INSTRUCTIONS FOR ANSWERING A CHILD CUSTODY COMPLAINT

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SECTION 1

INFORMATION ABOUT FILLING OUT FORMS

- If filling out by hand, print neatly in black ink.
- Fill in all information. Do not leave any spaces blank. If you do not know the information, write "Do Not Know."
- Write "none" or "N/A" (not applicable) where appropriate.
- At the top of the first page, fill in the contact information that you want the court and the other parent to use during the case. It does not have to be your own contact information if you want to keep that confidential, but make sure that it is a mailing address and an email address that you have access to and can check regularly. By law, if the court and the other parent send you court papers to the addresses you provide, you are considered to have received it. It is your responsibility to check for new court papers and keep on top of any deadlines.
- Underneath your contact information, fill in the "case caption" exactly the same as on the complaint. The case caption includes the city where the court is located, the names of the parents (or "parties"), and the case number. Every time you file something in court, you must fill out this same case caption information at the top.
- If more space is needed, attach additional pages. Only write on one side of the page and leave at least one inch of margin around the edges. On each added page, do the following:
  - sign your name at the end of each page you attach
  - write the case title and case number in the bottom left corner of each attached page (for example: Smith v. Jones, Case No. 3AN-01-1234CI)

NOTE: All public forms referenced in these instructions are available on the court's website at ak-courts.info/forms. For customers with limited or no internet access, paper forms are available from the court clerk, or you can call the Family Law Self-Help Center to ask for them to be mailed to you: (907) 264-0851 (in Anchorage) or (866) 279-0851 (outside Anchorage).

SECTION 2

STEPS FOR FILING ANSWER

These forms and instructions are for parents who are representing themselves (they do not have a lawyer). If you have a lawyer, your lawyer is responsible for writing and filing your response, including all required attachments. Contact your lawyer as soon as possible to discuss what to put in your response.

You have been served with a complaint asking the court to issue an order about custody (also called a "parenting plan") and child support for your children. Since you were served the complaint, you are sometimes called the "defendant." The person who started the case may also be called the "plaintiff." In a child custody case between two parents, there is no difference in treatment (for example, in who has the burden of proof) between the plaintiff and the defendant.

You must respond in writing to the complaint. This response is called an "answer." **You have 20 days** (40 days if you were served outside the United States) to file your answer. The 20 days starts counting from the date you either (1) signed the green card or postal receipt for the certified mail, **or** (2) received the papers from the process server.

If you do not file an answer with the court, the other parent may ask the court for a default against you. This means that the court will decide the case without hearing from you. Read more about defaults at ak-courts.info/default.

Step 1 Fill out the following forms:

a. ***Answer and Counterclaim to Complaint for Custody of Minor Children*** **(DR-450)**

b. ***Information Sheet*** **(DR-314)**

c. ***Child Custody Jurisdiction Affidavit*** **(DR-150)**
If you believe that telling the other parent some of the information on this form would put you or your children's health, safety, or liberty in danger, you are not required to give a copy of this form on the other parent. Instead, file this form together with court form DR-151. If you are using TrueFiling, file these two forms in a separate bundle and mark it as a confidential filing. AS 25.30.380(e).

d. ***Child Support Guidelines Affidavit*** **(DR-305)**
For more information about how to fill out this form (and any required attachments), read the booklet DR-310, *How to Calculate Child Support*.

You must sign the two affidavits 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 a court clerk, sign the affidavits and attach *Self-Certification* (TF-835).

Additional forms that may be required or used depending on your situation:

a. ***Shared Custody Child Support Calculation*** **(DR-306)**
This form is required only if you are asking for a shared physical custody parenting plan. For more information on how to fill out this form, read *How to Calculate Child Support* (DR-310).

There are two other types of physical custody described on page 9: divided and hybrid. If you ask for a divided physical custody parenting plan, you must attach form DR-307. If you ask for a hybrid physical custody parenting plan, you must attach form DR-308. Read more about these different parenting plans in Civil Rule 90.3. Read more about how to fill out DR-307 and DR-308 in the booklet *How to Calculate Child Support* (DR-310).

b. ***Application for Child Support Enforcement Division Services*** **(DR-315)**
If you want to use CSED to help enforce the child support order and collect, track, and manage payments, you can include this application form. Or you can instead apply for CSED services online at www.childsupport.alaska.gov.

