

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

Use these instructions to ask the court to change a custody or visitation order (parenting plan) or child support order that was issued in Alaska. If the order was a **support** order issued in another state and registered in Alaska, use the [DR-360](#) packet of forms to modify the order.

**Step 1** Fill out the following forms:

- a. *Motion* ([DR-705](#)).
- b. *Notice of Motion* ([DR-710](#)).
- c. *Child Custody Jurisdiction Affidavit* ([DR-150](#)). Required **only** if the motion is to change the parenting plan. You must list every child covered by your most recent court order.
- d. *Child Support Guidelines Affidavit* ([DR-305](#)). You **must** fill in the requested information about your own finances. Fill in as much as you can about the finances of the other parent. 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.
- e. *Shared Custody Child Support Calculation* ([DR-306](#)). Required **only** if you are asking for shared custody. If you are requesting "divided" or "hybrid" custody (defined in [Civil Rule 90.3\(f\)](#)), you must instead attach form [DR-307](#) (divided custody) or form [DR-308](#) (hybrid custody). These forms are available in person at the court, or on the court system's website.

**NOTE:** If you **agree** with the other parent in filing this motion, and you either file it together or file a document from the other parent that says the parent agrees (stipulates) to your motion, there is no fee. If not you do not agree, the filing fee is listed in [Administrative Rule 9](#). If you are unable to pay the filing fee, you can file a *Request for Exemption from Payment of Fees* (form [TF-920](#)) to ask the court to waive the fee. The motion will not go to the judge until the fee is paid or waived. Do not give your motion to the other parent until you either pay the fee or the court waives it.

**CHILD SUPPORT INSTRUCTION BOOKLET.** For more information about how to complete the child support calculation forms ([DR-305](#), [DR-306](#), [DR-307](#), & [DR-308](#)), use the booklet *How to Calculate Child Support* (form [DR-310](#)). If you have limited or no online access, the court clerk can give you a paper copy. The booklet includes a copy of Civil Rule 90.3, which has the guidelines the judge must follow in setting child support.

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 for free when you bring the documents to court. Bring a photo ID with you for the notarization.

**Step 2** Give the following documents to the other parent by first-class mail or by hand-delivery (you can also send them by email if the other parent agreed to email service in the court case):

- a. A copy of each of the documents listed in Step 1.
- b. A copy of all attachments to those documents.
- c. A blank *Response Packet* ([DR-720](#)).

**Step 3** If the other parent was represented by an attorney within the last year, also give 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** Keep a copy of all documents and attachments for yourself.

**Step 5** File the **originals** of all the documents at the same court location that issued the order you want changed. For a list of court mailing addresses, go to <http://courts.alaska.gov/courtdir/index.htm>.

**RESPONSE.** The other parent has 10 days (13 days if you mailed it) to file a response with the court. The other parent must send you a copy of this response.

**REPLY.** If you get a response by hand-delivery or email, you have 5 days to reply if you wish (filing a reply is optional). If the response was mailed to you, you have 8 days from the postmarked date to reply. You may use *Reply to Response* (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 other parent.

**HEARING.** The judge may schedule a hearing to get more information or decide any disagreements. The court will send you a notice if a hearing is scheduled.

## Legal Information

Some resources that cover or discuss the law about modifying parenting plans and child support are listed below. You should also read the "Annotations" that follow these statutes and rules. Annotations are brief paragraphs describing the Alaska Supreme Court decisions interpreting that particular rule or statute.

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 - .070 <i>How to Calculate Child Support Under Civil Rule 90.3</i> (form <a href="#">DR-310</a> ) Forms and instructions for requesting that child support continue while a child is 18 (forms <a href="#">DR-320</a> through <a href="#">DR-323</a> )
Parenting Plans	Alaska Statutes 25.20.060 - 25.20.140, 25.24.150, 25.24.170, 25.24.240, 25.30.310, and 25.30.320

### Parenting Plan Decisions: "Best Interests of the Child"

The court will not grant a change in the parenting plan 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 says that "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 (ICWA). In 2004, the legislature added new sections (g) through (k) to AS 25.24.150. These sections limit the court's ability to give legal custody or unsupervised parenting time to a parent who "has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner."