

SENATE CS FOR CS FOR HOUSE BILL NO. 93 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/5/92
Referred: Judiciary

Sponsor(s): HOUSE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act eliminating a requirement that a court consider the findings and recommendations
2 of a neutral mediator when awarding shared child custody; relating to court orders
3 concerning control of a minor's property rights in child custody proceedings; relating to
4 visitation rights of grandparents and other persons in child custody disputes; allowing a
5 grandparent or other person to petition a court for visitation rights with a child; allowing
6 a court to consider nonspousal visitation rights when reviewing a dissolution agreement;
7 and relating to child support obligations in situations where the child is receiving certain
8 disability benefits."

9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

10 * Section 1. AS 25.20.060(a) is amended to read:

11 (a) If there is a dispute over child custody, either parent may petition the superior court
12 for resolution of the matter under AS 25.20.060 - 25.20.130. The court shall award custody on

1 the basis of the best interests of the child. In determining the best interests of the child, the court
2 shall consider all relevant factors including those factors enumerated in AS 25.24.150(c). In a
3 custody determination under this section, the court may provide for visitation by a
4 grandparent or other person if that is in the best interests of the child.

5 * Sec. 2. AS 25.20 is amended by adding a new section to read:

6 Sec. 25.20.065. VISITATION RIGHTS OF GRANDPARENT OR OTHER PERSON.

7 (a) Except as provided in (c) of this section, a child's grandparent or another person may petition
8 the superior court for an order establishing reasonable rights of visitation between the grandparent
9 or other person and the child if

10 (1) the grandparent or other person has established or attempted to establish
11 ongoing personal contact with the child;

12 (2) the child's custodian has denied the grandparent or other person reasonable
13 opportunity to visit the child; and

14 (3) visitation by the grandparent or other person is in the child's best interest.

15 (b) After a decree or final order relating to child custody is entered under AS 25.20.060
16 or AS 25.24.160 or relating to an adoption under AS 25.23, a grandparent or other person may
17 petition under this section only if

18 (1) the grandparent or other person did not request the court to grant visitation
19 rights during the pendency of proceedings under AS 25.20.060, AS 25.23, or AS 25.24; or

20 (2) there has been a change in circumstances relating to the custodial parent or
21 the minor child that justifies reconsideration of the grandparent's or other person's visitation
22 rights."

23 * Sec. 3. AS 25.20.090 is amended to read:

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

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

28 (2) the needs of the child;

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

30 (4) the education of the child;

31 (5) the advantages of keeping the child in the community where the child

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presently resides;

(6) the optimal time for the child to spend with each parent considering

(A) the actual time spent with each parent;

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

(C) the feasibility of travel between the parents;

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

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

(7) [ANY FINDINGS AND RECOMMENDATIONS OF A NEUTRAL MEDIATOR;

(8)] any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;

(8) [(9)] evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;

(9) [(10)] other factors the court considers pertinent.

* Sec. 4. AS 25.20 is amended by adding a new section to read:

Sec. 25.20.150. AUTHORITY OVER MINOR'S PROPERTY RIGHTS. (a) In an action under this chapter or AS 25.24 in which a court determines or approves custody of a child, including an action to award temporary custody or modify custody, the court shall specify which party has authority to control the property rights of the child and claim a permanent fund dividend on behalf of the child when the child is eligible under AS 43.23. The court may attach appropriate terms and conditions to the exercise of authority granted under this subsection.

(b) If the court does not specify which party has authority to claim a permanent fund dividend on behalf of a child under (a) of this section, the person with primary physical custody of the child has that authority.

* Sec. 5. AS 25.24.220(d) is amended to read:

(d) If the petition is filed by both spouses under AS 25.24.200(a), the court shall examine the petitioners or petitioner present and consider whether

(1) the spouses fully understand the nature and consequences of their action;

1 (2) the written agreements between the spouses concerning child custody, child
2 support, and visitation are just as between the spouses and in the best interests of the children
3 of the marriage; in determining whether the parents' agreement on visitation is in the best
4 interests of the children under this paragraph, the court may also consider whether the
5 agreement should include visitation by grandparents and other persons;

6 (3) the written agreements between the spouses relating to the division of
7 property, including retirement benefits, spousal maintenance, and the allocation of obligations are
8 just; the spousal maintenance and division of property must fairly allocate the economic effect
9 of dissolution and take into consideration the factors listed in AS 25.24.160(a)(2) and (4);

10 (4) the written agreements constitute the entire agreement between the parties; and

11 (5) the conditions in AS 25.24.200(a) have been met.

12 * Sec. 6. AS 25.27 is amended by adding a new section to read:

13 Sec. 25.27.061. CREDITS AGAINST SUPPORT OBLIGATION. If a child to whom
14 a duty of support is owed receives a monetary benefit from the federal government that is based
15 on a federal disability benefit of the obligor, the amount owed by the obligor under the duty of
16 support for the month in which the child receives the federal benefit is reduced by the amount
17 of the child's benefit.