

Original sponsors: Rogers and Gardiner

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

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 210 (Rules) am

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

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

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

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

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

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

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

28 Sec. 25.20.070. TEMPORARY CUSTODY. Unless it is shown to be
29 detrimental to the welfare of the child, the child shall have, to the

1 greatest degree practical, equal access to both parents during the time
2 that the court considers an award of custody under AS 25.20.060 - 25.20.-
3 150.

4 Sec. 25.20.080. MEDIATION OF CUSTODY MATTER. (a) At any time
5 within 30 days after a petition for child custody is filed under AS 25.-
6 20.060 the court shall order the parties to submit to mediation.
7 Each party shall have the right to challenge peremptorily one mediator
8 appointed.

9 (b) Mediation shall be conducted informally as a conference, or by
10 telephone, or series of conferences. The parties to the action and a
11 court-appointed representative of the minor children shall attend.

12 (c) After the first conference either party may withdraw, or the
13 mediator may terminate mediation if he determines that mediation efforts
14 are unsuccessful. Upon withdrawal by either party or termination by the
15 mediator, the mediator shall notify the court that mediation efforts
16 have failed, and the custody proceeding shall proceed in the usual
17 manner.

18 (d) Upon submission of the parties to mediation under this section,
19 a pending child custody proceeding shall be stayed for a period of 30
20 days or until the court is notified that mediation efforts have failed.
21 All court orders made during the pending custody proceeding remain in
22 effect during the period of mediation.

23 (e) Costs of mediation shall be paid by one party or both parties
24 as ordered by the court.

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

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

- 1 (2) the needs of the child;
- 2 (3) the stability of the home environment likely to be offered
- 3 by each parent;
- 4 (4) the education of the child;
- 5 (5) the advantages of keeping the child in the community
- 6 where the child presently resides;
- 7 (6) the optimal time for the child to spend with each parent
- 8 considering
- 9 (A) the actual time spent with each parent;
- 10 (B) the proximity of each parent to the other and to the
- 11 school in which the child is enrolled;
- 12 (C) the feasibility of travel between the parents;
- 13 (D) special needs unique to the child that may be better
- 14 met by one parent than the other;
- 15 (E) which parent is more likely to encourage frequent
- 16 and continuing contact with the other parent;
- 17 (8) the findings and recommendations of a neutral mediator if
- 18 mediation is ordered by the court;
- 19 (9) other factors the court considers pertinent.

20 Sec. 25.20.100. DENIAL OF SHARED CUSTODY. If a parent or the

21 guardian ad litem requests shared custody of a child and the court

22 denies the request, the reasons for the denial shall be stated on the

23 record.

24 Sec. 25.20.110. AWARD OF CUSTODY TO NONPARENT. The court may

25 award custody to a person who is not a parent of a child if

- 26 (1) the parents of the child consent in writing to the award;
- 27 or
- 28 (2) the court makes a written finding that an award of custody
- 29 to a parent would be detrimental to the child and the award to the

1 person who is not a parent of the child is necessary to serve the best
2 interests of the child.

3 Sec. 25.20.120. MODIFICATION OF CUSTODY OR VISITATION. An award
4 of custody of a child or visitation with the child may be modified if
5 the court determines that the best interests of the child require the
6 modification of the award. If a parent opposes the modification of the
7 award of custody or visitation with the child and the modification is
8 granted, the court shall enter on the record its reason for the modifi-
9 cation.

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

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

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