

CHILD CUSTODY AND VISITATION - ALASKA



**Office of the Staff Judge
Advocate
Eielson AFB, Alaska**

354 FW/JA

**Legal Assistance and Preventive
Law
Pamphlet Series**

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CHILD CUSTODY AND VISITATION

Usually, the most traumatic issue in any breakup is custody of the children. The underlying principle for all custody decisions in court is the best interests of the child. This includes the needs of the child, the ability of each parent to meet these needs, the child's preference, the stability of the home, and each parent's willingness to allow the child to visit the other parent. The court will take any allegations of domestic violence or substance abuse quite seriously. You will present your best case for custody by keeping these factors in mind and understanding the process the court uses to determine custody.

Your child's preference may be very important. Courts making custody determinations generally will consider the child's preference if the child is of sufficient age and capacity to form a preference.

TYPES OF CUSTODY

Generally, there are two types of custody: legal custody and physical custody. Legal custody means the right and obligation to make decisions about a child's upbringing, including schooling, medical care, and financial matters. There are two types of legal custody – sole legal custody and shared (or joint) legal custody.

Sole legal custody means that only one parent is given the legal authority to make decisions about the child. If the parents do not agree on a decision about the child, the parent with sole legal custody has the right to make a final

decision. Sole custody does not rule out visitation by the other parent.

Shared legal custody means that both parents are given the legal authority to make decisions about the child. The parents share responsibility in making the major decisions affecting the child's welfare.

Physical custody means where a child actually lives. As a general matter, it is very rare for a child to live with one parent 100% of the time. There are four types of physical custody – primary, shared, divided, and hybrid.

Please consult an attorney for more details on the consequences of legal and physical custody.

PATERNITY

Paternity means legally determining the father of a child. There are four different ways to establish paternity:

- If a child is born while the mother is married, the husband is presumed to be the father, absent proof to the contrary.
- The parents can acknowledge paternity by signing the Bureau of Vital Statistics, Affidavit of Paternity form that results in the father being listed on the child's birth certificate.
- The Child Support Services Division can establish paternity and issue an order to the Bureau of Vital Statistics to add a man to the birth certificate as the father.
- A court order establishes paternity after either parent files a complaint to establish paternity. The court must find there is clear and convincing evidence about who the father is.

CONCLUSION

INITIATING THE CUSTODY CASE

A custody hearing can be initiated in a variety of ways. Usually, the hearing is part of a divorce or dissolution case ending a marriage. A parent may start a custody case after learning that the paternity of the child is in question. Also, unmarried parents may petition the court for a custody determination. To start a case in court, you must file either a complaint or a petition with the Alaska State courts.

VISITATION

Visitation is the right of a parent and child to contact and visit one another when the child is residing or visiting with the other parent. You may agree to various times of visitation, or the court may impose them. The standard conditions of visitation are two weekends a month and two weeks a year, but courts and parents may vary significantly from this guideline. Parents often divide major holidays, and may agree to longer, less frequent periods of visitation if one parent resides out of state. You should also determine who will be responsible for paying the expenses related to visitation, and who will accompany the child during travel.

MODIFICATION OF CUSTODY ORDERS

The custody determination by the court is not necessarily the end of the matter. If circumstances change after the judgment is entered, you can ask the court to change the custody judgment. Please see an attorney if you are considering asking the court to change a custody judgment.

This pamphlet provide basic information on child custody and visitation for military personnel stationed in Alaska. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for further questions and information.



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