

INSTRUCTIONS FOR MODIFICATION OF AN EXISTING SUPPORT ORDER

You are always better off to have a lawyer. If you can afford a lawyer you should have a lawyer do this for you. Even before using this form, you should contact a lawyer to see if your case is a case in which it is appropriate to proceed by yourself, and to get some helpful advice. By preparing this form for the public we do not represent that this is the right thing for you to do in your case. The West Virginia State Bar has a lawyer referral service. You may call that number, (304) 558-7991. That lawyer will give you a one-half hour consultation for a minimal charge. To speak to a lawyer for legal information you may call 1-800-642-3617 Tuesdays 6 p.m. to 8 p.m.

Read these instructions through before writing on your papers. You might want to practice what you are going to write on a blank sheet of paper first, then copy over to your court papers.

You will need a copy of the current support order. If you do not have this order get a copy from the circuit clerk of the county where the judge made the order.

If you do not know the address or location of the other parent (in order for that person to be served with these modification papers) go to the Child Support Enforcement Division (formerly Child Advocate Office) and ask for help.

1. Fill out the form "Motion for Modification of Support Order" attached as instructed on the "Motion" form.

STOP! Warning: *Do not* sign the Motion on the signature line until you are in front of a Notary Public or the Circuit Clerk. See "4" Below.

2. After you have completed the "Motion" papers, call the Family Law Master office and ask for a court hearing date. When you have the court hearing date:

a. Fill out the top of the "Notice of Hearing" papers with the same information as the "Motion" papers. Put the name and address of the other party on the "To" lines of the "Notice" paper. (If you have questions about filling in the other blanks on the Notice form ask the Circuit Clerk.)

b. Fill the date, time, Family Law Master's name, county and city in the blanks on the "Notice" paper.

c. Fill out the Certification of Service at the bottom.

3. Take the filled out forms to the Circuit Clerk's office.

4. **Now**, in front of the Circuit Clerk or a Notary Public, sign all the forms on the blank that says "Petitioner's Signature" and date them.

Note: If the Circuit Clerk or Family Law Master wants to charge you any fees, and if you are low income, tell the clerk to give you an application for a "fee waiver". Fill in your income and expenses and you may be approved for a waiver of fees.

5. The Circuit Clerk's office will then officially "file" the motion and notice of hearing. A copy will be sent or served on the other parent. If you indicated on the motion that any children in question had received a welfare check or medicaid, or if the Child Support Enforcement Division (formerly Child Advocate Office) is currently involved in the case, then a copy will also be sent to them.

6. Be sure to go to the hearing and be prepared to tell your story.

7. At the hearing you will need to show proof of your income.

8. If you need witnesses, they can be subpoenaed. Ask the Circuit Clerk. Subpoenaing witnesses is a good idea if they have to miss work. (Remember, as a general rule you cannot say what someone else told you. That person has to be there themselves to talk.) If you want a witness to attend the hearing or need to have certain documents at the hearing you should have the Circuit Clerk subpoena that person or that organization for documents. Get the address or place where the subpoena may be served, and go to the circuit clerk's office and tell the circuit clerk what you want.

[From previous order]

[Your Name]

[Address]
[For safety reasons or other good cause may be omitted]

[City, state, zip]

Petitioner,

V.

Civil Action No: _____
[# From previous order]

[Name of other party]

[Number and street, P. O. Box or other location for service]

[City, state, zip]

Respondent.

MOTION FOR MODIFICATION OF SUPPORT ORDER

Check if any children in question are receiving or have received a welfare check, a medicaid card or if they are receiving services from the Child Support Enforcement Division (formerly Child Advocate Office).

Comes now the petitioner being first duly sworn and says that the following facts and allegations are true except insofar as they are therein stated to be on information and belief, and that insofar as they are so stated, they are believed to be true and says:

1. The order which set the current amount of child support is dated: _____.
month day year

2. The following grounds exist for a change in the current support award:

[Check the boxes that apply. One must apply:]

Calculating child support by the child support formula, using the current net incomes and other circumstances of both parents results in a child support amount that is either 15% more than the current court ordered amount or 15% less than the current court ordered amount of support.

A substantial change in circumstances has occurred because of a change in the cost of living caused by inflation or increases in the children's needs because they are older or unexpected changes affecting basic needs such as housing or transportation.

Actual physical custody of the child has changed to _____.

Medical insurance coverage has changed in that:

- it is now available**
- it has been lost**
- it has otherwise changed**

Give details: _____

3. Because the above change in circumstances child support should: [check one]

- increase** **decrease** **terminate**
- be paid to another person** **be paid by another person**

WHEREFORE, the petitioner asks that this court:

1. Ascertain the ability of the parents to supply medical care for each child by:
 - a) furnishing medical insurance coverage;
 - b) by paying deductibles;
 - c) or by otherwise providing financially for such care.
2. Calculate support under the child support formula, and
3. Make a new order modifying the previous order regarding support.

Petitioner's Signature _____ Date _____
[Sign in front of Circuit Clerk]

_____ Subscribed and sworn to before me this _____ day of _____, 2_____.
My commission expires _____.

Notary Public

Petitioner,

v.

Civil Action No: _____

Respondent.

NOTICE OF HEARING

TO: _____

You will please take notice that there will be a hearing in the above-styled civil action on the relief sought in the attached Motion on the ____ day of _____, 2____, at ____ o'clock __.m. before the Honorable _____, Family Law Master of this Circuit Court, in the _____ County Courthouse, _____, West Virginia, at which time and place you may appear and take such action as may be necessary to protect your interests. You are not required to appear. However if you do not appear the Court may give the relief sought in the attached motion even if you do not appear.

Petitioner's Signature

Date: _____

Print Name

Address

City State Zip

CERTIFICATE OF SERVICE

I, _____, Petitioner in the foregoing action hereby certify that I have sent a copy of this **Notice of Hearing** to the Respondent at the above address by depositing a true copy of the same in the U.S. Mail, postage prepaid, this the ____ day of _____, 2____.

Signature