

INSTRUCTIONS FOR CHILD SUPPORT REVIEW AND AMENDMENT MOTION

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. This covers basic procedure for asking a North Dakota State District Court to review and amend an existing child support order. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.

Use at your own risk.

YOU CAN USE THIS PACKET OF FORMS ONLY IF:

- (1) There is already a court order setting or reserving child support; and
- (2) You're asking the court to change child support based on a change in income.

You can't use these forms to ask the court to change visitation (parenting time) or custody (residential responsibility)!

IF YOU DON'T MEET THE REQUIREMENTS TO USE THIS PACKET OF FORMS:

Go to ndcourts.gov/legal-self-help for all forms available through the ND Legal Self Help Center.

To request a change in child support based on **changes in visitation (parenting time)**, all available packets of forms are found at ndcourts.gov/legal-self-help/visitation.

To request a change in child support based on **changes in primary custody (residential responsibility)**, all available packets of forms are found at ndcourts.gov/legal-self-help/custody.

WARNINGS!

ND Legal Self Help Center and Court staff **can't** help you fill out the forms in this packet.

ND Legal Self Help Center and Court staff **can't** help you with any decision making related to the forms in this packet

You may need to speak with a lawyer if you don't know how to answer the questions on these forms, or how use the Child Support Guidelines Calculator.

You **must** fill out all forms included in this packet and you **must** follow the instructions included with this packet.

The court expects every person who appears in court without a lawyer to know and follow the law. The judge won't be able to give you any help in court.

GENERAL INFORMATION

When filling out the forms, be as accurate and as detailed as possible. This will help the court understand your circumstances. A hearing will be held before a district court judge or referee. A court order for child support may be changed when there is:

- Substantial increase or decrease in income of the person paying child support.
- Substantial increase in the needs of the child or children involved in this court order.
- A change in the availability or cost of medical insurance coverage or expenses of the child or children, yourself, or former spouse involved in this court order.
- The addition, elimination, or substantial increase / decrease of work-related or education-related child care expenses for the child or children involved in this court order.
- Child or children attaining the age of 18; or graduating from high school.

You can't use this packet of forms to ask the court to change child support based on changes in visitation (parenting time) or custody (residential responsibility)!

IMPORTANT TERMS

To fill out these forms you must be familiar with the following terms:

- **Obligor** – The person ordered by the court to pay child support.
- **Obligee** – The person receiving child support ordered by the court.

INSTRUCTIONS

Type your answers or print neatly using dark ink.

STEP 1:
**FILL OUT THE NOTICE OF MOTION, AND MOTION FOR REVIEW AND AMENDMENT OF
CHILD SUPPORT FORMS (FORMS 1a, 1b)**

Fill out the Notice of Motion for Review and Amendment of Child Support form (FORM 1a), and the Motion for Review and Amendment of Child Support form (FORM 1b).

NOTICE OF MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1a)

FILLING IN THE TOP PART OF THE FORM (this is known as "the caption"):

NOTE: The information to fill in the top part of the form can be found at the top of your current child support order or your divorce or paternity judgment, including:

- The county where your case is located (which may be different from the county where you live).
- The court civil file number (which may be called the case number).
- The name of the Plaintiff.
- The name of the Defendant.

If you're the Plaintiff in the current order, judgment or decree you'll be the Plaintiff in this motion. If you're the Defendant in the current order or decree you'll be the Defendant in this motion.

Fill in the name and last known address of the other party. **DON'T** fill in the date, time, and location of the hearing. You'll fill in this information as part of Step 5 below.

DON'T date and sign the Notice of Motion for Review and Amendment of Child Support form (FORM 1a). You'll date and sign the Notice of Motion as part of Step 5 below.

MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1b)

FILLING IN THE TOP PART OF THE FORM (this is known as "the caption"):

Fill in the top part of the form **EXACTLY** as you filled out the top of the Notice of Motion for Review and Amendment of Child Support (Form 1a).

Paragraph 1: Fill in the date of the last order of the court. You can usually find this on the back page of the last court order.

Next, check only the boxes that identify the reasons you're asking the court to consider -- you don't need to check off every box. If you have a reason that isn't listed in the Motion, check the box marked "Other." You may attach additional sheets if necessary.

You may check as many reasons as you wish, but it will be up to the court to decide what reasons will actually be considered.

STOP! DON'T FILL OUT ANY MORE OF THE MOTION (Form 1b)! See below.

Proceed to Step 2 if you're the obligor and are seeking a change in the child support based upon your income. (You'll finish filling out the Motion (Form 1b) after you complete Step 2 and Step 3.)

Proceed to Step 4 if you're an obligee and are seeking a change in the child support based upon the income of the obligor. (You'll finish filling out the Motion (Form 1b) in Step 4.)

STEP 2: FILL OUT THE FINANCIAL DECLARATION FORMS (FORMS 2a, 2b)
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Fill out the Financial Declaration form (FORM 2a) and the Confidential Information Form (FORM 2b), which are included in this packet.

FINANCIAL DECLARATION (FORM 2a)

FILLING IN THE TOP PART OF THE FORM (this is known as "the caption"):

Fill in the top part of the form **EXACTLY** as you filled out the top of the Notice of Motion for Review and Amendment of Child Support (Form 1a).

FILLING OUT THE REST OF THE FORM:

Questions 1 – 9: Fill in the answers. If a question doesn't apply to you, then answer "does not apply."

Questions 4, 5, 6, 7, 8 and 9: In answering numbers 4, 5, 6, 7, 8 and 9, gather documents that support your reasons why the child support order should be changed. Examples of these documents include the following:

- Proof of your income (*recent pay stubs or W-2 forms, copies of your tax return for the most recent year, or business income and business expenses if you're self employed*).
- Proof of your expenses, if they are the reason you're asking for the child support order to be changed.
- Proof of unemployment or disability (*lay-off notice, doctor's statement, etc.*).
- Proof of status of unemployment compensation claim or worker's compensation claim.
- Proof of receipt and amount of social security income, including dependent's benefits for the children.
- Proof of child care expenses.
- Proof of the cost of medical insurance coverage (*pay stubs, health insurance statements*).

Question 10: Answer question 10 with any other information that you feel would help the court in understanding your situation. You may attach additional pages if necessary.

Confidential Information: Certain information is considered confidential and not available to the public. Examples of documents that have confidential information include:

- Paycheck stubs or W-2 forms, or business income and business expenses copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

To protect your privacy, the other parties, and your child(ren), all social security numbers, employer identification numbers, and financial account numbers listed on papers you file with the court must be blackened out (crossed out) completely. Failure to do this means these numbers could be available to the general public.

DATE AND SIGN THE FINANCIAL DECLARATION (FORM 2a).

You **MUST** fill in the name of the City, State and Country where you're physically located when you sign the Financial Declaration (Form 2a).

Fill in your printed name, address, telephone number, and email address.

WARNING: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

CONFIDENTIAL INFORMATION FORM (FORM 2b)

Court records are generally available to the public, and anyone can request to look in almost any court file. However, certain information is required to remain confidential, even if it is part of a public court record.

Confidential information includes:

- Social security numbers and taxpayer identification numbers
- Birthdates
- Full name of a minor child
- Financial account numbers.

Since the Financial Declaration (FORM 2a) includes references to confidential information, you must prepare a Confidential Information form. The form must contain the full confidential information that is referenced in the documents.

FILLING IN THE TOP PART OF THE FORM (this is known as "the caption"):

Fill in the top part of the form **EXACTLY** as you filled out the top of the Notice of Motion for Review and Amendment of Child Support (Form 1a).

FILLING OUT THE REST OF THE FORM:

"Full Information" Column: Fill in the full information for each parent, minor child, financial account numbers and taxpayer identification numbers. If you don't know the information, write or type "unknown."

"Redacted" Information Column: Fill in the shortened information as it appears in the Declaration for each parent, minor child, financial account numbers and taxpayer identification numbers. If shortened information doesn't appear in the Declaration, write or type "Not Applicable" or "N/A."

DATE AND SIGN THE CONFIDENTIAL INFORMATION FORM (FORM 2b).

WARNING: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

**STEP 3:
GO TO THE CHILD SUPPORT GUIDELINES CALCULATOR**

The Child Support Guidelines Calculator is located at childsupport.dhs.nd.gov/lawyers/child-support-guidelines.

To use the online calculator, you must have access to a computer that has Excel 2007 or a later version of Excel.

Read and follow the instructions on the Child Support Guidelines Calculator (The Calculator) carefully. When you're ready to begin, click "Start Calculation".

Proceed through the screens following the instructions of the calculator as they apply to your situation. When you have finished, print a copy the worksheet and any schedules and attach them to the document entitled Brief in Support of Motion for Review and Amendment of Child Support.

The Child Support Division of the North Dakota Department of Human Services may be able to provide **limited** assistance with your child support calculations. (701-328-5440; 800-231-4255) Court personnel and staff of the ND Legal Self Help Center **can't** assist with child support calculations.

If you need more assistance than the Child Support Division can provide, retain a lawyer.

STEP 4:
**FINISH FILLING OUT THE MOTION FOR REVIEW AND AMENDMENT OF CHILD
FORM (FORM 1b); FILL OUT THE BRIEF IN SUPPORT OF MOTION FOR REVIEW AND
AMENDMENT OF CHILD SUPPORT FORM (FORM 1c)**

MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1b)

Finish Filling Out the Motion:

Paragraph 2: Check one of the three boxes provided which describes your situation.

- If you check the first box that you're the obligor and aren't self-employed, also insert the correct amount of child support from the calculator.
- Check the second box if you're a self-employed obligor and also insert the correct amount of child support from the calculator.
- Check the third box if you're the obligee and will be sending the Financial Declaration to the obligor to be filled out and returned.

DATE AND SIGN THE MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1b).

WARNING: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

BRIEF IN SUPPORT OF MOTION FOR REVIEW & AMENDMENT OF CHILD SUPPORT (FORM 1c)

FILLING IN THE TOP PART OF THE FORM (this is known as "the caption"):

Fill in the top part of the form **EXACTLY** as you filled out the top of the Notice of Motion for Review and Amendment of Child Support form (Form 1a).

FILLING OUT THE REST OF THE FORM:

YOU MUST CHECK THE SAME BOXES that you checked on your Motion for Review and Amendment of Child Support form (FORM 1b).

Paragraph 1: Check only the boxes that you checked in Paragraph 1 of your Motion for Review and Amendment of Child Support form (FORM 1b).

Paragraph 2: Only check the same box you checked in Paragraph 2 of your Motion for Review and Amendment of Child Support form (FORM 1b).

- If you checked the first box, also insert the same amount of child support from the calculator that you entered in your Motion for Review and Amendment of Child Support form (FORM 1b).
- If you checked the second box, also insert the same amount of child support from the calculator that you entered in your Motion for Review and Amendment of Child Support form (FORM 1b).

DATE AND SIGN THE BRIEF IN SUPPORT OF MOTION FOR REVIEW & AMENDMENT OF CHILD SUPPORT (FORM 1c).

WARNING: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

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**STEP 5:
GET A HEARING DATE, TIME, AND LOCATION;
FINISH FILLING OUT THE NOTICE OF MOTION FOR REVIEW AND AMENDMENT
OF CHILD SUPPORT FORM (FORM 1a)**

Contact the Clerk of Court's Office in the county where your case is located. Contact information for Clerks of Court by county is available at ndcourts.gov/court-locations.

Tell the Clerk of Court that you'll be filing a Motion for Review and Amendment of Child Support in district court and need a date, time, room number, address for an evidentiary hearing, and the name of the judge or referee who will hear the matter.

The hearing date must be at least 22 days away from the date the documents are mailed to the other party. Count the day after it is mailed as Day 1.

NOTICE OF MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1a)

Finish Filling Out the Notice of Motion:

Using the information you received from the Clerk of Court, fill in the date, time, and location of the hearing in Paragraph 1.

DATE AND SIGN THE NOTICE OF MOTION FOR REVIEW AND AMENDMENT OF CHILD SUPPORT (FORM 1a).

WARNING: By signing your name you're telling the Court that you're telling the truth and that you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

**STEP 6:
MAKE COPIES OF FORMS**

After the forms are completely filled out, make TWO copies of the forms and TWO copies of all documents that support your motion (*for example, paycheck stubs, tax returns, proof of expenses*).

Make ONE copy of the Confidential Information Form (FORM 2b) for yourself.

Keep ONE copy of each form and ONE copy of all supporting documents for yourself (*remember to bring your copies with you to court on the day of your hearing*).

Get one copy of the forms titled Reply to Motion for Review to Amendment of Child Support from the Clerk of Court or the North Dakota Supreme Court website under the ndcourts.gov/legal-self-help/amend-child-support link.

STEP 7:
**HAVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS
SERVED ON THE OTHER PARTY AT LEAST 21 DAYS BEFORE THE HEARING DATE**

You must arrange for the other party to receive complete copies of all forms and supporting documents you have prepared for the hearing along with the Reply to Motion for Review and Amendment of Child Support.

This is called "service of process."

A copy of the forms and any supporting documents may be served upon all parties by mail. If a party is represented by an attorney, the forms and supporting documents must be served on the attorney instead of the party.

NOTE: DON'T mail a copy of the Confidential Information Form (FORM 2b).

The envelopes containing the forms and supporting documents must be mailed to the other party (*or their attorney if there is one*) at least 21 days before the hearing date.

WARNING: If your forms and supporting documents aren't served upon the other party 21 days before the hearing date, your motion may not be heard by the court.

STEP 8:
FILL OUT THE "DECLARATION OF SERVICE BY MAIL" FORM (FORM 3)

When you mail the forms and supporting documents, you must fill out a "Declaration of Service by Mail" form (Form 3) for each party served.

You **MUST** fill in the name of the City, County, State and Country where you're physically located when you sign the Declaration of Service by Mail (Form 3).

WARNING: By signing your name you're telling the Court that you're telling the truth. If you're not telling the truth, or if you're misleading the Court, or if you're serving or filing this document for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

After it has been signed, make one copy of the Declaration of Service by Mail for your records.

STEP 9:
FILE THE FORMS WITH THE CLERK OF COURT

AT LEAST 22 DAYS BEFORE THE HEARING DATE, The following **original forms** must be filed with the clerk of court in the county where your case is located:

- Original of completed Notice of Motion for Review and Amendment of Child Support form (FORM 1a);
- Original of completed Motion for Review and Amendment of Child Support form (FORM 1b);
- Original of completed Brief in Support of Motion for Review and Amendment of Child Support form (FORM 1c)
- Original of completed Financial Declaration form (FORM 2a);
- Original of completed Confidential Information Form (FORM 2b); and
- Originals of completed "Declaration of Service by Mail" (FORM 3).

Court Fees: You must be prepared to pay a filing fee at the time you file this motion. The filing fee is \$160.00.

Petition to Waive Court Fees: If you can't afford to pay the filing fee, you may qualify to have it waived by the court.

You need to fill out a Petition for Waiver of Fees (*available from the Clerk of Court or the North Dakota Supreme Court website at ndcourts.gov/legal-self-help/fee-waiver*) and file it with the Clerk of Court.

Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge doesn't sign an order that waives the fee, you must be prepared to pay the fee or the clerk can't accept your forms.

STEP 10:
WHEN YOU RECEIVE THE "FINANCIAL DECLARATION" FROM THE OBLIGOR

If you checked the second box indicating that you have served the "Financial Declaration" (Form 2) on the other party and have received it, follow the instructions in Step 3. Once you have completed the calculation according to Step 3 hand deliver or mail the calculation to the Clerk of Court.

STEP 11:
APPEAR AT THE HEARING

Come to court on the date and time scheduled for the hearing.

Be sure to bring with you your copy of the forms and all of your supporting documents.

You must bring enough copies of any supporting papers not already filed with the court or served on the other party so that a copy can be given to the other party and the court if you want the court to consider your supporting documents.