

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

You have been served with a motion asking the court to change an order about child support, custody or visitation. If you want to oppose the motion, you must deliver a response to the court within **13 days** after the motion was mailed or hand delivered to you. Use these instructions to prepare your response.

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

- a. *Response To Motion* ([DR-725](#)).
- b. *Information Sheet* ([DR-314](#))
- c. *Child Custody Jurisdiction Affidavit* ([DR-150](#)). You must list every child covered by your most recent court order.
- d. *Child Support Guidelines Affidavit* ([DR-305](#)). Fill in the column for your income and deductions. You do NOT need to fill in the column for the other parent. You **must** attach a copy of your most recent federal tax return and most recent pay stubs to verify income and deductions.
- e. *Shared Custody Child Support Calculation* ([DR-306](#)) (required **only** if shared custody has been ordered or is being requested). If “divided” or “hybrid” custody (as defined in Civil Rule 90.3(f)) has been ordered or is being requested, you must instead attach form [DR-307](#) (for divided custody) or [DR-308](#) (for hybrid custody). These forms are available at the court or on the court system’s website.

CHILD SUPPORT INSTRUCTION BOOKLET: For more information about how to complete the child support calculation forms ([DR-305](#), [DR-306](#), [DR-307](#) & [DR-308](#)), use the booklet called “How to Calculate Child Support” ([DR-310](#)). This booklet is available on the court system’s website. If you have limited or no online access, the court clerk can give you a paper copy. The booklet includes a copy of the guidelines courts must follow in setting child support, Civil Rule 90.3.

You must sign your response and the two affidavits in front of a notary public. A court clerk can provide this notary service for you (at no charge) when you bring the documents to court. You must bring a photo ID with you for the notarization.

Step 2. Mail the following documents by first class mail (or hand deliver them) to the person who signed the motion:

- a. A copy of each of the documents listed in Step 1.
- b. A copy of all attachments to those documents.

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

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

REPLY. After the other parent receives your response, he or she has 8 days to deliver to the court his or her reply to your response. The other parent must send you a copy of any reply sent to the court.

HEARING. The judge may order a hearing if one is needed to decide any disputes about the evidence in your case. You will be notified if a hearing is scheduled. If it will be difficult for you to attend the hearing in person, contact the court to ask if you can participate by telephone.

Legal Information

If you want to read about the laws that govern these cases, 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 <u>How to Calculate Child Support Under Civil Rule 90.3 (DR-310)</u> This free booklet is available at the court. Forms and instructions for requesting that child support continue while a child is 18 (DR-320 to DR-323), 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

Custody Decisions: "Best Interests of the Child"

The court will not grant a change in custody unless there has been a substantial change in circumstances since the last order was entered. Also, the requested change must be in the best interests of the children. Alaska Statute 25.24.150 (c) lists the things the court must consider in order to decide what the children's best interests are. It states:

In determining the best interests of the child the court shall consider

- (1) the physical, emotional, mental, religious, and social needs of the child;
- (2) the capability and desire of each parent to meet these needs;
- (3) the child's preference if the child is of sufficient age and capacity to form a preference;
- (4) the love and affection existing between the child and each parent;
- (5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (6) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child, except that the court may not consider this willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in domestic violence against the parent or a child, and that a continuing relationship with the other parent will endanger the health or safety of either the parent or the child;
- (7) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;
- (8) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;
- (9) other factors that the court considers pertinent.

This statute also provides that, in awarding custody, "the court may consider only those facts that directly affect the well-being of the child" and that the court must comply with the provisions of the Indian Child Welfare Act.

In 2004, the legislature added new sections (g) through (k) to AS 25.24.150. These sections limit the court's ability to award custody if either parent "has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner."