DISSOLUTION OF MARRIAGE INSTRUCTIONS FOR SPOUSES FILING TOGETHER WHEN THERE ARE MINOR CHILDREN OF THE MARRIAGE

NOTICE

Parents with children may not be granted a hearing on a petition for dissolution until both parents have completed their parent education requirement. See page 3 for further instructions.

Court staff generally can inform you about court procedures, court rules, court records, and forms. Court staff must remain neutral and impartial. They are not allowed to give legal advice. Court staff cannot:

- advise you how statutes and rules apply to your case,
- tell you whether the documents you prepare properly present your case,
- tell you what the best procedures are to accomplish a particular objective, or
- interpret laws for you.

If you need help with your case, you should talk to a lawyer.

Many of the agreements you will make in your petition for dissolution will have tax consequences (including agreements about property division, spousal maintenance, child custody, and child support). It is very important that you get an accountant's or attorney's advice about these tax consequences before making your agreement.

Dissolution of Marriage

A decree of dissolution of marriage has the same force and effect as a decree of divorce. However, the procedures for getting a dissolution are somewhat different than those for a divorce. Dissolution procedures are described in Alaska Statutes 25.24.200 - .260 and Civil Rule 90.1. Divorce procedures are described in Alaska Statutes 25.24.010 -.180 and Civil Rule 90.1.

Contents

REQUIREMENTS

The requirements for using dissolution procedure are:

1. Either spouse (Party A or Party B) or both spouses must be domiciled in Alaska. That 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 dissolution if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. AS 25.24.900.

2. The court must have jurisdiction over the minor children of the marriage (children under age 18) in one of the ways described in AS 25.30.300. This generally means the children (a) must have lived in Alaska at least six consecutive months, and (b) must currently live in Alaska or must have lived in Alaska within six months before the case is filed.

3. Both spouses must agree that "incompatibility of temperament has caused the irremediable breakdown of the marriage." This means there is no chance of saving the marriage, because the spouses cannot get along. The marriage has broken down and the spouses no longer want to be married.

4. The spouses must both agree on all of the following:
   a. custody of each minor child of the marriage;
   b. visitation (including visitation by grandparents and other persons);
   c. child support (including whether or not the services of the Child Support Enforcement Division will be requested);
   d. distribution of all real property and personal marital property (both jointly owned and separately owned, and community property under AS 34.77), including retirement benefits;
   e. payment of spousal maintenance (alimony), if any;
   f. payment of all existing debts owed by either or both spouses, and payment of any debts that may be incurred jointly in the future; and
   g. the tax consequences of all the above agreements.

5. The property and spousal maintenance agreements must be fair and just and must take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic effect of the dissolution is fairly allocated.

If you cannot meet one or more of these requirements, contact a lawyer to find out what your options are.

PROCEDURE TO FOLLOW

To get a decree dissolving your marriage, you must do the following:

1. The Alaska Court System requires parents to complete a parent education requirement. 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 here: https://courts.alaska.gov/shc/family/shcparent-ed.htm

2. Fill out the following three forms attached to these instructions (and available online):

   a. Form DR-105, Petition for Dissolution of Marriage (with Children). See the instructions beginning on page 5. If you want "shared" custody, you will also have to fill out form DR-306 (included in this packet and available online) and attach it to the petition. For "divided" custody, attach DR-307 instead; and for "hybrid" custody, attach DR-308. Neither DR-307 nor DR-308 are included in this packet. You can get them at the court in paper copy or on the court website at http://courts.alaska.gov/forms/index.htm#dr. See the discussion of physical custody on page 11 for definitions of these terms.

   b. Form DR-314, Information Sheet.

   c. Form VS-401, Certificate of Divorce, Dissolution of Marriage, or Annulment. Complete the "Parties' Information" block, lines 11-30. If you make a mistake, get a new form from the court. This form will be sent to the Health Analytics and Vital Records office after the dissolution is granted, and they will not accept forms with cross-outs, whiteouts, or other corrections on them. Health Analytics and Vital Records also will not accept photocopies of the VS-401 form.

