

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1375

Adding new Civil Rule 90.5 concerning expedited judicial relief from action against occupational or driver's license for unpaid child support.

IT IS ORDERED that the Civil Rules are amended to include new Rule 90.5, which provides:

Rule 90.5 Expedited Judicial Relief from Action Against Occupational or Driver's License for Unpaid Child Support.

(a) **Scope.** This rule sets out the procedure for requesting expedited judicial relief from a decision by the Child Support Enforcement Division (CSED) under AS 25.27.244 (adverse action against delinquent obligor's occupational license) or AS 25.27.246 (adverse action against delinquent obligor's driver's license).

(b) **Petition.**

(1) *Requirements.* To request expedited judicial relief under AS 25.27.244 or 25.27.246, a person must file a petition in the superior court. The petition must be on a form published by the Alaska Court System and must specify which of the statutory grounds for relief the petitioner is relying on. The petition should be accompanied by:

(A) a written explanation of why the petitioner is entitled to judicial relief (not to exceed five pages);

(B) any documents that the petitioner intends to present to the court;

(C) a list of the witnesses whom the petitioner intends to present at the court hearing;

(D) a copy of CSED's decision (titled "Notice of Occupational License Review Decision" or "Notice of Driver's License Review Decision"); and

(E) a copy of the child support order or payment schedule that CSED seeks to enforce.

(2) *Number of Copies.* The petitioner must file the original plus one copy of the petition and any attachments.

(3) *Deadline for Filing.* The petition must be filed within 30 days after the date that the petitioner receives CSED's decision (titled "Notice of Occupational License Review Decision" or "Notice

of Driver's License Review Decision"). The petition may be filed either by delivering or mailing it to the clerk of court. A petition is deemed to be filed on the date it is received by the clerk.

(4) *Service on CSED.* Upon receipt of the petition, the court shall promptly serve CSED by mailing or delivering the extra copy to the appropriate office of the Department of Law.

(5) *Grounds for Rejecting Petition.* The clerk shall refuse to accept the petition for filing if the petitioner has failed to specify which of the statutory grounds for relief the petitioner is relying on and has provided no other written explanation of why the petitioner is entitled to judicial relief.

(c) **Response.** CSED's response to the petition must be filed and served within fifteen days after service of the petition under (b)(4). The response must include a written explanation of CSED's position (not to exceed five pages) and must be accompanied by any documents that CSED intends to present at the hearing and a list of the witnesses whom CSED intends to present.

(d) **Hearing.** Upon receipt of the petition, the court shall schedule a hearing. The hearing must be held not less than 20 nor

more than 30 days after the petition is served under (b)(4).

Telephonic participation at the hearing is governed by Civil Rule 99.

(e) **Peremptory Challenge.** A party may file a notice of change of judge under Civil Rule 42(c). A party's notice is timely if filed within five days after notice that the case has been assigned to a specific judge.

(f) **Relief Available in Expedited Proceeding.** The court's decision is limited to a determination of the following issues, which the court shall determine de novo:

(1) whether a support order or payment schedule is in effect;

(2) whether the petitioner is the obligor under the support order that CSED is seeking to enforce; and

(3) whether the petitioner is in substantial compliance with the support order or payment schedule. A petitioner is in substantial compliance if: (A) the petitioner owes less than four times the monthly obligation; or (B) the petitioner is making the best possible efforts under the circumstances to pay the arrearages.

(g) **Other Judicial Relief.** To obtain other judicial relief, the petitioner must file an appeal from an administrative agency decision under Appellate Rule 602.

Note: The petition form (DR-335) is available at all superior court locations and from the Child Support Enforcement Division.

DATED: September 16, 1999

EFFECTIVE DATE: October 15, 1999

Chief Justice Matthews

Justice Eastaugh

Justice Fabe

Justice Bryner

Justice Carpeneti