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FILE WITH SB 320
Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

January 27, 1984

Senator Bill Ray,
Chairman
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska

Re: SB 320, An Act relating to the
Dissolution of Marriage.

Dear Senator Ray:

Below, you will find a brief sectional analysis of SB 320. I have also enclosed a copy of the pertinent statutes cited in the bill.

Section 1. AS 25.24.200 (a) Dissolution.

Under Article 2, Dissolution of Marriage, this section adds a new paragraph (B) which requires that the court have jurisdiction as provided in AS 25.30.20 and is an appropriate forum under AS 25.30.050 and 060 before parents can file a petition for dissolution of marriage and can agree on custody and visitation.

In other words, the requirements set forth in AS 25.30.020, 050 and 060 must be met before a husband and wife may petition the Superior Court for dissolution of a marriage if there are minor children or the wife is pregnant.

Section 2. AS 25.24.210 Petition for Dissolution.

Adds wording which provides that the petition of dissolution or marriage shall include the facts showing whether the court has jurisdiction and is an appropriate forum under AS 25.30.020, 050 and 060 to determine custody and visitation.

Section 3. AS 25.24.230 (e) Judgment.

Adds new language which provides that the decree shall state that it does not bar future action on issues not resolved if: "The court does not have

Senator Bill Ray, Chairman
Senate Judiciary Committee
January 26, 1984
Page Two

Re: SB 320

jurisdiction or is not an appropriate forum or the court otherwise lacks jurisdiction to grant all of the relief requested."

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:lk

Enclosures

NOTES TO DECISIONS

Applied in *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Quoted in *Morgan v. Morgan*, Sup. Ct. Op. No. 2694 (File No. 7297), P.2d (1983).

Cited in *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982); *Kimmons v. Heldt*, Sup. Ct. Op. No. 2685 (File No. 6254), P.2d (1983).

Sec. 25.30.020. Jurisdiction. (a) The superior court has jurisdiction to make a child custody determination by initial or modification decree if the conditions set out in any of the following paragraphs are met:

(1) this state (A) is the home state of the child at the time of commencement of the proceeding, or (B) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of removal or retention by a person claiming custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(2) the child is physically present in this state and is a child in need of aid as defined in AS 47.10.290; or

(3) it (A) appears that no other state would have jurisdiction under prerequisites substantially in accordance with (1) or (2) of this subsection, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (B) is in the best interest of the child that this court assume jurisdiction.

(b) Except under (a)(2) and (3) of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine the child's custody. (§§ 1, 3 ch 61 SLA 1977)

NOTES TO DECISIONS

Determining jurisdiction. — Subject-matter jurisdiction either exists or does not exist at the time when the petition is filed with the court. Facts developing after that, such as the length of time the children have now been in another state, cannot be considered when determining whether the court initially had jurisdiction to hear the action. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Requirement for jurisdiction. — The superior court has no jurisdiction to make the "child custody determination" that is a prerequisite to the entry of a decree of dis-

solution under AS 09.55.234(a) unless one of the conditions listed in subsection (a) of this section exists. *Layne v. Niles*, Sup. Ct. Op. No. 2396 (File No. 5887), 632 P.2d 234 (1981).

The decision to decline jurisdiction if the court is an inconvenient forum is a discretionary one. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

A parent's appearance in another state's proceeding and his cooperation with that state's child custody investigator in the preparation of a probation report did not waive or confer jurisdiction upon the

court. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860).

What "proceeding" means. The word "proceeding" clearly encompasses divorce proceedings, change-of-custody proceedings, *Leighton v. Leighton*, Sup. Ct. Op. No. 3941, 596 P.2d 100 (1980); *Deivert v. Oser*, Sup. Ct. Op. No. 4910, 641 P.2d 14 (1982). The extent that it includes a summary or preliminary hearing is not clear. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982). It is contrary to the plain dictionary meaning of the word to apply when a court modifies custody.

Jurisdiction over another state. —

Sec. 25.30.020. making a decision to be heard, which are known to the contestants, and the proceeding is terminable. If any of these conditions are met, the court shall be heard shall

Sec. 25.30.020. to jurisdiction over a person outside the state. Provisions of Rule 25.30.020.

(b) Notice published at the court.

(c) Proof of provisions of

(d) Notice of court. (§ 1 ch

Sec. 25.30.020. The superior court shall have jurisdiction if at the time of the child custody proceeding is started more appropriate

(b) Before the proceeding shall examine the parties under

Szmyd, Sup. Ct. Op. No. 544, 641 P.2d 14 (1983).

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in another cooperation by investigator report did upon the

court. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

What "proceeding" encompasses. — The word "proceeding" in this statute clearly encompasses both the original divorce proceeding and any subsequent change-of-custody motions. *Leighton v. Leighton*, Sup. Ct. Op. No. 1844 (File No. 3941), 596 P.2d 8 (1979), overruled in *Deivert v. Oseira*, Sup. Ct. Op. No. 2357 (File No. 4910), 628 P.2d 575 (1981), to the extent that it indicates the need for an evidentiary hearing upon request, and *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982) to the extent that it is contrary to the holding that the jurisdictional prerequisites of this section apply when a superior court is asked to modify custody.

Jurisdiction under act adopted by other state. — Although Alaska had juris-

diction as the home state of the child, California arguably also had jurisdiction under a section of the Uniform Child Custody Jurisdiction Act adopted by California but not by Alaska, which conferred jurisdiction when the child and at least one parent had a significant connection with the state, and there was available in the state substantial evidence concerning the child's present or future care, protection, training, and personal relationships. *Kimmons v. Heldt*, Sup. Ct. Op. No. 2685 (File No. 6254), P.2d (1983).

Quoted in *Morgan v. Morgan*, Sup. Ct. Op. No. 2694 (File No. 7297), P.2d (1983).

Cited in *Carter v. Brodrick*, Sup. Ct. Op. No. 2500 (File No. 5511), 644 P.2d 850 (1982).

Sec. 25.30.030. Notice and opportunity to be heard. Before making a decree under this chapter, reasonable notice and opportunity to be heard, taking into account education and language differences which are known or reasonably ascertainable, shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given under AS 25.30.040. (§ 1 ch 61 SLA 1977)

Sec. 25.30.040. Notice to persons outside this state; submission to jurisdiction. (a) Notice required for the exercise of jurisdiction over a person outside this state shall be given in accordance with the provisions of Rule 4, Alaska Rules of Civil Procedure.

(b) Notice under this section shall be served, mailed, delivered, or published at least 20 days before any hearing in this state.

(c) Proof of service outside this state shall be made according to the provisions of Rule 4, Alaska Rules of Civil Procedure.

(d) Notice is not required if a person submits to the jurisdiction of the court. (§ 1 ch 61 SLA 1977)

Sec. 25.30.050. Simultaneous proceedings in other states. (a) The superior court may not exercise its jurisdiction under this chapter if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this chapter, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(b) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under AS 25.30.080 and shall consult the child custody records

maintained under AS 25.30.150 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending so that the issue may be litigated in the more appropriate forum and information may be exchanged in accordance with AS 25.30.180 — 25.30.210. If a court of this state has made a custody decree before being informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum. (§ 1 ch 61 SLA 1977)

NOTES TO DECISIONS

Editor's notes. — *Leighton v. Leighton*, Sup. Ct. Op. No. 1844 (File No. 3941), 596 P.2d 8 (1979), cited in the notes below was overruled in *Deivert v. Oseira*, Sup. Ct. Op. No. 2357 (File No. 4910), 628 P.2d 575 (1981), to the extent that it indicates the need for an evidentiary hearing upon request, and *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982), to the extent that it is contrary to the holding that the jurisdictional prerequisites of this section apply when a superior court is asked to modify custody.

The provisions of this section are jurisdictional. *Leighton v. Leighton*, Sup. Ct. Op. No. 1844 (File No. 3941), 596 P.2d 8 (1979).

Effect of pending suit in another jurisdiction. — The superior court was not authorized to exercise jurisdiction to enter an order changing permanent custody of the children from the mother to the father where it was aware of a pending Oregon suit by the mother which would have significantly restricted the father's access to the children. *Leighton v. Leighton*, Sup. Ct. Op. No. 1844 (File No. 3941), 596 P.2d 8 (1979).

Jurisdictional defect not waived. — Where the superior court was not authorized to exercise jurisdiction to enter an order changing permanent custody because of a pending Oregon suit, the Oregon party's failure to respond to the motion for change of custody before the

superior court did not result in waiver of the jurisdictional defect. *Leighton v. Leighton*, Sup. Ct. Op. No. 1844 (File No. 3941), 596 P.2d 8 (1979).

Effect of parent's appearance in another state's proceedings. — A parent's appearance in another state's proceeding and his cooperation with that state's child custody investigator in the preparation of a probation report did not waive or confer jurisdiction upon the court. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Deferring to court without jurisdiction. — While jurisdiction need not be yielded under this section if the other court would not have jurisdiction under the criteria of this act, the policy against simultaneous custody proceedings was so strong that it was appropriate to leave the case to the other court even under such circumstances. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Although the supreme court of Alaska concluded that a certain court in another state did not have jurisdiction to determine a particular custody proceeding, they held that the Alaska superior court did not abuse its discretion in deferring to the other state in that case and staying the Alaska proceedings. *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Where father transported children from Washington to Virginia but custody pro-

ceedings were had returned therefore meaning of prior court state its jurisdiction section. *Mor* No. 2694 (1983).

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ceedings were not instituted until after he had returned to Virginia, his conduct was therefore not "wrongful" within the meaning of AS 25.30.070(a), and the superior court should have declined to exercise its jurisdiction under subsection (a) of this section. Morgan v. Morgan, Sup. Ct. Op. No. 2694 (File No. 7297), P.2d (1983).

Ineffective communication with other courts. — Where the trial court sent an inquiry to the Virginia courts regarding the case, in accordance with

subsection (b) of this section, but it did not receive the response until almost three weeks after the order resolving the jurisdictional issues was entered, no effective communication was established with the Virginia courts before the jurisdictional decision was rendered, in contravention of subsection (c) of this section. Morgan v. Morgan, Sup. Ct. Op. No. 2694 (File No. 7297) P.2d (1983).

Applied in Kimmens v. Heldt. Sup. Ct. Op. No. 2685 (File No. 6254), P.2d (1983).

Sec. 25.30.060. Inconvenient forum. (a) The superior court may decline to exercise its jurisdiction any time before issuing a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(1) if another state is or recently was the child's home state;

(2) if another state has a closer connection with the child and the child's family or with the child and one or more of the contestants;

(3) if better evidence concerning the child's present or future care, protection, training, and personal relationships is available in another state, or if equally substantial evidence is more readily available in another state;

(4) if the parties have agreed on another forum which is no less appropriate; and

(5) if the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in AS 25.30.010.

(d) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for divorce or dissolution of marriage or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official of the other state for forwarding to the appropriate court.

(i) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody records of the court in the appropriate judicial district. Upon assuming jurisdiction, the superior court of this state shall inform the original court of this fact. (§ 1 ch 61 SLA 1977)

NOTES TO DECISIONS

Decision is discretionary. — The decision to decline jurisdiction if the court is an inconvenient forum is a discretionary one. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

Reasons must be stated. — It is error for a court to deny an inconvenient forum motion brought under this section without articulating its reasoning. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

The trial court may consider all facts up to the date of the motion or hearing when ruling on an inconvenient forum

motion. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

Contact with state. — In ruling on inconvenient forum motion, it is not the state which has accumulated a longer duration of contact with the child which is dispositive; rather, the inquiry must be into which state has the closer connection with the child. *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

Quoted in *Rexford v. Rexford*, Sup. Ct. Op. No. 2253 (File No. 4860), 631 P.2d 475 (1980).

