(19.2)	(19.2)	(19.2)	(19.2)	(19.2)	(19.2)

FUNDING:		(Thousands of Dollars)				
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

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

See attached analysis.

Prepared by: Robert G. Fisher, Fiscal Officer  
Division: Alaska Court System  
Approved by: *Stephanie J. Cole*, Deputy Director  
Agency: Alaska Court System

Phone: 264-8215  
Date: 3-19-87  
Date: 3-19-87

- Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management & Budget  
Impacted Agency(ies)  
Senate Secretary



ALASKA COURT SYSTEM

FISCAL NOTE

SB 153

This legislation allows a 10 percent reduction in traffic bail or fine amounts for moving violations, if all persons in the vehicle are wearing seatbelts at the time of committing the infraction. This legislation will reduce fine and forfeiture revenues to the state.

To estimate fiscal impact, the Court obtained information from the Alaska Seatbelt Use Coalition on seatbelt utilization. The Coalition's studies indicate that approximately 35% of Anchorage drivers and 39% of Fairbanks drivers wear seatbelts or a simple average of 37% for both areas. Information is not available for other areas of the state or for passenger seatbelt usage. For estimating the impact of this legislation on revenues, it is assumed that driver and passenger seatbelt utilization will average 37% for the entire state.

The fiscal impact is estimated as follows.

Estimated statewide traffic violation revenues from moving violations	\$520,000
Estimated percentage of seatbelt usage	37% -----
Estimated statewide revenues for traffic violations involving drivers and passengers using seatbelts	192,400
Bail or fine reduction percentage for seatbelt use	10% -----
Estimated reduction in statewide traffic violation revenues	\$19,240 =====

STATE OF ALASKA 1988 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 153  
Publish Date:

REQUEST:

Revision Date: 04/29/88  
Title: An act relating to the penalty imposed for certain traffic offenses  
Sponsor: Fahrenkamp  
Requestor:

Agency Affected: Alaska Court System  
BRU: Trial Courts  
Components:

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
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REVENUE	. . . .	(19.2)	(19.2)	(19.2)	(19.2)	(19.2)
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FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 04/29/88  
 Approved by: *Arthur H. Snowden, II* Arthur H. Snowden, II, Administrative Director Date: 04/29/88  
 Agency: Alaska Court System

- Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management & Budget  
 Impacted Agency(ies)  
 Senate Secretary

ALASKA COURT SYSTEM  
FISCAL ANALYSIS FOR SB 153

This legislation allows a 10 percent reduction in traffic bail or fine amounts for moving violations, if all persons in the vehicle are wearing seatbelts at the time of committing the infraction. This legislation will reduce fine and forfeiture revenues to the state.

To estimate fiscal impact, the court obtained information from the Alaska Seatbelt Use Coalition on seatbelt utilization. The Coalition's studies indicate that approximately 35 percent of Anchorage drivers and 39 percent of Fairbanks drivers wear seatbelts or a simple average of 37 percent for both areas. Information is not available for other areas of the state or for passenger seatbelt usage. For estimating the impact of this legislation on revenues, it is assumed that driver and passenger seatbelt utilization will average 37 percent for the entire state.

The fiscal impact is estimated as follows.

Estimated statewide traffic violation revenues from moving violations	\$520,000
Estimated percentage of seatbelt usage	<u>37%</u>
Estimated statewide revenues for traffic violations involving drivers and passengers using seatbelts	192,400
Bail or fine reduction percentage for seatbelt use	<u>10%</u>
Estimated reduction in statewide traffic violation revenues	<u>\$ 19,240</u>

# Alaska State Legislature

SENATOR BETTYE FAHRENKAMP  
CHAIRMAN, LEGISLATIVE COUNCIL  
CHAIRMAN, OIL AND GAS COMMITTEE  
515 7TH AVENUE, SUITE 130  
FAIRBANKS, ALASKA 99701  
OFFICE (907) 452-4882  
HOME (907) 456-2899



WHILE IN JUNEAU  
P.O. BOX V  
JUNEAU, ALASKA 99811  
CAPITOL ROOM 125  
OFFICE (907) 465-3834  
HOME (907) 780-6027

TO: MEMBERS OF THE HOUSE JUDICIARY COMMITTEE  
FROM: SENATOR BETTYE FAHRENKAMP  
DATE: APRIL 21, 1988  
RE: SB 153, AN ACT RELATING TO THE PENALTY IMPOSED FOR CERTAIN TRAFFIC OFFENSES

There is little doubt that wearing seatbelts can help reduce the highway related deaths and injuries caused by auto accidents.

SB 153 would provide a positive incentive for drivers to wear their seatbelts. I believe that a positive approach works better than a negative one, so rather than make the wearing of seatbelts mandatory and punishing offenders, this bill would reward those who buckle up.

It accomplishes this by allowing a ten percent reduction in the amount of a fine or bail for a moving traffic infraction if the driver and any passengers were wearing seatbelts at the time they were stopped. It would apply only to infractions that do not carry jail time, such as speeding, ignoring a stop sign or traffic signal, or equipment violations.

The Department of Public Safety has a neutral position on the bill as does the Department of Health and Social Services. Both departments gave the bill a zero fiscal note.

Although SB 153 will not require additional funding to the court system to administer, it would result in a small decrease in revenues as indicated by their fiscal note. I'm convinced this measure will offset those decreased revenues by reducing the tremendous health care and insurance costs we currently face as a result of severe injuries.

