

INSTRUCTIONS FOR FILING AN UNCONTESTED COMPLAINT FOR DIVORCE WITH CHILDREN

Use these instructions to ask the court to issue a divorce decree when both spouses agree on all issues to end the marriage, including the parenting plan and schedule for the children, child support, and how to divide property and debt of the marriage. Both spouses must sign the form and all required attachments to use the uncontested complaint.

If the spouses do not agree on everything or cannot fill out and sign the paperwork together, either spouse may instead file form [DR-817](#), *Complaint for Divorce with Children*. The other spouse can file an answer to this complaint that agrees with some, all, or none of it.

Step 1 The Alaska Court System requires parents to complete a parent education requirement. You may fulfill this requirement at any time before the divorce is finalized, but it is easiest to do it before you file the paperwork in court so your divorce is not delayed. Most courts require viewing an approved video or completing an online internet class. The parent education requirement for you will depend on your court location. The requirements for each location are listed at <https://courts.alaska.gov/shc/family/shcparent-ed.htm>.

Step 2 Fill out the following **required** forms:

- a. *Uncontested Complaint for Divorce with Minor Children* ([DR-50](#)). More information on how to fill out this form starts on page 5 of these instructions.
- b. *Certificate of Divorce, Dissolution of Marriage, or Annulment* ([VS-401](#)). Complete the "Parties' Information" section, boxes 9-32.
If you are filling out by hand, use black ink and use your neatest handwriting. If you make a mistake, start over with a blank form. This form will be sent to the Alaska Vital Records office after the divorce is granted, and they will not accept forms with cross-outs or other corrections on them.
Important: You must submit this form so that Vital Records can record your divorce. If your divorce is not recorded, you may not be able to remarry, apply for a new license, or receive certain benefits.
- c. *Information Sheet* ([DR-314](#)).
- d. *Child Custody Jurisdiction Affidavit* ([DR-150](#)). List every child born or adopted during your marriage that is still a minor. Also list any minor children that the two of you have together from before you were married.
- e. *Child Support Guidelines Affidavit* ([DR-305](#)). Attach a copy of your most recent federal tax return (or both spouses' tax returns if you did not file jointly), at least 3 most recent pay stubs for each parent, and documentation for any deductions other than standard taxes.

Forms that may be required depending on your situation:

- a. *Shared Custody Child Support Calculation* ([DR-306](#)). Required 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).

- b. *Case Description Form* ([CIV-125S](#)). Required if you are **not** filing through the court's TrueFiling electronic filing system.
- c. *Request for Exemption from Payment of Fees* ([TF-920](#)). Required if you want the court to waive the filing fee because you cannot afford it.
- d. *Notice of Request to Restore Name in Dissolution or Divorce Case* ([DR-957](#)). If you are asking to return to a name you had before the marriage, this form may be required in certain situations. See page 5 of these instructions for more information.
- e. *Request to Change to New Name in Divorce Case* ([DR-956](#)). Required if you are asking to change to a name you have not had before.

All publicly available court forms are posted on the court's website at [ak-courts.info/forms](#). They are also available in paper copy from the court clerk upon request, or you can call the Family Law Self-Help Center to ask for forms to be mailed to you: (907) 264-0851 in Anchorage, (866) 279-0851 outside of Anchorage.

Child Support Instructions Booklet. For more information about how to complete the child support calculation forms ([DR-305](#), [DR-306](#), [DR-307](#), & [DR-308](#)), read the booklet *How to Calculate Child Support* (form [DR-310](#)).

Notary. You must sign the two affidavits (DR-150 and DR-305) in front of a notary public. A court clerk can provide this notary service for you for free if you bring the documents to court. Bring a photo ID with you for the notarization. If you do not have access to a notary or court clerk, you can fill out and attach *Self-Certification (No Notary Available)* ([TF-835](#)).

**IMPORTANT
Notice on Using TrueFiling**

1. See if TrueFiling is available for your case type and court location at [ak-courts.info/tfcourts](#).
2. If available, you **must** use TrueFiling unless you are exempt. You are exempt if one of these applies:
 - You are in a jail or correctional facility.
 - You have a disability under the Americans with Disabilities Act (ADA).
 - You do not have safe access to a computer, internet, or email.
 - You cannot access the help you need to use TrueFiling.
 - You have a language barrier or are Limited English Proficient.

You do not need to prove you are exempt. If you are exempt **and** you choose not to use TrueFiling, you must tell the court you are exempt on your first filing with the court. The DR-50 complaint has check boxes and spaces for one or both of you to do this already on the form.

Step 3 File your forms in court.

For TrueFiling Users:

If you filled out your forms electronically, save them as separate documents to your local device. If you filled out your forms on paper, scan or photograph them (make sure they are legible) and save them in a PDF or TIFF file format.

Create a TrueFiling account (if you don't already have one) and log in: <https://akfile.truefiling.com/login>. Upload your complaint form and all attachments as one "bundle." See ak-courts.info/tfhowto for detailed instructions on using TrueFiling.

You can pay the filing fee in TrueFiling with a debit or credit card. A window will pop up after you select your case type with instructions for paying the fee. If you cannot afford the fee, include form [TF-920, Request for Exemption from Payment of Fees](#), in your bundle. Nothing will happen in your case until you pay the fee or your exemption is granted.

For People Not Using TrueFiling:

Make two copies of everything you plan to file in court, including any attachments. The copies are for each of you to keep for your records. File the **originals** of all the documents in the nearest court location to where at least one of you lives. For a list of court mailing and physical addresses, go to ak-courts.info/dir.

Pay the filing fee in the amount specified in [Administrative Rule 9\(b\)](#). Fees are also listed online at ak-courts.info/courtfees. If you file in person, you can pay the clerk with most forms of payment. If you mail your forms to the court, include a check or money order payable to "State of Alaska." If you cannot afford the fee, attach form [TF-920, Request for Exemption from Payment of Fees](#), when you file. Nothing will happen in your case until you pay the fee or your exemption is granted.

Step 4 Court Hearing.

The court will automatically set a hearing date. The clerk will send both parties a notice with the date, time, and location of the hearing. If you are unable to attend the hearing in person, you may ask to attend telephonically by filing form [TF-710, Request to Appear by Telephone](#).

Both spouses must attend the hearing. You may each have a lawyer at the hearing, but you are not required to have one.

At the hearing, the court will ask questions to make sure you fully understand the nature and consequences of the proceeding, whether the terms of your divorce agreement and your property and debt division are fair and just, whether your parenting plan is in the best interests of the children, and whether the child support calculations and agreement comply with Civil Rule 90.3. You may change anything you agreed to in the complaint as long as you both agree on the record at the hearing.

At some court locations, hearings are held before a Superior Court Master instead of a judge. A master cannot grant a decree of divorce. A master can only recommend to a judge whether or not a decree should be granted. After the hearing, the master will write a report and the Superior Court Judge will review it and sign the final decree if they agree with the recommendations in the report.

At some other court locations, your hearing may be scheduled as part of a program called the Early Resolution Program (ERP). This is a program that usually allows your divorce to happen more quickly and have all of your paperwork done before you leave the hearing. There may also be free lawyers or mediators available to help you resolve any disagreements (if any come up since you filed) or other concerns the judge may have with your agreement.

Step 5 The Decree of Divorce.

Although in some cases the decree of divorce may be granted and signed at the hearing, sometimes the decree is not entered until a few days later. **Do not assume a decree has been granted until you receive your written copy.**

Step 6 Follow Decree.

You must carry out any agreements you made orally at the hearing, signed in any attachments to the decree, or the judge otherwise ordered or included in the decree. For example, you might have to transfer title to property, or make a payment to the other spouse or notify the administrator of a retirement plan about the effect of the divorce on a spouse's retirement benefits. You may need to contact a lawyer to prepare the necessary deeds and other legal documents to make these transfers. The court does not do this for you.

Step 7 Changes in Parenting Plan or Child Support.

If circumstances change significantly in the future, you may ask the court to change the agreement on the parenting plan (children's schedule) or child support order, even if the other parent does not agree. You may use the [DR-700 Motion Packet](#) to ask for a change. The other parent will have a chance to respond to the motion if you are not making the request together.

How to Fill Out the Complaint (Form [DR-50](#))

When filling out court forms, do not leave any spaces blank. If a question does not apply or you don't know, write "N/A" or "unknown." If more space is needed, attach additional pages and number each page. Write only on one side of each page. If you are not filling out the form electronically, print neatly in black ink.

At the top of the complaint form, fill in each spouse's contact information. If your information changes after you file, but before the divorce decree is entered, file form [TF-955](#), *Notice of Change of Contact Information*.

Fill in the court location where you are filing and write your full names in the spaces to the left underneath. It does not matter who is Parent/Spouse A and who is Parent/Spouse B, there is no legal difference in a divorce case. Leave the "Case No." line blank. If there is an open Child in Need of Aid (CINA) case involving any of your children, fill in this information. This will help make sure your divorce case is handled by the same judge to avoid any conflicting orders.

Section 1. At least one spouse must be "domiciled" in Alaska for the court to have jurisdiction (authority) to divorce you. "Domiciled" means the person claims residency in Alaska. The person must be physically present in Alaska and intend to remain indefinitely. No minimum number of days of residency is required. In addition, military personnel who do not claim to be Alaska residents may file for divorce in Alaska if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. If neither of you is a resident of Alaska, you should talk to a lawyer for help, since jurisdiction can be legally complicated.

Section 4. Either spouse may ask to restore (return to) a **prior** name, that is, a name that you had before the marriage. Either spouse may ask that a **new** name be authorized, however, there may be additional legal requirements or restrictions, and the court will have to approve this request.

Prior Name

If you want a prior name restored (to go back to a name you had before), check the appropriate box for yourself (Spouse A or Spouse B) and fill in the blanks for your current and former names. You should also follow steps #8 – 11 under "New Name" below.

You must fill out form [DR-957](#), *Notice of Request to Restore Name in Dissolution or Divorce Case*, **only if** you are one or more of the following:

- currently charged with a crime,
- currently incarcerated (for example, in jail, in prison, or at a halfway house),
- on supervised felony probation or on parole for a criminal conviction, or
- required to register as a sex offender or child kidnapper under AS 12.63.010.

The court may order you to do additional notice of your name restoration if you fall into one of these categories. Read the court's order carefully. You must complete any additional notice by the date of your divorce hearing or your divorce could be delayed. You can use form [CIV-702](#), *Affidavit of Additional Service*, to provide proof to the court that you completed this requirement. You may file this before the hearing or bring it to the hearing.

New Name

If you are requesting a name that was **not** a name you had before the marriage, there may be additional costs and your divorce hearing will take longer and be scheduled further out. Additionally, a new name change is not allowed in certain situations as part of a divorce case. For these reasons, you may prefer to do the name change in a separate case by filing form [CIV-700](#), *Petition for Change of Name*. If you do decide to do it as part of your divorce case, take the following steps:

1. Check the box requesting a new name and fill out form [DR-956](#), *Request to Change to New Name in Divorce Case*.
2. Tell the clerk your divorce complaint includes a request for name change and that you need an order for posting.
3. If the name change is legally allowed as part of the divorce case, the judge will send you form CIV-701, *Order for Hearing, Posting, and Additional Service*. This order will tell you the time and place of the hearing on your name change, which is usually the same time as your divorce hearing. The order will also tell you whether you must provide additional service or notice to other persons or agencies. If the order requires additional service or notice, follow the instructions on the order.
4. Unless waived by written court order, the clerk will automatically post the proposed name change and the date of the hearing to the Alaska Court System's Legal Notice Website for four consecutive weeks. After posting is completed, the clerk will file form TF-815, *Clerk's Certificate of Service of Posting*, to the website.

If you are also required to serve additional notice, you must file proof that you did so. Use form [CIV-702](#), *Affidavit of Additional Service*. File it with the court before the hearing or bring it to the hearing.

5. At the hearing, you must tell the judge why you want to change your name and assure the judge that you are not seeking to change your name in order to avoid debts or defraud anyone. If the judge finds there is no reasonable objection to the name change and that it is consistent with the public interest, the judge will sign a judgment allowing you to take the new name. However, you cannot begin using the new name yet, because the judgment will not be effective until the rest of the steps below are completed.
6. The court will automatically post notice of the court's judgment on the Alaska Court System's legal notice website for one week unless waived by the court in a written order. Following the posting, the clerk will file form TF-815, *Clerk's Certificate of Service of Posting* to the website.
7. If the judgment requires additional service, follow the judgment's instructions. After additional service is complete, fill out form [CIV-702](#), *Affidavit of Additional Service*, and file it with the court. The clerk will then issue form CIV-705, *Certificate of Name Change*. You can begin using your new name on the date stated in the certificate. This date will be at least 30 days after the judgment was distributed. The clerk will give you two copies of the certificate. One will be a free certified copy. If you need additional certified copies, there will be a charge for them. Current fees are listed in [Administrative Rule 9](#).

8. If you have an Alaska driver's license, or you own a vehicle registered in Alaska, you must send written notice of your name change to the Division of Motor Vehicles (DMV) **within 30 days** (Alaska Statute 28.05.071). To get a new driver's license, go to a DMV office and show them a copy of form CIV-705, *Certificate of Name Change*.
9. Notify the Social Security Administration of your name change to avoid tax problems and help assure proper employment credit. Toll-free phone number: 1-800-772-1213.
10. Individuals required to register on the Sex Offender and Child Kidnapper Registry under Alaska Statute 12.63.010 must notify the Department of Public Safety about any name change (including restoring a prior name) **within one business day** after receiving form CIV-705, *Certificate of Name Change*. Use *Notification of Petition/Proof of Legal Name Change* (form 12-299-74). This form is available from law enforcement or online at <https://sor.dps.alaska.gov/Home/Documents>.
11. If you want a new birth certificate, contact the Vital Records office of the state in which you were born and pay the required fee. There may also be additional paperwork to fill out.

Section 5. List all children under age 18, born to either party during the marriage, born to both parties before the marriage, or adopted together. Make sure that you also list all of these children on the attached form [DR-150](#). The judge needs this information to make sure the Alaska court has jurisdiction (authority) to decide orders about the children.

Section 6. You must agree on a schedule and other parenting plan arrangements for all your children under age 18. Your agreement must be in the best interests of your children. In considering whether a parenting plan is in the children's best interests, the court must consider the factors in AS 25.24.150(c):

- (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 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."

Decision-Making (Legal Custody) means who will make major decisions about the children, such as medical, educational, and religious decisions. The options are described in more detail on the complaint form. Choose which option you want the court to order.

Living Arrangements (Physical Custody) means which parent the children will physically be with and live with on particular days and times. It can also include other agreements about interacting with the children and each other, exchanges, and other child-rearing matters, such as diet, extracurriculars, and discipline. As a general matter, it is very rare for a child to live with one parent 100% of the time. All kinds of arrangements are possible and the parents should consider what works best for the children.

Be as detailed as possible when describing the arrangement. Parents can always agree to deviate from the plan, but having a specific plan in place when parents don't agree can help avoid future conflict or misunderstandings. It may be helpful to attach a separate parenting plan to your complaint. You can view videos, sample parenting plans, and other tips on issues to consider on the court's website at ak-courts.info/parentingplan.

Section 7. Both parents have a legal duty to financially support their children, and the judge is legally required to order child support. Child support must be paid until the children reach age 18 or are otherwise emancipated, even if the parents might agree otherwise. This includes support for children born after the divorce if a spouse is pregnant before the divorce. Support is paid on behalf of the children, not for the benefit of the obligee parent.

Civil Rule 90.3 determines how the judge calculates child support. It is based on a math formula that takes into account the children's schedule with each parent and the parents' income. You **must** file form [DR-305, Child Support Guidelines Affidavit](#), so that the court has the information it needs to calculate child support.

Definitions:

- **Obligor:** the person paying child support
- **Obligee:** the person receiving the support on behalf of the children

For purposes of calculating child support, there are four types of physical custody:

- **Primary** physical custody means that the children spend more than 70% of their overnights (256 overnights or more) during the year with one parent.
- **Shared** physical custody means that the children live with each parent at least 30% of the overnights (110 or more overnights each) during the year. You must specifically describe when the children will live with each parent. If either parent is planning a move to another community in the near future, explain how shared custody will be continued. If you have this type of arrangement, you must fill out and attach [DR-306](#) to your complaint.

- **Divided** physical custody means that each parent has primary physical custody of at least one child and the parents do not share physical custody of any of their children. If you have this type of arrangement, you must fill out and attach [DR-307](#) to your complaint.
- **Hybrid** physical custody means at least one parent has primary physical custody of at least one of the children, and the parents share physical custody of at least one of the other children. If you have this type of arrangement, you must fill out and attach [DR-308](#) to your complaint.

See also the instruction booklet, *How to Calculate Child Support* (form DR-310), available online at ak-courts.info/dr310 or in paper copy from the court clerks' office. You should read this booklet to help answer any questions you have about how to fill out or do any of the child support calculations in forms listed in this section.

Note on Health Coverage for the Children

The court must consider whether the children are eligible for free health care from the Indian Health Service, the military, or some other entity. If not, and if health insurance for the children is available to either parent at a reasonable cost (for example through your employer or union), the court must require the parent who has the insurance available to purchase it. If both parents have such insurance available, you must agree which one of you will purchase it. The cost must be divided equally between you unless you can show the court good cause why it should be divided differently. Although one parent may be ordered to purchase the insurance, the cost of it must be shared between you. This is done by adjusting the amount of child support. Page 3 of form [DR-305](#), *Child Support Guidelines Affidavit*, has space for you to provide this information to the court.

The insurance cost referred to on form DR-305 is the actual cost of insuring the children who are covered by the support order. It does not include the cost of insuring a parent or any other children who may live in the household. Also, it must not include the value of any insurance provided for free by an employer (that is, with no paycheck deduction). See the [DR-310](#) booklet and the diagram, *Calculating Cost of Children's Health Insurance* (available at ak-courts.info/cshealthinsurance) for more information.

Civil Rule 90.3(d)(1) states that child support is adjusted only for insurance payments that are actually made. Therefore, the child support order will state that if these payments are not made, the monthly child support amount due will return to what it was before the health insurance adjustment.

Request for Variance from Civil Rule 90.3

See paragraph (c) of Civil Rule 90.3 for the circumstances when the court can allow a different amount of child support than what is calculated using the formulas set out in the rule. Also see the discussion of this paragraph in the Commentary to the rule and in the [DR-310](#) booklet.

Just because you request a different amount of child support than what is calculated under the rule, the court must still find that your arrangement is legally allowed. If you are receiving assistance from the Alaska Temporary Assistance Program (ATAP), you cannot waive or agree to change the amount of child support. You cannot do this because you have assigned (given) your right to receive child support to the Child Support Enforcement Division.

Child Support for 18-Year-Old Children

Normally, child support stops when a child reaches age 18 or is otherwise emancipated. However, you may agree that support will be provided for each child while the child is 18 if the child is (1) unmarried, (2) actively pursuing a high school diploma or equivalent level of technical or vocational training, and (3) living as a dependent with a parent or guardian or a designee of the parent or guardian. You can ask the court to order that the support be paid to the parent the child is living with **or** directly to the child. You can check this box now in your complaint or you can request it later (for example, when the child is about to turn 18).

Assistance of Child Support Enforcement Division (CSED)

CSED can maintain records of support payments and enforce the support order for you. For example, CSED will serve an order on the obligor's employer to help set up direct payments from a paycheck. If using CSED services, payments will be made to CSED, who will pass along the money to obligee. For more information about CSED, read *Information about CSED* (form DR-316). If you want to request CSED's services, fill out and attach *Application for CSED Services* (form DR-315) or apply online at <https://childsupport.alaska.gov/>.

If the obligee parent is receiving assistance from the Alaska Temporary Assistance Program (ATAP), child support payments must be made to CSED. This is because the state will use the money to reimburse itself for the benefits paid out on behalf of the children.

Immediate Income Withholding

The Alaska Statutes require that support payments be withheld from the obligor's income unless one of the following three exceptions applies to your case:

- (1) Alternative Payment Arrangement. The parents make a written agreement for an alternative arrangement, such as having a military allotment paid to the obligee, payment of two months' support to the obligee as security for future payments, or an automatic funds transfer from the obligor's bank or employer to the obligee; **and**
 - if CSED is enforcing the support order, CSED entered this agreement into its record; **and**
 - an income withholding order has not been terminated previously and then later initiated; **and**
 - the obligor agreed to keep the obligee (or CSED, if CSED is enforcing the order) informed of the obligor's current employer and the availability of employment-related health insurance coverage for the children until the support order is satisfied.
- (2) Not in Best Interests of Children. The court finds good cause not to require immediate income withholding, because it would not be in the best interests of the children; **and**
 - the obligor made voluntary support payments under a court or agency order and has not been in arrears in an amount equal to the support payable for one month; **and**
 - the obligor agreed to keep the obligee (or CSED, if CSED is enforcing the order) informed of the obligor's current employer and the availability of employment-related health insurance coverage for the children until the support order is satisfied.

- (3) Obligor Receives Other Compensation. The obligor is receiving Social Security or other disability compensation that includes regular payments to the children at least equal to the child support owed each month. State the amount the children receive each month and where the money comes from. If these Social Security or other disability payments for the children are less than the amount the obligor owes, the court must order that the remaining amount due be withheld from the obligor's income, unless exception (1) or (2) also applies.

If one of these exceptions is granted, but payments later become delinquent, income withholding can be started by filing a motion with the court or by making a written request to CSED (without requesting CSED's other services). If a party has applied for CSED services, CSED can start the procedures for putting income withholding into effect.

Section 8.

Alaska Permanent Fund Dividend (PFD)

Identify who will apply for the Alaska PFD on behalf of the children while they are minors (under age 18). If both parents apply for the children, the Department of Revenue will not send the dividends to either one. The Department will hold the dividends until they receive a court order directing who should receive the dividends or until one parent withdraws the applications that parent filed on behalf of the children (15 AAC 23.223(h)).

Native Corporation Dividends

If it is possible that Native Corporation dividends may be paid on behalf of any children, fill out this section to explain how the money will be spent or saved.

Federal Taxes

You may agree on which parent will claim the children for purposes of tax benefits, however, your agreement must be in compliance with federal tax law. The court cannot give you advice on federal tax law; contact the IRS or your tax advisor about the laws governing tax benefits for individuals with dependents, because they can help explain the current laws.

To get the child tax credit and other tax benefits, you must meet the requirements described in [Internal Revenue Service \(IRS\) Publication 501](#). [IRS Publication 504](#) explains special rules that may apply. Check that you are viewing the publication for the current tax year, because the IRS updates them annually. If a parent who has less physical custody of the children during the year is more than four months behind in child support payments at the end of the tax year, then that parent cannot claim certain tax benefits for that tax year.

Section 9. If a spouse is pregnant, the law assumes that the child is a child of the married couple (in other words, that the other spouse is the second parent). If this is actually the case, you can include the unborn child in your parenting plan agreement. If the unborn child is **not** the child of the non-pregnant spouse, then you may need to bifurcate (separate) the issue of the unborn child's paternity and decide or disestablish it later, once the child is born. For more information on paternity issues and related forms, see ak-courts.info/paternity.

Section 10. The law assumes that any child born during the marriage is the biological child of both spouses, and that both spouses are the legal parents. This means that both spouses have the rights and responsibilities of parenthood, including payment of child support after a divorce.

If paternity needs to be disestablished for any child **already born** during the marriage, attach proof of this disestablishment. Forms of proof include:

- *Three-Way Affidavit to Disestablish Paternity*, form [DR-521](#) (this must be signed and notarized by the biological mother, the biological father, and the legal father (the spouse when the child was born or conceived))
- a previous court order disestablishing paternity
- a certified birth certificate showing the correct legal father

You may also ask for the court to order genetic (DNA) testing using *Motion and Affidavit for Genetic (DNA) Testing*, form [DR-530](#). Note that this may delay the finalization of your divorce.

Section 11. The division of the property must be fair and just to both spouses. Ordinarily, the fairest division of the property is an equal division. However, there may be some circumstances, such as a very short marriage, that would justify something other than an equal division of all items acquired and debts incurred during the marriage.

Your property division agreement must fairly allocate the economic effect of the divorce. It must take into consideration the following factors listed in Alaska Statute 25.24.160(a)(4):

1. the length of the marriage and station in life of the parties during the marriage;
2. the age and health of the parties;
3. the earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from the job market, and custodial responsibilities for children during the marriage;
4. the financial condition of the parties, including the availability and cost of health insurance;
5. the conduct of the parties, including whether there has been unreasonable depletion of marital assets;
6. the desirability of awarding the family home, or the right to live in it for a reasonable period of time, to the party who has primary physical custody of the children;
7. the circumstances and necessities of each party;
8. the time and manner of acquisition of the property in question; and
9. the income-producing capacity of the property, and the value of the property at the time of division.

Marital Property

Describe all property of both parties that you bought or received during the marriage, regardless of who is on the title or who bought it. Also include any property from before the marriage that should be divided in order to be fair to both parties.

"Real property" means buildings and land. "Personal property" includes physical things like pets, jewelry, automobiles, boats, airplanes, snow machines, furniture, and household goods. It also includes financial instruments like cash, bank accounts, stock, and bonds. Finally, you must include businesses, contract rights, and employment benefits, such as the value of retirement plans.

List the value of each piece of property. Check the boxes showing whether the property was acquired during the marriage and who currently possesses it (A = Spouse A, B = Spouse B, and JT = jointly owned). Then check the box showing who should get the property after the divorce. If you want to divide the property between you, show what fraction or percentage of the value each spouse will get instead of checking the boxes.

Retirement Benefits

One special type of personal property that you must agree about is retirement benefits. During your marriage, if either spouse earned the right to someday receive retirement benefits as a result of employment or military service, you will need to decide how to divide the value of those benefits between you. You ordinarily need to do this even if the employee spouse has not yet "vested" in the retirement program.

You will probably need help from a lawyer or the administrator of the retirement plan. You should obtain and review any available written summary of the retirement plan and a statement of the value of the employee's expected benefits.

Generally, you can divide these benefits in either of two ways:

1. You can let the current owner of the benefits (the covered employee) keep the benefits and give the other spouse cash or other assets worth half the current value of the part of the benefits earned during the marriage. You will have to figure out what the current value of the benefits is. You may need an actuary's help to do this.
2. You can give the non-employee spouse the right to receive part of the retirement benefits when those benefits are eventually paid out. Under this option, it is not necessary to figure out the current value of the benefits. Both spouses will have to wait to receive any payments until the employee spouse is eligible to receive the benefits.

If you choose this option, in most cases your agreement must meet the requirements of a "qualified domestic relations order" (QDRO) as that term is defined in the statutes that apply to the retirement plan. Also, your agreement, along with the divorce decree, must be filed with and accepted by the administrator of the retirement plan before it will be effective. Contact the administrator of the retirement plan before filing your written agreement with the court and request copies of the plan, procedures for QDROs, and any forms the plan administrator may have prepared.

Write your retirement benefits agreement on a separate piece of paper and attach it to your complaint. Depending on the type of retirement plan, there may be several requirements or items that should be covered by the agreement and order. Contact the administrator of your plan to make sure all the required information is included in your agreement.

In order to write an agreement that will be enforceable, **you will most likely need to speak with a lawyer who is familiar with the laws about QDROs.** You may also be able to get assistance from the administrator of the retirement plan. Remember that your agreement is not effective until it and the divorce decree are filed with that administrator and you have received notice that it is accepted. If it is not accepted, you will have to go back to court to get an order correcting any defects.

If you are submitting a proposed QDRO, or any similar order requiring the social security numbers of the beneficiary and alternate payee, you must also **submit a copy of the original proposed order with the social security numbers of the beneficiary and alternate payee completely marked out.** The original proposed order is confidential and will not be part of the public record. Only the duplicate with the social security numbers blacked out will become part of the public case file.

Note on Military Retirement

The requirements for dividing military retirement pay are different. A QDRO is not required. The Uniform Services Former Spouses' Protection Act (10 U.S.C. § 1408) describes the procedure that must be followed in order for the former spouse to receive payment directly from the government. For example, the spouse's agreement must show that the spouses were married to each other for 10 or more years during which time the military member performed at least 10 years of creditable service. The agreement must specifically provide for payment of an amount from the military member's "disposable retired pay" to the former spouse. The amount must be stated either in dollars or as a percentage of the member's disposable retired pay. For more information about what is required and about the application form you must fill out and submit after you get your divorce decree (DD Form 2293), contact the Legal Assistance Office at any military installation in Alaska. If you do not meet the "10/10" requirement, any retirement payments that you agree should be made to the former spouse would have to be made by the military member directly to the spouse instead of coming to the former spouse from the government.

Debts

Describe all debts and liabilities of both parties. Debts include all kinds of financial obligations, such as loans, credit card balances, bank card debits, the mortgage on your house, unpaid bills, liens or fines, etc.

List who the debt is owed to and the total amount needed to pay off the balance (do not list monthly or other periodic payment amounts). Check the box showing whether the debt was incurred during the marriage and the box showing who owes the debt (Spouse A, Spouse B, or jointly owed). Then check the box showing who will be responsible for paying the debt. Each spouse is responsible for their own separate debts in their name unless you agree otherwise.

The two of you may agree which spouse will pay each joint debt (debt in both parties' names). However, although this agreement will be binding against the two of you, it will not be binding against the people the debts are owed to (the creditors), because they are not parties in this court case. For joint debts, both of you will remain legally obligated to your creditors until the existing debt is paid, regardless of your agreement on who will pay the debt.

In addition, if both your names are on a mortgage or other debt, you may not be able to get new loans or credit. If possible, you may want to refinance these debts to put them only in the name of the party responsible for paying them.

To protect yourselves against future debts or purchases the other party may incur on credit cards and other open accounts, you may want to close your current joint charge and bank accounts and reopen them in your separate names.

Section 12. Use this space to write any other agreements between you. For example:

- you might agree that one spouse will pay spousal support (alimony) to the other (if you do this, make sure to include the specific amount and how long it will last),
- you might agree that one spouse will maintain a life insurance policy that names the children or the other spouse as beneficiary,
- you might agree on which parent will file the tax returns for the children, or
- you might agree on the details of how property will be exchanged or how you will try to refinance any joint debts.

If you want the court to enforce your agreements, you should write them down and include them on the complaint. The court can enforce oral agreements that happen at the hearing on the record, however, written agreements are usually clearer, more detailed, and easier to enforce.