

INSTRUCTIONS FOR FILING AN UNCONTESTED COMPLAINT FOR CUSTODY OF MINOR CHILDREN

Use these instructions to ask the court to issue a child custody decree when both parents agree on all issues, including the parenting plan, schedule for the children, and child support. Both parents must sign the form and all required attachments to use the uncontested complaint.

If the parents do not agree on everything or cannot fill out and sign the paperwork together, either parent may instead file form [DR-420](#), *Complaint for Custody of Minor Children*. The other parent 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 custody case is finalized, but it is easiest to do it before you file the paperwork in court so your case 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 Custody of Minor Children* ([DR-402](#)). More information on how to fill out this form starts on page 4 of these instructions.
- b. *Information Sheet* ([DR-314](#)).
- c. *Child Custody Jurisdiction Affidavit* ([DR-150](#)). List every child born or adopted of your relationship that is still a minor.
- d. *Child Support Guidelines Affidavit* ([DR-305](#)). Each parent must attach a copy of their most recent federal tax return, at least 3 most recent pay stubs, 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.

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-402 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 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 parents 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 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 custody. 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 custody case 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 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-402**)

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 parent's contact information. If your information changes after you file, but before the case is final, 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 A and who is Parent B, there is no legal difference in a custody 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 custody case is handled by the same judge to avoid any conflicting orders.

Section 2. List all children under age 18, born born of your relationship 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.

If paternity needs to be established on any child, include that information in this section. Paternity may need establishment if, for example, the biological father is not listed on the birth certificate or if a different person is listed as the legal father (in that case, you also need to disestablish the current legal father). For more information on paternity issues and related forms, see ak-courts.info/paternity.

Section 3. 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 4. 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. 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 5.

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

- you might want to address what will happen to any shared property from your relationship (for example, if you used to live together),
- you might agree to take out life insurance policies listing the other parent or the children as beneficiaries, or
- you might agree on which parent will file the tax returns for the children..

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.