

Motion for Modification of Child Support

These instructions are offered to help use the online interview at www.kansaslegalservices.org/FreeLegalForms. This will create a packet of forms needed to increase, decrease or end child support.

The following info is provided to help you in get a change of your child support. The Kansas Child Support Guidelines are the rules which must be followed in setting the amount of child support to be paid.

The first step in this process is to prepare a child support worksheet. Instructions at step 1 tell you how to do this. A hearing cannot be held until your motion has been filed and all of the steps have been completed.

- Promptness is very important! The Court cannot reduce or increase child support which has already become due before the filing of your motion.
- If you can afford to hire an attorney to represent you in altering your support duty, you should seriously consider retaining an attorney to represent you.

When can child support be changed?

- If this is within three years of the last order, an important change must have occurred.
 - This could be:
 - A change in the residential custody of the child, or
 - A change in the earnings of the mother or the father, or
 - A change in the age group of the child.
 - The change must make the support ordered more than 10% a month different from the current amount ordered.
- When asking for a change more than 3 years after the last order, no serious change is needed.
- The Court cannot change the amount of support for any month that has past and for the month in which the motion seeking the change is filed.

Pursuant to K.S.A. 60-1621, a \$59.50 filing fee must be paid when filing your motion.

- In proper cases, a poverty affidavit may be granted, based on the income of the party seeking the change.

The following documents (included in this packet) must be filled out and filed with the court when seeking a child support change:

1. Motion for Modification of Child Support
2. Post-Decree Domestic Relations Affidavit with supporting documentation
3. Notice of Hearing and Certificate of Mailing

4. Return of Service for Certified Mail
5. Order modifying Child Support (you will use this at the final hearing on this motion.)
6. Kansas Payment Center – Child Support Order Information Sheet (you will use this at the final hearing on this motion)

Follow the steps below in the order given. Check each one off as you complete it to properly file your motion with the court.

1. Motion for Modification of Child Support.

- _____ a. Before filing a Motion for Modification of Child Support, you should complete a Child Support Worksheet for your current situation.
- Child Support must change more than 10% monthly before the Court will grant your motion.
 - If the joint income of both parents is less than \$50,000. You can complete free child support worksheets [here](http://www.kansaslegalservices.org/FreeLegalForms). (If the link doesn't work, you can paste this URL in your browser, www.kansaslegalservices.org/FreeLegalForms)
 - If the joint income is greater than that, you can create a worksheet at www.childsupporttools.com. A credit card payment of \$20 can give you 30 days access to prepare multiple worksheets for a single case. This will allow you to alter the worksheet as needed for filing your motion.

Consider the following: Children born to the payer of child support after the children included in the Child Support Order are not treated as a basis to reduce support. However, when a motion to increase support is filed, the costs of those children are studied in getting amounts from the Child Support guidelines.

- If you seek an increase in child support, but the inclusion of children born later will decrease your support, the court is allowed to decrease your support.
- _____ b. The Certificate of Mailing part should include the names and addresses of the following:
- i. Other party/ex-spouse;
 - ii. Other party/ex-spouse's attorney of record;
 - iii. Court Trustee or DFS, if one of those agencies enforces your case.
- _____ c. Make 4 copies. (5 copies if your case is enforced by the Court Trustee or DFS)

2. Post-Decree Domestic Relations Affidavit. (Post DRA)

- _____ a. Two copies of this document are provided.
 - Set aside the other blank copy to mail to the opposing party or ex-spouse. (Don't mail this until you have a date for the Court hearing.)
- _____ b. Attach supporting papers to your completed Post DRA.
 - One month's worth of pay stubs; copy of most recent tax return and W-2; unemployment, disability, work comp, or social security income received; proof of health insurance paid on behalf of yourself and the child(ren); proof of daycare expense, if any.
- _____ c. Make Sign the Post-Decree Domestic Relations Affidavit *in front of a Notary Public*.
- _____ d. Make 4 copies of the Post-Decree Domestic Relations Affidavit and supporting documents. (5 copies if your case is enforced by the Court Trustee or DFS)
- _____ e. Staple the initial Motion for Modification to the initial Post-Decree Domestic Relations Affidavit with supporting records.
- _____ f. Staple the remaining copies of the Motion for Modification to each copy of the Post-Decree Domestic Relations Affidavit with all attachments.

3. Notice of Hearing and Certificate of Mailing.

- _____ a. Fill out the Notice of Hearing and Certificate of Mailing, **except for the hearing date and time.**
- _____ b. Make 4 copies of the completed Notice of Hearing. (5 copies if your case is enforced by the Court Trustee or DFS)

4. Filing your Motion and Obtaining a Hearing Date.

- _____ a. Go to the Clerk of the District Court office in your county to file your motion and pay the filing fee.
 - Bring originals and all copies with you.
 - This office is located in your County Courthouse
- _____ b. Give the clerk at the counter the original and all copies of the Motion for

Modification of Child Support.

- The clerk will file-stamp the original and all copies of the Motion.
- They will keep the primary form for the court file and give you back all of the copies.

- _____ c. The Clerk will assist you in finding out the date and time when your case can be heard.
- This will be a specific hearing time, based on the Judge's schedule. You cannot set the time yourself.
 - You must write this date and time on all copies.
 - In some counties, you may be sent to the Judge's office to set the date and time for the hearing.

5. Serving the Opposing Party.

You must mail one copy of the papers by certified mail to the other party, and regular mail to their attorney, and to any enforcement agency.

- You should do this on the same day that you file the Notice of Hearing with the Clerk of the District Court.
- Failure to mail the copies and provide proof of service will result in your motion being dismissed.
- Use the address you put on the Certificate of Service. If you learn a new address, do a new Certificate of Service.

- _____ a. Keep one copy of the Motion for Modification of Child Support and Notice of Hearing for yourself.

- _____ b. Mail one copy of the Motion for Modification of Child Support (with all attachments), the Notice of Hearing, and the **blank** Post-Decree Domestic Relations Affidavit that you set aside before when you finished Step 2 (a), to the other party/ex-spouse **by certified mail.**

- _____ c. Mail one copy of the Motion for Modification of Child Support (with all attachments) and the Notice of Hearing to the opposing attorney of record, if any.
- You can use regular mail for this notice.
 - An attorney who has withdrawn from the case does not need to get a copy of the Motion for Modification of Child Support.

- _____ d. Mail one copy of the Motion for Modification of Child Support (with all attachments) and the Notice of Hearing to the agency enforcing your

child support case, if any, (Court Trustee or DFS) **by regular mail**.

- Use the phone book or internet to find the address for these agencies, if they have been involved in your case in the past, either getting or enforcing an order.

6. Filing the Return of Service for Certified Mail.

After you mail your Motion for Modification of Child Support and Notice of Hearing **by certified mail** to the needed parties, you will have to wait for the Return of Service (“green card”) to be returned to you by the post office.

- Once you receive the green card(s), follow the steps below to prove to the court you served your motion properly.

- _____ a. Fill out the Return of Service for Certified Mail.
- _____ b. Attach the green card(s) to the middle of the page where shown.
- _____ c. Make one copy for your file.
- _____ d. Bring the original Return of Service for Certified Mail to the Clerk of the District Court office in the County Courthouse
- _____ e. Hand the document to the clerk at the counter for filing.
 - The clerk will keep the paper so that it can be placed in your court file as proof that you did all the steps needed to properly file your Motion for Modification of Child Support.

PLEASE REMEMBER!! It is up to you to get the correct papers filed and proper service completed in order for a hearing to be held at its given hearing date and time.

Address information for enforcement agencies can be found in the phone book or on the internet.

- District Court Trustee
- Kansas Department for Children and Families (DCF)
- Kansas Division of Family Services (DFS)