3. File these three forms at the clerk's office and pay the filing fee according to Administrative Rule 9(b). If you cannot afford this fee, fill out form TF-920, Request for Exemption from Payment of Fees.

   Note: Once the petition is signed by the first party signing it, you have only 60 days to file it with the court. If you delay filing beyond that date, the court will not accept it. See Civil Rule 90.1.

4. Ask the clerk's office for instructions on setting a hearing date. The hearing must be at least 30 days after the date the petition is filed. It will be set for a time acceptable to both parties.

5. Amendment or Withdrawal of Petition.

   After the petition is filed, any of the terms of the petition may be amended if both parties agree and complete form DR-115, Amendment of Agreement, and file it with the court.

   If either spouse wants to withdraw from the agreement, that spouse must file form DR-120, Withdrawal of Agreement, with the court before the decree is signed. If the agreement is withdrawn, the case will be dismissed.

   If you decide to use either of these forms, be sure to fill in the case number that the court clerk assigned to your petition.

6. Hearing.

Both parties must usually attend the hearing. If it would be a significant hardship for you to attend, fill out and sign form DR-110, Request to Waive Appearance at Hearing (included in this packet), acknowledge it before a court clerk or notary public, and file it with the court. The court will then decide whether the hardship is significant enough to allow you not to appear. If the court allows you not to appear in person, the court may still require you to be available by telephone to answer questions during the hearing. At least one of you must always attend the hearing.

Either or both parties may have a lawyer at the hearing, but you are not required to have one.

At the hearing, the court will ask questions to determine whether you fully understand the nature and consequences of the proceeding, whether the terms of all your written agreements are fair and just, whether your written agreements concerning the children are in the best interests of the children, and whether all the requirements listed on page 2 of these instructions have been met.

The judge may amend the agreements between the spouses, but only if both parties agree in writing (or in person at the hearing) with the amendment.

At some court locations, hearings are held before a superior court master instead of a judge. A master cannot grant a decree. A master can only recommend to a judge whether or not a decree should be granted.

7. The Decree.

Although in some cases the decree may be granted at the hearing (if the hearing is before a judge rather than a master), usually the decree is not entered until a few days later. Do not assume a decree has been granted until you receive your copy.

8. You must carry out any agreements made in your petition or otherwise required by the decree. This might include, for example, transferring title to property or notifying the administrator of a retirement plan about the effect of the decree on a spouse's retirement benefits. You will probably 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.

9. Changes in Child Support.

If your circumstances change in the future, you may file a motion asking the court to change the child support order. The court may order an increase or a decrease in the amount of support based on these changed circumstances. The court may order this change even if one of the parties does not agree. A packet of forms for this is available at the court (DR-700, Motion Packet).

Also, you may at any time ask that child support be continued for an 18-year-old child who 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 may also ask that support for an 18-year-old child be paid directly to the child. If the 18-year-old child no longer meets the conditions listed above, you may ask that the support be stopped. Forms and instructions are available at the court (see instructions in form DR-323).

HOW TO FILL OUT THE PETITION (FORM DR-105)

When you fill out forms for the court, please type or print neatly in black ink. Do not leave any spaces blank. Write "n/a" or an explanation if you think the question does not apply. If more space is needed, attach additional pages and have each additional page signed by both spouses. Write only on one side of each page.

At the top of the petition form, fill in the city where the superior court is located. Then fill in your names on the lines in the box. Leave the "Case No." line blank.

Section I. INFORMATION ABOUT THE PARTIES (pages 1-2)

Fill in all lines. If your contact information changes after you file the petition but before the decree is entered, you must send the court written notice of your new information. Use form TF-956, Notice of Change of Contact Information.

Section II. FINANCIAL INFORMATION (pages 3-4)

Parts A. - C.

The information collected in the first three parts of this section will be used to calculate child support. **You both must attach a copy of your most recent federal tax return (including W2, if you got one) and at least three recent pay stubs to verify income and deductions**. You must also include documentation of any allowable deductions that are not included on your pay stubs or tax return.