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 and the other parent you are exempt on your first filing with the court. Many forms have a check box and space for you to do this already on the form. If not, write the following statement on your form or document and sign your name after it: "I certify that I am exempt from using TrueFiling for a reason listed in Administrative Bulletin 92."

For TrueFiling Users: Steps 2 and 3

Step 2

If you filled out your forms electronically, save them as separate documents to your local device. If you filled out your forms in 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 answer and all attachments as one "bundle." See ak-courts.info/tfhowto for detailed instructions on using TrueFiling.

Step 3

You must give a copy of everything you file in court to the other party in the case. This is called "service." If the other party has a lawyer, serve their lawyer instead of serving them directly.

If the other party is also using TrueFiling, you can complete service on them within TrueFiling by selecting their name in the service screen after you file. TrueFiling will automatically create a certificate of service to prove that you did this.

If the other party is **not** also using TrueFiling, but **did** give the court an email address, you can use the same screen and procedure to serve them within TrueFiling. However, you will have to type in their email address yourself rather than select from a list.

If the other party is **not** using TrueFiling, and did **not** give the court an email address, you will have to complete service one of these ways:

- Fill out the certificate of service section on the form with the date you served the other party and the method (mail or hand-delivery) that you used. You must complete service on the other party and fill out this section of the form before you upload the documents into TrueFiling, so that it is included on the completed document that the court can see.
- Within TrueFiling, you can select that you served the other party by mail or hand-delivery, **but you must also serve at least one person by email at the same time**. If there are no other parties to serve by email, you can serve yourself by email to get TrueFiling to create the certificate. You must also type in the address you used to mail or deliver the documents to the other party and the date you served them or will serve them.
- Serve the other party as soon as possible after you file and then fill out a separate certificate of service. You can use TF-700 or write your own. Include the name of the person you served, when you served them, the method you used (mail or hand-delivery), and the names of the documents you gave them. Upload this separate certificate to TrueFiling as soon as complete. Your filed documents will not be processed by the court until you file the certificate of service.

For People NOT Using TrueFiling: Steps 2 and 3

Step 2

You must give a copy of everything you file in court to the other party in the case. This is called "service." If the other party has a lawyer, serve their lawyer instead of serving them directly.

Make two copies of everything you plan to file in court, including any attachments. One set of copies is for you to keep for your records. The other set is to give ("serve on") the other party. Keep the originals to file with the court (explained in Step 3).

Use **one** of the following methods to serve the other party:

a. by first-class mail to the address listed for the other party on the *Summons*; or
b. by hand-delivery to the other party in person; or
c. if the other party is using TrueFiling **or** gave an email address to the court, by email to the email address they listed; or
d. if the other party agreed to it in their complaint, by fax to the fax number they provided.

After serving the documents on the other party, fill out the certificate of service section on the original of the answer form that you will file in court. You may also attach a separate certificate of service instead, such as TF-700, or write your own. If using a separate certificate, include the name of the person you served, when you served them, the method you used (mail or hand-delivery), and the names of the documents you gave them. Your filed documents will not be processed by the court until you file a certificate of service.

Step 3 File the **original** forms (including any attachments) at the court address listed on the *Summons*. You may bring them in person to the court or mail them.

For Everybody: Step 4

Step 4 **Agreement**. If you agree in your answer with everything the complaint requests, or if you and the other parent can reach a written agreement on all issues concerning the children, you do not need to ask for a trial. Instead, you can ask the court to set a hearing to review your agreement and enter a custody judgment. Use *Agreement and Order* (DR-260) and file it together. You may find *Model Parenting Agreement* (DR-475) helpful to write out your agreement.

Free or reduced cost mediation may be available to help you reach agreement without a trial. If you are interested, file *Request for Court-Sponsored Parenting Plan Dispute Resolution* (MED-405). You can also ask around or search online for private mediators to hire.

Pretrial Order. You may have received a copy of a "Pretrial Order" (sometimes called a "Standing Order") along with your summons. Be sure to read the order carefully. This order contains important instructions about what will happen in your case. It may also have important orders that you have to follow, such as not removing the children from Alaska without the other parent's permission or a court order.

Trial-Setting. After you file your answer, the court will automatically schedule a hearing and will sent you a notice with the date, time, and place of the hearing.

Child custody trials and hearings are usually in person, but if it will be hardship for you to attend you can:

- File *Request to Appear by Telephone* (TF-710) to ask to be on the phone for the hearing; or
- File *Request for Remote Video Hearing* (TF-718) to ask the court to hold the hearing by Zoom.

SECTION 3

INFORMATION ABOUT PARENTING PLANS, CHILD SUPPORT, AND OTHER FINANCIAL MATTERS AFFECTING THE CHILDREN

In determining custody (a parenting plan), the judge must decide what is in the best interests of the children. See page 17 for a list of factors the judge must consider in making this determination. Be prepared to explain to the judge how your proposal is in the best interests of the children. See ak-courts.info/parentingplan for sample plans, forms to help you write out a proposal or agreement, things to consider, and other helpful resources, such as videos.

The Parenting Plan

Decision-Making.

Decision-Making (formally called "legal custody") means the right and obligation to make decisions about a child's upbringing, including schooling, medical care, and religious and financial matters. There are two types of decision-making:

Joint Decision-Making: both parents discuss the issues and decide together, because they can communicate about the children, even though they may not get along otherwise. Joint decision-making is the most common arrangement.

Sole Decision-Making: one parent makes decisions about the children, because the parents are not able to communicate about the children, or one parent is unfit due to severe mental illness, substance abuse, or domestic violence issues. Both parents usually have access to school and medical records, both parents have the authority to make a decision in an emergency when the child is with them, and neither parent can move out of the state with the children without permission from the court or the other parent.

Alaska's legislature has expressed a policy favoring joint decision-making regardless of the physical custody arrangement. The legislature has stated that "it is in the public interest to encourage parents to share the rights and responsibilities of child rearing" and that "it is the intent of the legislature that both parents have the opportunity to guide and nurture their child…" Section 1 ch 88 SLA 1982.

However, joint decision-making is appropriate **only** when the parents can cooperate and communicate regarding the child. *Farrell v. Farrell*, 819 P.2d 896, 899 (Alaska 1991). If the parents cannot discuss these matters cooperatively and share decisions, joint decision-making will not be ordered.

Living Arrangements.

Living arrangements (formally known as "physical custody") means which parent the children will phycially be with and live with on particular days and times. 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 about dates and times in your proposal. Consider special circumstances such as holidays and school breaks and whether the schedule will vary during those times. A parenting plan may also address where and how exchanges of the children take place, or travel arrangements if parents do not live in the same community. Parents can always mutually agree to deviate from the plan, but having a specific plan in place when parents don't agree can help avoid conflict.

Safety Concerns.

A history of domestic violence can significantly affect the parenting plan in your case. If one or both parents have a history of domestic violence, as defined by the law, the court may be limited in the kind of parenting plan it can order. If this applies to your situation, you are strongly encouraged to discuss the situation with a lawyer.

You may address other types of safety concerns in your proposed parenting plan, such as substance abuse, neglect, or other parenting issues. You should focus on how these issues directly affect the children. If you are proposing any restrictions on the other parent's parenting time, it should be tailored to address those concerns. If you are proposing a supervisor, be specific about who will be the supervisor, what the supervisor is watching for, and who will pay for the supervisor's time, if necessary.

It is extremely rare for a court to order that a parent have no contact at all with the children. If you are asking for this, be detailed and specific about why it is necessary.

Child Support

The law requires that both parents financially support their children. Support is paid on behalf of the children, not for the benefit of the custodial parent. Judges must follow Civil Rule 90.3 to set the amount of child support. This rule usually requires a math formula that takes into account the parents' incomes and the children's schedule. For purposes of calculating the amount of child support, Civil Rule 90.3(f) describes 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.

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.

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.

There are several questions on the answer form in section C.2 about the specifics of ordering child support and how it will be collected. If you do not agree with any of the requests in the other parent's complaint, make sure that you fill out this section of the answer with your proposals.

If one of the parents asks for its help, the Alaska Child Support Enforcement Division (CSED) can maintain records of support payments and enforce the child support order. For example, CSED will serve an order enforcing the income withholding order on the employer of the parent ordered to pay support. CSED can also help calculate health insurance adjustments.

For more information about CSED, read DR-316 or visit their website at childsupport.alaska.gov. If you want to request CSED's services, fill out DR-315 and attach it to your answer, or visit their website to apply online.

If the parent who is owed child support gets any public benefits (such as ATAP or TANF), CSED will automatically collect child support from the other parent to reimburse the state for the cost of the benefits.

Other Financial Matters

Alaska PFD.

Ask the court to designate which parent 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 they filed on behalf of the children. 15 AAC 23.223(h).

Consider how you and the other parent want to spend the children's PFD money. You can always mutually agree to do something different than what is in the order, but agreeing on a default plan ahead of time can avoid costly arguments later if parents do not agree.

Alaska Native Corporation Dividends (if applicable).

It is a good idea to ask the court to include in the order how you and the other parent want to spend the children's ANC dividend money. You can always mutually agree to do something different later on, but agreeing on a default plan ahead of time can avoid costly arguments later.

Federal Taxes.

Ask the court to designate which parent will claim the children as dependents while they are minors (under age 18). If both parents claim the same children in the same year, it can cause problems with the Internal Revenue Service and federal law. You can always mutually agree to do something different later on, but agreeing on a default plan ahead of time can avoid costly arguments later.

Keep in mind that federal law may place restrictions on claiming children if certain conditions are not met. For example, if a parent is behind on child support payments, they may be ineligible to claim the children. You should consult a tax attorney or CPA if you have any questions about federal tax law.

Paternity

If there is a question or disagreement about who the biological father of the children is, this must be resolved before the court decides the rest of the case.

If the biological father is **not** listed as the father on the birth certificate of each child, **but both parents agree** that he is the biological father, you can do either of the following:

1. File an *Affidavit of Paternity* with the Health Analytics and Vital Records office. This affidavit form (VS-06-5376) is available at courthouses and at Bureau of Health and Vital Statistics offices. You may also request one to be mailed or emailed to you by contacting the Bureau. Both parents must sign the affidavit.
2. State in both the complaint and the answer that this person is the biological father. If both parents agree in their pleadings that he is the biological father, and no other person is already established as the legal father, there should not be a paternity issue in the case.

If a **different person** is already listed as the biological father on the birth certificate or is otherwise established as the legal father (this can happen if the biological mother was married to a different person when the child was born), but **all three people agree on who the biological father really is**, you can file the *Three-Way Affidavit* (DR-521). All three people involved (biological mother, biological father, and current legal father) must sign and notarize this form.

If the alleged biological father or the biological mother denies paternity, the court probably will require a hearing or other evidence to resolve this issue before deciding other issues in the case. The following are two options to get paternity established when it is contested:

1. Apply to the Child Support Enforcement Division (CSED) for a determination of paternity. The forms for this are available at CSED offices and on the CSED website at www.childsupport.alaska.gov.
2. File a *Motion for Genetic (DNA) Testing* (DR-531).

The court may also hold a hearing to hear testimony about paternity or establish it by other evidence through a court order.

SECTION 4

TRIAL

There are two types of trials that can happen in a child custody case: informal and formal. If both parents agree to it, you can have an informal trial. If one or both parents object to an informal trial, there will be a formal trial. The clerk will usually send you a notice (form DR-900) asking you to choose which kind of trial you want. The notice has a brief explanation of the difference. You can read more detail about each type of trial at https://courts.alaska.gov/shc/family/shcdr-trials.htm.

Informal Trial.

The main difference is that an informal trial does not follow the formal rules of evidence. This means that you and the other parent will testify in a narrative, although the judge may ask questions to make sure you cover all the important topics. You can suggest topic areas for the judge to ask the other parent and other witnesses about, but you cannot ask questions directly. You may request to have other witnesses (including expert witnesses) testify, but the judge must agree they are needed in your case.

All evidence is admissible (no objections are allowed), even if the evidence would potentially violate a formal rule of evidence. The judge will accept all evidence and decide independently how much weight to give it and how relevant or convincing it is.

The judge may limit the amount of witnesses and exhibits (documents, photographs, etc.) to focus on the most relevant information and avoid duplicating evidence.

Even in an informal trial, both parties must remain respectful and not interrupt each other or the judge. The judge will explain to each party when it is their turn to speak and present evidence.

Formal Trial.

In a formal trial, there are strict rules about preparation of documents and exchange of information (called "discovery") ahead of trial. The court will usually issue a "pretrial order" explaining the deadlines to exchange discovery, file exhibit and witness lists, and file pretrial briefs (if requested). It is important to read this order carefully, because if you miss any of these deadlines you may not be able to have your witnesses testify or show your exhibits to the court. The court has forms to help you with many pretrial requirements—see, for example, the "Trial Forms" (TF-numbered forms) at https://courts.alaska.gov/forms/index2.htm#tf.

During the trial, witnesses can only answer questions from one of the parties or the judge. When you testify, you can initially speak in a narrative. But when you are done, the other party or their lawyer can ask you questions that you have to answer (called "cross-examination"). The judge may ask less questions in a formal trial. You or the other party can object to a witness's statement or the other party's questions if you believe they violate one of the rules of evidence.

If you want to show the judge an exhibit (for example, a document or photograph), it must be marked appropriately with an exhibit sticker, given an exhibit number, and it must comply with the Rules of Evidence. The Rules of Evidence can be complicated. You can read them online at https://courts.alaska.gov/rules/docs/ev.pdf. They are also in the *Alaska Rules of Court* book, available at all courthouses and in most public libraries.

Preparing for Trial

Go to Another Trial.

If possible, try to attend a custody trial of the same type (formal or informal) as you will be having. This will help you get familiar with the general procedure and the layout of the courtroom. You may also learn some tips from others on what works and what doesn't.

Make an Outline.

Review all the documents filed by both parents in the case. Then make a list of the issues that you don't agree on and identify the documents, witnesses, or other evidence that will support your side.

Things to include in your outline:

1. Why your proposed parenting plan is in the best interests of the children. The following are examples of items you might want to discuss:
   - what are the children's needs and how is each parent able to meet those needs
   - what has the children's schedule been like in the past and should that continue or change
   - how each parent encourages a relationship between the children and the other parent
   - why you are a responsible parent (give examples)
   - any safety concerns and how your parenting plan addresses those

   See Section 6 for a complete list of the things the court must consider in determining the best interests of the children. You may also find it helpful to fill out the *Best Interests Affidavit* (DR-965) and refer to it during your testimony.
2. Why your income information is correct, if the other parent is disputing it. If you think the other parent's income information is not correct, what evidence you have of their actual income. Do not get too hung up on the exact, final child support number during trial—remember that child support is based on the children's schedule and the parents' income. Once those two things are established, the judge simply follows a math formula to get the child support number. The judge can often calculate this for you after the trial is done and the order is issued.
3. Any other issues about the children that you don't agree on. For example, any restrictions such as supervised visits, how PFDs or taxes are handled, how the parents will communicate with each other or do exchanges, travel expenses, rules for vacationing with the children out-of-state, etc.
4. For each issue in your outline, list the witnesses and other evidence you will use to support your side.

Contact Witnesses.

A witness is someone who has information about why the judge should agree with your requests. For example, you might want to ask family members, social services representatives, or baby-sitters to testify about your children's needs and how your proposed parenting plan best addresses those needs. Witnesses must have **personal knowledge** of what they testify about. The judge may not allow them to testify about something that happened if they were not there and only heard about it from someone else.

