

MOTION TO CHANGE

Instruction sheet

The Court and its personnel are not allowed to give legal advice. Therefore, the Court and its personnel cannot help you fill out these forms. You may want to consult with an attorney if you do not know how to complete the information on these forms.

You must follow the instructions attached to the papers and you must fully complete the forms either by typing, or by printing neatly using black or blue ink.

NOTICE OF MOTION AND MOTION TO CHANGE

In this packet you will find a Notice of Motion and Motion to Change, and an Affidavit of Mailing. The forms are used to change or modify an existing Court order. The Motion to Change tells the Court and the other party what you are asking for and the date and time of the hearing.

On both the Motion and the Affidavit, fill out the caption of the case exactly as it appears on previous court orders filed in this matter. Mark whether you are the Petitioner or Respondent as you appear in previous court papers in this case. Be sure to fill in the correct case number.

On the Motion:

1. Check off the boxes for the changes you are asking for from the Court. Remember, it will be up to the Court to decide what types of changes are actually ordered. Fill out the form completely. Incomplete or partially completed forms will not be accepted.
2. State sufficient facts which justify the Court granting a change from the previous Order or Judgment. Attach a separate sheet to the Motion if necessary to explain why you are asking for the modification and the change in circumstances.
3. After completing the Motion and making at least three copies, you must bring it to the Court Commissioner's Office, 1313 Belknap Street, Room 301, Superior, Wisconsin, to receive the date and time for hearing. The date and time will be written on the first page of the Motion. On each copy of the Motion:
 - a. **Fill in the date and time of the hearing on the first page.**
 - b. **Fill in today's date and sign your name on the last page.**
 - c. **Print your name under your signature.**
4. Once you have been given the court date from the Commissioner's Office, **THE ORIGINAL AND THREE COPIES MUST BE FILED WITH THE CLERK OF COURTS' OFFICE (Room 309 in the Courthouse)**. Copies can be made for you (at a cost) in the County Clerk's office on the first floor of the Courthouse. These papers **MUST BE ACCOMPANIED WITH PAYMENT FOR FILING**.

The Clerk of Courts' office will retain an original signed document. File-stamped copies will be returned to you for distribution. One copy is for you; one copy is for the other party. If the requested change involves primary physical placement of minor children or a change in child support, a copy must be also be provided to the Child Support Office (second floor of the Courthouse).

5: AFTER the papers are file stamped, a copy of the papers must be served on the other party. Unless you are filing for contempt, service of paperwork can completed by mailing. When mailing, you must mail the paperwork at least 8 days prior to the date of hearing to the last known address of the other party. THE OTHER PARTY MUST RECEIVE THE PAPERWORK AT LEAST 5 DAYS PRIOR TO THE HEARING (EXCLUDING WEEKENDS OR HOLIDAYS). IF THE OTHER PARTY IS NOT SERVED AT LEAST 5 DAYS PRIOR TO THE HEARING, THE MOTION CANNOT BE HEARD BY THE COURT.

6: Whoever mails the paperwork must complete and sign (in the presence of a notary public) the AFFIDAVIT OF MAILING. The Affidavit of Mailing must be filed with the court prior to the hearing.

CUSTODY AND PRIMARY PHYSICAL PLACEMENT

Under Wisconsin law, “Legal Custody” and “Physical Placement” have distinctly separate meanings.

Legal Custody means the right and responsibility to make major decisions concerning the child. Major decisions include, but are not limited to: choice of school and religion; consent to marry; consent to enter military service; consent to obtain a motor vehicle operator’s license; and authorization for non-emergency health care. **Legal custody does not involve the time children spend with each parent.**

“Joint Legal Custody” means that both parents jointly make major decisions and neither party’s legal custody rights are superior. A parent with “Sole Legal Custody” can make the major decisions alone regardless of the other parent’s wishes or requests.

Physical Placement is the right to have the child physically placed with a party and to make, during that placement, routine daily decisions regarding the child’s care, consistent with major decisions made under legal custody. Parties may have shared physical placement, or one party may have primary physical placement and the other party has less placement with the child.

MEDIATION

When parents disagree on legal custody or physical placement is contested, the parties will be referred to mediation for those issues. This is not counseling or an effort to have the parents reconcile; mediation is an effort to resolve issues relating to children. A referral to mediation may be made before a party files a motion with the Court. Requests for mediation are available in the Court Commissioner’s Office, 1313 Belknap Street, Room 301, Superior, Wisconsin. The mediation fee will be paid by the County the first time the parties attend mediation. Subsequent mediation fees will usually be split by the parties. If parties enter into an agreement in mediation, the Court will be provided a copy of the agreement by the mediator. If the Court believes the agreement is in the best interests of the children, the Court will approve the agreement and make it an Order.

GUARDIAN AD LITEM

Wisconsin law requires that whenever legal custody or physical placement of a minor child is contested, the Court shall appoint a guardian ad litem (GAL) for the children. The GAL will be an attorney admitted to practice law in Wisconsin; and is an advocate for the best interests of the children regarding legal custody and physical placement. The GAL will function in the same manner as an attorney for a party to the action, and will consider, but is not bound by, the wishes of the minor child or the parents. Unless both parties are indigent, the Court will order either or both parties to pay the GAL fees. Ordinarily, the Court will order the parties to equally split the GAL and/or expert fees.

Petitioner/Joint Petitioner A: _____
 Respondent/Joint Petitioner B: _____

Enter the name of the county in which the original case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY
Mark marriage or paternity. If paternity, enter initials of child.	IN RE: THE <input type="checkbox"/> MARRIAGE <input type="checkbox"/> PATERNITY OF _____ Petitioner/Joint Petitioner A
Enter the name, address and daytime phone number of the petitioner or joint petitioner from the original case file.	Name (First, Middle and Last) _____ Current Mailing Address _____
On the far right, mark the box for the change(s) you are requesting and enter the original case number.	City _____ State _____ Zip _____ Daytime Phone Number _____ -VS-
Enter the name, address, and daytime phone number of the respondent or joint petitioner from the original case file.	Respondent/Joint Petitioner B Name (First, Middle and Last) _____ Current Mailing Address _____
Check if the State of Wisconsin is a party or not. If you are unsure, you may call your local Child Support Agency.	City _____ State _____ Zip _____ Daytime Phone Number _____ The State of Wisconsin (Child Support Agency) <input type="checkbox"/> is <input type="checkbox"/> is not a party to this action.

Notice of Motion and Motion to Change

Legal Custody
 Physical Placement
 Child Support
 Maintenance
 Arrears Payment
 Other: _____

Case No. _____

NOTICE OF MOTION

Enter the name of the person to whom this motion is directed.
For Court Use Only: This section will be completed by the court.

TO: _____

You are notified that at the following date and time:

Before _____
 Location _____
 Date _____ Time _____ a.m. p.m.,

or as soon as the matter may be heard.

I will be asking the court to change the existing order in this case as indicated below. *If you object to this motion, you need to appear and say so. Otherwise, the court may proceed without you and grant the request.*

You may contact the office of the family court commissioner for written information on modifying and enforcing court orders or judgments.

MOTION

1. **MODIFY** as follows:
 A. **Physical Placement Order(s)** (time with children) for the following children:

- 1) from primary physical placement with [Name of Parent] _____ to primary placement with [Name of Parent] _____.
- 2) from shared placement to primary placement with [Name of Parent] _____.
- 3) from primary placement to shared placement.

Check A if you are requesting a change to physical placement, list the children affected, check 1-4 and/or 5 and/or 6-7 and complete the necessary information. Indicate if you have or have not attempted Mediation. If you have, indicate the date of the Mediation session.

Check B if you are requesting a change to legal custody, list the children affected, check 1, 2, or 3 and complete the necessary information.

Check C if you are requesting changes to child support orders. In 1, enter the amount and frequency of the current payment and check whether it includes a deviation for health insurance.

In 2, check a, b, or c.

Check 1 or 2, indicate deviation information.

Check all that apply in D or E, and complete all relevant information for each section checked

4) from the current shared placement schedule (if any) to a new shared placement schedule.

The requested placement schedule for the changes in 1-4 above is as follows:

_____ See attached

5) If either parent is receiving less than 25% placement with the minor child(ren), the specific reasons more placement with that parent is not in the child(ren)'s best interest is as follows:

_____ See attached

6) to require placement with [Name of Parent] _____ be supervised. unsupervised.

7) Other: _____ See attached

The other party and I attempted mediation on [Date] _____ have not attempted mediation for this issue.

B. **Legal Custody** (decision making) for the following children:

1) to joint legal custody with both parents.

2) to sole legal custody with [Name of Parent] _____

3) Other: _____ See attached

C. **Child Support**

1) that is currently \$ _____ per _____ that a. does not include a deviation for health insurance or any other reason.

b. does include a deviation of \$ _____ upward downward for health insurance.

2) to a new amount beginning _____ to be paid by [Parent] _____ to [Parent] _____

a. based on state child support standards determined by the court.

b. a new set amount of \$ _____ per _____

c. held open (no payment).

I request that this new amount

1. not include a deviation for health insurance or any other reason.

2. include a deviation of \$ _____ upward downward as a cash contribution for health insurance.

D. **Maintenance** (Spousal Support) that is currently \$ _____ per _____ to

1) an amount beginning _____, 20____ to be determined by the court based on current income.

2) a new set amount of \$ _____ per _____ beginning _____, 20____.

E. **Arrears payment** that is currently \$ _____ per _____ to

1) an amount beginning _____, 20____ to be determined by the court.

2) a new set amount of \$ _____ per _____ beginning _____, 20____.

I will be able to provide documentation to the court that supports my request.

Petitioner/Joint Petitioner A: _____
Respondent/Joint Petitioner B: _____

NOTICE: Both parties must bring a fully completed, dated, and signed Financial Disclosure Statement to court.

In F, enter any other changes you may have.

In 2, enter the date the current court order or judgment was signed by a court official

In 3, check all that apply in A-J. If F or G, enter the party's information that has changed. If other, enter the change in circumstance that has prompted you to bring this Motion.

- F. Other change(s): _____ See attached
2. The court order that I am asking to be modified was dated _____.
3. This request is based on the following substantial change in circumstances that have occurred since the entry of the prior court order in this case.
- A. A child who was living with the other parent is now living with me.
 - B. A child is no longer eligible for child support because the child has reached age 18, or is over 18 but under 19, and is no longer pursuing a course of education leading to a high school diploma or its equivalent.
 - C. One of the parties has or will be moving to a different residence.
 - D. The parties are no longer living together.
 - E. There is not a placement schedule and the parties cannot agree.
 - F. Employment or work shift of _____ has changed.
 both parties has changed.
 - G. Income or wages of _____ has changed.
 both parties has changed.
 - H. The availability or cost of health insurance has changed.
 - I. The party to whom maintenance is owed has remarried.
 - J. Other: _____

Describe the facts that justify the change you want. Attach additional pages, if necessary

This is a substantial change in circumstances because:

See attached

If you require reasonable accommodations due to a disability to participate in the court process, please call: _____ prior to the scheduled court date. Please note that the court does not provide transportation.

Sign and print your name.

Enter the date on which you signed your name.

NOTE: This signature does not need to be notarized.

▶ _____
Signature

Print or Type Name

Address

Email Address Telephone Number

Date State Bar No. (if any)

A copy of this Notice of Motion and Motion must be served upon all other parties at least 5 (five) business days before the date of the hearing. If service is by mail, it must be mailed at least 8 (eight) business days before the date of the hearing. See the Service Packet (FA-5000V) https://www.wicourts.gov/formdisplay/FA-5000V_instructions.pdf?formNumber=FA-5000V&formType=Instructions&formatId=2&language=en for more information.

Petitioner/Joint Petitioner A: _____
 Respondent/Joint Petitioner B: _____

Enter the name of the county in which this case is filed.
 Enter the name of the petitioner. If joint petitioners, enter the name of Petitioner/Joint Petitioner A.
 Enter the name of the respondent. If joint petitioners, enter the name of Respondent/Joint Petitioner B.
 Enter the case number.

STATE OF WISCONSIN, CIRCUIT COURT,
 _____ **COUNTY**

IN RE: THE MARRIAGE PATERNITY OF _____

Petitioner/Joint Petitioner A

Name (First, Middle and Last) _____

and

Respondent/Joint Petitioner B

Name (First, Middle and Last) _____

Affidavit of Mailing

Case No. _____

AFTER you have mailed the documents, you must complete the information to the right by **checking the boxes indicating the specific documents that you mailed.**
 To review decision for a harassment or domestic abuse injunction, use Motion for DeNovo Hearing (CV-503) form.
 If a motion, enter the type of motion.

UNDER OATH I STATE:

I placed in an envelope a copy of the following documents:

- A blank Income and Expense Statement (FA-4138V) form
- A blank Financial Disclosure Statement (FA-4139V) form
- Requirement to attend parent education
- Motion for and Notice of New (De Novo) Hearing (FA-4130V) form
- Response and Counterclaim (FA-4113V) form
- Notice of Motion to Change: (FA-4170V/FA-4171V - Post Judgment) form
- Motion for: _____
- Other: _____

Enter the date [month, day, year] on which you placed the documents in a mailbox, and the name and address of the person to whom you mailed them.

I mailed that envelope with proper postage affixed on [Date] _____, 20____ to:

Name _____
 Address _____
 Address _____
 City _____ State _____ Zip _____

STOP!
Take this document to a Notary Public BEFORE you sign it.

After you have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public. Have the Notary Public sign and date.

State of _____
 County of _____
 Subscribed and sworn to before me on _____

 Notary Public/Court Official

 Name Printed or Typed

Signature _____
 Print or Type Name _____
 Address _____
 Email Address _____ Telephone Number _____
 Date _____ State Bar No. (if any) _____

My commission/term expires: _____

This notarial act involved the use of communication technology.