You must include all sources of income whether they are listed on the form or not. Please read section III of the Commentary to Civil Rule 90.3 to understand what must be included as income and what qualifies as a deduction. The Child Support Guidelines Rule and Commentary are available on the court's website at ak-courts.info/civrules. You may also find the instruction booklet DR-310, How to Calculate Child Support, helpful. DR-310 is available at https://public.courts.alaska.gov/web/forms/docs/dr-310.pdf or in paper copy from the court clerk's office.

Part E. Monthly Expenses. List average expenses per month.

Section III. PROPERTY AND DEBT INFORMATION (pages 4-7)

Part A. Assets.

Describe all assets of both parties acquired during the marriage, plus any premarital property that should be divided in order to be fair to both parties. This includes both separately owned and jointly owned property. It also includes any "community property" if the parties have signed a community property agreement under Alaska law. List the value of each asset. Check the boxes showing whether the asset was acquired during the marriage and who now possesses the asset (A=Party A, B=Party B, and JT=jointly owned). Then check the box showing to whom you want the asset awarded. If the asset is to be divided between you, show what fraction or percentage each person is to get instead of checking the boxes.

You must agree to a division of the property that is 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 marriage of very short duration, which would justify something other than an equal division of all items acquired during the marriage.

Assets include all kinds of property and rights in property. "Real property" means buildings and land. "Personal property" includes things such as pets, jewelry, automobiles, boats, airplanes, snow machines, furniture, household goods, bank accounts, etc. Other examples of assets are businesses, contract rights, stocks, bonds, and employment benefits such as the value of retirement plans, deferred compensation, accumulated employee leave time, 401(k) plans, and (for Alaska State employees) the Supplemental Benefits System annuity.

Assets must be clearly identified. Motor vehicles and other property requiring a certificate of title or registration must be identified by make, model, and license or registration number, and/or by identification number (VIN, HIN, SN). Bank, credit union, or other financial institution accounts may be identified by the last 3 digits of the account number and the name of the financial institution. Do not provide the full account number.

Your property division agreement must fairly allocate the economic effect of the dissolution. 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.

Note: The court may <u>not</u> award to one spouse real or personal property acquired by the other spouse before the date of the marriage, unless the spouses expressly agree otherwise or the court determines that the property should be made available (by sale or other conveyance) to ensure that the best interests of the children are provided for. AS 25.24.230(g).

Part A.5. Retirement Benefits (pages 6-7)

One special type of property that you must agree about is retirement benefits. If, during your marriage, either spouse has accrued 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 the help of an attorney and/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 accrued during the marriage. This requires you to figure out what the current value of the benefits is. You may need the help of an actuary 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 dissolution decree, must be filed with and accepted by the administrator of the retirement plan before it will be effective. It is important to 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.

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* Note: 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 obtain your dissolution 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 instead of coming directly to the former spouse from the government.

You will have to write your retirement benefits agreement on a separate piece of paper and attach it to your petition. It will have to include the basic requirements of a QDRO, which are:

a. It must name the retirement plan or program.

b. It must give the right to receive part or all of the benefits payable with respect to the employee covered by the plan to an "alternate payee" (meaning, in this case, the other spouse).

c. It must state the name and last known mailing address of both the employee and the "alternate payee."

d. It must state the amount or percentage of the employee's benefit, or of any survivor's benefit, to be paid to the "alternate payee," or it must set out the manner in which that amount or percentage is to be determined.

e. It must set out the number of payments or period of time to which the agreement/order applies.

f. It must **not** do any of the following:
   (1) require any type or form of benefit or any option not otherwise provided by the plan; or
   (2) require an increase of benefits in excess of the amount provided by the plan, determined on the basis of actuarial value; or
   (3) require the payment to an alternate payee of benefits that is required to be paid to another alternate payee under a previous QDRO.

Depending on the type of retirement plan, there may be several other requirements or items that should be covered by the agreement and order. Because retirement plans vary, 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 consult with an attorney 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 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.

