

LEGAL SERVICES

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MEMORANDUM

February 19, 2004

SUBJECT: Child Support Enforcement and Crimes
(Work Order No. 23-LS1639\H)

TO: Representative Pete Kott
Attn: John Main

FROM: Jean M. Mischel
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Clarifies criminal nonsupport elements, deletes reference to age of child, and adds a rebuttable presumption. The presumption may encounter some difficulty if challenged since the Alaska Supreme Court, in Taylor v. State 710 P.2d 1019 (1985), has interpreted one of the elements of the crime ("without lawful excuse") to require proof of the ability to pay. The presumption negates that.

Section 2. Adds a reference in the misdemeanor penalty section for criminal nonsupport to the new felony crime added in this bill.

Section 3. Establishes a Class C felony for certain circumstances. Replaces a cross reference to a loss or restriction of a recreational license as additional criminal penalty.

Section 4. Establishes an enhanced crime of aiding the nonpayment of child support in the first degree for circumstances related to the felony in section 3.

Section 5. Makes previous crime of aiding the nonpayment of child support a second degree crime.

Section 6. Adds "second degree" to the existing misdemeanor penalty provision for aiding the nonpayment of child support.

Section 7. Adds a new subsection pertaining to child support orders to the jurisdiction of the superior court.

Section 8. Deletes a limitation pertaining to a child receiving public assistance for the agency to order or request a court order in arrearage cases for a payment plan or work activities by an obligor.

Section 9. Adds two subsections authorizing the agency to 1) employ peace officers who may carry a firearm when specified training is completed and for child support enforcement investigations; and 2) compromise a child support obligation.

Section 10. Adds circumstances in which the agency may order paternity testing in cases involving incest or rape.

Section 11. Deletes "so entered" for support orders subject to enforcement by the agency. This change has the effect of avoiding a limitation on enforcement in this section to only court orders.

Section 12. Adds cross-reference to 42 U.S.C. 666 for periodic modification of child support orders without showing of changed circumstances.

Section 13. Describes indirect court rule amendment to Rule 90.3, Alaska Rule of Civil Procedure necessitated by sec. 12 of the bill.

Section 14. States that a 2/3 vote is not required for amendment to Rule 90.3.

Section 15. Describes the applicability of the Class C felonies established in this bill as pertaining to violations occurring on or after the effective date of the act for certain long term and high dollar amount arrearages.

Section 16. Provides an effective date for the bill.