DISSOLUTION OF MARRIAGE INSTRUCTIONS FOR HUSBAND AND WIFE FILING TOGETHER WHEN THERE ARE MINOR CHILDREN OF THE MARRIAGE

Note: Court personnel are not allowed to give legal advice. Administrative Rule 2(d) and AS 08.08.230.

Please do not ask a court clerk for advice about how to handle your case. Court personnel are required to remain neutral in court cases. They are prohibited from advising you about how to present your case.

If you do not understand this instruction pamphlet or if you need more information about your rights, the laws or the procedures, you should contact a lawyer for help.

Many of the agreements you will make in your petition for dissolution will have tax consequences (including agreements about property division, spousal maintenance, child custody and child support). It is very important that you get an accountant's or attorney's advice about these tax consequences before making your agreement.

Dissolution of Marriage

A decree of dissolution of marriage has the same force and effect as a decree of divorce. However, the procedures for getting a dissolution are somewhat different than those for a divorce. Dissolution procedures are described in Alaska Statutes 25.24.200 - .260 and Civil Rule 90.1. The court system provides forms for dissolution petitions, but not for divorces.

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Requirements

The requirements for using dissolution procedure are:

1. Either the husband or wife (or both) must be domiciled in Alaska. That means the person claims residency in Alaska. The person must be physically present in Alaska and intend to remain indefinitely. No minimum number of days of residency is required. In addition, military personnel who do not claim to be Alaska residents may file for dissolution if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. AS 25.24.900.

2. The court must have jurisdiction over the minor children of the marriage (children under age 18) in one of the ways described in AS 25.30.300. This generally means the children (a) must have lived in Alaska at least six consecutive months and (b) must currently live in Alaska or must have lived in Alaska within six months before the case is filed.

3. The husband and wife must agree that "incompatibility of temperament has caused the irremediable breakdown of the marriage." This means there is no chance of saving the marriage because the husband and wife cannot get along.

4. The husband and wife must agree on all of the following:

    a. custody of each minor child of the marriage,
    b. visitation (including visitation by grandparents and other persons),
    c. child support (including whether or not the services of the Child Support Enforcement Division will be requested),
    d. distribution of all real and personal marital property (both jointly owned and separately owned and community property under AS 34.75), including retirement benefits,
    e. payment of spousal maintenance (alimony), if any,
    f. payment of all existing debts owed by either or both of them and payment of any debts which may be incurred jointly in the future, and
    g. the tax consequences of all the above agreements.

5. The property and spousal maintenance agreements must be fair and just and must take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic effect of the dissolution is fairly allocated.

If you cannot meet one or more of these requirements, contact a lawyer to find out what your options are.

Procedure to Follow

To get a decree dissolving your marriage, you must do the following:

1. Fill out the following two forms attached to these instructions:

   a. Form DR-105, Petition for Dissolution of Marriage. See the instructions beginning on page 5. If you want shared custody, you will also have to fill out form DR-306 (included in this packet) and attach it to the petition.

   b. Form VS-401, Certificate of Divorce, Dissolution of Marriage or Annulment. Complete all of VS-401 except lines 18-19 and 22-28 which will be completed by the court when the decree is entered.

2. File these forms at the clerk's office and pay the $100 filing fee. If you cannot afford this fee, ask the clerk for form TF-920, Request for Exemption from Payment of Fees.

   Note: Once the petition is signed by the first party signing it, you have only 60 days to file it with the court. If you delay filing beyond that date, the court will not accept it. Civil Rule 90.1.

3. Ask the clerk's office for instructions on setting a hearing date. The hearing must be at least 30 days after the date the petition is filed. It will be set for a time acceptable to both parties.

4. Amendment or Withdrawal of Petition.

   After the petition is filed, any of the terms of the petition may be amended if both husband and wife agree and complete form DR-115, Amendment of Agreement and file it with the court.

   If either spouse wants to withdraw from the agreement, that spouse must file form DR-120, Withdrawal of Agreement, with the court before the decree is signed. If the agreement is withdrawn, the case will be dismissed.

   If you decide to use either of these forms, be sure to fill in the case number which the court clerk assigned to your petition.

5. Hearing.

   Both parties must ordinarily attend the hearing. If it would be a significant hardship for a party to attend, that party must fill out and sign form DR-110, Appearance and Waiver of Notice of Hearing (included in this packet), acknowledge it before a court clerk or notary public and file it with the court. The court will then decide whether the hardship is significant enough to allow the party not to appear. If the court allows the party not to appear in person, the court may still require the party to be available by telephone to answer questions during the hearing. The absent party must pay the costs of the telephone call. At least one party must always attend the hearing.

   Each party may have a lawyer at the hearing, but you are not required to have one.

   At the hearing, the court will ask you questions to determine whether you fully understand the nature and consequences of the proceeding; whether the terms of all your written agreements are fair and just; whether your written agreements concerning the

children are in the best interests of the children; and whether all the requirements listed on page 2 have been met.

The judge may amend the agreements between the spouses, but only if both husband and wife agree in writing (or in person at the hearing) with the amendment.

At some court locations, hearings are held before a Superior Court Master instead of a judge. A master cannot grant a decree. A master can only recommend to a judge whether or not a decree should be granted.

6. The Decree.

Although in some cases the decree may be granted at the hearing (if the hearing is before a judge rather than a master), usually the decree is not entered until a few days later. Do not assume a decree has been granted until you receive your copy.

7. You must carry out any agreements made in your petition or otherwise required by the decree. This might include, for example, transferring title to property or notifying the administrator of a retirement plan about the effect of the decree on a spouse's retirement benefits. You will probably need to contact a lawyer to prepare the necessary deeds and other legal documents to make these transfers. The court does not do this for you.

8. Changes In Child Support.

If your circumstances change in the future, you may file a motion asking the court to change the child support order. The court may order an increase or a decrease in the amount of support based on these changed circumstances. The court may order this change even if one of the parties does not agree. See Civil Rule 90.3(h) about modification of child support orders. A packet of forms for this is available at the court (DR-700 Motion Packet).

Also, you may at any time ask that child support be continued for an 18 year old who is (1) unmarried, (2) actively pursuing a high school diploma or equivalent level of technical or vocational training, and (3) living as a dependent with a parent or guardian or a designee of the parent or guardian. You may also ask that support for an 18 year old be paid directly to the 18 year old; or, if the 18 year old no longer meets the conditions listed above, you may ask that the support be stopped. Forms and instructions are available at the court (DR-320 to DR-323).

How To Fill Out The Petition

When you fill out the Petition form and any other forms you file with the court, please type or print neatly in black ink. Do not leave any spaces blank. Write "none" or "N/A" (not applicable) where appropriate. If more space is needed, attach additional pages and have each additional page signed by both petitioners.

At the top of the petition form, fill in the city where the superior court is located. Then fill in your names on the lines in the box. Leave the "Case No." line blank.

Section I. INFORMATION ABOUT PETITIONERS (pages 1-2)

Fill in all lines. If your mailing address changes after you file the petition but before the decree is entered, you must send the court written notice of your new mailing address. Be sure to include your case number in any letters to the court.

Section II. FINANCIAL INFORMATION (pages 3-5)

Parts A. - D.

The information collected in the first four parts of this section will be used to calculate child support. Each party must attach a copy of his or her most recent federal tax return and most recent pay stubs to verify income and deductions.

You must include all sources of income whether they are listed on the form or not. Please read section III of the Commentary to Civil Rule 90.3 to understand what must be included as income and what qualifies as a deduction. This commentary, along with the rule itself (the Child Support Guidelines Rule), is printed in the back of the booklet DR-310, How To Calculate Child Support, available at the clerk's office. Read this booklet to help understand how to fill in these sections.

Part E. Monthly Expenses. List average expenses per month.

Part F. Assets.

Describe all assets of both parties acquired during the marriage plus any premarital property which should be divided in order to be fair to both parties. This includes both separately owned and jointly owned property. It also includes any "community property" if the parties have signed a community property agreement under Alaska law. List the value of each asset. Check the boxes showing whether the asset was acquired during the marriage and who presently owns the asset (H = husband, W = wife, and JT = jointly owned). Then check the box showing to whom you want the asset awarded. If the asset is to be divided between you, show what fraction or percentage each person is to get instead of checking the boxes.

You must agree to a division of the property which is fair and just to both husband and wife. Ordinarily, the fairest division of the property is an equal division. However, there may be some circumstances, such as a marriage of very short duration, which would justify something other than an equal division of all items acquired during the marriage.

Assets include all kinds of property and rights in property. "Real property" means buildings and land. "Personal property" includes such things as pets, jewelry, automobiles, boats, airplanes, snow machines, furniture, household goods, bank accounts, etc. Other examples of assets are businesses, contract rights, stocks, bonds, and employment benefits such as the value of retirement plans, deferred compensation, accumulated employee leave time, 401(k) plans, and (for Alaska State employees) the Supplemental Benefits System annuity.

Assets must be clearly identified. Motor vehicles and other property requiring a certificate of title or registration must be identified by license or registration number and serial number or vehicle identification number.

Your property division agreement must fairly allocate the economic effect of the dissolution. It must take into consideration the following factors listed in Alaska Statute 25.24.160(a)(4):

1. the length of the marriage and station in life of the parties during the marriage;

2. the age and health of the parties;

3. the earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from the job market, and custodial responsibilities for children during the marriage;

4. the financial condition of the parties, including the availability and cost of health insurance;

5. the conduct of the parties, including whether there has been unreasonable depletion of marital assets;

6. the desirability of awarding the family home, or the right to live in it for a reasonable period of time, to the party who has primary physical custody of children;

7. the circumstances and necessities of each party;

8. the time and manner of acquisition of the property in question; and

9. the income-producing capacity of the property and the value of the property at the time of division.

Note: The court may <u>not</u> award to one spouse real or personal property acquired by the other spouse before the date of the marriage, unless the spouses expressly agree otherwise or the court determines that the property should be made available (by sale or other conveyance) to ensure that the best interests of the children are provided for. AS 25.24.230(g).

Part F.3. Retirement Benefits (page 5)

One special type of personal property which you must agree about is retirement benefits. If, during your marriage, either spouse has accrued the right to someday receive retirement benefits as a result of employment or military service, you will need to decide how to divide the value of those benefits between you. You ordinarily need to do this even if the employee spouse has not yet "vested" in the retirement program.

> You will probably need the help of an attorney and/or the administrator of the retirement plan. You should obtain and review any available written summary of the retirement plan and a statement of the value of the employee's expected benefits.

Generally, you can divide these benefits in either of two ways:

1. You can let the current owner of the benefits (the covered employee) keep the benefits and give the other spouse cash or other assets worth half the current value of the part of the benefits accrued during the marriage. This, of course, requires you to figure out what the current value of the benefits is. You may need the help of an actuary to do this.

2. Alternatively, you can give the non-employee spouse the right to receive part of the retirement benefits when those benefits are eventually paid out. Under this option, it is not necessary to figure out the current value of the benefits. Both spouses will have to wait to receive any payments until the employee spouse is eligible to receive the benefits.

   If you choose this option, in most cases your agreement must meet the requirements of a "qualified domestic relations order" (QDRO) as that term is defined in the statutes which apply to the retirement plan.* Also, your agreement, along with the dissolution decree, must be filed with and accepted by the administrator of the retirement plan before it will be effective. It is important to contact the administrator of the retirement plan before filing your written agreement with the court and request copies of the plan, procedures for QDRO's, and any forms the plan administrator may have prepared.

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* Note: The requirements for dividing military retirement pay are different. A QDRO is not required. Instead, your agreement must show, for example, that the spouses were married to each other for 10 or more years during which time the military member performed at least 10 years of creditable service. The agreement must specifically provide for payment of an amount from the military member's "disposable retired pay" to the former spouse. The amount must be stated either in dollars or as a percentage of the member's disposable retired pay. For more information about what is required and about the application form you must fill out and submit after you obtain your dissolution decree (DD Form 2293), contact the Legal Assistance Office at any military installation in Alaska. If you were married more than 10 years, you may be entitled to additional benefits. Inquire at the Legal Assistance Office.

You will have to write your retirement benefits agreement on a separate piece of paper and attach it to your petition. It will have to include the basic requirements of a QDRO, which are:

a. It must name the retirement plan or program.

b. It must give the right to receive part or all of the benefits payable with respect to the employee covered by the plan to an "alternate payee" (meaning, in this case, the other spouse).

c. It must state the name and last known mailing address of both the employee and the "alternate payee."

d. It must state the amount or percentage of the employee's benefit, or of any survivor's benefit, to be paid to the "alternate payee"; or it must set out the manner in which that amount or percentage is to be determined.

e. It must set out the number of payments or period of time to which the agreement/order applies.

f. It must **not** do any of the following:

(1) require any type or form of benefit or any option not otherwise provided by the plan, or

(2) require an increase of benefits in excess of the amount provided by the plan, determined on the basis of actuarial value, or

(3) require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under a previous QDRO.

Depending on the type of retirement plan, there may be several other requirements or items which should be covered by the agreement and order. Because retirement plans vary, contact the administrator of your plan to make sure all the required information is included in your agreement.

In order to write an agreement which will be enforceable, you will most likely need to consult with an attorney who is familiar with the laws about QDRO's. You may also be able to get assistance from the administrator of the retirement plan. Remember that your agreement is not effective until it and the decree are filed with that administrator and you have received notice that it is accepted. If it is not accepted, you will have to go back to court to get an order correcting any defects.

Some of the statutes about QDRO's are: AS 25.24.230(h) and 29 U.S.C. § 1056(d)(3).

Part G. Debts (page 5)

Describe all debts of both parties. List to whom each debt is owed and the amount owed. Check the box showing whether the debt was incurred during the marriage and the box showing who owes the debt (husband, wife or jointly owed). Then check the box showing who you agree will be responsible for paying the debt.

Debts include all kinds of financial obligations, such as loans, charge account balances, the mortgage on your house, etc.

Each spouse is responsible for his or her separate debts unless you agree otherwise.

The two of you may agree which spouse will pay each joint debt (debt in both parties' names). However, although this agreement will be binding against the two of you, it will not be binding against the people to whom the debts are owed because they are not parties in this case. For joint debts, both of you will remain legally obligated to your creditors until the existing debt is paid, regardless of your agreement as to who will pay the debt.

To protect yourselves against future debts the other party may incur on credit cards and other open accounts, you may want to close your current joint charge accounts and reopen them in your separate names.

Section III. CHILD CUSTODY JURISDICTION INFORMATION (pages 6-7)

Parts A. - D.

List all the children born or adopted during the marriage who are currently under age 19.

Most of the information in this section is required by AS 25.24.210(e)(4) and AS 25.30.380. The purpose of requiring this information is to make sure the children have adequate contacts with this state to give Alaska courts the power to order who gets custody of the children.

Part E.

If the wife is pregnant, it is assumed that the child is a child of the marriage and must be provided for like all other children of the marriage. If there is an issue of paternity of the child, it should be raised and resolved now. The husband is considered the legal father of a child conceived or born during a marriage, unless the affidavits required by AS 18.50.160(d) are executed, or until the husband's paternity is disestablished by a court or child support enforcement agency.

Section IV. CHILD CUSTODY AGREEMENT (Page 7)

You must agree on custody arrangements for all your children under age 18. In developing your agreements concerning child custody, visitation and support, you must consider the best interests of your children. 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 person) to represent the best interests of any children of the marriage. You may be required to pay for the guardian's services.

Mothers and fathers have an equal right to custody, all other things being equal. The mother does not have an automatic preference.

There are two types of custody: legal custody and physical custody.

> Legal custody. A parent who is awarded legal custody has the right and responsibility to decide routine questions regarding the child's best interests.
>
> Physical custody. A parent has physical custody of a child when the child resides with that parent.

In section IV of the petition, you must state which parent should be given physical custody and which one should be given legal custody of the children. Usually the parent with legal custody will also have physical custody of the children the majority of the time (that is, the children will live with this parent most of each year). The other parent, however, will normally be given visitation rights and, thus, will have physical custody of the children during visitation periods.

In a divorce or dissolution, legal custody is usually granted to only one parent. However, it is possible for both parents to be granted legal custody. This is called shared legal custody. It means both parents will continue to have equal responsibility for decisions affecting the children. It also means the parents must maintain frequent and friendly contact to facilitate such decision making. Shared legal custody will not work unless the parents are able to maintain a high degree of communication and cooperation with each other. Shared legal custody will not be allowed unless the court finds it to be in the best interests of the children.

Shared custody arrangements may affect your and your children's rights to public assistance, tax exemptions and other benefits. You should obtain legal advice or otherwise make yourselves aware of these consequences before drafting a shared custody agreement. You should also consider the consequences of shared custody if any of the following should happen: 1) one parent moves away or 2) the two of you later agree to change who has primary physical custody of a child or 3) the two of you cannot agree about some matter concerning a child.

Section V. VISITATION AGREEMENT (page 8)

The parent who does not have legal custody has a right to liberal visitation. In order for the agreement to be enforceable in the future, specific visitation rights should be set out in the agreement.

See AS 25.20.140 for a description of the lawsuit the non-custodial parent can file if the court's visitation order is specific and if the custodial parent "willfully and without just excuse" fails to permit visitation in substantial conformance with the court order.

In the following two situations, you must be very specific about the dates of visitation if you intend the amount of visitation to change the amount of child support owed:

1. Child Support Extended Visitation Credit. This credit is available if one parent is given primary physical custody of the children (that is, the children reside with that parent more than 70% of the year), but the other parent has visitation with the children (takes physical custody of them) for more than 27 consecutive days. Under Civil Rule 90.3(a)(3), the court may allow the parent who owes child support to reduce child support payments for any period in which that parent has extended visitation of over 27 consecutive days. However, this reduction may not exceed 75% of the amount owed for that period.

2. Shared Physical Custody for Child Support Purposes. Civil Rule 90.3(b) provides a special method of calculating child support where both parents share physical custody of the children, regardless of who has legal custody. A parent has "shared physical custody" as defined in this rule only if "the children reside with that parent for a period specified in writing in the custody order of at least 30 percent of the year." Civil Rule 90.3(f).

To qualify for either of these two methods of reducing child support, you must specify the dates when the children will reside with the parent paying child support. In addition, this parent must take physical custody at the times agreed.

Section VI. CHILD SUPPORT (pages 8-12)

Definitions:

Obligor: the person paying child support.
Obligee: the person receiving the support on behalf of the children.

Child support must be paid until the children reach age 18 or are otherwise emancipated, even if the parents might agree otherwise. This includes support for children born after the dissolution if the wife is pregnant before the dissolution. Support is paid on behalf of the children, not for the benefit of the custodial parent. Parents may also agree to include support for 18 year olds under certain circumstances. See Part B.

Part A.

In Civil Rule 90.3, the Alaska Supreme Court has set the guidelines which courts must follow to determine the amount of child support. A copy of this rule is included in the back of the booklet DR-310, How To Calculate Child Support, which is available at the clerk's office. You should read this booklet to help answer any questions you have about how to do the child support calculation in Part A of this section of the petition.

Part A, Paragraph 3. Shared Custody (page 9)

Note that if you elect shared physical custody for child support purposes in paragraph 3.b, you must:

1. include in your petition a written agreement specifying exactly when each parent will have physical custody of the children (and each parent must have custody at least 30% of the year); and

2. attach form DR-306, Shared Custody Child Support Calculation, showing your calculations. See the DR-310 booklet for help in filling out this form.