Sec. 25.30.070. Jurisdiction declined by reason of conduct. (a) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may not exercise its jurisdiction unless it is necessary in an emergency to protect the child for reasons set out in AS 25.30.020(a)(2).

(b) If the petitioner for a modification decree has, without the consent of the person entitled to custody, improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary

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HUSBAND AND WIFE JOINTLY FILING
(AND THERE ARE CHILDREN OF THE MARRIAGE)

I. WHAT IS "DISSOLUTION OF MARRIAGE?"

Alaska Statutes 09.55.231-09.55.237 provide a "no fault" procedure for dissolution of marriage. A decree of dissolution of marriage has the same force and effect as a decree of divorce. The sole ground for dissolution of marriage is that an incompatibility of temperaments has caused the breakdown of the marriage. This means that there is no chance of saving the marriage because the husband and wife cannot get along.

II. UNDER WHAT CIRCUMSTANCES CAN DISSOLUTION OF MARRIAGE PROCEDURES BE USED?

These procedures apply only when at least one petitioner is an Alaska resident. This generally means physical presence within the State and an intent to remain. No specific duration of residence is required. A person serving in the military who has not established residency may use these procedures if he has been continuously stationed in a military base or installation in the state for a period of one year or more.

To allow this case to proceed, the court must have jurisdiction over the children of the marriage. This means that the children must have lived in Alaska for a minimum of 6 months. Also, the children must currently live in Alaska or Alaska must have been the children's home state within 6 months of the commencement of the case.

If these circumstances and those described in Section I. above are not met, dissolution procedures cannot be used. Further legal information concerning alternatives to the dissolution procedures may be obtained from an attorney. The court may not give legal advice.

A husband and wife may join in a petition for dissolution of marriage only if they reach agreement as to each of the following matters:

Property

1. The distribution of all jointly owned real and personal property;
2. The re-distribution, if any, of all separately owned real and personal property;
3. The payment of spousal support ("alimony") if any;
4. The tax consequences resulting from these agreements.

Debts

1. The payment of all unpaid obligations already incurred by either or both spouses;
2. The payment of obligations which may be incurred jointly in the future.

Children

1. Who shall be awarded custody of each minor child of the marriage;
2. The extent of visitation rights to be awarded to the spouse who does not have custody;

- does not have custody;
4. Whether child support should be paid through the Alaska Child Support Enforcement Agency;
 5. The tax consequences of child custody and support.

III. WHAT ARE THE COSTS IN FILING FOR DISSOLUTION?

There is a \$50 filing fee. If you cannot afford this fee, you may ask the court clerk for the form for exemption of payment of the filing fee.

IV. WHAT ARE THE STEPS IN THE DISSOLUTION PROCEDURE?

A. Filing a Petition for Dissolution.

The husband and wife must complete a Petition For Dissolution of Marriage: Husband and Wife (Form DR-105) and the Bureau of Vital Statistics Form Certificate of Absolute Divorce or Annulment (Complete the entire form except for lines 14-18, which will be completed by the court following the issuance of a decree.). These forms are then submitted to the clerk's office. The court clerk will assign a case number to the petition which must be written at the top of all other forms subsequently filed. If children are involved, the Child Custody Affidavit (Form DR-150) must also be completed and submitted.

After the petition is filed, any of the terms of the petition may be amended if both husband and wife agree and complete the Amendment of Agreement (Form DR-115). The form Withdrawal of Agreement (DR-120) may be used by a petitioner who wishes to withdraw from the agreement before a decree is signed. If the agreement is withdrawn, the case will be dismissed.

