

INSTRUCTIONS TO FILE A MOTION OR STIPULATION TO MODIFY CHILD SUPPORT

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ Use these instructions if you already have obtained a Court order for Child Support and want to modify the amount (either to increase or decrease the amount paid).
- ◆ Child support is calculated under statutory guidelines. If there has been a “substantial and continuing” change in circumstances, then you may file for a modification. The change in circumstances must amount to a 10% increase or decrease in the current child support order. Two examples of situations that may cause substantial and continuing change are:
 - a permanent, significant increase or decrease in the income of either party; and
 - the emancipation of a child when support is ordered for two or more children. If you are paying child support for one child who is currently emancipated and you wish to terminate child support, please complete the Motion to Terminate Child Support (JDF 1408).
- ◆ You may also file for a modification if your current order does not contain a provision regarding medical/dental support, such as insurance coverage, payment for medical/dental insurance deductibles and co-payments, or unreimbursed medical/dental expenses.
- ◆ Added expenses (such as a new car, house, etc.) do not qualify for a modification.
- ◆ If the child support is modified, the change will be applied retroactively to the date of the filing of the Motion.
- ◆ Within 49 days of the date your Motion is filed, the Court will review the matter and determine whether the case will be scheduled and resolved under the provisions of Colorado Rule of Civil Procedure 16.2(c) or will be handled based on the documents provided with no hearing.
- ◆ For additional information, please review Colorado Revised Statute §14-10-122.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- | | |
|---|--|
| <input checked="" type="checkbox"/> Petitioner: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Co-Petitioner/Respondent: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Stipulation: | A written agreement prepared by both parties. |
| <input checked="" type="checkbox"/> Service of Process: | The official means by which a party is notified that a document has been filed against him/her and provided a copy of the document and a description of the person’s rights and obligations as a party to the case. |
| <input checked="" type="checkbox"/> Hearing Date: | The date that the Petitioner and Co-Petitioner/Respondent must appear in Court to present evidence in support of the Motion. |
| <input checked="" type="checkbox"/> Emancipation: | Emancipation occurs when the last or only child reaches the age of 19, unless the child is still in high school, in which case support continues until the end of the month following graduation; or until the child(ren) otherwise emancipate as may be determined by the Court. Child support may be changed or amended upon motion of a party when any of the children reach 19. See §14-10-115(13), C.R.S. for exceptions. |
| <input checked="" type="checkbox"/> May: | In legal terms, “may” is defined as “optional” or “can”. |
| <input checked="" type="checkbox"/> Shall: | In legal terms, “shall” is defined as “required”. |

If you do not understand this information, please contact an attorney. You may also contact the Family Court Facilitator at your local courthouse, if one is available in your Judicial District.

FEES

A filing fee of \$105.00 is required, unless you are filing your motion/stipulation in a juvenile support case under Title 19, Article 6 or the motion/stipulation is being filed less than 60 days after the original decree or order is issued. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

- | | |
|---|--|
| <input type="checkbox"/> Response (Required, unless previous filing fee paid by party.) | \$116.00 |
| <input type="checkbox"/> Service Fees | Varies (not payable through or to the Court) |
| <input type="checkbox"/> Certification Fee | \$20.00 |
| <input type="checkbox"/> Copies of Documents (Documents on File) | \$.75 per page or \$1.50 if double sided |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$.25 per page or \$.50 if double sided |

FORMS

To access a form online go to www.courts.state.co.us and click on the “Forms” tab. The forms are available in PDF or Word format by selecting **Domestic, Family Matters, Civil Unions - Modify Child Support**. You may complete a form online and print or you may print it and type or print legibly in black ink. **You may need all or some of these forms. Read these instructions carefully to determine what forms you need.**

- | | |
|------------------------------------|---|
| <input type="checkbox"/> JDF 1104 | Certificate of Compliance with Mandatory Financial Disclosure |
| <input type="checkbox"/> JDF 1111 | Sworn Financial Statement |
| <input type="checkbox"/> JDF 1117 | Support Order |
| <input type="checkbox"/> JDF 1403 | Verified Motion to Modify Child Support |
| <input type="checkbox"/> JDF 1404 | Stipulation Regarding Child Support Modification |
| <input type="checkbox"/> JDF 1405 | Order re: Modification of Child Support |
| <input type="checkbox"/> JDF 1820M | Manual Child Support Worksheet A – Sole Physical Care |
| <input type="checkbox"/> JDF 1821M | Manual Child Support Worksheet B – Shared Physical Care |
| <input type="checkbox"/> JDF 1822 | Instructions for Completing Worksheets A & B – Manual |

STEPS TO FILING YOUR MOTION OR STIPULATION

Selecting these instructions indicates that you are planning to file a motion or stipulation to modify child support. You must identify yourself as the Petitioner or Co-Petitioner/Respondent depending on your “title/role” in the original case. It is important to remember that your “title/role” in the case does not change based on who files the motion or stipulation to reopen a case. The caption area below needs to be completed on all forms filed. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

Complete the steps identified below under Option 1 or Option 2 depending on if you plan to file a stipulation or a motion.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court _____ County, Colorado Court Address: _____ In re: <input type="checkbox"/> The Marriage of: <input type="checkbox"/> The Civil Union of: <input type="checkbox"/> Parental Responsibilities concerning: _____ _____ Petitioner: and Co-Petitioner/Respondent:	COURT USE ONLY ▲ ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division _____ Courtroom _____
NAME OF FORM	

Option 1: Stipulation to Modify Child Support. You have an existing order for child support and both parties agree that child support should be increased or decreased.

Step 1: Complete Forms.

- Stipulation Regarding Child Support Modification (JDF 1404):**
 - Please complete all sections of this form.
 - This form must be notarized or signed in the presence of a court clerk or Notary Public
 - If any addresses have changed since the original case was filed, please provide current address information to the Court in writing.**
 - Send a copy of the Stipulation (JDF 1404) to the County Office of Child Support Enforcement if they are involved in your case. **This is required.**

- Sworn Financial Statement (JDF 1111):**

You must provide true and complete information to the Court about your assets, debts, and income. You can be assessed a fine or jailed for providing false information. In addition, your case can be reopened due to fraud.

 - The Financial Statement must contain current personal and financial information to determine whether the modification of child support is fair to each party. Failure of a party to file a Financial Statement may result in a refusal by the Court to enter an Order to Modify Child Support. The Court may impose sanctions against the party who does not file the required paperwork. Complete and file with the Court a Supporting Schedules for Assets (JDF 1111SS) only if applicable to your case.
 - Each party **must** complete his/her own Financial Statement and all sections **must** be completed.
 - The form must be signed in the presence of a Court Clerk or Notary Public.

- Child Support Worksheet A or B:**

Use the information from each of your Sworn Financial Statements to complete the appropriate worksheet. You have two options to complete the worksheet:

 - Automatic Calculation Option:** New child support guidelines became effective on January 1, 2014. To access the software for electronically calculating child support based on the new guidelines, go to www.courts.state.co.us – “Calculate Child Support/Maintenance” (you can also find a link to the new software at the top of the “Modify Child Support” page). If you are trying to calculate retroactive

child support that was ORDERED prior to January 1, 2014, you will need to use the guidelines that were in effect at that time. You can also access the old Excel electronic worksheet (JDF 1820E).

- Manual Calculation Option:** Each worksheet is available in a MANUAL “M” format; you will need to obtain and calculate the Child Support Guidelines to determine your child support if you select this format. If you wish to use the Manual Worksheets, please review Instructions for Completing Worksheets A & B Manually (JDF 1822).
 - Worksheet A (JDF 1820M): Sole Physical Care. Physical Care for 273 nights or more per year. If one or more of your children spends at least 273 nights with one parent they are considered to have a primary home with that parent.
 - Worksheet B (JDF 1821M): Shared Physical Care. If one or more of your children spends more than 92 nights per year with each parent, they are considered to have two homes (one at your residence and one at the other parent’s residence).
 - Split Care: If each parent has primary physical care of at least one of the children because that child or children reside with that parent the majority of the time, you have a split physical care situation. Each parent should complete a separate worksheet A for the child or children for whom he/she provides primary care.
- Complete a Certificate of Service (JDF 1313) indicating that you have provided the other party with a copy of your completed Child Support Worksheet.

- Order re: Modification of Child Support (JDF 1405):**
 - Complete the caption only on this form.
 - The Magistrate or Judge will complete the remaining sections of this Order and give you and the other party a signed copy.

Step 2: You are Ready to File your Stipulation with the Court.

- Pay the \$105.00 filing fee, if applicable.
- Provide the Court with the Stipulation and all other appropriate documents.
- If your address has changed since you originally filed your case, please provide your current address to the Court in writing.
- Provide the Court with a self-addressed stamped envelope to receive a copy of the Order. If a Court is mandatory e-file, self-addressed stamped envelopes may not be required.

Step 3: Court Review of Stipulation.

Within 49 days of the date a post decree matter is filed, the Court will review the matter and determine whether the Stipulation will be approved or not.

- No hearing is required; however, the Court will use the Child Support Guidelines to review the adequacy of child support order negotiated by the parties as well as the financial affidavits.
 - You will receive a signed copy of the Order Re: Modification of Child Support.
- If child support is modified, you will also receive an updated Support Order.

Remember, if you change the child support amount, you must also modify any income assignment to reflect that change.

Option 2: Motion to Modify Child Support. If you have an existing order for child support and both parties do not agree that child support should be increased or decreased.

Step 1: Complete Forms.

Verified Motion to Modify Child Support (JDF 1403):

- Please complete all sections of this form. It is very important that you describe the change in circumstances to justify why you are requesting to modify child support.
- This form must be signed in the presence of a Court Clerk or Notary Public
- Make sure you have copies of all documents for the Court and the other party.
- Send a copy of the Motion to Modify Child Support (JDF 1403) to the County Department of Human Services if they are involved in your case. **This is required.**
- If your address or the other party's address has changed since you originally filed your case, please provide your current address to the Court in writing.**

Certificate of Compliance with C.R.C.P 16.2(e) (JDF 1104):

The purpose of this form is for each party to acknowledge to the Court that they provided the mandatory disclosure documents to the other party. This form **must be filed with the Court within 42 days** after the Post-Decree Motion involving financial issues was served on the other party.

- Each party shall complete and file a Certificate of Compliance with the Court when the mandatory disclosures documents have been provided to the other party. If you did not provide all of the mandatory disclosure items, please state why on this form.
- Complete all sections on this form.
- Complete the Certificate of Service portion identifying the method selected to provide the other party with a copy of this document.
- Send the other party the information you have identified on the form.

Sworn Financial Statement (JDF 1111):

You must provide true and complete information to the Court about your assets, debts, and income. You can be assessed a fine or jailed for providing false information. In addition, your case can be reopened due to fraud.

- The Financial Statement must contain current personal and financial information to determine whether the modification of child support is fair to each party. Failure of a party to file a Financial Statement may result in a refusal by the Court to enter an Order to Modify Child Support. The Court may impose sanctions against the party who does not file the required paperwork. Complete and file with the Court a Supporting Schedules for Assets (JDF 1111SS) only if applicable to your case.
- Each party **must** complete his/her own Financial Statement and all sections **must** be completed.
- The form must be signed in the presence of a Court Clerk or Notary Public.

Child Support Worksheet A or B:

Use the information from each of your Sworn Financial Statements to complete the appropriate worksheet. You have two options to complete the worksheet.

- Automatic Calculation Option:** New child support guidelines became effective on January 1, 2014. To access the software for electronically calculating child support based on the new guidelines, go to www.courts.state.co.us – “**Calculate Child Support/Maintenance**” (you can also find a link to the new software at the top of the “Modify Child Support” page). If you are trying to calculate retroactive child support that was ORDERED prior to January 1, 2014, you will need to use the guidelines that were in effect at that time. You can also access the old Excel electronic worksheet (JDF 1820E).
- Manual Calculation Option:** Each worksheet is available in a MANUAL “M” format; you will need to obtain and calculate the Child Support Guidelines to determine your child support if you select this format. If you wish to use the Manual Worksheets, please review Instructions for Completing Worksheets A & B Manually (JDF 1822).
 - Worksheet A (JDF 1820M): Sole Physical Care. Physical Care for 273 nights or more per year. If one or more of your children spends at least 273 nights with one parent they are considered to have a primary home with that parent.
 - Worksheet B (JDF 1821M): Shared Physical Care. If one or more of your children spends more than 92 nights per year with each parent, they are considered to have two homes (one at your residence and one at the other parent's residence).

- Split Care: If each parent has primary physical care of at least one of the children because that child or children reside with that parent the majority of the time, you have a split physical care situation. Each parent should complete a separate worksheet A for the child or children for whom he/she provides primary care.
- Complete a Certificate of Service (JDF 1313) indicating that you have provided the other party with a copy of your completed Child Support Worksheet.
- Order re: Modification of Child Support (JDF 1405):**
 - Complete the caption only on this form.
 - The Magistrate or Judge will complete the remaining sections of this Order and give you and the other party a signed copy.
- Support Order (JDF 1117):**
 - Complete the caption and the sections about the parties and children.
 - If the Court ordered child support to be modified, the Magistrate or Judge will complete the remaining sections of the Support Order and give you and the other party a signed copy.

Step 2: You are Ready to File your Motion with the Court.

- Pay the \$105.00 filing fee, if applicable.
- Provide the Court with the Motion and all other appropriate documents.
- If your address has changed since you originally filed your case, please provide your current address to the Court in writing.
- Provide the Court with a self-addressed stamped envelope to receive a copy of the Order. If a Court is mandatory e-file, self-addressed stamped envelopes may not be required.

Step 3: Provide a Completed Motion to the Other Party.

- You must provide a copy of the motion to all parties to the case.
- Complete the Certificate of Service portion on the form. The purpose of the Certificate of Service is to notify the Court when and how you provided copies of the motion to all parties in the case. This is very important, because the Court must have knowledge that all parties involved are aware of the motion prior to any Court action being taken. If the Department of Human Services – Office of Child Support Enforcement is involved with your case, provide a copy of the Motion to them as well.

Step 4: Court Review of Motion or Hearing.

Within 49 days of the date a post-decree matter is filed, the Court will review the matter and determine whether the motion will be approved or not.

- The Judge or Magistrate will review all documents filed and enter an Order regarding your Motion to Modify Child Support based on the pleadings filed with the Court.
- or**
- The Court may set the case for a hearing at which time both parties will have the opportunity to appear and make statements to the Court.
 - If child support is modified, you will also receive an updated Support Order.

Remember, if you change the child support amount, you must also modify any income assignment to reflect that change.