

Original sponsors: Rogers and Gardiner

Offered: 2/26/82
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

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CS FOR HOUSE BILL NO. 210 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to child custody."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. LEGISLATIVE INTENT. (a) The legislature finds that it is
9 generally desirable to assure a minor child frequent and continuing contact
10 with both parents after the parents have separated or dissolved their mar-
11 riage and that it is in the public interest to encourage parents to share the
12 rights and responsibilities of child rearing. While actual physical custody
13 may not be practical or appropriate in all cases, it is the intent of the
14 legislature that both parents have the opportunity to guide and nurture their
15 child and to meet the needs of the child on an equal footing beyond the
16 considerations of support or actual custody.

17 (b) The legislature also finds that it is in the best interests of a
18 child to encourage parents to implement their own child care agreements
19 outside of the court setting.

20 * Sec. 2. AS 09.55.205 is amended to read:

21 Sec. 09.55.205. JUDGMENTS FOR CUSTODY. (a) In an action for
22 divorce or for legal separation the court may, if it has jurisdiction
23 under AS 25.30.020 [,] and is an appropriate forum under AS 25.30.050
24 and 25.30.060, during the pendency of the action, [OR] at the final
25 hearing, and [OR] at any time thereafter during the minority of a [ANY]
26 child of the marriage, make an order for the custody of or visitation
27 with the minor child that [WHICH] may seem necessary or proper and may
28 at any time modify or vacate the order.

29 (b) If [ANY APPOINTMENT OF] a guardian ad litem for a child is

1 appointed in an action under this section, the appointment shall be made
2 under [THE TERMS OF] AS 09.65.130.

3 (c) The court shall determine custody in accordance with the best
4 interests of the child under AS 25.20.060 - 25.20.150 [NEITHER PARENT
5 IS ENTITLED TO PREFERENCE AS A MATTER OF RIGHT IN AWARDING CUSTODY OF
6 THE CHILD]. In determining the best interests of the child the court
7 shall consider [ALL RELEVANT FACTORS INCLUDING:]

8 (1) the physical, emotional, mental, religious, and social
9 needs of the child;

10 (2) the capability and desire of each parent to meet these
11 needs;

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

14 (4) the love and affection existing between the child and
15 each parent;

16 (5) the length of time the child has lived in a stable, sat-
17 isfactory environment and the desirability of maintaining continuity;

18 (6) the desire and ability of each parent to allow an open
19 and loving frequent relationship between the child and his other parent;

20 (7) the desirability of offering the child a variety of life
21 experiences.

22 (d) In awarding custody the court may not consider the conduct,
23 marital status, income, social or cultural environment, or life style of
24 either parent unless it is shown that the factor relates to the well-
25 being of the child.

26 * Sec. 3. AS 25.20.060 is amended to read:

27 Sec. 25.20.060. CUSTODY OF THE CHILD. (a) If there is a dispute
28 over child custody, either parent may petition the superior court for
29 resolution of the matter under AS 25.20.060 - 25.20.150 [THIS SECTION

1 UNLESS AN ACTION BETWEEN THE PARENTS IS PENDING UNDER AS 09.55]. The
2 court shall award custody on the basis of the best interests of the
3 child. In determining the best interests of the child, the court shall
4 consider all relevant factors including those factors enumerated in
5 AS 09.55.205(c) [AS 09.55.205].

6 (b) Neither parent, regardless of the question of the child's
7 legitimacy, is entitled to preference in the awarding of custody.

8 (c) The court may award shared custody if shared custody is
9 determined by the court to be in the best interests of the child.

10 * Sec. 4. AS 25.20 is amended by adding new sections to read:

11 Sec. 25.20.070. TEMPORARY CUSTODY. Unless it is shown to be
12 detrimental to the welfare of the child, the child shall have, to the
13 greatest degree practical, equal access to both parents during the time
14 that the court considers an award of custody under AS 25.20.060 -
15 25.20.150.

16 Sec. 25.20.080. MEDIATION. The court considering a request for
17 custody of a child may order the parties to participate in pre-trial
18 mediation of the matters before the court under AS 09.55.115.

19 Sec. 25.20.090. FACTORS FOR CONSIDERATION IN AWARDING SHARED
20 CUSTODY. In determining whether to award shared custody of a child the
21 court shall consider

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

24 (2) the needs of the child;

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

27 (4) the education of the child;

28 (5) the advantages of keeping the child in the community where
29 the child presently resides;

1 (6) the advantages of providing a varied life experience for
2 the child;

3 (7) the optimal time for the child to spend with each parent
4 considering

5 (A) the actual time spent with each parent;

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

8 (C) the feasibility of travel between the parents;

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

11 (E) which parent is more likely to encourage frequent
12 and continuing contact with the other parent;

13 (8) the findings and recommendations of a neutral mediator if
14 mediation is ordered by the court;

15 (9) other factors the court considers pertinent.

16 Sec. 25.20.100. DENIAL OF SHARED CUSTODY. If a parent or the
17 guardian ad litem requests shared custody of a child and the court
18 denies the request, the reasons for the denial shall be stated on the
19 record.

20 Sec. 25.20.110. AWARD OF CUSTODY TO NONPARENT. The court may
21 award custody to a person who is not a parent of a child if

22 (1) the parents of the child consent in writing to the award;

23 or

24 (2) the court makes a written finding that an award of custody
25 to a parent would be detrimental to the child and the award to the
26 person who is not a parent of the child is necessary to serve the best
27 interests of the child.

28 Sec. 25.20.120. MODIFICATION OF CUSTODY OR VISITATION. An award
29 of custody of a child or visitation with the child may be modified if

1 the court determines that the best interests of the child require the
2 modification of the award. If a parent opposes the modification of the
3 award of custody or visitation with the child and the modification is
4 granted, the court shall enter on the record its reason for the modifi-
5 cation.

6 Sec. 25.20.130. CONFIDENTIALITY. At any stage of a proceeding
7 involving custody of a child the court may, if it is in the best inter-
8 ests of the child or to protect the parents, close the proceeding to the
9 public or order the court records closed to the public temporarily or
10 permanently. The court may modify or vacate an order under this section
11 at any time.

12 Sec. 25.20.140. ACCESS TO RECORDS OF THE CHILD. A parent who is
13 not granted custody under AS 25.20.060 - 25.20.150 may have access to
14 the medical, dental, school, and other records of the child notwith-
15 standing any other provision of law.

16 Sec. 25.20.150. DEFINITION. In AS 25.20.060 - 25.20.150, "shared
17 custody" means an award of custody of the child to both parents that
18 assures the child of frequent and continuing contact with each parent.
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