

INSTRUCTIONS FOR FILING YOUR MODIFICATION OF CHILD SUPPORT

A modification of child support is allowed if the parties can show a change in income or financial status. If the parties agreed on child support in their divorce Settlement Agreement, they may modify the terms of the Agreement. The Department of Human resources has the power to periodically review and modify child support orders which were agency decisions (but not ones made by court order).

An uncontested case is one in which the parties can work out and sign an agreement regarding child support. A contested case is one in which the parties cannot work out an agreement regarding issues such as child support. The parties ask the judge to settle arguments between them, and each will have to present evidence at a trial. This process can be quite complicated. You will probably need additional documents in order to conduct discovery, which is a formal process of gathering evidence for use at trial. Discovery can include depositions, interrogatories, requests for production of documents, and other procedures. The law library has form books which contain discovery documents you might need. Because discovery is a highly individualized process, it is not possible to include those documents in this packet.

YOU MAY NEED AN ATTORNEY IF:

- The case is contested and your opponent has a lawyer.
- You cannot find your opponent to serve him or her with your papers.
- You might lose custody of your children.
- You think you will have difficulty getting information and documents from your ex-spouse regarding income, retirement funds, etc.
- The children and the custodial parent are not in Georgia.

Even if it is a friendly action, you should talk to a lawyer before you sign any settlement papers or file anything in court.

BROAD OVERVIEW OF INSTRUCTIONS:

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| <p>STEP 1: Complete the Filing Information and Final Disposition forms.
STEP 2: Complete the Complaint for Modification of Child Support.
STEP 3: Complete the Verification form.
STEP 4: Complete the Settlement Agreement, if possible.
STEP 5: Attach other necessary documents (see details later).
STEP 6: Produce the required financial documents.
STEP 7: Pay the Filing Fee
STEP 8: File the forms.
STEP 9: Prepare your case for trial, if necessary.
STEP 10: Receive the Final Judgment</p> |
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DETAILED INSTRUCTIONS:

STEP 1: Complete the Filing Information and Final Disposition Forms

These forms are required by Georgia Law, at O.C.G.A. § 9-11-133. They help the Clerk of Court keep statistical information about the number and types of cases decided in our local courts. The clerks use this information to prepare case management reports for the Chief Judge of each circuit and for the Chief Justice of the Georgia Supreme Court. In short, having this information helps us to run the court system more efficiently for you.

The Filing Information form

- a. In the top line, fill in the county where you are filing and the date filed.
- b. In the second line, fill in the names of the Plaintiff and Defendant.
- c. Where it says “Plaintiff/Petitioner’s Attorney,” check the box which says Pro Se. This indicates that you are representing yourself without an attorney.
- d. In the left-hand box, check off what kind of case this is. Since this is a custody modification action, you will check “ Modification—Child Support.” In the right hand box, indicate whether or not you are asking for relief from family violence by checking yes or no in the appropriate boxes.

The Final Disposition form

The purpose of this form is to tell how your case ends. Since your case is far from over, you should NOT fill in the information in the three big boxes at the bottom of the page. At this point, we do not know how the case will end.

- a. In the top line, fill in only the county where you are filing. We do not yet know the date disposed, since you have not yet received a final order from the judge.
- b. Leave the second line, “Docket #,” blank. The clerk will assign this number.
- c. Write your name where it says “Reporting party.”
- d. Write down the full names of the Plaintiff and Defendant.
- e. Where it says Plaintiff/Petitioner’s Attorney, you will check the box which says Pro Se. This shows that you are representing yourself. Since you are not a licensed attorney, you do not have a Bar #, so leave those blanks empty.

STEP 1: Complete the Complaint for Modification of Child Support.

Fill in your full name as the Plaintiff and the Defendant’s full name. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then insert your name and the Defendant’s names in the space provided just before paragraph one (1).

Even if the case does not settle, discovery increases the fairness and justice of the trial outcome. There are several methods of discovery which a party can use.

Interrogatories are written questions which one party sends to another. The answering party must write down answers under oath and file them with the clerk of court within 30 days. Georgia law usually limits the number of interrogatories to 50. Failure to respond can result in sanctions and penalties by the court.

Depositions are like a mini-trial. A plaintiff, defendant, or other witness is asked oral questions which must be answered orally while under oath. Depositions are recorded by a court reporter who types everything up into one long document. Each party who is questioned may be cross examined. At trial, a witness who has either changed or forgotten his or her previous testimony can be “impeached,” or discredited by referring back to the deposition testimony.

Requests for Production of Documents are used by a party to gain access to a document which is not in his or her possession. For example, a request for production of documents may be used to get a copy of the other party’s tax returns, bank statements, or other important documents.

Physical and Mental Examinations may be used only with the court’s permission, when a party’s physical or mental condition is an issue in the trial, and when the requesting party can show “good cause,” i.e., the information is extremely important and cannot be otherwise obtained.

Requests for Admissions are used to determine which issues are actually in controversy. A party is asked to admit or deny the truth of a series of statements.

Forms for all of the above discovery tools are available at the law library upon request.

For more information about trial preparation, see the following informative websites:

How to prepare your case for trial, <http://www.fultoncourt.org/family/trialprep.php>

Tips on representing yourself in court, <http://www.fultoncourt.org/family/self-representation.php>

Georgia Self-Help website, <http://www.georgiacourts.org/aoc/selfhelp/>

Professional Academy of Custody Evaluators, <http://www.pace-custody.org>

General custody information, http://www.divorcenet.com/custody_visitation

STEP 10: Receive the Final Judgment.

After trial, if you have not settled the case, the judge will issue a final order regarding custody. Your change of custody is not final until the judge signs the final order in the case.