Part A, Paragraphs 4 and 5. Health Insurance (pages 9-10)

The court is required by statute and by court rule to include a medical support order in the child support order if health care coverage is available at a reasonable cost. However, before ordering that health insurance be purchased, the court must consider whether the children are eligible for free health care from the Indian Health Service or some other entity (such as the military). Although one party may be ordered to purchase the insurance, the cost of it must be shared between you. This is done by adjusting the amount of child support. AS 47.23.060(c) and Civil Rule 90.3(d)(1).

If the children are not eligible for services from the Indian Health Service or some similar health coverage, and if health insurance for the children is available to either parent at a reasonable cost (for example through your employer or union), the parent who has the insurance available must purchase it. If both parents have such insurance available, you must agree which one of you will purchase it. The cost must be divided equally between you unless you can show the court good cause why it should be divided differently.

In paragraph 4.a. on page 9, you must indicate who has such insurance available, who will purchase it and how the cost will be divided between you. In paragraph 5 on page 10, you must either increase or decrease the amount of child support owed, depending on who is purchasing the insurance and how the cost will be divided between you. For example, if the obligor will buy insurance for the children costing $100 per month and you have agreed that each party will pay half the cost, you should write $50 on line 5b and subtract it from the amount on line 5a in order to get the net amount due on line 5d. If you had instead agreed that the obligor would pay 70% of the cost, you should cross out 50% and write in 30% on the blank line in paragraph b. The amount to subtract on line 5b would be $30.

Note that the insurance cost referred to here is the actual cost of insuring the children who are the subjects of this support order. It does not include the cost of insuring a parent or any other children who may live in the household. And, it must not include the value of any insurance provided for free by an employer (that is, with no paycheck deduction).

Civil Rule 90.3(d)(1) requires that child support be adjusted only for those insurance payments which are actually made. Therefore, the child support order will state that if these payments are not made, the monthly child support amount due will return to what it was before the adjustment.

Part A, Paragraph 6. Request For Different Child Support Amount (page 10)

See paragraph (c) of Civil Rule 90.3 for the circumstances when the court can allow a different amount of child support than that calculated using the formulas set out in the rule. Also see the discussion of this paragraph in the Commentary to the rule and in the DR-310 booklet.

If you request a different amount of child support than that calculated under the rule and the court does not agree to allow it, then you must either agree in writing to the amount required by the court or you will not be granted a decree of dissolution.

Note that if you are receiving assistance from the Alaska Temporary Assistance Program (ATAP), you cannot waive or agree to change the amount of child support. You cannot do this because you have assigned (given) your right to receive child support to the Child Support Enforcement Division.

Part A, Paragraph 7. Travel Expenses (page 11)

Civil Rule 90.3(g) states: "After determining an award of child support under this rule, the court shall allocate reasonable travel expenses which are necessary to exercise visitation between the parties as may be just and proper for them to contribute." See the discussion of this paragraph in Section IX of the Commentary to the rule.

Part B. Child Support for 18 Year Olds (page 11)

Normally, child support stops when a child reaches age 18 or is otherwise emancipated. However, you may agree that support will be provided for each child while the child is 18 if the child is (1) unmarried, (2) actively pursuing a high school diploma or equivalent level of technical or vocational training, and (3) living as a dependent with a parent or guardian or a designee of the parent or guardian. You can ask the court to order that the support be paid to the parent with whom the child is living or directly to the 18 year old. You can include this in your petition or you can request it later (for example, when the child is about to turn 18). If you agree now that support for the 18 year old should be

paid directly to the 18 year old, include this agreement in Section IX, "Other Agreements," on page 13 of the petition.

Part C. Immediate Income Withholding (page 11)

The Alaska Statutes require that support payments be withheld from the obligor's income unless one of the following three exceptions applies to your case:

(1) The parents make a written agreement for an alternative arrangement, such as having a military allotment paid to the obligee, payment of two months' support to the obligee as security for future payments, or an automatic funds transfer from the obligor's bank or employer to the obligee.

(2) The court finds good cause not to require immediate income withholding because it would not be in the best interests of the child(ren).