And while concern has been raised about how law enforcement officers could determine whether seatbelts were worn since a driver could put his seatbelt on after stopping the vehicle, I would like to point out that often evidence is obtained by law enforcement officers through simple interrogation when citing an individual.

SB 153 An Act Relating to the penalty imposed for certain traffic offenses by Senator Fahrenkamp.

Sectional Analysis by Senator Fahrenkamp's office 01/22/88

Section 1. AS 28.05.151(b) Form and Issuance of Citation.

Amended to include reference to proposed Section 2 of the bill.

Section 2. AS 28.40.050 Penalty for violations of law, regulations, and municipal ordinances.

Adds a new subsection (f) which would give a 10% reduction in the amount of a bail or fine if the driver and any passengers were wearing seatbelts at the time of a commission of a moving traffic violation for which the Supreme Court has established a scheduled amount of bail.

Examples of such infractions are speeding, running a stop sign or red light, or equipment violations, i.e. infractions that do not carry jail time. It does not apply to infractions requiring court appearances (although court appearances can be requested to question the bail amount), misdemeanors, or felonies, such as driving while intoxicated, reckless driving, or negligent homicide.

- Sectional SB153-seatbelts

BILL NO: SB 153

DATE: 3/9/87

TITLE: "An Act relating to the penalty imposed for certain traffic offenses."

CONTACT: Major Walter J. Gilmour  
Acting Director  
Alaska State Troopers

DEPARTMENT OF  
PUBLIC SAFETY

POSTING PERMIT

Provides an incentive for seatbelt use by motorists.

This bill may be an incentive for persons to wear seatbelts. Violators are given reduced fines provided they and their passengers are wearing seat belts when contacted by the citing officer.

The citing officer would have to be very alert to know if the occupants were actually utilizing seat belts or simply put them on when they realized they were being stopped for the violation.

This may confuse some people who mail in bail. They may not discount the 10% when deserved while others may discount the 10% when they in fact were not wearing belts. (The issue may be in dispute).

The bill may encourage more people to wear belts.

The bill will reduce the amount of funds generated by fines.

The bill may put additional burden on the court and the Troopers. The Court may have to issue a warrant for an individual if there is a dispute as a result of the 10% discount. The Alaska State Troopers would be required to serve these warrants.

The Department of Public Safety is neutral on this legislation.

  
William R. Nix  
Acting Commissioner

- Public Safety Position Paper  
Fiscal Note

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 153

Publish Date: \_\_\_\_\_

REQUEST

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the penalty imposed for certain traffic offenses."  
Sponsor: Sen. Fahrenkamp  
Requestor: Senate State Affairs

Agency Affected: Public Safety  
BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JNR  
3/9/87

Prepared by: Francis C. Allan  
Division: Alaska State Troopers

Phone: 269-5691

Date: 3/6/87

Approved by Commissioner: William R. Nix  
Agency: Public Safety

Date: 3/9/87

Distribution (by preparer):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

page \_\_\_\_ of \_\_\_\_

Position Paper

House Bill No. 158/SB 153

For an Act entitled: "An Act relating to the penalty imposed for certain traffic offenses."

This Act would amend AS 28.05.151(b) to allow a ten percent (10%) reduction in the fine or bail that would otherwise be applicable for a moving traffic violation if the driver and passengers are wearing their seatbelts at the time of the offense.

Motor vehicle crashes are a leading cause of death, injury and long-term disability. They are the leading cause of death to persons between 1 and 35 years of age. For teenagers, car crash fatalities outnumber the next five causes of death combined. Numerous studies have shown that seat belts and other vehicle safety restraints substantially reduce the likelihood of death or injury to motor vehicle occupants involved in crashes. Efforts to educate the public about the benefits of seatbelts have failed to convince the majority of vehicle occupants to use their safety belts.

This act would provide an incentive for some individuals to wear their seat belts by reducing the fine or bail imposed for a traffic violation. The Department does not believe that such a law would have as much of a measurable impact on motor vehicle deaths and injuries, as would legislation requiring mandatory safety belt use.

Position

The Department believes that the use of seatbelts can greatly reduce the number of deaths and injuries from motor vehicle crashes. The intent of this act is to encourage such use, but will probably have a minimal impact. The Department's position is neutral on this legislation.

Recommended by: Elizabeth Ward  
Elizabeth Ward, M.N.  
Director  
Division of Public Health

Date: March 19, 1987

Approved by: Myra M. Munson  
Myra M. Munson, Commissioner  
Department of Health and  
Social Services

Date: March 23, 1987

- Health & Social Services Position Paper Fiscal file

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: HB 158 / SB 153  
Publish Date: 3/2/87

Revision Date: \_\_\_\_\_  
Title: An act relating to the penalty imposed for certain traffic offenses  
Sponsor: Davis, Pearce, Shultz, & Donley  
Requestor: \_\_\_\_\_

Agency Affected: Health  
State Health Services  
BRU: \_\_\_\_\_  
Components: Public Health Administration  
services - EMS

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

Enactment of HB 158 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, MN, Director  
Division: Public Health

Phone: 465-3090  
Date: March 18, 1987

Approved by Commissioner: Maria M. Munson  
Agency: Dept. of Health & Social Services

Date: 3/23/87

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary