

Instructions Regarding Modification of Child Support

13th Circuit Friend of the Court – Antrim, Grand Traverse & Leelanau Counties

5/2024

CHILD SUPPORT

General Information

Child support is based on all the relevant aspects of the financial status of the parties. This includes, but is not limited to, the father's income, the mother's income, and the needs of the children. Child support need not be based on a person's actual income. Where there is an unexercised ability to earn a greater income, the Court has the authority to enter a support order based on a party's imputed or unexercised ability to earn. Whether the Court uses a party's actual or imputed income, the Court must apply the Child Support Formula when determining the amount of child support. Most parents are deemed to have the ability to work full-time at minimum wage. Currently a non-custodial parent would pay \$321 monthly for one child under the Formula if both parents were imputed at full-time, minimum wage income. This amount does not include any adjustment for overnights, child care contributions, a party's responsibility for any other children or any other variable.

Deviations from the Child Support Formula are regulated by statute, but at a minimum, are based on a finding that some unique facts of your case render the application of the Child Support Formula unjust or inappropriate. Feelings that support is just too much, that you cannot live on what's left, that you have other bills, that you are temporarily unemployed or unable to work, that the other party has remarried, or that you have additional children are not considered grounds to deviate from the Child Support Formula.

A party seeking a change in child support must show that a change in circumstances has occurred since the entry of the last Court order. In order to obtain a court hearing on your Motion Regarding Child Support you must fill out the attached motion form, file it at the Family Division Clerk's Office in the appropriate county, pay the fees and serve a copy on the other party.

Instructions

When completing the motion form, please type or print neatly. The Motion form must be fully completed before your Motion can be filed with the Court. Please read the instructions for each item, and then fill in the requested information for that item on the form.

- Refer to your court papers to properly fill in the appropriate names, addresses and phone numbers under Plaintiff and Defendant. You are the moving party; therefore, check the box moving party next to your name.
- Fill out steps 1-7 appropriately.

- Explain in as much detail as possible what has changed since the last court order for support.
- Check box #6 if you and the other party have agreed to the support amount. An agreement must be in writing and signed and dated by both parties before it will be considered by the Court. Explain in as much detail as possible your agreement. If the agreement differs from the amount recommended by the Child Support Formula, you must state specific reason why use of the formula would be unjust or inappropriate. Attach your agreement to the Motion.
- You need to explain in as much detail as possible what you want the Court to order. You may obtain a support calculation from the Friend of the Court and attach it to your motion.
- Check the form for accuracy. Write in today's date and sign your name.
- Do NOT complete the "Notice of Hearing" section

You are now ready to **FILE YOUR MOTION**. Take the original to the Family Division Clerk's office in the appropriate county. You will need to inquire at the Clerk's office for a current fee schedule to file your motion. If you are indigent and cannot afford the fee, request the Clerk to give you an Affidavit and Order for Suspension of Fees/Costs. The Clerk will keep the original Motion. The Clerks' Offices are located:

For Grand Traverse: GRAND TRAVERSE COUNTY CLERK FAMILY DIVISION 280 WASHINGTON ST STE 206 TRAVERSE CITY MI 49684 231/922-4679	For Antrim: ANTRIM COUNTY CLERK FAMILY DIVISION 203 E CAYUGA ST BELLAIRE MI 49615 231/533-6353	For Leelanau: LEELANAU COUNTY CLERK FAMILY DIVISION 8527 E GOVERNMENT CTR DR STE 103 SUTTONS BAY MI 49682-9718 231/256-9824
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- You must **SERVE THE OTHER PARTY** with a copy of the Motion by regular, first class mail. Once that is done, you sign and date a copy of the Motion under the section entitled **CERTIFICATE OF MAILING**. File that signed copy with the same Clerk's office. If you have already mailed a copy to the other party, you must sign and date the original Motion at the time of the original filing. You must serve the other party at least 9 days before the hearing date.

Your motion will be acted upon by the Court. It may be referred to the Friend of the Court or set for hearing. Most Motions are first heard by a Family Division Referee. If you receive an Order of Referral, you must comply with the requirements of that Order. One of those requirements will be to provide the court with a proposed support calculation. Upon request and payment of a \$10 fee, Friend of the Court will provide you with a computer calculation of support pursuant to the Michigan Child Support Formula. A questionnaire for child support calculation is available on the FOC website www.13thcircuitcourt.org – under **FORMS**.

If you do not hear from the Court within 14 days, call the Judge's scheduling clerk to inquire. The Judges' offices are:

JUDGE HAMLYN /JUDGE ELSENHEIMER CIRCUIT COURT ADMINISTRATION 328 WASHINGTON ST STE 300 TRAVERSE CITY MI 49684 231/922-4701	JUDGE WHITTEN FAMILY DIVISION 280 WASHINGTON ST STE 202 TRAVERSE CITY MI 49684 231/922-4642	JUDGE HAYES FAMILY DIVISION 203 E CAYUGA ST BELLAIRE MI 49615 231/533-6681	JUDGE KROMKOWSKI FAMILY DIVISION 8527 E GOVERNMENT CTR DR STE 203 SUTTONS BAY MI 49682-9718 231/256-9803
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If you receive a response from the other party, make sure you read it before you attend the hearing. **You must attend the hearing.** If you do not, your Motion will be dismissed and costs may be assessed against you. Read your Notice of Hearing carefully. Your first hearing **may be a status conference.** At this conference, settlement will be discussed as well as scheduling of the trial. Testimony and other evidence will not be presented at a status conference.

General Information Concerning the Hearing

Bring all supporting papers and witnesses who will be testifying to the hearing. If copies of exhibits have not been exchanged with the other party, make sure you bring a copy for the other party and the court of all documents that you seek to have admitted into evidence.

2. Since you are representing yourself, you are expected to conduct yourself as an attorney would. Regardless of whether the hearing is conducted by a Referee or a Judge, it is a formal hearing and the Rules of Evidence apply.
3. Prior to the hearing make a list of the information that is important for the Referee or Judge to know. The information should relate to the reasons stated in your motion. You can use this list as a reminder at the hearing.
4. If you wish to subpoena a person to attend the hearing as a witness or require documents to be brought to the hearing, follow the procedure in Michigan Court Rule 2.506 or consult an attorney.
5. On the date of the hearing, you should arrive at the courthouse 10 to 15 minutes prior to the hearing. The duration of time the court has set aside for the hearing is noted at the bottom of the Notice of Hearing. Enter the courtroom and wait until your case is called.
6. You are the moving party so you will present your testimony and witnesses first. After your case is called you will be expected to state the reasons in support of your request. You should have pay stubs, W-2 forms and income tax returns that establish the income level of you and of your co-parent. If you are claiming you are disabled and cannot work, you should have testimony or evidence from your doctor. If you call witnesses

you will be expected to question those witnesses. The other party has the right to question you and your witnesses as you have the right to question the other side and their witnesses. The Referee or Judge may have questions. You must not interrupt the other party when he/she is speaking. If you disagree with the statements, you will have a chance to question him/her or refute the testimony with your own.

After the Referee or Judge hears the evidence, he/she will advise you of the decision orally or take the matter under advisement and issue a written decision at a later date. A Referee has 21 days to prepare a written decision. If your hearing was held before a Referee and you do not agree with the Referee's decision, you have 21 days from the date the Referee Recommendation and Order was mailed to you to file a written objection and request a judicial review. If you are representing yourself, you may utilize "Objection to Referee Recommendation and Order" form available at the Friend of the Court office.