(3) The obligor is receiving Social Security or other disability compensation that includes regular payments to the children at least equal to the child support owed each month. You must state the amount the children receive each month and where the money comes from. If these Social Security or other disability payments for the children are less than the amount the obligor owes, the court must order that the remaining amount due be withheld from the obligor's income, unless one of the above two exceptions applies.

An additional requirement for the first two exceptions is that the obligor must agree to keep the obligee (or CSED if CSED is enforcing the order) informed of his or her current employer and the availability of employment-related health insurance coverage for the children until the support order is satisfied (that is, for as long as child support is owed).

If immediate withholding is ordered, the obligee (or CSED if CSED is enforcing the order) must serve a court writ (or CSED order) on the obligor's employer explaining how withholding will work. The employer must send the withheld money to CSED (whether CSED is enforcing the order or not).

If one of these exceptions is granted but payments later become delinquent, income withholding can be started by filing a motion with the court as provided in AS 25.27.062(c) & (d) or by making a written request to CSED (without requesting CSED's other services). If a party has applied for CSED services, CSED can start the procedures for putting income withholding into effect.

Part D. Assistance of Child Support Enforcement Division (CSED) (Page 11)

You may want to request the services of the Alaska Child Support Enforcement Division (CSED). If you do, CSED will maintain records of support payments and enforce the support order. For example, CSED will serve an order enforcing the income withholding order described above on the obligor's employer. If you get one of the above income withholding orders but do not apply for CSED's services, the obligee will have to serve the appropriate court orders on the employer. In either case (whether CSED serves the order on the employer or the obligee does it), the withheld money must be paid to CSED.

For more information about CSED, read the attached yellow information sheet. If you want to request CSED's services, fill out the attached application form and file it with your petition.

If the parent with custody of the children is receiving assistance from the Alaska Temporary Assistance Program (ATAP), child support payments must be made to CSED.

Part E. Tax Agreement (page 12)

Contact your tax advisor or the Internal Revenue Service (IRS) about the laws governing who can claim children as dependents for tax purposes. IRS Publication 504 explains the special rules that apply to claiming the deduction for children of divorced parents. If the requirements described in Publication 504 are met, the parent who had custody for the greater part of the year generally gets to claim the exemption unless he or she signs IRS Form 8332 (or a similar statement agreeing not to claim the exemption). The other parent must then attach the Form 8332 (or similar statement) to his/her tax return each year in which he/she claims the exemption.

The last paragraph in Part E limits when the exemption can be claimed by a parent who has physical custody of the child(ren) less than the other parent. In this paragraph, you agree that the parent with less physical custody cannot claim the exemption for a tax year if that parent was more than four months behind in child support payments at the end of that tax year.

Part F. Alaska Permanent Fund Dividend (PFD) Agreement (page 12)

You should agree on who will apply for the Alaska PFD on behalf of the children while they are minors (under age 18). If both parents apply for the children, the Department of Revenue will not send the dividends to either one. The Department will hold the dividends until they receive a court order directing who should receive the dividends or until one parent withdraws the applications he/she filed on behalf of the children. 15 AAC 23.223(h)

Section VII. SPOUSAL MAINTENANCE (ALIMONY) (Page 12)

Petitioners may agree to the payment of spousal maintenance (alimony). Spousal maintenance 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 maintenance.

Spousal maintenance payments may be for a limited or indefinite period of time. The agreement on spousal maintenance must fairly allocate the economic effect of the dissolution. It must take into consideration the following factors listed in Alaska Statute 25.24.160(a)(2):

1. the length of the marriage and station in life of the parties during the marriage;

2. the age and health of the parties;

3. the earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from the job market, and custodial responsibilities for children during the marriage;

4. the financial condition of the parties, including the availability and cost of health insurance;

5. the conduct of the parties, including whether there has been unreasonable depletion of marital assets;

6. the division of property; and

7. other factors the court determines to be relevant in each individual case.

Section VIII. RESTORATION OR CHANGE OF NAME (page 12)

Either spouse may request that a former name be restored or that a new name be authorized.

If you want a former name restored, you merely need to check the "Restoration" box and fill in the blanks on page 12 of the petition. (You may also want to follow steps #2, #9 and #10 below.)

If you want to change your name to a new one you have never had before, there will be additional costs and your dissolution hearing will be delayed. You must do the following:

1. Check the "Change" box on page 12 and fill in the blanks which follow.

2. If you want your birth certificate changed, ask the court for form VS-405, Application or Report of Name Change. Fill out the form (please type the information if possible) and return it to the court when you file your petition for dissolution.

3. When you file your dissolution petition, tell the clerk your petition includes a request for name change and that you need to have a hearing date set and an order for publication.

4. The court will then send you an Order For Hearing, Publication and Posting (CIV-701) and a Notice of Filing of Petition For Name Change (CIV-702).

   The order will tell you the time and place of the hearing on your name change. It will also tell you the newspaper in which you must publish notice of your request (a newspaper of general circulation in the judicial district) and whether you must post the notice in various places as well as publish it.

   The notice contains the information you must publish. You must take this notice to the newspaper designated by the court and arrange for the newspaper to publish it once each week for four consecutive weeks before the hearing. You must pay the newspaper for this.

   If the order requires posting in addition to publication, then you must post copies of the notice in the places and for the periods of time ordered by the court.

5. After publication is completed, the newspaper will give you an "Affidavit of Publication" which will contain a copy of the published notice and the dates it was published. You must file this affidavit with the court before the hearing.

   If you are also required to post the notice, you must file proof that you did so. Get form CIV-703, Affidavit of Posting, from the court, fill it out and file it with the court before the hearing.

6. The hearing will probably be short and fairly informal. It will usually be combined with your dissolution hearing. You will have to tell the judge why you want to change your name and assure the judge that the name change is not being sought for an illegal reason. If the judge is satisfied that there is no reasonable objection to your request, the judge will sign a judgment allowing you to take the new name 30 days after the date the judgment is distributed.

7. Within 10 days after the judgment is distributed, you must take a copy of the judgment to the newspaper designated by the judge and have it published once. The judge may also require posting of a copy of the judgment.

8. Within 20 days after the judgment is distributed, you must file proof of publication (and any required posting) with the court. The clerk will then issue a Certificate of Change of Name (form CIV-705) which states that a judgment has been entered authorizing you to assume your new legal name and that all publication requirements have been met. You will be given a copy. You may request one free certified copy of this certificate. If you need additional certified copies, there will be a charge for them.

9. If you have an Alaska driver's license or you own a vehicle registered in Alaska, you must send written notice of your name change to the Division of Motor Vehicles, Box 20020, Juneau, Alaska 99802-0020, within 30 days. AS 28.05.071. To get a new driver's license, you will need to go to a DMV office and present a copy of the court order changing your name.

10. Notify the Social Security Administration of your name change (to avoid tax problems and help assure proper employment credit). Toll free telephone number: 1-800-772-1213.

Section IX. OTHER AGREEMENTS (Page 13)

Use this space to write any other agreements between you. For example:

- you might agree that one spouse will maintain a life insurance policy which names the children or the other spouse as beneficiary, or

- you might agree that child support for an 18 year old will be paid directly to the 18 year old (see the discussion of Part B on page 12 of these instructions), or

- you might agree about how child support will change if some or all of the children go to live with the other parent (see Karpuleon v. Karpuleon, 881 P.2d 318 (Alaska 1994)), or

- you might agree on which parent will file the tax returns for the children.

All your agreements with each other about the dissolution must be written in the petition. When you sign the last page of the petition, you will be stating under oath that the petition contains all your agreements.

AGREEMENTS NOT INCLUDED IN THE PETITION ARE NOT ENFORCEABLE.

If you agree to something but do not write it down in your petition, it will not be included in the court's decree of dissolution; and you will, therefore, not be able to enforce that agreement.

Section X. SIGNATURES AND VERIFICATIONS (page 13)

Both petitioners must sign each page of the petition. The signatures on the last page must be signed under oath before a notary public, a court clerk or any other person authorized to administer oaths. Please keep in mind that, in signing the petition under oath, you are swearing that every statement you have made in your petition is the truth.