Some of the statutes about QDROs are AS 25.24.230(h) and 29 U.S.C. § 1056(d)(3).

Part B. Debts (page 7)

Describe all debts 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 judgments against you or your property, etc.

List to whom each debt is owed and the amount owed. When identifying credit card, bank card, or debit card accounts, you may list the last 4 digits of the account and the name of the issuing institution. Do not provide the full account number. Check the box showing whether the debt was incurred during the marriage and the box showing who owes the debt (Party A, Party B, or jointly owed). Then check the box showing who you agree will be responsible for paying the debt.

Each spouse is responsible for their own separate debts 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 to whom the debts are owed, because they are not parties in this case. For joint debts, both of you will remain legally obligated to your creditors until the existing debt is paid, regardless of your agreement as to who will pay the debt, unless you are able to refinance or otherwise reach an agreement with the creditor.

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

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

Section IV. SPOUSAL MAINTENANCE (ALIMONY) (page 7)

Petitioners may agree to the payment of spousal maintenance (alimony). Spousal maintenance payments must be included as income on the tax return of the spouse receiving the payments. Advice from an accountant or attorney may be helpful in regard to other tax consequences of spousal maintenance.

Spousal maintenance payments may be for a limited or indefinite period of time. The agreement on spousal maintenance must fairly allocate the economic effect of the dissolution. It must take into consideration the following factors listed in Alaska Statute 25.24.160(a)(2):

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 division of property; and
7. other factors the court determines to be relevant in each individual case.

Section V. CHILD CUSTODY JURISDICTION INFORMATION (pages 8-9)

Parts A. - D.

List all children born or adopted during the marriage who are currently under age 19.

Most of the information in this section is required by AS 25.24.210(e)(4) and AS 25.30.380. The purpose of requiring this information is to make sure the children have adequate contacts with this state to give Alaska courts the power to order who gets custody of the children.

Part E.

If a spouse is pregnant, it is assumed that the child is a child of the marriage (in other words, that the other spouse is the second parent) and must be provided for like all other children of the marriage. If there is an issue of paternity of the child, it should be raised and resolved now. Under Alaska law, a husband is considered the legal father of a child conceived or born during a marriage, unless the affidavits required by AS 18.50.160(d) are executed, or until the husband's paternity is disestablished by a court or child support services agency. The court system has forms for establishing and disestablishing paternity, available at https://courts.alaska.gov/forms/index.htm#dr-pat.

Part F.

If paternity is disputed or paternity has been disestablished for any child born during the marriage, check the corresponding box on the form. For more information, contact an attorney or call the Family Law Self-Help Center at the Alaska Court System.

Section VI. CHILD CUSTODY AGREEMENT (page 10)

You must agree on custody arrangements for all your children under age 18. In developing your agreements concerning child custody, visitation, and support, you must consider the best interests of your children. See parenting agreement forms (for example, form DR-475, included in this packet) for examples of the issues you should think about when preparing your custody and visitation agreement. All other things being equal, parents each have an equal right to custody.

There are two types of custody: legal custody and physical custody.

Legal Custody

Legal custody means the right and obligation to make major decisions about a child's upbringing, including schooling, medical care, and financial matters. There are two types of legal custody:

Sole legal custody means that only one parent is given the legal authority to make major decisions about the child. If the parents do not agree on a decision about the child, the parent with sole legal custody has the right to make the final decision. However, the parent who has physical custody at a given time can still make day-to-day decisions for the child's care and emergency medical decisions if necessary.

Shared legal custody means that both parents share responsibility to make major decisions about the children. See Bell v. Bell, 794 P.2d 97, 99 (Alaska 1990). The parents must be able to communicate to reach decisions together.

- Alaska's legislature has expressed a policy favoring shared legal custody 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 chapter 88 SLA 1982).
- However, shared legal custody is appropriate only when the parents can cooperate and communicate regarding the child. If the parents cannot discuss these matters cooperatively and share decision-making, shared legal custody will not be awarded. See Farrell v. Farrell, 819 P.2d 896, 899 (Alaska 1991).

