

HOUSE BILL NO. 449

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVE B.DAVIS

Introduced: 2/7/92

Referred: Health, Education & Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the consideration of the parents' child support payment history when
2 a court is making a custody decision or determining the best interests of a child."

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

4 * Section 1. AS 25.20.090 is amended to read:

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

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

9 (2) the needs of the child;

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

11 (4) the education of the child;

12 (5) the advantages of keeping the child in the community where the child
13 presently resides;

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

- 1 (A) the actual time spent with each parent;
2 (B) the proximity of each parent to the other and to the school in which
3 the child is enrolled;
4 (C) the feasibility of travel between the parents;
5 (D) special needs unique to the child that may be better met by one parent
6 than the other;
7 (E) which parent is more likely to encourage frequent and continuing
8 contact with the other parent;
9 (7) any findings and recommendations of a neutral mediator;
10 (8) any evidence of domestic violence, child abuse, or child neglect in the
11 proposed custodial household or a history of violence between the parents;
12 (9) evidence that substance abuse by either parent or other members of the
13 household directly affects the emotional or physical well-being of the child;
14 (10) the past history of the parents with respect to their compliance with the
15 child support payment provisions of temporary or permanent support orders or
16 agreements;
17 (11) other factors the court considers pertinent.

18 * Sec. 2. AS 25.20.110(b) is amended to read:

19 (b) When making a determination relating to child custody under (a) of this section, the
20 court shall consider the past history of the parents with respect to their compliance with the child
21 support payment provisions of temporary or permanent support orders or agreements
22 [RELATING TO THE CHILD OR TO OTHER CHILDREN. UNDER THIS SUBSECTION,
23 THE COURT MAY CONSIDER A PARENT'S FAILURE TO PAY CHILD SUPPORT ONLY
24 IF THE PARENT HAD ACTUAL KNOWLEDGE OF THE AMOUNT OF THE CHILD
25 SUPPORT OBLIGATION AND HAD FUNDS AVAILABLE FOR PAYMENT OF SUPPORT
26 OR COULD HAVE OBTAINED THOSE FUNDS THROUGH REASONABLE EFFORTS, AS
27 DETERMINED BY THE COURT].

28 * Sec. 3. AS 25.24.150(c) is amended to read:

29 (c) The court shall determine custody in accordance with the best interests of the child
30 under AS 25.20.060 - 25.20.130. In determining the best interests of the child, the court shall
31 consider

- 1 (1) the physical, emotional, mental, religious, and social needs of the child;
- 2 (2) the capability and desire of each parent to meet these needs;
- 3 (3) the child's preference if the child is of sufficient age and capacity to form a
- 4 preference;
- 5 (4) the love and affection existing between the child and each parent;
- 6 (5) the length of time the child has lived in a stable, satisfactory environment and
- 7 the desirability of maintaining continuity;
- 8 (6) the desire and ability of each parent to allow an open and loving frequent
- 9 relationship between the child and the other parent;
- 10 (7) any evidence of domestic violence, child abuse, or child neglect in the
- 11 proposed custodial household or a history of violence between the parents;
- 12 (8) evidence that substance abuse by either parent or other members of the
- 13 household directly affects the emotional or physical well-being of the child;
- 14 (9) the past history of the parents with respect to their compliance with the
- 15 child support payment provisions of temporary or permanent support orders or
- 16 agreements;
- 17 (10) other factors that the court considers pertinent.