If you want to have witnesses testify, it is your responsibility to arrange for them to be at the trial. If a witness cannot appear in person, you can ask the court for permission before the hearing to have the witness testify by telephone (you can use TF-710). If you think or know a witness will not come voluntarily to court, you may ask the court to issue a subpoena (a court order that requires the person to appear and testify). See *How to Subpoena a Witness* (CIV-109). You must pay a witness fee to each witness you subpoena.

You do not have to have any witnesses besides yourself. It is common for the only witnesses at a custody trial to be the two parents. If no one else has particularly relevant information, it is best to spend your allowed time focusing on your own testimony.

In most cases, children do **not** testify at trial. If you think it is important for a child to testify, you should bring this up with the judge well before the trial date. Include what topics you want the child to speak about. Before you do this, think carefully about whether there is any other way to get this information to the court. It can be traumatizing for children to testify in court, especially if they are asked to say negative things about a parent or choose between them. In some cases, the judge may order the child to be interviewed by a special court staff member trained in child interactions, called a parenting plan facilitator. In serious cases where abuse is alleged, the court may appoint a *guardian ad litem* (or "GAL") to represent the child's interests independent of the parents.

Collect Supporting Documents, Photographs, or Other Evidence.

You must also bring to the trial any documents or other physical objects you want the court to consider. Make at least two copies of everything—one for the judge and one for the other parent. You may use the originals for your own reference during trial. Examples of documents you might want to bring with you:

- financial records to help decide income for purposes of calculating child support (your income or the other parent's income, such as tax returns and pay stubs)
- school or medical records of the children, especially if they have unusual or special needs
- text messages or emails between you and the other parent (it is best to print these out if possible—the judge may not be willing to scroll through your phone or computer during trial and the other parent has a right to see the exhibits during trial as well)

In a formal trial, you may **not** be able to use letters or affidavits from people who are not present to testify, because the other party would not have a chance to ask the writer questions about the document. In an informal trial, the judge will accept these types of documents, but may give them less consideration than if the writer had testifed live as a witness.

In a formal trial, you should mark all of your exhibits with an Exhibit No. and list them on an Exhibit List. You can use TF-200. Exhibit stickers are available from the court clerk.

Prepare an Opening Statement.

In a formal trial, the judge may ask you to make an opening statement, so write a short summary that will take 2-3 minutes to deliver. It should cover your main requests and the evidence you plan to present (your own testimony, witnesses, or exhibits) to support what you are asking for.

Practice.

Practice presenting your evidence and testimony in front of friends or family ahead of time. This will help you get more comfortable speaking. You will also have a better sense of how long your case will take and can add or delete information based on their feedback.

During Trial

On the date set for the trial, both parents must be present and ready to give the court their evidence. All witnesses must also be present. Get to court a little early on the day of your trial. Especially in larger court locations, make sure to leave enough time to find parking and get through security.

If you cannot tell from your notice of trial or from the posted court calendar which courtroom your trial will be in, ask the court clerk for directions. You may have to wait before your case is called because there may be other cases scheduled before yours.

Each party will have the opportunity to speak and present evidence. You must present your own case at the trial. No one except you (or your lawyer, if you have one) can represent you in court. The plaintiff (the person who started the case) will go first, then the defendant. Before beginning to testify, each party and each witness will be placed under oath to speak only the truth.

Some suggestions for presenting your case and behavior in court:

- Bring a notepad and pen or a tablet you can take notes on.
- If the judge asks for an opening statement, keep it short (2 to 3 minutes), a summary of what you want and why the judge should order it. Your opening statement is not evidence, so save the details until it is your turn to testify under oath.
- Talk with your witnesses about why you want them to testify, so they focus on the most relevant information. Remind them that they need to talk about things they have personally seen, not things you or someone else told them. In an informal trial, your witnesses can tell a story about what you want the court to know. In formal trials, you must usually ask them questions that they answer. Try to ask open-ended questions rather than yes or no answers.
- Show your documents and other exhibits to the judge while you or a witness is testifying about that topic, so you can explain the exhibit and use it to support the testimony. It is rarely helpful to give documents to the judge to read without any explanation or context.
- In a formal trial, you will have the chance to ask the other parent and their witnesses questions (called "cross-examination"). This is often difficult for self-represented parties to do without getting into an argument or getting frustrated when the witness will not answer how you expect. It is usually a better strategy to explain why you disagree with what they said when you give your own testimony.
- Refer to your outline so you don't forget anything. If you forget to present something at trial, the judge won't be able to consider that point. An outline will also help you stick to your main points and not get side-tracked. The judge may limit the time each side has, so make sure to cover your most important points first.
- Do not assume that the court knows all about your case. You have to present facts to support all the points you want to make. The judge cannot fill in the blanks for you.
- Never interrupt the other parent or the judge. If you hear something that is upsetting or untrue, make a note of it and respond when it is your turn to speak.
- Be polite and remember that the judge will consider how you act in court, as well as what you say. Do not roll your eyes or sigh loudly or make similar reactions when another person is speaking.

SECTION 5

AFTER TRIAL

After all the testimony has been presented, the judge will make a decision. The judge may make the decision immediately on the record, or the judge may take some time to consider the evidence and make the decision later in writing (this is called "taking the case under advisement"). If the judge makes the decision on the record (an oral decision), it is usually in effect right away, even if it is not written down right away. If you have any questions about this, ask the judge before you leave court.

You will get a copy of the written judgment when it is completed. Make sure the court has your current contact information, especially your email and mailing addresses.

Appeal.

If you believe the court applied the law incorrectly or made a decision that was not supported by the evidence presented, you may appeal the custody judgment or the child support order to the Alaska Supreme Court.

An appeal does not automatically give you a new trial. The supreme court will not accept any new evidence. The only information the supreme court will consider on appeal is (1) a transcript of the tape recording of the trial, (2) any items presented as evidence at the trial, (3) the documents in the court file, and (4) legal briefs.

To appeal, file a *Notice of Appeal* with the Clerk of the Appellate Courts **within 15 days** after the date the judgment is distributed to you (this date should be at the end of the judgment or order and signed by the clerk). The court provides only limited forms and instructions for appeals to the supreme court. See Appellate Rule 218 for more information about appeal procedure in child custody cases. Appeals are complicated. They can also be expensive and last a long time. You should consider seeing a lawyer if you want to appeal.

Modification.

If circumstances affecting the children change after the judgment is entered, you can ask the court to modify (change) the custody judgment or the child support order.

- Change in Parenting Plan. Before the court will consider changing the order, there must be a *substantial change in circumstances* since the last order was entered. Also, the requested change must be in the best interests of the children.
- Change in Child Support. To change child support because of a change in income of either parent, the change must be both long-term and significant. The court will not modify a support order because of a minor or temporary increase or decrease in income. Generally, a change in income is considered significant if it is enough to raise or lower the support payments by 15% or more, or if it results in a different parent owing support.

  Child support may also be changed if there is a change in the children's schedule that would result in a 15% or more change in child support, or in a different parent owing support.

The following packets of forms may be used in modification requests:

- *Motion Packet to Request a Change in Parenting Plan or Child Support* (DR-700)
- *Response Packet to Motion to Change Parenting Plan or Child Support* (DR-720)

SECTION 6

ADDITIONAL INFORMATION

Laws. If you want to read about the laws that govern child custody and child support, 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
	How to Calculate Child Support Under Civil Rule 90.3 (DR-310) This free booklet is 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

"Best Interests of the Child" (Alaska Statute 25.24.150(c)).

To decide who gets custody of a child, the court must determine what is in the best interests of the child. The court must consider the following:

(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.

In deciding custody, the court must only consider facts that directly affect the child's well-being.

AS 25.24.150 limits the court's options to decide custody if either parent "has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner:"

(g) There is a rebuttable presumption that a parent who has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner may not be awarded sole legal custody, sole physical custody, joint legal custody, or joint physical custody of a child.

