

# Modification

**NOTICE:** Family and divorce laws change often. These forms may not be appropriate for all situations. They are intended to be useful in many cases and may have to be changed in some way to fit your case. Talk to a lawyer if you are unsure that these forms are the most appropriate for your situation. **Court staff cannot give legal advice.**

You may use this packet to seek **changes** to court orders or judgments. **Do Not** use this packet if:

- You and the other party agree to the changes (use the **Stipulation and Order Form: FA-604A/B** form),
- Your divorce, legal separation or paternity judgment has **not** yet been granted, or
- You want to enforce a court order or judgment (use the **Contempt Packet: FA-5009V**).

## Order to Show Cause and Affidavit to Change

**Order To Show Cause and Affidavit to Change:  
Legal Custody, Physical Placement, Child Support,  
Maintenance, Arrears Payment  
(FA-4171VA/B)**

The other party is **ordered** to appear at the scheduled hearing. The party's presence is mandatory.

The document(s) must be **Personally Served** on the other party. If the party does not appear, the court may proceed without them if served properly (see **Service Packet (FA-5000V)**).

**Signed** and made an order **by a court official** after a review of the supporting affidavits.

### Custody and/or Placement Disputes:

Mediation is an option parties may use to try to come to an agreement with the assistance of an impartial third party. The first session is free, however, once you have used the first session there may be an additional fee. You can either request mediation before you file this request for a court date or request the court date and wait for the court to order the mediation if necessary.

If the parties are unable to come to an agreement, the court may feel it is necessary to appoint an attorney for the children known as a Guardian ad Litem (GAL). The court may also order a placement study to be done by Family Court Services or other agency. A social worker conducts an investigation and the results are used by the court to help decide what is in the child(ren)'s best interest.

### Filing Fees (paid to Clerk of Court)

There are filing fees in order to file a **Motion or Order to Show Cause** to modify a court order. There is a \$50 filing fee if the Motion or Order to Show Cause is relating to legal custody or physical placement; there is a \$30 filing fee if the Motion or Order to Show Cause is relating to any other topic other than custody and/or placement. To learn more about fee requirements, contact 715-232-2611.

## Procedural Checklist

### Getting a Court Date

1. Complete the **Affidavit: Change of Legal Custody, Physical Placement, Child Support, Spousal Maintenance, Other (FA-4171VA)** form.
2. Make sure you complete section #2 and list the date of the court order you wish to have modified.
3. File the original document with the Clerk of Courts office in the county where your case is filed. You must bring two copies of your filing to the Clerk of Courts office. Failure to bring in two copies of the document will result in you being charged copy fees. The clerk will:
  - Collect the appropriate filing fees.
  - Assign you a court date.
  - Return the appropriate number of authenticated copies to you.

### Procedural Checklist Notifying the Other Party (Personal Service)

4. Give the other party(s) notice of the hearing by having them served with the court papers. See the **Service Packet (FA-5000V)** for options and procedural instructions.

**Deadline:** *The other party(s) must be notified properly and provided with the forms **at least five (5) business days before the date of the hearing.***

5. Make a copy of the proof of service (**Affidavit of Service (FA-4120V)** or **Admission of Service (FA-4119V)** forms) for your records and bring it to court on the date of the hearing.

**Warning:** Without proof of service, the court cannot proceed with the hearing.

### Preparing for and Going to Court

6. Take the following items with you to court:
  - Copy of the **proof of service**.
  - Original and two (2) copies of your **Financial Disclosure Statement (FA-4139V)** form.
  - Any other documents you think may help you make your case to the court.
  - If you wish to have other people testify for you, make sure they come to court. A letter, affidavit, email, or text from them is not acceptable.
7. Go to the correct courtroom at least 10 minutes before your assigned court time and:
  - If there is a bailiff or court clerk let them know that you have arrived (you may sit and watch court).
  - When your case is called, go to the front of the room and sit where directed.
8. Present your case to the Court:
  - Be prepared to state your side of each issue clearly and completely.
  - Be prepared to answer questions that may be asked of you by the Court or others.

- If you wish to offer written evidence or documents to the court, give the original to the court and a copy to the other side.
- While you are in court, use the forms you prepared as an outline to remind you of each issue you want to talk about.

9. The Court will make their decisions/rulings. The court **may** also set another hearing for the parties to return to court.

**Court forms can be found online at: <https://www.wicourts.gov/forms1/circuit/index.htm> then click on Family**