

**You must use black ink to fill out this form.**

Your Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Message phone: \_\_\_\_\_

Email: \_\_\_\_\_

NOTE: If you do not wish the other party to know your physical address, you must still provide a mailing address so that the court and the other party can serve you by mail.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT \_\_\_\_\_  
*City or Town where the Court is located*

_____	)	
Plaintiff,	)	
v.	)	
_____	)	Your Case No. _____
Defendant.	)	
_____	)	

**ANSWER AND COUNTERCLAIM  
To Legal Separation With Children**

I, \_\_\_\_\_, submit my response to plaintiff's  
*(Print your name here)*

Complaint, and state the following:

**A. ANSWER**

1.

I agree with all of the statements in the *Complaint*.

I agree with the statements in the *Complaint*, except I disagree with statements in paragraph(s) No(s). \_\_\_\_\_

\_\_\_\_\_ *(state paragraph number(s) you disagree with).*

I am not sure if I agree or disagree with the statements in the *Complaint* in paragraph Nos. \_\_\_\_\_

**B. AFFIRMATIVE DEFENSES**

*(An affirmative defense is facts and arguments that attack the plaintiff's legal right to bring the court case. The affirmative defense might win for the defendant even if everything in the plaintiff's Complaint is true.)*

I have no affirmative defenses. *(Go to Section C.)*

I state the following affirmative defense(s) *(check below if appropriate):*

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**1.**

- This Court lacks subject-matter jurisdiction over the custody of the minor child(ren) for the following reason(s) (see *attached completed Child Custody Jurisdiction Affidavit, DR-150*):
  - The minor child(ren) of the parties has/have never resided or been present in Alaska.
  - The minor child(ren) of the parties does/do not currently reside in Alaska and have not lived there since \_\_\_\_\_.  
*Date*
  - The minor child(ren) of the parties has/have not lived in Alaska for the last six months.
  - Another state court has already decided custody issues about the minor child(ren).
- I have attached to this Answer a *Motion to Dismiss the Child Custody Claim for Lack of Jurisdiction* (find [motion forms](#)).

**2.**

- I have never resided or been present in the State of Alaska. It is my position that the Alaska court does not have jurisdiction over any of the property or debt of the marital estate. I want the Alaska court to dismiss this case because I will be prejudiced if the court issues a legal separation before the property division occurs in another state.
- I have attached to this Answer a *Motion to Dismiss* (find [motion forms](#)).

**3.**

- The location of this case is not the correct and should have been filed at the courthouse in \_\_\_\_\_.  
*City or Town*
- I have attached to this Answer a *Motion To Change Venue* (find [motion forms](#)).

**4.**

- Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. COUNTERCLAIMS**

*(A counterclaim is where the defendant states what he/she wants to happen regarding the issues in the case.)*

- I have no counterclaims. (Go to Section D.)
- I have stated above that the case should be dismissed because the Alaska court does not have jurisdiction over the marital estate and/or child custody. If this court does not dismiss the case, I submit the following counterclaim(s) without waiving my claim about the court's lack of jurisdiction:

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I state the following counterclaim(s):

**1. Facts of the Marriage:**

Date of marriage: \_\_\_\_\_ Place of marriage: \_\_\_\_\_

Date of separation: \_\_\_\_\_

Plaintiff's date of birth: \_\_\_\_\_ Defendant's date of birth: \_\_\_\_\_

**2. Basis for Legal Separation**

I agree that there is a breakdown in the marriage and I want to separate but stay legally married to protect significant religious, financial, social or legal interests. I understand that:

- a legal separation is not a required step before getting a divorce;
- if either spouse want a divorce, the court will grant that instead of a legal separation and our marriage will end;
- if the legal separation is granted, we will
  - stay legally married;
  - divide the property and debt earned or received during the marriage until the date of the legal separation, or date ordered by the court;
  - have a parenting plan that outlines how we will make decisions about our child(ren), the living schedule for when our child(ren) will be with each parent and other details such as PFD applications and claiming children as exemptions on federal taxes after the legal separation; and
  - have a child support order that states which parent will pay child support according to the child support rule.

I do NOT agree to a legal separation because I want the marriage to end in a divorce.

Other: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**3. Property and debt**

**3A.**  We have already divided all marital property and debt so there is none for this court to divide. We can each keep what we have in our possession or control.

**3B.**  There is marital property and debt for the court to divide in a fair and equitable manner.  I have attached a *Property & Debt Worksheet*, SHC-1000 [Word](#) | [PDF](#).

**I am aware of the following property and debt earned or received during the marriage:**

Home(s) value: \$ \_\_\_\_\_

Mortgage amt: \$ \_\_\_\_\_

Loan amt:

\$ \_\_\_\_\_

Raw land value: \$ \_\_\_\_\_

Loan amt:

Car / truck: value \$ \_\_\_\_\_

Loan amt:

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Car / truck: value \$ \_\_\_\_\_

Motorcycle

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- Snow machine
- 4-wheeler
- Boat
- Gun(s)
- Tools
- Furniture and household goods
- Bank / credit union account(s)
- Other property: \_\_\_\_\_
- Plaintiff Retirement Account
  - 401(k) / 403(b) account(s)
  - IRA account(s)
  - Pension – PERS, TRS, FERS,
 other
  - SBS

- Military Retirement
- Other retirement funds
- Defendant Retirement Account
  - 401(k) / 403(b) account(s)
  - IRA account(s)
  - Pension – PERS, TRS, FERS,
 other
  - SBS
  - Military Retirement
  - Other retirement funds
- Credit card debt(s)
- Medical bills
- Utility bills / cell phone bill
- Student loans
- Other debt(s): \_\_\_\_\_

**4. Minor Child(ren)**

- i. Are there any minor child(ren) of this relationship born prior to or during the marriage and/or adopted during the marriage?  **YES**  **NO**
- ii. Is either spouse pregnant and is the other spouse the parent?  **YES**  **NO**
- iii. Is either spouse pregnant and is the other spouse NOT the parent?  **YES**  **NO**

*If you marked “No” to No. 4 i, ii and iii, do not use this form. Use the Answer for Legal Separation Without Children, SHC-095. If you marked “Yes” to any question, continue.*

**4A. List all minor child(ren), including the unborn child(ren) if your spouse is the other parent. If the only child is an unborn child AND the other spouse is NOT the parent of the unborn child, please go to question 8.**

Full Name of Each Child	Date of birth (actual or estimated)

Additional minor child(ren) of this relationship are listed on an attachment.

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**4B. Has/have the minor child(ren) lived for the last 6 months continuously in Alaska?**  YES  NO (*NOTE: If the child(ren) have not lived in Alaska for the last 6 months, the Alaska court likely does not have the authority, or jurisdiction, to make decisions about the child(ren). Please contact an attorney to learn about your options.*)

I have attached the **required** Child Custody Jurisdiction Affidavit, **DR-150**.

**5. Parenting Plan:** *The court wants to know what plan is in the child(ren)'s best interests. The court must decide: (1) how the parents will make decisions about the child(ren), and (2) the child(ren)'s living arrangements and schedule.*

**5A. Decision-making:** *How will the parents decide matters relating to health, education or religion of the child(ren)?*

- Joint decision-making: *both parents discuss the issues and decide together because they can communicate about the child(ren), even though they may not get along otherwise. Joint decision-making is the most common arrangement.*
- Sole decision-making: *one parent makes decisions about the child(ren) because the parents cannot communicate about the child(ren), or one parent is unfit due to severe mental illness, substance abuse or domestic abuse issues. Both parents usually have access to school and medical records and neither parent can move out of the state with the child(ren) without permission from the court or other parent.*

**Because it is in the best interests of the children, I request:**

- Joint Decision-making (*the parents share the decision-making about the child(ren)*).
- Sole Decision-making to  me  other parent (*one parent makes decisions about the child(ren)'s upbringing and does not have to consult with the other parent*).

**5B. Living Arrangements** *describes the schedule that is in the child(ren)'s best interests.*

**Schedule during the week to be with each parent (days and times):** \_\_\_\_\_

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**School Breaks (spring, winter, summer, in-service days):** \_\_\_\_\_

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**Holidays & Birthdays (dates/times):** \_\_\_\_\_

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You may also use one of the following forms to show the parenting schedule:

- Weekly Scheduling Chart, SHC-1132 [Word](#) | [PDF](#)
- Custody & Visitation Plan, SHC-1120 [Word](#) | [PDF](#)

**Important information about child support:** To calculate child support, you will need to figure out the percentage of time during the year the child(ren) will be with each parent based on the # of overnights. Print out an annual calendar and circle the days each parent will have overnights with the child(ren) and count them up. If you circled 109 overnights or fewer for one parent, you will use a specific calculation for child support (use form [DR-305](#)). If you circled 110 overnights or more for each parent, you will use a different calculation (use forms [DR-305](#), [DR-306](#)). Figure out what percentage of the year the child(ren) will have overnights with each parent (divide the total number of overnights with each parent by 365 and multiply that number by 100). For school age child(ren), include overnights during vacations and in-service days. For links to many school calendars: <http://www.courts.alaska.gov/shc/family/docs/calendars.pdf>. For a one-page annual calendar without school dates, go to [www.timeanddate.com/calendar/](http://www.timeanddate.com/calendar/). You can attach the annual calendar and weekly chart to this *Complaint*. See <http://courts.alaska.gov/shc/family/support.htm> to learn about child support.

**5C. Travel:** Travel costs for parenting time should be divided as follows:

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**5D. Safety concerns:** *A history of domestic violence can significantly affect the parenting plan in your case. In short, there is a presumption that the parent with a history of committing domestic violence may get only supervised visitation. The presumption may be overcome by meeting specific legal requirements. You are strongly encouraged to discuss the situation with an attorney.*

I am concerned about my safety or my child(ren)'s safety when with the other parent.

Therefore, I request that the other parent's parenting time be restricted as follows: \_\_\_\_\_

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**6. Child & Medical Support**  I have completed and attached the **required** Child Support Guidelines Affidavit, [DR-305](#).

I am proposing a **shared parenting time schedule** - (child(ren) are with each parent at least 110 overnights/year), so I have also completed and attached a Shared Custody Child Support Calculation, [DR-306](#).

**6A. Civil Rule 90.3 calculation:** The court should calculate child support

according to Civil Rule 90.3, or  vary from Civil Rule 90.3 because (*note: this is very rare*): \_\_\_\_\_

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**6B. Child Support should be ordered from**  the date of separation  the date of the *Final Decree*  other: \_\_\_\_\_.

**6C. Other parent's income:** I believe that the other parent

i.  makes approximately \$\_\_\_\_\_ per  hour  year at his/her job as a \_\_\_\_\_

ii.  has a work history of being able to make \$ \_\_\_\_\_ per  hour  year as a \_\_\_\_\_

and the court should use this amount to calculate child support if the other parent does not respond to this *Complaint*. I have completed the Child Support Guidelines Affidavit, **DR-305**, using these numbers and will serve the DR-305 with this *Complaint*.

**6D. Child Support past the age of 18:** I  do  do not request that child support for each child continue for up to a year after the child turns 18 when the following conditions are met: 1) the child is 18 years old, (2) unmarried, (3) actively pursuing a high school diploma or equivalent level of training, and (4) living as a dependent with a parent.

**6E. Has either Child Support Services Division (CSSD), the Alaska court or any other state court or child support agency ordered anyone to pay child support?**

No  Yes,  me  other parent, or  other \_\_\_\_\_ has been ordered to pay child support. (*Please attach a copy of that order if you have it.*)

If another state ordered child support, please read about registering the out-of-state order at <http://www.courts.alaska.gov/shc/family/shcforeign.htm>.

**6F. Is anyone getting public benefits to support this child?**

No  Yes, who? \_\_\_\_\_  
Which benefits?  ATAP/TANF  Food stamps  Denali KidCare  Other: \_\_\_\_\_

**6G. CSSD Services:** I  do  do not request that CSSD enforce the child support order and keep records of the payments. (*If yes, fill out form DR-315 and file with this Complaint*)

## **7. Other Financial Issues**

**7A.  Permanent Fund Dividend:** I request that the court designate  me  other parent as the authorized parent to apply for the minor child(ren)'s PFDs. The PFDs:  
 should be placed in a savings account, to which both parents have access to statements  
 should be spent on the child(ren)'s daily expenses  
 other \_\_\_\_\_

## **7B. Federal Taxes**

i.  The court should designate  me  other parent as parent to claim the child(ren) as a dependent on federal income taxes  each year  alternating years, starting in year \_\_\_\_\_.

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ii.  Each parent shall claim the child(ren) on federal income taxes each year as follows:

child: \_\_\_\_\_  me  other parent

child: \_\_\_\_\_  me  other parent

child: \_\_\_\_\_  me  other parent

child: \_\_\_\_\_  me  other parent

iii.  other \_\_\_\_\_  
\_\_\_\_\_

**8. Paternity:** *The law presumes that the husband is the legal father of a child conceived or born during an opposite sex marriage, even if everyone knows he is not the biological father. If the wife is pregnant at the time of legal separation, the husband is the legal father and responsible for child support when that child is born. The child will not have rights to inheritance and benefits from the biological father. It is important to address paternity during the legal separation case to establish the correct father.*

**8A. Unborn Child: Is either spouse currently pregnant?  NO  YES. If yes, is the other spouse the child's parent?**

**YES** - then there are no paternity issues and the child can be included on the parenting plan and child support order. *Skip to Question #9.*

**NO** – the court needs to disestablish the other spouse as the unborn child's other parent, but this cannot happen until AFTER the child is born. If there is an important reason to get a Legal Separation before the birth, you can file a *Motion, Affidavit & Order to Bifurcate Legal Separation for Subsequent Determination of Paternity*, SHC-152a, that asks the court to issue the Legal Separation, divide the property and address the parenting plan for the born child(ren), but delay decisions about the unborn child until after the birth.

**NOT SURE** - DNA testing needs to be done after the child is born to find out whether the other parent needs to be disestablished as the child's legal parent. If there is an important reason to get a Legal Separation before the birth, you can file a *Motion, Affidavit & Order to Bifurcate Legal Separation for Subsequent Determination of Paternity*, SHC-152a, that asks the court to issue the legal separation decree, divide the property and address the parenting plan for the born child(ren), but delay decisions about the unborn child until after the birth.

**8B. Already born child(ren): Does the court need to disestablish paternity on any child(ren) born during the marriage?  NO  YES. If yes, in the chart below list the child(ren) and birthday(s) and indicate how you will disestablish. If you have a completed *Three-Way Affidavit to Disestablish and Establish Paternity*, SHC-151 [Word](#) | [PDF](#), DNA test or birth certificate showing the other biological parent, please attach it to this *Complaint*. If you think you will need an *Order* to have the other person report for DNA testing, you must also submit a *Motion & Affidavit for Genetic (DNA) Testing*, SHC-1370 [Word](#) | [PDF](#)**



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Child's Name	Date of Birth	Filing an Affidavit of Paternity, SHC-151	DNA Testing Complete	DNA Testing Planned	Birth Certificate w/ Other Biological Parent's Name

9.  **Other:** (For example attorney's fees, spousal support, etc. If you want the court to award you attorney's fees or spousal support before the end of the case, you must file a separate motion in addition to writing it in this section. See <http://www.courts.alaska.gov/shc/family/motions.htm> for forms.)

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**REQUEST FOR RELIEF**

**I REQUEST that the court:**

1. issue a  *Decree of Legal Separation*;  *Decree of Divorce*
  2. enter a *Final Order and Judgment* regarding property and debt as requested in section 3 of this *Answer*;
  3. enter a *Final Order* regarding the parenting plan set forth in section 5 of this *Answer*;
  5. calculate child support and enter a *Child support Order* as set forth in section 6 of this *Answer*;
  6. enter a *Final Order* regarding PFD applications, and federal tax dependency as set forth in section 7 of this *Answer*;
  7. if requested, disestablish paternity for the child(ren) born during the marriage as set forth in section 8B of this *Answer* and order the birth certificate amended.
  8. if requested, bifurcate this proceeding because the wife is pregnant and there is a question of paternity. I would like this court to proceed with all matters but the paternity of the unborn child, reserving that issue until the birth. I have attached a *Motion to Bifurcate for Subsequent Determination of Paternity, SHC-152a*.
  9. Other: \_\_\_\_\_
- 
10. For such other and further relief as the Court deems fit and proper.

I have attached the following documents:

**Child Custody Jurisdiction Affidavit, DR-150 – Required**

You must use black ink to fill out this form.

- Child Support Guidelines Affidavit, DR-305 – Required**
- Shared Custody Support Calculation, DR-306 – Required if you want shared custody**
- Property & Debt Worksheet, SHC-1000 [Word](#) | [PDF](#)**
- Other \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Signature (In blue ink if possible)

**Certificate of Service**

I certify that on \_\_\_\_\_ a copy of this *Answer* and all documents attached as indicated above was/were  mailed  hand delivered to:

Plaintiff \_\_\_\_\_  Plaintiff's Lawyer \_\_\_\_\_

Other \_\_\_\_\_

Your signature: \_\_\_\_\_

**Copies for the plaintiff:** You must serve the plaintiff with a copy of this form and all of its attachments by first class US mail or hand delivery (if there is no court ordered restriction on contact like a domestic violence protective order). **Fill out the Certificate of Service above.**