

INSTRUCTIONS FOR FILING A MOTION
TO CHANGE CUSTODY, SUPPORT OR VISITATION

NOTE: These procedures can only be used to change an order from an Alaska court or an order from another state that has been registered in Alaska. These forms and instructions are for parties who are not represented by attorneys.

Step 1. Fill out the following forms (which are attached to these instructions):

- a. *Motion* (DR-705)
- b. *Information Sheet* (DR-314)
- c. *Notice of Motion* (DR-710)
- d. *Child Custody Jurisdiction Affidavit* (DR-150). You must list every child covered by your most recent court order.
- e. *Child Support Guidelines Affidavit* (DR-305). Fill in the requested information about your own finances and as much information about the finances of the other parent as possible. If you do not know specific information about the other parent's finances, write "unknown" in that space. You **must** attach a copy of your most recent federal tax return and most recent pay stubs to verify income and deductions.
- f. *Shared Custody Child Support Calculation* (DR-306). (Required **only** if shared custody has been ordered or is being requested.) If you are requesting "divided" or "hybrid" custody (as defined in Civil Rule 90.3(f)), you must instead attach form DR-307 (divided custody) or DR-308 (hybrid custody). These forms are available at the court or on the court system's website.

NOTE: For more information about how to complete the child support calculation forms (DR-305, DR-306, DR-307 & DR-308), you can get a copy of the following free booklet at the court or on the court system's website: *How To Calculate Child Support* (DR-310). This booklet also contains a copy of the guidelines courts must follow to set child support, Civil Rule 90.3.

You must sign the motion and the two affidavits in front of a notary public. A court clerk can provide this notary service for you (at no charge) when you bring the documents to court. You must bring a photo ID with you for the notarization.

Step 2. Mail the following documents to the other parent by first class mail (or hand deliver them):

- a. A copy of each of the documents listed in Step 1.
- b. A copy of all attachments to these documents.

c. A blank *Response Packet* (DR-720).

Step 3. If the other parent was represented by an attorney within the last year, also send a copy of each document listed in Step 1 and a copy of all attachments to that attorney. The court file will contain the attorney's name and address.

Step 4. If the child support order is being enforced by the Child Support Services Division (CSSD), also send a copy of each of the documents listed in Step 1 and all attachments to:

Attorney General's Office
Collections and Support Section
1031 West Fourth Avenue, Suite 200
Anchorage, AK 99501

Step 5. Keep a copy of all documents and attachments for yourself.

Step 6. Mail or hand deliver the originals of all the documents to the court that entered the order you want changed. (See page 4 of the instructions in the *Response Packet* for a list of court mailing addresses.)

RESPONSE. The other parent has 13 days to deliver his or her response to the court. The other parent must send you a copy of any response sent to the court.

REPLY. If you receive a response, you have eight days from the date it was postmarked to reply. You may use the *Reply* form (DR-730) provided in this packet. Your *Reply* must be signed in front of a notary (available at the court at no charge). You must serve your *Reply* on the same people as you did your motion.

HEARING. The judge may order a hearing if one is needed to decide any disputes about the evidence in your case. You will be notified if a hearing is scheduled. If it will be difficult for you to attend the hearing in person, contact the court to ask if you can participate by telephone.

Additional Information

If you want to read about the laws that govern these cases, the following are some Alaska Statutes and Alaska Rules of Court to look at. Also read the “Annotations” that follow these statutes and rules. (Annotations are brief paragraphs describing the Alaska Supreme Court decisions interpreting the rules and statutes.)

Child Support	Civil Rule 90.3 and the “Commentary” that explains this rule. Alaska Statutes 25.24.160(a)(1), 25.24.170, 25.24.240, 25.24.910, and 25.27.060 to .070 <u>How to Calculate Child Support Under Civil Rule 90.3 (DR-310)</u> This free booklet is available at the court. Forms and instructions for requesting that child support continue while a child is 18 (DR-320 to DR-323), available at the court.
Child Custody and Visitation	Alaska Statutes 25.20.060 to 25.20.140, 25.24.150, 25.24.170, 25.24.240, and 25.30.300

Custody Decisions: "Best Interests of the Child"

The court will not grant a change in custody unless there has been a substantial change in circumstances since the last order was entered. Also, the requested change must be in the best interests of the children. Alaska Statute 25.24.150(c) lists the things the court must consider in order to decide what the children's best interests are. It states:

In determining the best interests of the child the court shall consider

- (1) the physical, emotional, mental, religious, and social needs of the child;
- (2) the capability and desire of each parent to meet these needs;
- (3) the child's preference if the child is of sufficient age and capacity to form a preference;
- (4) the love and affection existing between the child and each parent;
- (5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (6) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child, except that the court may not consider this willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in domestic violence against the parent or a child, and that a continuing relationship with the other parent will endanger the health or safety of either the parent or the child;
- (7) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;
- (8) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;
- (9) other factors that the court considers pertinent.

This statute also provides that, in awarding custody, "the court may consider only those facts that directly affect the well-being of the child" and that the court must comply with the provisions of the Indian Child Welfare Act.

In 2004, the legislature added new sections (g) through (k) to AS 25.24.150. These sections limit the court's ability to award custody if either parent "has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner."