

West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.060

§ 25.20.060. Petition for award of child custody

Currentness

(a) If there is a dispute over child custody, either parent may petition the superior court for resolution of the matter under AS 25.20.060--25.20.130. The court shall award custody on the basis of the best interests of the child. In determining the best interests of the child, the court shall consider all relevant factors, including those factors enumerated in AS 25.24.150(c), and the presumption established in AS 25.24.150(g). In a custody determination under this section, the court shall provide for visitation by a grandparent or other person if that is in the best interests of the child.

(b) Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody.

(c) The court may award shared custody to both parents if shared custody is determined by the court to be in the best interests of the child. An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible.

(d) If the court finds that a parent or child is a victim of domestic violence, the court may order that the address and telephone number of the parent or child be kept confidential in the proceedings.

Credits

SLA 1977, ch. 63, § 6; SLA 1982, ch. 88, § 5; SLA 1995, ch. 30, § 1; SLA 1996, ch. 64, § 38; SLA 2004, ch. 111, § 1.

[Notes of Decisions \(54\)](#)

AS § 25.20.060, AK ST § 25.20.060

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.061

§ 25.20.061. Visitation in proceedings involving domestic violence

Currentness

If visitation is awarded to a parent who has committed a crime involving domestic violence, against the other parent or a child of the two parents, within the five years preceding the award of visitation, the court may set conditions for the visitation, including

- (1) the transfer of the child for visitation must occur in a protected setting;
- (2) visitation shall be supervised by another person or agency and under specified conditions as ordered by the court;
- (3) the perpetrator shall attend and complete, to the satisfaction of the court, a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under [AS 44.28.020\(b\)](#), or other counseling; the perpetrator shall be required to pay the costs of the program or other counseling;
- (4) the perpetrator shall abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours before visitation;
- (5) the perpetrator shall pay costs of supervised visitation as set by the court;
- (6) the prohibition of overnight visitation;
- (7) the perpetrator shall post a bond to the court for the return and safety of the child; and
- (8) any other condition necessary for the safety of the child, the other parent, or other household member.

Credits

[SLA 1996, ch. 64, § 39.](#)

AS § 25.20.061, AK ST § 25.20.061

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.065

§ 25.20.065. Visitation rights of grandparent

Currentness

(a) Except as provided in (b) of this section, a child's grandparent may petition the superior court for an order establishing reasonable rights of visitation between the grandparent and child if

- (1) the grandparent has established or attempted to establish ongoing personal contact with the child; and
- (2) visitation by the grandparent is in the child's best interest.

(b) After a decree or final order relating to child custody is entered under [AS 25.20.060](#) or [AS 25.24.150](#) or relating to an adoption under [AS 25.23](#), a grandparent may petition under this section only if

- (1) the grandparent did not request the court to grant visitation rights during the pendency of proceedings under [AS 25.20.060](#), [AS 25.23](#), or [AS 25.24](#); or
- (2) there has been a change in circumstances relating to the custodial parent or the minor child that justifies reconsideration of the grandparent's visitation rights.

(c) When determining whether to grant rights of visitation between a grandparent and grandchild under this section, [AS 25.20.060](#), or [AS 25.24](#), and when determining the terms and conditions to be attached to a right of grandparent visitation, the court shall consider whether there is a history of child abuse or domestic violence attributable to the grandparent's son or daughter who is a parent of the grandchild.

Credits

[SLA 1995, ch. 30, § 2.](#)

[Notes of Decisions \(5\)](#)

AS § 25.20.065, AK ST § 25.20.065

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.070

§ 25.20.070. Temporary custody of the child

Currentness

Unless it is shown to be detrimental to the welfare of the child considering the factors under [AS 25.24.150\(c\)](#), or unless the presumption under [AS 25.24.150\(g\)](#) is present, the child shall have, to the greatest degree practical, equal access to both parents during the time that the court considers an award of custody under [AS 25.20.060--25.20.130](#).

Credits

SLA 1982, ch. 88, § 6; [SLA 2004, ch. 111, § 2](#).

AS § 25.20.070, AK ST § 25.20.070

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.080

§ 25.20.080. Mediation of child custody matter

Currentness

(a) Except as provided in (f) and (g) of this section, at any time within 30 days after a petition for child custody is filed under [AS 25.20.060](#) the court may order the parties to submit to mediation. Each party has the right to challenge peremptorily one mediator appointed.

(b) Mediation shall be conducted informally as a conference, or by telephone, or series of conferences, as determined by the mediator. The parties to the action and a court-appointed representative of the minor children shall attend.

(c) If the mediator determines that mediation efforts are unsuccessful, the mediator shall terminate mediation and notify the court that mediation efforts have failed. The custody proceeding shall proceed in the usual manner.

(d) Upon submission of the parties to mediation under this section, a pending child custody proceeding shall be stayed for a period of 30 days or until the court is notified that mediation efforts have failed. All court orders made during the pending custody proceeding remain in effect during the period of mediation.

(e) Costs of mediation shall be paid as ordered by the court by one party, by both parties, or by the state if both parties are indigent.

(f) The court may not order or refer parties to mediation in a proceeding concerning custody or visitation of a child if a protective order issued or filed under [AS 18.66.100-18.66.180](#) is in effect. The court may not order or refer parties to mediation if a party objects on the grounds that domestic violence has occurred between the parties unless the court finds that the conditions of (g) (1)-(3) of this section are met. If the court proposes or suggests mediation under this subsection,

(1) mediation may not occur unless the victim of the alleged domestic violence agrees to the mediation; and

(2) the court shall advise the parties that each party has the right to not agree to mediation and that the decision of each party will not bias other decisions of the court.

(g) A mediator who receives a referral or order from a court to conduct mediation under (a) of this section shall evaluate whether domestic violence has occurred between the parties. A mediator may not engage in mediation when either party has committed a crime involving domestic violence unless

(1) mediation is requested by the victim of the alleged domestic violence, or proposed by the court and agreed to by the victim;

(2) mediation is provided by a mediator who is trained in domestic violence in a manner that protects the safety of the victim and any household member, taking into account the results of an assessment of the potential danger posed by the perpetrator and the risk of harm to the victim; and

(3) the victim is permitted to have in attendance a person of the victim's choice, including an attorney.

Credits

SLA 1982, ch. 88, § 6; [SLA 1996, ch. 64, §§ 40, 41](#).

AS § 25.20.080, AK ST § 25.20.080

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.090

§ 25.20.090. Factors for consideration in awarding shared child custody

Currentness

In determining whether to award shared custody of a child the court shall consider

- (1) the child's preference if the child is of sufficient age and capacity to form a preference;
- (2) the needs of the child;
- (3) the stability of the home environment likely to be offered by each parent;
- (4) the education of the child;
- (5) the advantages of keeping the child in the community where the child presently resides;
- (6) the optimal time for the child to spend with each parent considering
 - (A) the actual time spent with each parent;
 - (B) the proximity of each parent to the other and to the school in which the child is enrolled;
 - (C) the feasibility of travel between the parents;
 - (D) special needs unique to the child that may be better met by one parent than the other;
 - (E) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child, except that the court may not consider this willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in domestic violence against the parent or a child, and that a continuing relationship with the other parent will endanger the health or safety of either the parent or the child;
- (7) any findings and recommendations of a neutral mediator;

(8) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;

(9) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;

(10) other factors the court considers pertinent.

Credits

SLA 1982, ch. 88, § 6; SLA 1989, ch. 52, § 1; [SLA 2004, ch. 111, § 3](#).

[Notes of Decisions \(24\)](#)

AS § 25.20.090, AK ST § 25.20.090

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.095

§ 25.20.095. Custody and visitation proceedings involving a military parent

Currentness

(a) In determining the availability of a parent for custody or visitation, if a parent is deployed or in a position where the parent may be deployed, the court shall take particular care to ensure that the child has the maximum opportunity, consistent with the best interests of the child, to have contact with the parent. Except as provided in this section, a parent's temporary duty, mobilization, or deployment to military service and the resultant temporary disruption to the child of the parent may not be a factor in a court's decision to grant or deny a petition for custody or visitation.

(b) A parent who is deployed may petition a court of competent jurisdiction for custody or visitation. The petition shall be construed to be an application for affirmative relief, consistent with the protections afforded under [50 U.S.C. App. 501--596](#) (Servicemembers Civil Relief Act) and may include a request to delegate the deployed parent's visitation rights to a family member.

(c) A court shall order a delegation of visitation rights based on a petition filed under (b) of this section if the court finds that

(1) the family member receiving the delegation has an existing close relationship to the child; and

(2) the delegation is in the child's best interest.

(d) A hearing on a petition filed under this section shall be expedited by the court on a motion filed by the deployed parent.

(e) A parent who is deployed may not be found to have waived any rights or protections with regard to custody or visitation of the deployed parent's child unless the deployed parent expressly waives the right or protection in writing or on the record.

(f) A court order entered under this section must require that

(1) the nondeployed parent make the child reasonably available for visitation to the deployed parent when the deployed parent is on leave if the visits are in the child's best interest;

(2) each parent facilitate contact, including telephonic and electronic contact, between the other parent and the child if the contact is in the child's best interest; electronic contact with a video image must be facilitated whenever feasible;

(3) the deployed parent provide timely information to the nondeployed parent regarding the deployed parent's leave schedule; and

(4) each parent provide immediate notification of a change of address or contact information as provided under [AS 25.20.110\(e\)\(5\)](#).

(g) In making a determination of the best interests of the child, the court shall consider the factors under [AS 25.24.150\(c\)](#) and apply the rebuttable presumption under [AS 25.24.150\(g\)](#) to visitation, delegation, and custody orders issued under this section. In addition, there is a rebuttable presumption that a deployed parent's visitation rights may not be delegated to a family member who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner, or to a family member with an individual in the family member's household who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner.

(h) In this section,

(1) “deployment” or “deployed” means military services performed in compliance with a valid order received by an active duty or reserve member of the armed services of the United States, National Guard, or United States Coast Guard to report for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty, or other active service for which the deploying parent reports unaccompanied by any family member;

(2) “family member” means a person who is an adult sibling, aunt, uncle, first cousin, or grandparent related by blood, adoption, or marriage or a stepparent to the child who is the subject of a custody order issued under this section;

(3) “military service” includes the period from which the deployed parent receives and is subject to deployment orders and the period in which the parent is awaiting travel or remains deployed because of sickness, wounds, leave, or other lawful cause;

(4) “parent” includes a legal guardian of the child.

Credits

Added by [SLA 2010, ch. 44, § 1](#), eff. June 5, 2010.

AS § 25.20.095, AK ST § 25.20.095

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.100

§ 25.20.100. Reasons for denial to be set out

Currentness

If a parent or the guardian ad litem requests shared custody of a child and the court denies the request, the reasons for the denial shall be stated on the record.

Credits

SLA 1982, ch. 88, § 6.

Notes of Decisions (5)

AS § 25.20.100, AK ST § 25.20.100

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.110

§ 25.20.110. Modification of child custody or visitation

Currentness

(a) An award of custody of a child or visitation with the child may be modified if the court determines that a change in circumstances requires the modification of the award and the modification is in the best interests of the child. If a parent opposes the modification of the award of custody or visitation with the child and the modification is granted, the court shall enter on the record its reason for the modification.

(b) When making a determination relating to child custody under (a) of this section, the court shall consider the past history of the parents with respect to their compliance with the child support payment provisions of temporary or permanent support orders or agreements relating to the child or to other children. Under this subsection, the court may consider a parent's failure to pay child support only if the parent had actual knowledge of the amount of the child support obligation and had funds available for payment of support or could have obtained those funds through reasonable efforts, as determined by the court.

(c) In a proceeding involving the modification of an award for custody of a child or visitation with a child, a finding that a crime involving domestic violence has occurred since the last custody or visitation determination is a finding of change of circumstances under (a) of this section.

(d) Except as provided in (e)--(h) of this section, a parent's temporary duty, mobilization, or deployment to military service and the resultant temporary disruption to the schedule of a child of the parent may not be a factor in finding a change of circumstances on a motion to modify child custody or visitation.

(e) A court may provide for a temporary modification of a custody or visitation order during the period of a parent's deployment to military service to make reasonable accommodation for the deployment. The temporary order must specify that deployment is the basis of the order and include provisions for

(1) custody or reasonable visitation during a period of leave granted to the deployed parent if the custody or visitation is in the child's best interest;

(2) termination of the temporary order and resumption of the permanent order within 10 days after notification of the deployed parent's ability to resume custody or visitation unless the court finds that resumption of the custody or visitation order in effect before deployment is no longer in the child's best interest; the nondeployed parent shall bear the burden of proving that resumption of the order is no longer in the child's best interest;

- (3) a hearing if a child of a deployed parent has been moved out of state and the nondeployed parent has filed a motion that alleges that resumption of the permanent custody order will result in immediate danger of irreparable harm to the child or that the presumption under [AS 25.24.150\(g\)](#) exists;
- (4) delegation, on request of the deployed parent, of the deployed parent's visitation rights under an existing order, if any, to another family member who has an existing close relationship to the child if the delegation is in the child's best interest; and
- (5) immediate notification by each parent of a change of address or contact information to the other parent and to the court; if a valid court order issued under [AS 12.61.120](#) or [AS 25.20.060](#) or an equivalent provision in another jurisdiction is in effect that requires that the address or contact information of the parent be kept confidential, the notification shall be made to the court only, and a copy of the order shall be included in the notification.
- (f) A court shall expedite a hearing to modify custody or visitation on a motion made by a parent who is subject to deployment.
- (g) In making a determination of the best interests of the child, the court shall consider the factors under [AS 25.24.150\(c\)](#) and apply the rebuttable presumption under [AS 25.24.150\(g\)](#) to visitation, delegation, and custody orders issued under this section. In addition, there is a rebuttable presumption that a deployed parent's visitation rights may not be delegated to a family member who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner, or to a family member with an individual in the family member's household who has a history of perpetrating domestic violence against a spouse, a child, or a domestic living partner.
- (h) In this section, “deployment,” “deployed,” “family member,” “military service,” and “parent” have the meanings given in [AS 25.20.095](#).

Credits

SLA 1982, ch. 88, § 6; [SLA 1990, ch. 130, § 2](#); [SLA 1996, ch. 64, § 42](#). Amended by [SLA 2010, ch. 44, § 2](#), eff. June 5, 2010.

[Notes of Decisions \(249\)](#)

AS § 25.20.110, AK ST § 25.20.110

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.115

§ 25.20.115. Attorney fee awards in custody and visitation matters

[Currentness](#)

In an action to modify, vacate, or enforce that part of an order providing for custody of a child or visitation with a child, the court may, upon request of a party, award attorney fees and costs of the action. In awarding attorney fees and costs under this section, the court shall consider the relative financial resources of the parties and whether the parties have acted in good faith.

Credits

[SLA 1990, ch. 130, § 3.](#)

[Notes of Decisions \(27\)](#)

AS § 25.20.115, AK ST § 25.20.115

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.120

§ 25.20.120. Closure of custody proceedings and records

[Currentness](#)

At any stage of a proceeding involving custody of a child the court may, if it is in the best interests of the child, close the proceeding to the public or order the court records closed to the public temporarily or permanently. The court may modify or vacate an order under this section at any time.

Credits

SLA 1982, ch. 88, § 6.

[Notes of Decisions \(2\)](#)

AS § 25.20.120, AK ST § 25.20.120

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.130

§ 25.20.130. Access to records of the child

Currentness

A parent who is not granted custody under [AS 25.20.060](#) - 25.20.130 has the same access to the medical, dental, school, and other records of the child as the custodial parent.

Credits

SLA 1982, ch. 88, § 6.

AS § 25.20.130, AK ST § 25.20.130

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 20. Parent and Child

AS § 25.20.140

§ 25.20.140. Action for failure to permit visitation with minor child

Currentness

(a) When a court order is specific as to when a custodian of a minor child must permit another person to have visitation with that child, and the custodian fails, wilfully and without just excuse, to permit visitation with the child in substantial conformance with the court order, the person entitled to visitation has a separate cause of action against the custodian for damages.

(b) The amount of damages recoverable under this section is \$200 for each failure of the custodian, wilfully and without just excuse, to permit visitation with the child for substantially the length of time and substantially in the same manner as specified in the court order. This amount may not be increased or decreased once liability has been established. The custodian is not liable for more than one failure in respect to what is, under the court order, a single continuous period of visitation. The prevailing party in an action commenced under this section is entitled to recover a reasonable attorney fee.

(c) As used in this section,

(1) “court order” means a decree, judgment, or order issued by a court of competent jurisdiction;

(2) “custodian” means a natural person who has been awarded custody, either temporary or permanent, of a minor child;

(3) “just excuse” includes illness of the child which makes it dangerous to the health of the child for visitation to take place in conformance with the court order; “just excuse” does not include the wish of the child not to have visitation with the person entitled to it.

Credits

SLA 1977, ch. 126, § 2; SLA 1980, ch. 94, § 9.

Notes of Decisions (3)

AS § 25.20.140, AK ST § 25.20.140

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West's Alaska Statutes Annotated
Title 25. Marital and Domestic Relations
Chapter 24. Divorce and Dissolution of Marriage
Article 1. Divorce and Annulment

AS § 25.24.150

§ 25.24.150. Judgments for custody

Currentness

(a) In an action for divorce or for legal separation or for placement of a child when one or both parents have died, the court may, if it has jurisdiction under [AS 25.30.300--25.30.320](#), and is an appropriate forum under [AS 25.30.350](#) and [25.30.360](#), during the pendency of the action, or at the final hearing or at any time thereafter during the minority of a child of the marriage, make, modify, or vacate an order for the custody of or visitation with the minor child that may seem necessary or proper, including an order that provides for visitation by a grandparent or other person if that is in the best interests of the child.

(b) If a guardian ad litem for a child is appointed, the appointment shall be made under the terms of [AS 25.24.310\(c\)](#).

(c) The court shall determine custody in accordance with the best interests of the child under [AS 25.20.060--25.20.130](#). In determining the best interests of the child the court shall consider

- (1) the physical, emotional, mental, religious, and social needs of the child;
- (2) the capability and desire of each parent to meet these needs;
- (3) the child's preference if the child is of sufficient age and capacity to form a preference;
- (4) the love and affection existing between the child and each parent;
- (5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (6) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child, except that the court may not consider this willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in domestic violence against the parent or a child, and that a continuing relationship with the other parent will endanger the health or safety of either the parent or the child;
- (7) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;

(8) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;

(9) other factors that the court considers pertinent.

(d) In awarding custody the court may consider only those facts that directly affect the well-being of the child.

(e) Notwithstanding the provisions of (d) of this section, in awarding custody the court shall comply with the provisions of [25 U.S.C. 1901 - 1963](#) (P.L. 95-608, the Indian Child Welfare Act of 1978).

(f) If the issue of child custody is before the court at the time it issues a judgment under [AS 25.24.160](#), the court shall concurrently issue a judgment for custody under this section unless, subject to [AS 25.24.155](#), the court delays the custody decision for a later time.

(g) There is a rebuttable presumption that a parent who has a history of perpetrating domestic violence against the other parent, a child, or a domestic living partner may not be awarded sole legal custody, sole physical custody, joint legal custody, or joint physical custody of a child.

(h) A parent has a history of perpetrating domestic violence under (g) of this section if the court finds that, during one incident of domestic violence, the parent caused serious physical injury or the court finds that the parent has engaged in more than one incident of domestic violence. The presumption may be overcome by a preponderance of the evidence that the perpetrating parent has successfully completed an intervention program for batterers, where reasonably available, that the parent does not engage in substance abuse, and that the best interests of the child require that parent's participation as a custodial parent because the other parent is absent, suffers from a diagnosed mental illness that affects parenting abilities, or engages in substance abuse that affects parenting abilities, or because of other circumstances that affect the best interests of the child.

(i) If the court finds that both parents have a history of perpetrating domestic violence under (g) of this section, the court shall either

(1) award sole legal and physical custody to the parent who is less likely to continue to perpetrate the violence and require that the custodial parent complete a treatment program; or

(2) if necessary to protect the welfare of the child, award sole legal or physical custody, or both, to a suitable third person if the person would not allow access to a violent parent except as ordered by the court.

(j) If the court finds that a parent has a history of perpetrating domestic violence under (g) of this section, the court shall allow only supervised visitation by that parent with the child, conditioned on that parent's participating in and successfully completing an intervention program for batterers, and a parenting education program, where reasonably available, except that the court may allow unsupervised visitation if it is shown by a preponderance of the evidence that the violent parent has completed a substance abuse treatment program if the court considers it appropriate, is not abusing alcohol or psychoactive drugs, does not pose a danger of mental or physical harm to the child, and unsupervised visitation is in the child's best interests.

(k) The fact that an abused parent suffers from the effects of the abuse does not constitute a basis for denying custody to the abused parent unless the court finds that the effects of the domestic violence are so severe that they render the parent unable to safely parent the child.

(l) Except as provided in [AS 25.20.095](#) and [25.20.110](#), a court may not consider a parent's activation to military service and deployment in determining the best interest of the child under (c) of this section. In this subsection, “deployment” has the meaning given in [AS 25.20.095](#).

Credits

SLA 1968, ch. 160, § 1; SLA 1975, ch. 167, § 1; SLA 1977, ch. 61, § 2; SLA 1977, ch. 63, § 1; SLA 1982, ch. 15, § 1; SLA 1982, ch. 88, §§ 2, 3; SLA 1989, ch. 52, § 2; [SLA 1991, ch. 76, § 1](#); [SLA 1998, ch. 133, § 1](#); [SLA 2004, ch. 111, §§ 4, 5](#). Amended by [SLA 2010, ch. 44, § 3](#), eff. June 5, 2010.

[Notes of Decisions \(527\)](#)

AS § 25.24.150, AK ST § 25.24.150

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