Physical Custody

Physical custody means where a child actually lives. As a general matter, it is very rare for a child to live with one parent 100% of the time.

For purposes of calculating the amount of child support, Civil Rule 90.3 describes four types of physical custody:

- Primary physical custody means that the children reside with one parent more than 70% (256 overnights) of the year.
- Shared physical custody means that the children reside with each parent for a specified period of at least 30% (110 overnights) of the year. If you want shared physical custody, you must describe in detail when the children will reside with each parent. If either parent is planning a move to another community in the near future, you should explain how shared custody will be continued after the move.
- Divided physical custody means that each parent has primary custody of at least one child, and the parents do not share custody of any of their children.
- Hybrid physical custody means at least one parent has primary custody of at least one of the children, and the parents share custody of at least one of their children.

In section VI of the petition, you must state who should be given physical custody and who should be given legal custody of the children.

Shared custody arrangements may affect your and your children's rights to public assistance and tax benefits. You should obtain legal advice or otherwise make yourselves aware of these consequences before drafting a shared custody agreement. You should also consider the consequences of shared custody if any of the following should happen: (1) one parent moves away, (2) the two of you later agree to change who has primary physical custody of a child, or (3) the two of you cannot agree about some matter concerning a child.

Section VII. VISITATION AGREEMENT (page 10)

Visitation is the right of a parent and child to contact and visit one another when the child is residing or visiting with the other parent. It is generally desirable that minor children have frequent and continuing contact with both parents so that both parents can maintain a good relationship with the children and share the rights and responsibilities of child-rearing.

In order for the agreement to be enforceable in the future, specific visitation rights must be set out in the agreement.

In the following two situations, you must be very specific about the dates of visitation if you intend the amount of visitation to change the amount of child support owed:

1. Child Support Extended Visitation Credit. This credit is available if one parent is given primary physical custody of the children (that is, the children reside with that parent more than 70% of the year), but the other parent has visitation with the children (takes physical custody of them) for more than 27 consecutive days. Under Civil Rule 90.3(a)(3), the court may allow the parent who owes child support to reduce child support payments for any period in which that parent has extended visitation of over 27 consecutive days. However, this reduction may not exceed 75% of the amount of support normally owed for that period.
2. Shared Physical Custody for Child Support Purposes. Civil Rule 90.3(b) provides a special method of calculating child support when both parents share physical custody of the children, regardless of who has legal custody. A parent has "shared physical custody" as defined in this rule only if "the children reside with that parent for a period specified in writing in the custody order of at least 30 percent of the year." Civil Rule 90.3(f).

To qualify for either of these two methods of reducing child support, you must specify the dates when the children will reside with the parent paying child support. In addition, this parent must take physical custody at the times agreed.

Section VIII. CHILD SUPPORT (pages 11-16)

Definitions:

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

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 dissolution if a spouse is pregnant before the dissolution. Support is paid on behalf of the children, not for the benefit of the custodial parent. Parents may also agree to include support for 18-year-old children under certain circumstances. See Part B.

Part A.

In Civil Rule 90.3, the Alaska Supreme Court has set the guidelines that courts must follow to determine the amount of child support. A copy of this rule may be viewed online at ak-courts.info/civrules. See also the instruction booklet, DR-310, How To Calculate Child Support, available online and in paper copy from the court clerks' office. You should read this booklet to help answer any questions you have about how to do the child support calculation in Part A of this section of the petition.

Part A, Paragraph 3. (page 11)

If you choose shared physical custody in paragraph 3.b, you must:

1. include in your petition a written agreement specifying exactly when each parent will have physical custody of the children (and each parent must have custody at least 30% of the year); and
2. attach form DR-306, Shared Custody Child Support Calculation, showing your calculations. See the DR-310 booklet for help in filling out this form.

If you choose divided physical custody in paragraph 3.c, attach from DR-307 to show your calculations.

