

BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 519

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to child custody determinations and
7 visitation rights."

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

9 * Section 1. AS 25.20 is amended by adding a new section to read:

10 Sec. 25.20.140. GUIDELINES FOR DETERMINING VISITATION RIGHTS.

11 (a) After the court has awarded custody of a child under AS 25.20.-
12 060 - 25.20.130, the court shall determine visitation rights for other
13 persons who wish to have access to the child.

14 (b) Except as provided in (d) of this section, if the parent who
15 has visitation rights resides 100 miles or less from the primary
16 residence of the child, that parent has the right to possession of the
17 child as follows:

18 (1) on weekends from six o'clock in the morning on the
19 first, third, and fifth Friday of each month until six o'clock in the
20 evening on the following Sunday or, at the parent's election made
21 before the rendition of the original or modification order, from the
22 time the child's school day ends, if any, until six o'clock in the
23 evening on the following Sunday; and

24 (2) on Wednesday of each week during the regular school
25 term from six o'clock in the evening until eight o'clock in the even-
26 ing, or, at the parent's election made before the rendition of the
27 original or modification order, from the time the child's school day
28 ends, if any, until eight o'clock in the evening.

29 (c) Except as provided in (d) of this section, if a weekend

1 period of visitation coincides with a school holiday during the regu-
2 lar school term or with a federal, state, or local holiday during the
3 summer months in which school is not in session, the weekend pos-
4 session shall extend until six o'clock in the evening on a Monday
5 holiday or school holiday or shall begin at six o'clock in the evening
6 Thursday for a Friday holiday or school holiday, as applicable.

7 (d) The provisions of this subsection govern possession of the
8 child for vacations and for certain specific holidays and supersede
9 conflicting weekend or Wednesday periods of possession provided by (b)
10 and (c) of this section as follows:

11 (1) the parent with visitation rights shall have possession
12 of the child in even-numbered years from six o'clock in the evening on
13 the last school day before the Christmas school vacation begins until
14 six o'clock in the evening on the day before school resumes;

15 (2) the parent with visitation rights shall have possession
16 of the child in odd-numbered years from noon on December 26th until
17 six o'clock in the evening on the day before school resumes;

18 (3) the parent with visitation rights shall have possession
19 of the child in odd-numbered years from six o'clock in the evening on
20 the Wednesday before Thanksgiving until six o'clock in the evening on
21 the following Sunday, and the custodial person shall have possession
22 for the same period in even-numbered years;

23 (4) the parent with visitation rights shall have possession
24 of the child in even-numbered years from six o'clock in the evening on
25 the day school recesses for spring vacation until six o'clock in the
26 evening on the day before school resumes, and the custodial person
27 shall have possession for the same period in odd-numbered years;

28 (5) if the parent with visitation rights

29 (A) gives the custodial person written notice by May 1

1 of each year specifying an extended period or periods of summer
2 possession, the parent with visitation rights shall have posses-
3 sion of the child for 42 days between June 1 and August 31, to be
4 exercised in no more than two separate periods of at least seven
5 consecutive days each; or

6 (B) does not give the custodial person written notice
7 by May 1 of each year specifying an extended period or periods of
8 summer possession, the parent with visitation rights shall have
9 possession of the child for 42 consecutive days beginning at six
10 o'clock in the evening on July 1 and ending at six o'clock in the
11 evening on August 11;

12 (6) if the custodial person gives the parent with visita-
13 tion rights written notice by May 15 of each year or gives 14 days'
14 written notice on or after May 16 of each year, the custodial person
15 shall have possession of the child on any one weekend from Friday at
16 six o'clock in the evening to six o'clock in the evening on the fol-
17 lowing Sunday during any one period of possession by the parent with
18 visitation rights under (5) of this subsection; the custodial person
19 shall pick up the child from the parent with visitation rights and
20 return the child to that same place;

21 (7) if the custodial person gives the parent with visita-
22 tion rights written notice by May 15 of each year or gives 14 days'
23 written notice on or after May 16 of each year, the custodial person
24 may designate one weekend between June 1 and August 31, during which
25 an otherwise scheduled weekend period of possession by the parent with
26 visitation rights will not take place, if the weekend so designated
27 does not interfere with the period or periods of extended summer
28 possession by the parent with visitation rights or with Father's Day
29 if the parent with visitation rights is the father of the child;

1 (8) in even-numbered years, the parent who would not have
2 possession of a child on the child's birthday under other provisions
3 of this section shall have possession of the child from six o'clock in
4 the evening to eight o'clock in the evening on that day if the parent
5 picks up the child from the child's residence and returns the child to
6 that same place; in odd-numbered years, the other parent shall have
7 possession of the child on the child's birthday from six o'clock in
8 the evening to eight o'clock in the evening;

