



# LAWS OF ALASKA

1972

Source

CSHB 294

Chapter No.

1

## AN ACT

Relating to child and spouse neglect.

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

\* Section 1. AS 11.35.010 is amended to read:

Sec. 11.35.010. DESERTION OR NONSUPPORT OF SPOUSE OR CHILD. (a) A person who is the parent or guardian of a child under the age of 16 years dependent upon him for care, education or support, and who deserts or abandons the child or ward, or wilfully fails, without lawful excuse, to furnish necessary food, care, clothing, shelter, medical attendance, education or support for the child or ward; or a person who, without lawful justification, wilfully abandons and leaves his spouse or refuses or neglects to provide his spouse with necessary food, clothing, shelter or medical attendance, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500, or by imprisonment for not more than 12 months, or by both. However, before the trial, with the consent of the defendant, or after conviction, instead of imposing the penalties prescribed, or in addition to those penalties, the court, having regard to the circumstances and the financial ability and earning capacity of the defendant, may make an order, subject to change by it from time to time as circumstances require, directing the defendant to pay a definite sum or a certain weekly sum during such time as the court may direct, into the court for the benefit of spouse, or guardian or custodian of the minor child; and the court may release the defendant from custody or place him on probation during such time as the court directs, upon his entering into an undertaking with one or more sufficient sureties who shall qualify as bail upon arrest in a sum the court directs. The undertaking shall be conditioned so that the defendant shall personally

appear before the court whenever ordered to do so and shall at all times comply with the terms of the order or any modification which the court may make, and shall provide that, should the conditions of the bond be broken, the defendant and his sureties consent to entry of judgment against them by the court in the amount specified in the undertaking.

(b) For the purposes of (a) of this section there is no failure to provide care or medical attendance to a spouse or child who is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. However, this provision does not apply to a spouse who is not an adherent of or does not believe in the church or religious denomination and who is unable to provide the care or medical attendance for himself or herself.

\* Sec. 2. AS 11.35.040 is amended to read:

Sec. 11.35.040. APPLICATION OF MONEY RECOVERED. In case of a judgment against the defendant and his sureties as set out in sec. 20 of this chapter and its enforcement by execution, the sum recovered may be paid, in whole or in part, and at the times and in the amounts the court orders, to the spouse or to the guardian or custodian of the minor child for support.

\* Sec. 3. AS 11.35.050 is amended to read:

Sec. 11.35.050. COMPLAINT AND TRIAL. Complaint for violation of sec. 10 of this chapter may be made by the deserted spouse, or on his or her behalf, or on behalf of the minor child, by anyone having personal cognizance of the facts, before a judge or magistrate. If the defendant is not present in the judicial district where the deserted spouse or child is, the complaint may be made by the prosecuting attorney in that judicial district, in the nature of an information before the superior court of the judicial district where the deserted spouse or child resides. The proceedings for the trial of the defendant shall be the same as for a misdemeanor, except as otherwise provided in this section.

\* Sec. 4. AS 11.35.070 is amended to read:

Sec. 11.35.070. EVIDENCE OF ABANDONMENT OR NONSUPPORT. Proof of the abandonment or nonsupport of a spouse or the desertion of a child or ward, or the omission to furnish necessary food, clothing, shelter or medical attendance for the child or ward is prima facie evidence that the abandonment or nonsupport or omission to furnish necessary food, clothing, shelter or medical attendance is wilful. No other evidence is required to prove marriage or parenthood than is required in a civil case.

\* Sec. 5. AS 11.35.090 is amended to read:

Sec. 11.35.090. EFFECT OF DIVORCE AND ALIMONY ON CHILD SUPPORT. Section 10 of this chapter is applicable to the maintenance and support of a child whether the

parents of the child are married or divorced and regardless of a decree made in a divorce action regarding alimony or the support of the spouse or child.

\* Sec. 6. AS 47.10.080(c)(2) is amended to read:

(2) order the minor released to his parents, guardian, or some other suitable person, and, in appropriate cases, order the parents, guardian, or other person to provide medical or other care and treatment; if the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor; the department's supervision may not extend past the date the minor reaches majority, except that the department may petition the court for continued supervision for an additional one-year period for minors who have not responded to treatment; or

\* Sec. 7. AS 47.10.080 is amended by adding a new subsection to read:

(k) In making its order under (c) of this section, the court shall consider the fact, if it is a fact, that the minor was being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

\* Sec. 8. AS 47.10 is amended by adding a new section to read:

Sec. 47.10.085. DEPENDENT MINOR; RELIGIOUS TREATMENT. In a case in which the minor's status as a dependent minor is sought to be based on his need for medical care, the court may, upon consideration of the health of the minor and the fact, if it is a fact, that the minor is being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination, dismiss the proceedings and thereby close the matter. This may be done, in the interests of justice and religious freedom, on the court's own motion or upon the application of a party to the proceedings, at any stage of the proceedings after information is given to the court under sec. 20(a) of this chapter.