B. The Hearing.

At the time of filing the petition, the parties must check with the clerk's office for instructions on setting a hearing date. The hearing will be at a time acceptable to the petitioners and at least 30 days after the filing of the petition.

At least one petitioner must personally attend the hearing. The spouse not attending the hearing must sign a Waiver of Appearance and Notice of Hearing (Form DR-110).

Either spouse may have an attorney at the hearing, but none is required.

At the hearing the court will question the petitioner or petitioners to determine whether they fully understand the nature and consequences of the proceeding, whether an incompatibility of temperament has caused the breakdown of the marriage; and whether the terms of the agreement between the spouses are equitable and in the best interests of the children of the marriage.

The judge may amend the agreements between the spouses, but only if both petitioners concur in writing with the amendment.

C. The Decree.

After the hearing, the judge may grant a decree of dissolution of marriage if he finds that the agreements between the spouses are equitable and are in the best interests of the children of the marriage.

tion to the judge as to whether or not the decree should be granted. Therefore, the decree will not be granted at the hearing. If the master recommends approval, and the judge agrees with that recommendation, the decree will normally be granted within a few days after the hearing. DO NOT ASSUME THAT THE DECREE HAS BEEN GRANTED UNTIL YOU RECEIVE YOUR COPY.

An attorney's advice may be needed if real property or other property rights evidenced by legal documents are involved. Deeds and other legal documents must be prepared and validly executed. It is the parties' responsibility to make any legal transfers of title of assets listed in the petition.

V. HOW ARE CHILD SUPPORT PAYMENTS MADE AND ENFORCED?

If the petition provides for the payment of child support, it must specify whether the payments will be made directly to the custodial spouse or through the Alaska Child Support Enforcement Agency. The Agency maintains records of child support payments and enforces child support orders.

VI. GENERAL INSTRUCTIONS

The instructions and forms for dissolution of marriage are not necessarily a substitute for professional assistance. If there are any doubts about the proceedings, you should consult an attorney. Similarly, if child or spousal support are involved in the dissolution, tax consequences should be considered. This may require the assistance of an accountant or an attorney.

Neither the Alaska Court System nor the Department of Law can advise you.

Read the instructions carefully. Fill out the forms carefully and completely. TYPE OR PRINT NEATLY IN BLACK INK. Do not leave any spaces blank. Write "none" or "not applicable" where appropriate. If more space is needed, attach an additional page, and have each additional page signed by both petitioners. Be sure to fill out the caption at the top of each form.

VII. INSTRUCTIONS FOR COMPLETING THE PETITION FOR DISSOLUTION OF MARRIAGE: HUSBAND AND WIFE

A. Financial Data and Agreements:

Pages 2 and 3 of the Petition for Dissolution includes all financial data and agreements between the parties, except for child support, which is covered on page 4. The financial agreements include the distribution of assets, distribution of debts, and spousal support.

Assets

Assets include all kinds of property and rights in property. Houses and land are real property. Automobiles, boats, airplanes, snowmachines, furniture, household goods, etc., are personal property. Other property includes bank accounts, retirement funds, contract rights, stocks, bonds, etc.

Each spouse keeps his or her own property unless the parties agree otherwise. Joint assets may be distributed as the petitioners agree. The distribution of all assets must be indicated in the petition.

Debts include all kinds of financial obligations, such as loans, charge account balances, mortgages, etc.

Each spouse keeps his or her separate debts unless the parties agree otherwise. Joint debts may be distributed as the petitioners agree.

The distribution of all debts must be indicated in the petition. For joint debts, both spouses will remain legally obligated to the creditor until the debt is paid, regardless of the agreement of the parties.

If more space is needed, attach additional sheets.

Spousal Support

Petitioners may agree to the payment of spousal support ("alimony").

Spousal support payments must be included as income on the tax return of the spouse receiving the payments. An accountant's or attorney's advice may be helpful in regard to other tax consequences of spousal support.