If you choose hybrid physical custody in paragraph 3.d, you must similary specify the schedule for the children in shared physical custody. Attach form DR-308 to show your calculations

Part A, Paragraphs 4 and 5. Health Insurance. (pages 12-13)

The court must consider whether the children are eligible for free health care from the Indian Health Service or some other entity (such as the military). 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. See AS 47.23.060(c) and Civil Rule 90.3(d)(1).

In paragraph 4.a., indicate who has such insurance available, who will purchase it, and how the cost will be divided between you. In paragraph 5, either increase or decrease the amount of child support owed, depending on who is purchasing the insurance and how the cost will be divided between you. For example, if the obligor will buy insurance for the children costing $100 per month, and you have agreed that each party will pay half the cost, you should write $50 on line 5.b and subtract it from the amount on line 5.a in order to get the net amount due on line 5.d. If you had instead agreed that the obligor would pay 70% of the cost, write in 30% (the amount the obligee owes to reimburse the obligor) on the blank line in paragraph 5.b. In this example, the amount to subtract on line 5.b would be $30.

Note that the insurance cost referred to here is the actual cost of insuring the children who are the subjects of this support order. It does not include the cost of insuring a parent or any other children who may live in the household. And, 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) requires that child support be adjusted only for those 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 adjustment.

Part A, Paragraph 6.d. Request for Different Child Support Amount. (page 13)

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.

If you request a different amount of child support than what is calculated under the rule and the court does not agree to allow it, then you must agree in writing to the amount required by the court or you will not be granted a decree of dissolution.

Note that 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.

Part A, Paragraph 7. Seasonal Income. (page 13)

If the income of the parent who will pay child support is seasonal (such as seasonal income from commercial fishing), it may be easier for that parent to pay higher child support amounts during the high-income months and lower amounts during the low-income months. Fill out this section of the petition if both parents agree that you want to do this. Note that this does not change the total annual amount due. It just allows different amounts to be paid in different months. See Civil Rule 90.3(c)(5), Commentary section VI.F, and the DR-310 booklet for more information.

Part A, Paragraph 8. Travel Expenses. (page 13)

Civil Rule 90.3(g) states: "After determining an award of child support under this rule, the court shall allocate reasonable travel expenses which are necessary to exercise visitation between the parties as may be just and proper for them to contribute." See the discussion of this paragraph in Section IX of the Commentary to the rule.

Part A, Paragraph 9. Native Corporation Dividends. (page 14)

If it is possible that Native Corporation dividends may be paid on behalf of the child, fill out paragraph 9.

Part B. Child Support for 18-Year-Old Children. (page 14)

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 with whom the child is living or directly to the child. You can include this in your petition or you can request it later (for example, when the child is about to turn 18). If you agree now that support for the 18-year-old child should be paid directly to the child, include this agreement in Section X, "Other Agreements," on page 16 of the petition.

Part C. Assistance of Child Support Enforcement Division (CSED). (page 14)

You may want to request the services of the Alaska Child Support Enforcement Division (CSED). If you do, CSED will maintain records of support payments and enforce the support order. For example, CSED will serve an order enforcing the income withholding order described above on the obligor's employer. If you get one of the above income withholding orders, but do not apply for CSED's services, the obligee will have to serve the appropriate court orders on the employer. In either case (whether CSED serves the order on the employer or the obligee does it), the withheld money must be paid to CSED.

For more information about CSED, read the attached information sheet (form DR-316). If you want to request CSED's services, fill out the attached application (form DR-315) and file it with your petition.

If the obligee parent is receiving assistance from the Alaska Temporary Assistance Program (ATAP), child support payments must be made to CSED.

Part D. Immediate Income Withholding. (pages 14-15)

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 one of the above exceptions applies.

If immediate withholding is ordered, the obligee (or CSED, if CSED is enforcing the order) must serve a court writ (or CSED order) on the obligor's employer explaining how withholding will work. The employer must send the withheld money to CSED (whether CSED is enforcing the order or not).

If one of these exceptions is granted, but payments later become delinquent, income withholding can be started by filing a motion with the court as provided in AS 25.27.062(c) & (d), 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.

