

Introduced: 2/5/82
Referred: Health, Education &
Social Services and Judiciary

1 IN THE SENATE

BY PARR

2 SENATE BILL NO. 723

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. AS 09.55.205 is amended to read:

9 Sec. 09.55.205. JUDGMENTS FOR CUSTODY. (a) In an action for
10 divorce or for legal separation the court may, if it has jurisdiction
11 under AS 25.30.020 [,] and is an appropriate forum under AS 25.30.050
12 and 25.30.060, during the pendency of the action, [OR] at the final
13 hearing, and [OR] at any time thereafter during the minority of a [ANY]
14 child of the marriage, make an order for the custody of or visitation
15 with the minor child that [WHICH] may seem necessary or proper and may
16 at any time modify or vacate the order.

17 (b) If [ANY APPOINTMENT OF] a guardian ad litem for a child is
18 appointed in an action under this section, the appointment shall be made
19 under [THE TERMS OF] AS 09.65.130.

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

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

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

29 (3) the child's preference;

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

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

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

7 * Sec. 2. AS 25.20.060 is amended to read:

8 Sec. 25.20.060. CUSTODY OF THE CHILD. (a) If there is a dispute
9 over child custody, either parent may petition the superior court for
10 resolution of the matter under this section [UNLESS AN ACTION BETWEEN
11 THE PARENTS IS PENDING UNDER AS 09.55]. A court considering a petition
12 for custody of a child shall order the parties to participate in pre-
13 trial mediation of the custody matter under AS 25.20.070.

14 (b) After mediation of the custody matter, the [THE] court shall
15 award custody on the basis of the best interests of the child. In
16 determining the best interests of the child, the court shall consider
17 all relevant factors including those factors enumerated in AS 09.55.205-
18 (c) [AS 09.55.205].

19 (c) Neither parent, regardless of the question of the child's
20 legitimacy, is entitled to preference in the awarding of custody.

21 (d) Unless the court finds that it is not in the best interests of
22 the child,

23 (1) the court shall award custody in accordance with a custody
24 agreement between the parents; or

25 (2) if the parents do not agree on custody, the court shall
26 award

27 (A) joint custody; or

28 (B) custody to one parent with frequent visitation rights
29 to the other parent.

1 * Sec. 3. AS 25.20 is amended by adding a new section to read:

2 Sec. 25.20.070. MEDIATION OF CUSTODY MATTER. (a) At any time
3 within 30 days after a petition for child custody is filed under
4 AS 25.20.060 the court shall order the parties to submit to mediation.
5 Each party shall have the right to challenge peremptorily the mediator
6 appointed.

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

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

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