B. Agreements Concerning Children.

Page 3 of the Petition for Dissolution includes all agreements between the parties concerning children of the marriage. In developing the agreements concerning child custody, visitation and support, petitioners must consider the best interests of the children. Mothers and fathers have an equal right to custody, all other things being equal. The mother does not have an automatic preference. Child support ordinarily must be paid, even if the parents might agree otherwise. This applies to unborn children if the wife is pregnant. Support is paid on behalf of the children, not for the benefit of the parent.

The court may order investigation of custody and support arrangements prior to approving the dissolution. The court may appoint a guardian ad litem (a lawyer or other party) to represent the best interests of any children of the marriage. Petitioners may be required to pay for these services.

An accountant's, attorney's, or advice may be helpful in regard to tax consequences.

C. Tax Consequences and Other Financial Agreements

There may be tax consequences as a result of the agreements between the parties concerning property division, spousal support, and child custody and support. An accountant's or attorney's advice may be helpful in regard to these tax consequences.

There may be other financial agreements between the parties which should be included in the petition. Examples of such agreements are the maintenance of life insurance by one spouse with the children or other spouse as beneficiary and the continued coverage of the children by one or both spouse's health insurance.

D. Signature and Notarizations

The petition must be signed and notarized by each petitioner. Each petitioner must also sign pages 2, 3, and 4. The Waiver of Appearance and Notice of Hearing, if used, must be signed by the petitioner who does not desire to be present at the hearing. All these signatures must be notarized.

AT _____

In the Matter of the)
Dissolution of the)
Marriage of)
_____ and)
_____)
Husband and Wife.)
_____)

No. _____

PETITION FOR DISSOLUTION
OF MARRIAGE

Petitioners hereby request a decree of dissolution of marriage pursuant to AS 09.55.231-09.55.237. An incompatibility of temperament has caused the irremediable breakdown of the marriage.

I. Information About Petitioners

A. Husband:

- 1. Length of residence in Alaska _____ years.
- 2. Residence address _____
_____ Home Phone
- 3. Mailing Address _____
_____ Business Phone
- 4. Occupation _____

B. Wife:

- 1. Length of residence in Alaska _____ years.
- 2. Residence address _____
_____ Home Phone
- 3. Mailing address _____
_____ Business Phone
- 4. Occupation _____

C. Date and place of marriage _____

D. Children:

- 1. Are there minor children born of the marriage or adopted? yes ____ no ____ . If yes, complete the following:

<u>Name</u>	<u>Birthdate</u>	<u>Age</u>	<u>Currently In Custody of</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 2. Is the wife pregnant? yes ____ no ____

TYPE OR PRINT IN BLACK INK

IV. Petitioner wants prior name restored to _____

V. Other Agreements _____

VI. Signatures and Verifications - DO NOT SIGN UNTIL THIS PETITION HAS BEEN COMPLETELY FILLED OUT. EACH SIGNATURE MUST BE INDIVIDUALLY NOTARIZED.

A. HUSBAND'S SIGNATURE AND VERIFICATION

DATE

HUSBAND SIGNATURE

LOCATION

This affiant, a co-petitioner, having been duly sworn deposes and says: That the facts and matters in the above and foregoing petition are true, according to his best knowledge and belief, and that the petition therein is not made out of levity, or by collusion, fear, or restraint between co-petitioners for the mere purpose of a dissolution, but in sincerity and truth for the cause mentioned in his petition.

(SEAL)

Notary Public in and for _____
My commission expires _____

.....

B. WIFE'S SIGNATURE AND VERIFICATION

DATE

WIFE SIGNATURE

LOCATION

This affiant, a co-petitioner, having been duly sworn deposes and says: That the facts and matters in the above and foregoing petition are true, according to her best knowledge and belief, and that the petition therein is not made out of levity, or by collusion, fear, or restraint between co-petitioners for the mere purpose of a dissolution, but in sincerity and truth for the cause mentioned in her petition.

(SEAL)

Notary Public in and for _____
My commission expires _____

AT _____

In the Matter of the)
Dissolution of the)
Marriage of)
_____ and)
_____)
Husband and Wife.)
_____)

No. _____

WAIVER OF APPEARANCE AND
NOTICE OF HEARING

_____, upon oath, deposes and says:
(Husband or Wife)

1. I have read this petition and agree to all of its terms relating to custody of the children, child support, visitation, spousal support and resultant tax consequences, division of property and allocation of debts.
2. I agree that an incompatibility of temperament has caused the irremediable breakdown of the marriage.
3. I understand fully the nature and consequences of this Petition for Dissolution of Marriage.
4. I understand that I will not be notified of the time of hearing for this dissolution and that the court may proceed without me.
5. I am not under duress or coercion to sign this Waiver of Appearance

DATE

(HUSBAND OR WIFE)

at _____

NOTARIZATION

THIS IS TO CERTIFY that on _____, 19____, the individual who executed the above waiver did appear before me personally and acknowledged to me that (s)he signed the same freely and voluntarily for the purposes mentioned in the waiver.

SUBSCRIBED AND SWORN to before me.

DATE

Notary Public in and for Alaska
My Commission Expires: _____

AT _____

CHILD CUSTODY AFFIDAVIT

CASE NAME

CASE NO.

I, _____, upon oath, give the following information:

1. The following children are the subject of the present custody proceedings:

a. Names: _____

b. Present Addresses: _____

c. Places where each child has lived within the last five years: _____

d. Names and present addresses of the persons with whom each child has lived during the last five years: _____

2. I have have not

participated as a party, a witness or in another capacity in other litigation concerning the custody of one or more of the above children in Alaska or in another state.

Describe: _____

3. I do do not

have information of another custody proceeding concerning one or more of the above children now pending in a court in Alaska or in another state.

Describe other proceeding: _____

4. I do do not

know of a person not a party to this proceeding who has physical custody of one or more of the above children or claims to have custody or visiting rights.

Describe: _____

I swear that my statements in this affidavit are true to the best of my knowledge and belief.

SIGNATURE

SUBSCRIBED AND SWORN to before me.

DATE

Notary Public in and for _____
My Commission Expires: _____

AT _____

CHILD CUSTODY AFFIDAVIT

CASE NAME

CASE NO.

I, _____, upon oath, give the following information:

1. The following children are the subject of the present custody proceedings:

a. Names: _____

b. Present Addresses: _____

c. Places where each child has lived within the last five years: _____

d. Names and present addresses of the persons with whom each child has lived during the last five years: _____

2. I have have not

participated as a party, a witness or in another capacity in other litigation concerning the custody of one or more of the above children in Alaska or in another state.

Describe: _____

3. I do do not

have information of another custody proceeding concerning one or more of the above children now pending in a court in Alaska or in another state.

Describe other proceeding: _____

4. I do do not

know of a person not a party to this proceeding who has physical custody of one or more of the above children or claims to have custody or visiting rights.

Describe: _____

I swear that my statements in this affidavit are true to the best of my knowledge and belief.

SIGNATURE

SUBSCRIBED AND SWORN to before me.

DATE

Notary Public in and for _____
My Commission Expires: _____

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
BUREAU OF VITAL STATISTICS - JUNEAU, ALASKA 99911

3AN- CIV

HUSBAND

HUSBAND - NAME		FIRST	MIDDLE	LAST
RESIDENCE - STATE		RECORDING DISTRICT OR COUNTY		
CITY, TOWN OR LOCATION		STREET AND NUMBER		
DATE OF BIRTH (MONTH, DAY, YEAR)		STATE OF BIRTH (IF NOT IN U.S.A. NAME COUNTRY)		SOCIAL SECURITY NO.