9 (9) if a custodian or a parent with visitation rights, the
10 father shall have possession of the child on Father's Day from nine
11 o'clock in the morning to six o'clock in the evening; if the father is
12 not in possession of the child, the father shall pick up the child
13 from the child's residence and return the child to that same place;
14 and

15 (10) if a custodian or a parent with visitation rights, the
16 mother shall have possession of the child on Mother's Day from nine
17 o'clock in the morning to six o'clock in the evening; if the mother is
18 not in possession of the child, the mother shall pick up the child
19 from the child's residence and return the child to that same place.

20 (e) If the parent with visitation rights resides more than 100
21 miles from the residence of the child, the parent with visitation
22 rights shall have the right to possession of the child as follows:

23 (1) either alternating weekends, or not more than one
24 weekend a month of that parent's choice, beginning at six o'clock in
25 the evening on the day school recesses for the weekend and ending at
26 six o'clock in the evening on the day before school resumes after the
27 weekend, if the parent with visitation rights gives the custodial
28 person seven days' written or telephonic notice preceding a designated
29 weekend, and if the parent with visitation rights elects an option for

1 this possession either before the rendition of the original or modi-
2 fied order or by written notice given to the custodial person within
3 90 days after the parties begin to reside more than 100 miles apart,
4 as applicable, and if the weekend possessions do not conflict with
5 (d)(1) - (3) and (8) - (10) of this section;

6 (2) the terms of (d)(1) - (3) and (8) - (10) of this sec-
7 tion are applicable when the parent with visitation rights resides
8 more than 100 miles from the residence of the child;

9 (3) every spring school vacation from six o'clock in the
10 evening on the day school recesses until six o'clock in the evening on
11 the day before school resumes after that vacation;

12 (4) if the parent with visitation rights

13 (A) gives the custodial person written notice by May 1
14 of each year specifying an extended period or periods of summer
15 possession, the parent with visitation rights shall have posses-
16 sion of the child for 42 days between June 1 and August 31, to be
17 exercised in no more than two separate periods of at least seven
18 consecutive days each; or

19 (B) does not give the custodial person written notice
20 by May 1 of each year specifying an extended period or periods of
21 summer possession, the parent with visitation rights shall have
22 possession of the child for 42 consecutive days beginning at six
23 o'clock in the evening on June 15 and ending at six o'clock in
24 the evening on July 27;

25 (5) if the custodial person gives the parent with visita-
26 tion rights notice by May 15 of each year or 14 days' notice on or
27 after May 16 of each year, the custodial person shall have possession
28 of the child on any one weekend from Friday at six o'clock in the
29 evening to six o'clock in the evening on the following Sunday during

1 any one period of possession by the parent with visitation rights
2 under (4) of this subsection; however, if a period of possession by
3 the parent with visitation rights exceeds 30 days, the custodial
4 person may have possession of the child under the terms of this sub-
5 section on any two nonconsecutive weekends during that time period;
6 the custodial person shall pick up the child from the parent with
7 visitation rights and return the child to that same place.

8 (f) Terms and conditions of possession of a child that apply
9 irrespective of the distance between the residence of a parent and the
10 child are as follows:

11 (1) the custodial person shall surrender the child to the
12 parent with visitation rights at the beginning of each period of that
13 parent's possession at the residence of the custodial person;

14 (2) the parent with visitation rights shall surrender the
15 child to the custodial person at the end of each period of possession
16 at the residence of the parent with visitation rights or, at that
17 parent's option, return the child to the residence of the custodial
18 person at the end of each period of possession;

19 (3) the child shall be returned with the personal effects
20 that the child brought at the beginning of the period of possession;

21 (4) either parent may designate a competent adult to pick
22 up and return the child, as applicable; a parent or a designated
23 competent adult shall be present when the child is picked up or re-
24 turned;

25 (5) a parent shall give notice to the person in possession
26 of the child on each occasion that the parent will be unable to exer-
27 cise that parent's right of possession for a specified period; re-
28 peated failure of a parent to give notice of an inability to exercise
29 possessory rights may be considered as a factor in a modification of

1 those possessory rights;

2 (6) written notice shall be considered to have been timely
3 made if received or postmarked before or at the time that notice is
4 due; and

5 (7) if a time of possession of a child ends at the time
6 school resumes and for any reason the child is not or will not be
7 returned to school, the person in possession of the child shall imme-
8 diately notify the school and the other person with custodial or
9 visitation rights that the child will not be or has not been returned
10 to school.

11 (g) The court may, under this section, restrict the means of
12 travel of the child by a legal mode of transportation only after a
13 showing of good cause contained in the record and a finding by the
14 court that the restriction is in the best interest of the child. The
15 court shall set out in its order the specific duties of the respective
16 parties to provide appropriate transportation to and from the relevant
17 transportation facilities.

18 (h) If a child is enrolled in school, the parent with visitation
19 rights consents, and the court finds that it is in the best interest
20 of the child, the court may provide that the period of possession by a
21 parent with visitation rights shall begin or end, or both, at a dif-
22 ferent time expressly set in this section under and within the range
23 of alternative times provided by one or both of the following para-
24 graphs:

25 (1) instead of a period of possession beginning at six
26 o'clock in the evening on the day school recesses, the period of
27 possession may be set to begin at the time school recesses or at any
28 time between the time school recesses and six o'clock in the evening;
29 and

1 (2) instead of a period of possession ending at six o'clock
2 in the evening on the day before school resumes, the period of pos-
3 session may be set to end at the time school resumes or at any time
4 between six o'clock in the evening on the day before school resumes
5 and the time that school resumes.

6 (i) The alternative possession times provided by (h) of this
7 section may be applied to regular weekend possession under (b)(1) and
8 (e)(1) of this section but may not be applied to Wednesday evening
9 possession under (b)(2) of this section.

10 (j) In any dispute about child custody or visitation, there is a
11 rebuttable presumption that the provisions of this section provide
12 reasonable minimum possession of a child for a parent who has visita-
13 tion rights and that the order is in the best interest of the child.
14 A court may determine that the application of these guidelines would
15 be unworkable or inappropriate under the circumstances and not in the
16 best interest of the child.

17 (k) The rebuttable presumption established in (j) of this sec-
18 tion is also applicable to temporary visitation orders for possession
19 of a child by a parent. This subsection does not impair the authority
20 of the court to enter other temporary orders.

21 (1) If the work schedule or other special circumstances of the
22 custodial person, parent with visitation rights, or child make the
23 provisions of this section unworkable or inappropriate, the court
24 shall render an order that grants periods of possession of the child
25 as similar as possible to those provided by this section.

26 (m) This section does not prohibit the parties from agreeing to
27 periods of possession of a child that vary from the provisions of this
28 section or prohibit court approval of their agreements.

29 (n) The court may consider the guidelines to determine if there

1 has been a material and substantial change in circumstances or if the
2 order has become unworkable or inappropriate in determining whether a
3 modification of the existing order for possession of or access to a
4 child by a parent is in the best interest of the child. If the terms
5 and conditions for possession of a child by a parent contained in the
6 order sought to be modified are not in substantial compliance with the
7 provisions of this section, this may warrant a modification of the
8 prior order in accordance with the terms of this section if the modi-
9 fication is in the best interest of the child.

10 (o) A copy of these guidelines shall be prominently displayed at
11 or near the entrance to the courtroom and on the official bulletin
12 board, if any, in those courts having jurisdiction over determining
13 custody and visitation rights of a child.

14 (p) The guidelines in this section constitute a presumptive
15 minimum amount of time for possession of a child by a parent with
16 joint custody who is not awarded the primary physical residence of the
17 child, if the residence has been awarded, in any dispute concerning
18 child custody or visitation rights.

19 (q) In addition to awarding visitation rights to a noncustodial
20 parent, a court may, upon application, award visitation rights to any
21 other person whose visitation rights would be in the best interests of
22 the child.

23 (r) If a custodial parent intends to place the child in the care
24 of another person during the custodial parent's time for custody, the
25 noncustodial parent has the right to care for the child during the
26 time period when the child would be cared for by the other person. At
27 the option of the noncustodial parent, the noncustodial parent may,
28 instead of providing care during the entire period when the child
29 would be cared for by another person, choose to provide care only part

1 of the time by picking up the child from the other person for up to
2 three afternoons a week and returning the child to that person before
3 the custodial parent is scheduled to pick up the child. Part-time
4 care under this subsection that involves pickups from another person
5 shall be arranged in advance with reasonable notice to the custodial
6 parent and to the person ordinarily providing care for the child.

7 * Sec. 2. RETROACTIVITY. AS 25.20.140, enacted by sec. 1 of this Act,
8 applies to an award of custody and visitation rights made before the effec-
9 tive date of this Act if the award is modified on or after the effective
10 date of this Act.