

## MOTION TO MODIFY: What to do with these Court Forms

Here are a few tips for filling out the forms:

- Always use full legal names, not nicknames.
- Type or print neatly. If you have access to the Internet, you may be able to fill out the forms on-line at [www.ptla.org/forms.htm](http://www.ptla.org/forms.htm)
- You will file each form with the Court. Before you do that, make at least two copies of your completed forms--one for yourself and one for the other party. You will need to find a place to make copies (like a library). The court clerk cannot make copies for you.
- If any children involved in this case receive (or have received) AFDC, TANF or Medicaid, make an extra copy of your court papers and mail them to the Department of Human Services. The address is on the complaint form. You should also do this if you have asked DHS to collect child support for you.

### STEP ONE: Fill Out the Forms

#### Motion to Modify

The section at the top of the form is called the "caption." Look at the caption on your original Court Order and copy the court location, docket number and names of Plaintiff and Defendant. (This information stays the same. If you were the Defendant before, you are still the Defendant, even though you are the one filing the Motion.) If you can't find your original order, you can buy a copy from the clerk. If you are trying to change the amount of child support **only**, check that box under the words "Motion to Modify." Complete pages 1 and 2 of the form and leave page 3 blank. You must sign this form in front of a Notary Public. You can find a Notary at a bank, a legal services office, through your town office, or at the court clerk's office.

#### Child Support Affidavit

Fill out the "caption" the same way that you did on the **Motion**. Fill out the rest of the form to the best of your knowledge. Note that you list **last year's earned income** and **this year's expected earned income** separately under #1. Also note that you list **other income** separately, under #2 and **in-kind income** under #3. You may have to look at your records, if you have them, to get financial information. You must sign this form in front of a Notary Public.

After the other party gets your **Motion**, the Court will ask him/her to fill out the same financial form and send you a copy.

### STEP TWO: Serve the Forms

Now you must give copies to the other party. This is called "serving" the court papers. Court rules say you can do this in one of three ways. You can mail the copies, asking your spouse to agree to "service." Or you can send the copies by certified mail. Or you can pay a sheriff to give the copies to the other party.

#### Service by Regular Mail

Mail or hand-deliver these papers to the other party:

- Copy of **Motion to Modify**
- Copy of **Child Support Affidavit**
- Two copies of **Acknowledgment of Receipt** (after you have filled in the caption on both copies)
- Stamped, self-addressed envelope.

The **Acknowledgment of Receipt** asks the other party to sign it, to show he/she got the papers, and to return the form to you within 20 days.

If you get the signed **Acknowledgment** back within 20 days, go on to Step 3. If not, then you will need to serve the papers another way.

### **Service by Certified Mail**

Take these papers to the post office:

- Copy of **Motion to Modify**
- Copy of **Child Support Affidavit**

Tell the postal clerk that you want to send the papers by certified mail. Make sure you ask for a "Return Receipt" and "Restricted

Delivery." This costs more and involves a few extra steps. Get forms and help from your post office. File with the court clerk the green card you get back from the post office, to prove the papers were received.

### **Service by Sheriff**

Mail or take to your county sheriff's office:

- The original and one copy of the **Motion to Modify**
- Copy of **Child Support Affidavit**

In a letter, or in person, ask the sheriff's office to serve the papers on the other party. Give the other party's home address. If you think the other party will be hard to find at home, give the other party's work address. The deputy who

"serves" the papers will complete page 3 of the **Motion** and return the original to you.

### **STEP THREE: File the Forms**

Fill out the **Confidential Family Matter Summary Sheet**, which has its own instructions. The clerk won't accept your papers for filing without this form.

Hand-deliver or mail to the court clerk these **original forms**:

- **Summary Sheet**
- **Motion to Modify** (with deputy's signature if you use sheriff's service)
- **Acknowledgment of Receipt** (if you used service by regular mail)
- **Green Card** (if you used certified mail)
- **Child Support Affidavit**

If you are asking for a change in child support **only**, there is no filing fee. Otherwise, the Court charges a fee to file your papers. If you cannot afford the court fees, you can ask the clerk for an **Application to Proceed Without Payment of Fees** and an **Indigency Affidavit**. Fill out these forms and sign them in front of a Notary Public. Then file the forms with the clerk. A judge will review your financial information and decide whether you qualify for a "fee waiver." If the waiver is denied, **you must pay the filing fee within 7 days**. If the waiver is granted, you won't have to pay some or all of the court fees.

### **STEP FOUR: Case Management Conference**

You and the other party must go to a case management conference at the court.

Within two weeks after you complete all of the steps above, the Court will notify you of the date and time of the conference. Read all of the papers you get from the Court, including **Important Information Regarding Case Management Conference**.

### **HELPFUL RESOURCES**

**Video.** The court has a video explaining the court process for modifying or enforcing a judgment.

**Mediation.** A mediator may be able to help you and the other party reach an agreement on issues relating to your case. The court has a video explaining what mediation is. Mediation can be arranged through the court or a private mediator.

**Parent education.** A parent education program specifically designed for divorcing or separating parents may help you focus on the needs of your children.

For more information about these resources, speak with the court clerk.