

Original sponsors: Rogers and Gardiner

Offered: 4/15/82
Ror Calendar, Friday
4/16/82

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 210 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 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(c) is amended to read:

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

26 (1) the physical, emotional, mental, religious, and social
27 needs of the child;

28 (2) the capability and desire of each parent to meet these
29 needs;

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

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

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

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

9 (7) the desirability of offering the child a variety of life
10 experiences.

11 * Sec. 3. AS 09.55.205 is amended by adding a new subsection to read:

12 (d) In awarding custody the court may not consider the conduct,
13 marital status, income, social or cultural environment, or life style of
14 either parent unless it is shown that the factor affects the well-being
15 of the child.

16 * Sec. 4. AS 25.20.060 is amended to read:

17 Sec. 25.20.060. CUSTODY OF THE CHILD. (a) If there is a dispute
18 over child custody, either parent may petition the superior court for
19 resolution of the matter under AS 25.20.060 - 25.20.150 [THIS SECTION
20 UNLESS AN ACTION BETWEEN THE PARENTS IS PENDING UNDER AS 09.55]. The
21 court shall award custody on the basis of the best interests of the
22 child. In determining the best interests of the child, the court shall
23 consider all relevant factors including those factors enumerated in
24 AS 09.55.205(c) [AS 09.55.205].

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

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

29 * Sec. 5. AS 25.20 is amended by adding new sections to read:

1 Sec. 25.20.070. TEMPORARY CUSTODY. Unless it is shown to be
2 detrimental to the welfare of the child, the child shall have, to the
3 greatest degree practical, equal access to both parents during the time
4 that the court considers an award of custody under AS 25.20.060 - 25.20.-
5 150.

6 Sec. 25.20.080. MEDIATION. The court considering a request for
7 custody of a child may order the parties to participate in pre-trial
8 mediation of the matters before the court under AS 09.55.115. Costs of
9 mediation shall be paid by one party or both parties as ordered by the
10 court.

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

- 14 (1) the child's preference if the child is of sufficient age
15 and capacity to form a preference;
- 16 (2) the needs of the child;
- 17 (3) the stability of the home environment likely to be offered
18 by each parent;
- 19 (4) the education of the child;
- 20 (5) the advantages of keeping the child in the community
21 where the child presently resides;
- 22 (6) the advantages of providing a varied life experience for
23 the child;
- 24 (7) the optimal time for the child to spend with each parent
25 considering
- 26 (A) the actual time spent with each parent;
- 27 (B) the proximity of each parent to the other and to the
28 school in which the child is enrolled;
- 29 (C) the feasibility of travel between the parents;

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

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

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

7 (9) other factors the court considers pertinent.

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

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

14 (1) the parents of the child consent in writing to the award;
15 or

16 (2) the court makes a written finding that an award of custody
17 to a parent would be detrimental to the child and the award to the
18 person who is not a parent of the child is necessary to serve the best
19 interests of the child.

20 Sec. 25.20.120. MODIFICATION OF CUSTODY OR VISITATION. An award
21 of custody of a child or visitation with the child may be modified if
22 the court determines that the best interests of the child require the
23 modification of the award. If a parent opposes the modification of the
24 award of custody or visitation with the child and the modification is
25 granted, the court shall enter on the record its reason for the modifi-
26 cation.

27 Sec. 25.20.130. CONFIDENTIALITY. At any stage of a proceeding
28 involving custody of a child the court may, if it is in the best inter-
29 ests of the child or to protect the parents, close the proceeding to the

1 public or order the court records closed to the public temporarily or
2 permanently. The court may modify or vacate an order under this section
3 at any time.

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

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