

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

These instructions are for when you want to oppose a motion asking the court to change a custody or visitation order (parenting plan) or child support order that was issued in Alaska. You must file your response to the court within **10 days** after the motion was hand-delivered or emailed to you. If it was mailed to you, you have 3 extra days (13 days total) to respond (start counting from the date it was postmarked).

Step 1 Fill out the following forms (copies attached):

- a. *Response To Motion* ([DR-725](#)).
- b. *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.
- c. *Child Support Guidelines Affidavit* ([DR-305](#)). You **must** fill in your own column about your own finances. You do **not** need to fill in the column for the other parent, unless you disagree with what that parent wrote on their DR-305 filed with the motion. You **must** attach a copy of your most recent federal tax return and most recent pay stubs.
- d. *Shared Custody Child Support Calculation* ([DR-306](#)). Required **only** if shared custody is being requested. If "divided" or "hybrid" custody (defined in [Civil Rule 90.3\(f\)](#)) is being requested, 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.

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 your response 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 (or the parent's attorney, if represented) 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.

Step 3 Keep a copy of all documents and attachments for yourself.

Step 4 File the **originals** of all the documents at the same court where the motion was filed. For a list of court mailing addresses, go to <http://courts.alaska.gov/courtdir/index.htm>.

REPLY. The other parent has 5 days (8 days if you mailed it) to file a reply to your response. The other parent must send you a copy of any reply sent to the court. Filing a reply is optional.

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 DR-310) Forms and instructions for requesting that child support continue while a child is 18 (forms DR-320 through DR-323)
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. 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."