(h) A parent has a history of perpetrating domestic violence under (g) of this section if the court finds that, during one incident of domestic violence, the parent caused serious physical injury or the court finds that the parent has engaged in more than one incident of domestic violence. The presumption may be overcome by a preponderance of the evidence that the perpetrating parent has successfully completed an intervention program for batterers, where reasonably available, that the parent does not engage in substance abuse, and that the best interests of the child require that parent's participation as a custodial parent because the other parent is absent, suffers from a diagnosed mental illness that affects parenting abilities, or engages in substance abuse that affects parenting abilities, or because of other circumstances that affect the best interests of the child.

(i) If the court finds that both parents have a history of perpetrating domestic violence under (g) of this section, the court shall either

(1) award sole legal and physical custody to the parent who is less likely to continue to perpetrate the violence and require that the custodial parent complete a treatment program; or

(2) if necessary to protect the welfare of the child, award sole legal or physical custody, or both, to a suitable third person if the person would not allow access to a violent parent except as ordered by the court.

(j) If the court finds that a parent has a history of perpetrating domestic violence under (g) of this section, the court shall allow only supervised visitation by that parent with the child, conditioned on that parent's participating in and successfully completing an intervention program for batterers, and a parenting education program, where reasonably available, except that the court may allow unsupervised visitation if it is shown by a preponderance of the evidence that the violent parent has completed a substance abuse treatment program if the court considers it appropriate, is not abusing alcohol or psychoactive drugs, does not pose a danger of mental or physical harm to the child, and unsupervised visitation is in the child's best interests.

(k) The fact that an abused parent suffers from the effects of the abuse does not constitute a basis for denying custody to the abused parent unless the court finds that the effects of the domestic violence are so severe that they render the parent unable to safely parent the child.

(l) Except as provided in AS 25.20.095 and 25.20.110, a court may not consider a parent's activation to military service and deployment in determining the best interest of the child under (c) of this section. In this subsection, "deployment" has the meaning given in AS 25.20.095.

Shared Custody: Factors the Court Must Consider.

AS 25.20.090 states:

In determining whether to award shared custody of a child the court shall consider

(1) the child's preference if the child is of sufficient age and capacity to form a preference;

(2) the needs of the child;

(3) the stability of the home environment likely to be offered by each parent;

(4) the education of the child;

(5) the advantages of keeping the child in the community where the child presently resides:

(6) the optimal time for the child to spend with each parent considering

(A) the actual time spent with each parent;

(B) the proximity of each parent to the other and to the school in which the child is enrolled;

(C) the feasibility of travel between the parents;

(D) special needs unique to the child that may be better met by one parent than the other;

(E) 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 findings and recommendations of a neutral mediator;

(8) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;

(9) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;

(10) other factors the court considers pertinent.

Closure of Proceedings.

AS 25.20.120 states:

> Closure of custody proceedings and records. At any stage of a proceeding involving custody of a child the court may, if it is in the best interests of the child, close the proceeding to the public or order the court records closed to the public temporarily or permanently. The court may modify or vacate an order under this section at any time.

Access to Records.

AS 25.20.130 states:

> Access to records of the child. A parent who is not granted custody under AS 25.20.060 – 25.20.130 has the same access to the medical, dental, school, and other records of the child as the custodial parent.

Federal Tax Benefits

To get the child tax credit and other tax benefits, you must meet the requirements described in Internal Revenue Service (IRS) Publication 501. Check that you are viewing the publication for the current tax year because the IRS updates publications annually.

To get the child tax credit, your child must be a "qualifying child." A qualifying child must have lived with you for more than half the year. The "qualifying child" must not have provided over half of their own support during the calendar year and must also meet a few other age and relationship-to-filer requirements. Depending on your circumstances, your child may be a "qualifying child" for more than one person, such as the child's other parent or even the child's grandparent. If you think this might apply to you, review the "Qualifying Child of More Than One Person" section of IRS Publication 501.

Please contact the IRS or your tax advisor if you have questions about tax benefits.