DISTRICT COURT
INSTRUCTIONS FOR RESPONSE TO MOTION TO MODIFY CHILD SUPPORT AND/OR SPOUSAL MAINTENANCE

USE CHILD SUPPORT FORMS FOR DISTRICT COURT IF:

(1) There is already an existing court order setting or reserving support and/or spousal maintenance;
(2) You are responding to a motion and/or filing a counter motion that is asking the court to change basic support, medical support, child care, and/or spousal maintenance; **and**
(3) The motion is scheduled to be heard in district court.

You cannot use the response to modify child support forms to change parenting time or custody.

Joint child – is the dependent child of both parents in the support action.
Nonjoint child – is the legal child of one, but not both parents in the support action.

- Court personnel **cannot** help you fill out these forms.
- You may need to speak with a lawyer or other legal service provider if you do not know how to answer the questions on these forms.
- You **must** fill out all forms listed in these instructions [the Response to Motion to Modify Support, the Affidavit in Support of Response to Motion to Modify Support, the Financial Affidavit for Child Support, the Affidavit of Service, Form 11.1 (if necessary), and Form 11.2].
- Type your answers or print neatly using dark ink.

GENERAL INFORMATION

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

When filling out the forms be as accurate and as detailed as possible. The hearing will be held before a district court judge. A court order for child support may be changed by showing that the current support order is unreasonable and unfair because of:

- Substantial increase / decrease in gross income of a party;
- Substantial increase / decrease in need of a party or the joint children involved in this court order;
- Receipt of public assistance;
- A change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics;
- A change in the obligee's living arrangements
- Extraordinary medical expenses of the child not provided for under a health care plan;
- A change in the availability of appropriate health care coverage or a substantial change in the cost of existing health care coverage;
- The addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care

expenses;
- The emancipation of a child. Emancipation may occur by attaining the age of 18, graduating from high school, or joining the military;
- A change in the residence of the children.
- A change in either party's Parenting Expense Adjustment, based on the number of court-ordered overnights each parent has with each child.

If you are now ordered to pay child support and are requesting child support to be suspended because the children is/are living with you, you must provide proof. Examples of things that you can file with the court as proof are:
- a signed and notarized statement from the other party stating the children has/have changed residence
- school records
- day care records or medical records

If you are receiving spousal maintenance and the moving party is asking the court to reduce, suspend, reserve, or terminate the spousal maintenance due to your living arrangements with another adult, the court shall consider:
- whether you would marry the adult companion but for the maintenance award;
- the economic benefit you derive from living with the other adult companion;
- the length of time you and the adult companion have lived together and the likelihood the living arrangement will continue in the future; and
- the economic impact on you if maintenance is modified and the living arrangement with the other adult companion ends.

Note: A motion to modify spousal maintenance based on your living arrangements with another adult may not be brought within one year of the date of entry of the decree of dissolution or legal separation that orders spousal maintenance unless the parties have agreed in writing that the parties may modify the spousal maintenance award or the court finds that failing to allow the motion to proceed would create an extreme hardship for one of the parties.

INSTRUCTIONS

STEP 1
FILL OUT THE "RESPONSE TO MOTION TO MODIFY CHILD SUPPORT AND/OR SPOUSAL MAINTENANCE" FORM

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order/maintenance order or your divorce or paternity decree, including:
- The county where your case is located (which may be different from the county where you live)
- The number of the judicial district
- The court file number
- The name of the Petitioner
- The name of the Respondent

If you are the Petitioner in the current order or decree, you will be the Petitioner in this motion.

If you are the Respondent in the current order or decree, you will be the Respondent in this motion.

Fill in the name and last known address of the other party.

In the area marked "Motion," check off only the boxes that list the changes you are asking the court to make or not to make -- you do not need to check off every box. You may check off as many changes as you wish, but it will be up to the court to decide what changes will actually be ordered.

Fill in the name and phone number of the person to contact to settle this matter.

STEP 2
FILL OUT THE "AFFIDAVIT IN SUPPORT OF RESPONSIVE MOTION" AND THE "FINANCIAL AFFIDAVIT FOR CHILD SUPPORT" FORMS

Fill in the top of both Affidavit forms the same way you did on your "Response to Motion to Modify" form.

Fill in the information on the "Affidavit in Support of Responsive Motion."

Fill in the information on the "Financial Affidavit for Child Support."

Signing the Affidavit under penalty of perjury means you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Gather documents that support your reasons why the support order should be changed. Examples of these documents include the following:

- Proof of your gross income (recent pay stubs, employer statements, or statements of receipts and expenses if you are self-employed. Other documentation may include W-2 forms or copies of your tax returns for the most recent year)
- Proof of unemployment / disability (lay-off notice, doctor's statement, etc.)
- Verification for status of unemployment compensation claim or worker's compensation claim
- Verification of receipt and amount of social security income
- Verification of child care expenses
- Verification of the cost of medical and/or dental insurance coverage
- Court order listing specific details of each party's overnight parenting time

STEP 3
FILL OUT THE "CONFIDENTIAL FINANCIAL SOURCE DOCUMENTS" FORM 11.2. FILL OUT "CONFIDENTIAL INFORMATION" FORM 11.1 WHEN NECESSARY.

NOTE! **Certain information is considered confidential and not available to the public. To keep this information private and not available to the public, you must file Form 11.2 when you file certain documents that contain**

confidential information.

See Rule 11 of the Minnesota General Rules of Practice for more information. One Form 11.2 can be used for all documents containing confidential information. Examples of documents that have confidential information include:

- Paycheck stubs, employer statements, 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 children, all social security numbers, employer identification numbers, and financial account numbers must not be listed on papers you file with the court. You must use Form 11.1 when providing these confidential numbers to the court. Form 11.1 can be found at www.mncourts.gov/forms under the court forms category of "Confidential Information" and is court form number CON111. Failure to use Form 11.1 means these numbers could be available to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep your and the other party's social security number, employer identification number, and/or financial account numbers private. **If these numbers are already on file with the court, you do not need to submit another Form 11.1.**

STEP 4
MAKE COPIES OF FORMS

- Make two copies of the completed "Response to Motion to Modify Child Support and/or Spousal Maintenance" form, two copies of your "Affidavit in Support of Responsive Motion" form, two copies of your "Financial Affidavit for Child Support," and two copies of all documents that support your motion (e.g. paycheck stubs, tax returns, proof of expenses). **Do not** make copies of Forms 11.2 or 11.1, unless you want copies for your own records.

- 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).

STEP 5
SERVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS ON THE OTHER PARTY

Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. If papers are served by mail, Court Rules require adding three days. **Papers cannot be served on a legal**

If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.

holiday as defined in Minn. Stat. § 645.44, subd. 5 (https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5)**.**

Who Can Serve
The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

Personal Service
At least 7 days before the hearing date, one copy of your forms and supporting documents are hand-delivered to the other party personally, or are left at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence.

Service by Mail
At least 10 days before the hearing date, one copy of your forms and supporting documents are mailed by first class U.S. mail to the other party.

If you are raising *new* issues in your response, then the timing deadlines are different:

- For personal service, 14 days before the hearing date; and
- For service by mail, 17 days before the hearing date.

If your forms and supporting documents are not timely served upon the other party (or his/her attorney), your motion may not be heard by the court.

STEP 6
COMPLETE THE "AFFIDAVIT OF SERVICE" FORM

The person who hand-delivers or mails the forms and supporting documents must fill out an "Affidavit of Service" form for each party served.

The server must sign the "Affidavit of Service" under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 7
FILE THE FORMS AND SUPPORTING DOCUMENTS WITH COURT ADMINISTRATION AND PAY ANY REQUIRED COURT FEE

File the forms and supporting documents with court administration in the county where your case is located **at least 7 days before the scheduled hearing** (or if raising new issues, 14 days before the hearing):

- The "Response to Motion to Modify Child Support and/or Spousal Maintenance"
- The "Affidavit in Support of Responsive Motion"

- The "Financial Affidavit for Child Support"
- The "Affidavit of Service by Mail"

Filing by facsimile: Any paper may be filed with the court by facsimile (fax). If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request. There may be an additional fee to file by fax.

Form 11.2

You must file copies of all supporting documents (such pay stubs, tax returns, verification of medical/dental insurance costs or expenses, child care expenses, disability payments) and complete and file with the court one Form 11.2 for supporting documents that contain confidential information (see Step 3). Check your documents to make sure all blanks are filled in, especially on the Affidavit of Service and the motion. All papers served must be identical copies of the original forms and supporting documents filed with the court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

Court Fees

Pay the motion filing fee at the time you file this responsive motion. If you did not pay an initial filing fee when this case first began, you will be asked by court administration to pay the initial filing fee and library fees as well as the motion fee before your responsive / counter motion can be heard by the court. Court administration will be able to tell you if you have paid the initial filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee and motion fee waived by the court. You need to fill out an In Forma Pauperis application (available from court administration or online at http://mncourts.gov/GetForms.aspx?c=19&p=69) and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee.

STEP 8
APPEAR AT THE HEARING

Go to court on the date and time scheduled for the hearing. Be sure to bring with you your copy of the "Responsive Motion to Modify Child Support and/or Spousal Maintenance," "Affidavit in Support of Responsive Motion to Modify Child Support and/or Spousal Maintenance," "Financial Affidavit for Child Support," and all of your supporting documents. You must bring enough copies of any supporting papers not already filed with the court nor served on the other party so that a copy can be given to the other party and the court.