

## INSTRUCTIONS FOR RESPONDING TO A MOTION TO CHANGE PARENTING PLAN OR CHILD SUPPORT

Use these instructions when you want to oppose a motion asking the court to change a custody or visitation order (parenting plan) or child support order that was issued in Alaska. You must file your response to the court within **10 days** after the motion was hand-delivered or emailed to you. If it was mailed to you, you have 3 extra days (13 days total) to respond (start counting from the date it was postmarked). If the deadline falls on a weekend or holiday, it is due by the end of the next day that the court is open.

**Step 1** Fill out the following forms:

- a. *Response to Motion to Change Alaska Order about Parenting Plan or Child Support* (DR-725).
- b. *Child Custody Jurisdiction Affidavit* (DR-150). List every child covered by your most recent court order.
- c. *Child Support Guidelines Affidavit* (DR-305). You **must** fill in your own column about your own finances. You do not need to fill in the column for the other parent, unless you disagree with what that parent wrote on their DR-305 filed with the motion. Attach a copy of your most recent federal tax return, at least 3 most recent pay stubs, and documentation for any deductions other than standard taxes.
- d. *Shared Custody Child Support Calculation* (DR-306). Only required if shared custody is being requested. If "divided" or "hybrid" custody (defined in [Civil Rule 90.3\(f\)](#)) is being requested, you must instead attach form DR-307 (divided custody) or form DR-308 (hybrid custody).

All publicly available court forms are posted on the court's website at <https://courts.alaska.gov/forms/index.htm>. They are also available in paper copy from the court clerk upon request.

**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). If you have limited or no online access, the court clerk can give you a paper copy.

**Notary.** You must sign your response and the two affidavits in front of a notary public. A court clerk can provide this notary service for you for free when you bring the documents to court. Bring a photo ID with you for the notarization. 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).

**Step 2** Give the following documents to the other parent (or the parent's attorney, if represented) by first-class mail or by hand-delivery (you can also send them by email if the other parent agreed to email service in the court case):

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

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

**Step 4** File the **originals** of all the documents at the same court location where the motion was filed. For a list of court mailing and physical addresses, go to [ak-courts.info/dir](http://ak-courts.info/dir).

**REPLY.** The other parent has 5 days (8 days if you mailed it) to file a reply to your response. Do not count weekends or holidays for this deadline. The other parent must send you a copy of any reply sent to the court. Filing a reply is optional.

**HEARING.** The judge may schedule a hearing to get more information or decide any disagreements. The court will send you a notice if a hearing is scheduled.

## Legal Information

Some resources that cover or discuss the law about modifying parenting plans and child support are listed below. You should also read the "Annotations" that follow these statutes and rules. Annotations are brief paragraphs describing the Alaska Supreme Court decisions interpreting that particular rule or statute.

Child Support	Civil Rule 90.3 and the "Commentary" that explains this rule. Alaska Statutes 25.24.160(a)(1), 25.24.170, 25.24.240, 25.24.910, and 25.27.060 - .070 <i>How to Calculate Child Support Under Civil Rule 90.3</i> (form <a href="#">DR-310</a> ) Forms and instructions for requesting that child support continue while a child is 18 (forms <a href="#">DR-320</a> through <a href="#">DR-323</a> )
Parenting Plans	Alaska Statutes 25.20.060 - 25.20.140, 25.24.150, 25.24.170, 25.24.240, 25.30.310, and 25.30.320

### Parenting Plan Decisions: "Best Interests of the Child"

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

**In determining the best interests of the child, the court shall consider:**

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

This statute also says that "the court may consider only those facts that directly affect the well-being of the child" and that the court must comply with the provisions of the Indian Child Welfare Act. In 2004, the legislature added new sections (g) through (k) to AS 25.24.150. These sections limit the court's ability to give legal custody or unsupervised parenting time to a parent who "has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner."