

HOUSE BILL NO. 321

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE EASTMAN

Introduced: 2/14/24

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing child support for unborn children; relating to the duties of the
2 child support services agency; and amending Rule 90.3, Alaska Rules of Civil
3 Procedure."

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

5 * **Section 1.** AS 25.25.207(e) is amended to read:

6 (e) A tribunal of this state that determines, by order, which is the controlling
7 child support order under (b)(1) or (2) or (c) of this section, or that issues a new
8 controlling child support order under (b)(3) of this section, shall include in that order

9 (1) the basis upon which the tribunal made its determination;

10 (2) the amount of prospective **and retroactive** support, if any; and

11 (3) the total amount of consolidated arrears and accrued interest, if
12 any, under all of the orders after all payments made are credited as provided by
13 AS 25.25.209.

14 * **Sec. 2.** AS 25.27.040(a) is amended to read:

1 (a) The agency may appear on behalf of **a** minor **child** [CHILDREN] or **the**
 2 **minor child's** [THEIR] mother or legal custodian or the state and initiate efforts to
 3 have the paternity of **the minor child** [CHILDREN] born **or conceived** out of
 4 wedlock determined by the court. When the agency is a party to a court action in
 5 which paternity is contested, it shall request and pay for genetic testing and procedures
 6 under AS 25.20.050(e) and may recover the costs of the testing as provided in
 7 AS 25.20.050(f).

8 * **Sec. 3.** AS 25.27.060 is amended by adding a new subsection to read:

9 (e) The court or agency, as applicable, may order child support be applied
 10 retroactively to the first day of the month in which a child was conceived, as
 11 determined by a physician.

12 * **Sec. 4.** AS 25.27.140(a) is amended to read:

13 (a) If a support order has not been entered, the agency may establish paternity
 14 and a duty of support, which may include periodic payments of support, a medical
 15 support order, or both, **and may be applied retroactively to the first day of the**
 16 **month in which a child was conceived as determined by a physician,** utilizing the
 17 procedures prescribed in AS 25.27.160 - 25.27.220 and may enforce a duty of support
 18 utilizing the procedure prescribed in AS 25.27.230 - 25.27.270. Action under this
 19 subsection may be undertaken upon application of an obligee, or at the agency's own
 20 discretion if the obligor is liable to the state under AS 25.27.120(a) or (b).

21 * **Sec. 5.** AS 25.27.165(a) is amended to read:

22 (a) Upon application from a mother, custodian, putative father, or legal
 23 custodian of a child, or from a state, the agency may institute administrative
 24 proceedings to determine the paternity of a child born **or conceived** out of wedlock.

25 * **Sec. 6.** AS 25.27.165 is amended by adding a new subsection to read:

26 (l) The agency may not use a method to establish paternity of an unborn child
 27 that would pose a risk of harm to the unborn child.

28 * **Sec. 7.** AS 25.27.900 is amended by adding new paragraphs to read:

29 (14) "child" or "minor child" includes an unborn child;

30 (15) "unborn child" means a member of the species Homo sapiens, at
 31 any stage of development, who is carried in the womb.

1 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 90.3(a), Alaska Rules of Civil
4 Procedure, is amended to read:

5 (a) **Guidelines—Primary Physical Custody.** A child support award in a case
6 relating to an unborn child or in which one parent is awarded primary physical
7 custody as defined by paragraph (f) will be calculated as an amount equal to the
8 adjusted income of the non-custodial parent multiplied by a percentage specified in
9 subparagraph (a)(2).

10 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TWO-THIRDS VOTE NOT REQUIRED. Section 8 of this Act takes effect without
13 needing to meet the two-thirds vote requirement normally applicable to changing court rules
14 under art. IV, sec. 15, Constitution of the State of Alaska because

15 (1) the provisions of Rule 90.3, Alaska Rules of Civil Procedure, that are
16 affected by the provisions of this Act were adopted under the Alaska Supreme Court's
17 interpretive authority exercised under art. IV, sec. 1, Constitution of the State of Alaska;

18 (2) AS 25.27.060(e), enacted by sec. 3 of this Act, AS 25.27.140(a), as
19 amended by sec. 4 of this Act, and AS 25.27.900(14) and (15), enacted by sec. 7 of this Act,
20 establish substantive rights, and the change made in sec. 8 of this Act is a technical change
21 necessary to give effect to the substantive rights established in AS 25.27.060(e), enacted by
22 sec. 3 of this Act, AS 25.27.140(a), as amended by sec. 4 of this Act, and AS 25.27.900(14)
23 and (15), enacted by sec. 7 of this Act.