Custody Modification
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When a child custody or visitation order is in effect, a parent who wishes to modify that physical custody order must first allege through court filings facts that, if proven, demonstrate a "substantial change in circumstances." A custodial parent under Alaska law is one who has at least 110 overnights a year with the child (30% of the year); anything less is considered visitation, and a lesser showing of changed circumstances is required to modify only visitation.

The alleged facts must show that circumstances have changed since the last custody order was entered. Because courts are reluctant to allow discontented parents to continually reopen custody disputes, the alleged changes must be permanent rather than temporary; must be considered in the aggregate by the court; and the changes must reflect more than the mere passage of time. If changed circumstances are found, then the court will hold a hearing to determine if a modification of the custody order, in light of the new circumstances, would be in the child's best interests.

There are not many hard and fast rules on what, exactly, constitutes a change in circumstances sufficient to warrant a hearing, but one parent's relocation outside of Alaska – or impending relocation – is an automatic change in circumstances. At a hearing the court will take evidence on the child's best interests and must also consider whether it would be best for the child to remain in a stable and familiar environment (Alaska) or else travel to a new state with a parent who may argue she offers better emotional stability than the non-relocating parent. If a parent who is moving simply wants to make the child's visitation with the other parent more difficult, this sentiment will count against the moving parent. In these types of cases there is no presumption that the child ought to remain in Alaska or vice versa, and the court will examine all the facts with an eye towards the best interests of the child.

In cases where neither parent is moving outside of Alaska our Supreme Court has affirmed findings of a substantial change in circumstances when: (1) a custodial parent demonstrates a detrimental and well established pattern of behavior to erode the bond of love and affection between the other parent and the children; (2) a custodial parent imposes additional visitation restrictions without court approval; (3) the divorced parents' feuding escalates and adversely impacts the child in conjunction with each parent's remarriage and one parent's stated intention to move from Alaska; (4) parents agree in principle on who ought to be the primary custodian but thereafter cannot agree on a concrete visitation and custody schedule; (5) a non-custodial father secures a permanent residence then substantially increases its size to account for his children; (6) a non-custodial parent makes longstanding changes to her lifestyle, including overall maturation, remarriage, new fulltime employment, and sustained control over a former drinking problem; (7) a mother with shared physical custody continues to abuse alcohol, has untreated mental health issues, the children's grades worsen, and there are allegations that the mom physically abuses the children; (8) a non-custodial father's two oldest children move into his home, he changes his work schedule to spend more time with the children, and he participates in anger management and alcohol treatment programs, leading the court to grant father custody of his two youngest children as well.

The examples above are by no means exhaustive, and determining whether a "substantial change of circumstances" has occurred is heavily fact-intensive. If allegations filed with the court demonstrate that a substantial change of circumstances could be proven, then a hearing will be held where each parent can present evidence as to why a different custody and visitation schedule would be in the child's best interests.

The following Alaska Supreme Court cases were relied on for this article: *Fredrickson v. Hackett*, Op No. S-16298 (Alaska Oct. 27, 2017); *Collier v. Harris*, 377 P.3d 15 (Alaska 2016); *Snider v. Snider*, 357 P.3d 1180 (Alaska 2015); *Frackman v. Enzor*, 327 P.3d 878 (Alaska 2014); *Melendrez v. Melendrez*, 143 P.3d 957 (Alaska 2006); *Barrett v. Alguire*, 35 P.3d 1 (Alaska 2001); *Siekawitch v. Siekawitch*, 956 P.2d 447 (Alaska 1998); *Pinneo v. Pinneo*, 835 P.2d 1233, 1238 (Alaska 1992); *Long v. Long*, 816 P.2d 145 (Alaska 1991); *Hermosillo v. Hermosillo*, 797 P.2d 1206 (Alaska 1990); *Nichols v. Mandelin*, 790 P.2d 1367 (Alaska 1990); *Gratix v. Gratix*, 652 P.2d 76 (Alaska 1982).

The following Alaska Statutes govern custody modification proceedings: 25.20.110 (Modification of child custody or visitation); 25.24.150 (Judgments for custody; supervised visitation).

Each individual's circumstances are different. The information in this article may not be beneficial to your needs. If you would like more information on your specific circumstances contact CSG, Inc. for a consultation.