Part E. Federal Taxes. (page 15)

In 2018, tax benefits for people with dependents changed. You will not receive an exemption for dependents anymore. Instead, there is a larger child tax credit. 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.

For more information, IRS Publication 504 explains special rules that may apply. 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. The last paragraph in Part E lists other common tax implications of dissolution. 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.

Part F. Alaska Permanent Fund Dividend (PFD) Agreement. (pages 15-16)

You should agree on 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. See 15 AAC 23.223(h).

Section IX. CHANGE OR RESTORE NAME (page 16)

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 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 (Party A or Party B) and fill in the blanks for your current and former names. You may also want to follow steps #2, #9, #10, #11, and #12 under the "New Name" section below.

You must also fill out Notice of Request to Restore Name in Dissolution or Divorce Case (form DR-957) **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 dissolution hearing or your dissolution could be delayed. You can use Affidavit of Additional Service (form CIV-702) 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 dissolution hearing will be delayed. Additionally, the judge may find that a new name change is not authorized in certain situations as part of a dissolution case. For these reasons, it may be easier to do the name change in a separate case by filing Petition for Change of Name (form CIV-700). If you do decide to do it as part of your dissolution hearing, take the following steps:

1. Check the box on the petition requesting a new name and fill out Request to Change to New Name in Dissolution Case (form DR-955).
2. Fill out form VS-405, Application for Legal Name Change. Return it to the court, together with form DR-955, when you file your dissolution petition.
3. Tell the clerk your petition includes a request for name change and that you need an order for posting.
4. If the court finds that the name change is legally allowed as part of the dissolution case, the court will send you an Order for Hearing, Posting, and Additional Service (form CIV-701). This order will tell you the time and place of the hearing on your name change. It will also tell you whether you must provide additional service. If the order requires additional service, follow the instructions on the order.

5. 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 Clerk's Certificate of Service of Posting (form TF-815) to the website.

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

6. The hearing is usually short and fairly informal. It will usually be combined with your dissolution 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 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 are completed.

7. The court will automatically post notice 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 Clerk's Certificate of Service of Posting (form TF-815) to the website.

8. If the judgment requires additional service, follow the judgment's instructions. After additional service is complete, fill out an Affidavit of Additional Service (form CIV-702) and file it with the court. The clerk will then issue a Certificate of Name Change (form CIV-705). 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.

9. 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 **within 30 days**. See AS 28.05.071. To get a new driver's license, you need to go to a DMV office and give them a copy of the Certificate of Name Change (form CIV-705).

10. Notify the Social Security Administration of your name change to avoid tax problems and help assure proper employment credit. Toll-free telephone number: 1-800-772-1213.

11. Individuals required to register on the Sex Offender and Child Kidnapper Registry per AS 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 the Certificate of Name Change (form CIV-705). 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.

12. 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.

Section X. OTHER AGREEMENTS (page 16)

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

- you might agree that one spouse will maintain a life insurance policy that names the children or the other spouse as beneficiary, or
- you might agree that child support for an 18-year-old child will be paid directly to the child (see the discussion of Part B on page 14 of these instructions), or
- you might agree about how child support will change if some or all of the children go to live with the other parent (see Karpuleon v. Karpuleon, 881 P.2d 318 (Alaska 1994)), or
- you might agree on which parent will file the tax returns for the children.

All your agreements with each other about the dissolution must be written in the petition. When you sign the last page of the petition, you will be stating under oath that the petition contains all your agreements.

AGREEMENTS NOT INCLUDED IN THE PETITION ARE NOT ENFORCEABLE

If you agree to something but do not write it down in your petition, it will not be included in the court's decree of dissolution. Therefore, the court will not enforce that agreement.

Section XI. SIGNATURES AND VERIFICATIONS (every page and also page 17)

Both petitioners must sign each page of the petition. The signatures on the last page must be signed under oath before a notary public, a court clerk, or any other person authorized to administer oaths. Please keep in mind that, in signing the petition under oath, you are swearing that every statement you have made in your petition is the truth.