WIFE

WIFE - NAME		FIRST	MIDDLE	LAST	MAIDEN NAME
RESIDENCE - STATE		RECORDING DISTRICT OR COUNTY			
CITY, TOWN OR LOCATION		STREET AND NUMBER			
DATE OF BIRTH (MONTH, DAY, YEAR)		STATE OF BIRTH (IF NOT IN U.S.A. NAME COUNTRY)		SOCIAL SECURITY NO.	

PLACE OF THIS MARRIAGE - STATE (IF NOT IN U.S.A. NAME COUNTRY)	RECORDING DISTRICT OR COUNTY	CITY, TOWN, OR LOCATION
DATE OF THIS MARRIAGE (MONTH, DAY, YEAR)	APPROXIMATE DATE COUPLE SEPARATED (MONTH, YEAR)	
LIVING CHILDREN - TOTAL NUMBER	UNDER 18 YEARS OF AGE	PLAINTIFF <input type="checkbox"/> HUSBAND <input type="checkbox"/> WIFE <input type="checkbox"/> BOTH

ATTORNEY FOR PLAINTIFF - NAME	MAILING ADDRESS - STREET OR P.O. BOX NO., CITY OR TOWN, STATE, ZIP CODE	
DATE DECREE GRANTED (MONTH, DAY, YEAR)	PLACE GRANTED - CITY OR TOWN	TYPE OF DECREE <input type="checkbox"/> ABSOLUTE DECREE <input type="checkbox"/> ANNULMENT <input type="checkbox"/> DISSOLU
DECREE GRANTED TO <input type="checkbox"/> WIFE <input type="checkbox"/> HUSBAND <input type="checkbox"/> BOTH	LEGAL GROUNDS FOR DECREE (SPECIFY) INCOMPATIBILITY	

DECEASED

I CERTIFY THAT THE MARRIAGE OF THE ABOVE NAMED PERSONS WAS DISSOLVED ON THE DATE STATED		TITLE DEPUTY CLERK
THE COURT OFFICIAL - SIGNATURE		
DATE SIGNED (MONTH, DAY, YEAR)	COURT - NAME AND ADDRESS Clerk of the Trial Courts 303 K Street, Anchorage, Alaska 99501	JUDICIAL DISTRICT THIRD
IS MARRIED NAME OF WIFE TO BE RETAINED AFTER DECREE IS GRANTED? <input type="checkbox"/> YES <input type="checkbox"/> NO If No, please state the name to be used		

CONFIDENTIAL INFORMATION

HUSBAND

HUSBAND - RACE	NUMBER OF THIS MARRIAGE	IF PREVIOUSLY MARRIED		EDUCATION - SPECIFY HIGHEST GRADE COMPLETE		
		HOW MANY ENDED BY -		ELEMENTARY	HIGH SCHOOL	COLLEGE
WHITE, NEGRO, AMERICAN INDIAN, ETC (SPECIFY)	FIRST, SECOND ETC (SPECIFY)	DEATH	DIVORCE OR ANNULMENT	(0, 1, 2, 3, 4 OR 5)	(1, 2, 3, OR 4)	(1, 2, 3, 4, OR 5)
		(SPECIFY IF NONE)				

WIFE

WIFE - RACE	NUMBER OF THIS MARRIAGE	IF PREVIOUSLY MARRIED		EDUCATION - SPECIFY HIGHEST GRADE COMPLETE		
		HOW MANY ENDED BY -		ELEMENTARY	HIGH SCHOOL	COLLEGE
WHITE, NEGRO, AMERICAN INDIAN, ETC (SPECIFY)	FIRST, SECOND ETC (SPECIFY)	DEATH	DIVORCE OR ANNULMENT	(0, 1, 2, 3, 4 OR 5)	(1, 2, 3, OR 4)	(1, 2, 3, 4, OR 5)
		(SPECIFY IF NONE)				