

If you're 60 or over, call your local legal aid office:

Eastern CT	800-413-7796	Western CT	800-413-7797
Hartford Area	860-541-5000	Bridgeport Area	800-809-4434
Stamford Area	800-541-8909	New Haven Area	203-946-4811

If you're under 60, call SLS for help:



Statewide Legal Services
1-800-453-3320
860-344-0380

Search our website for help:



www.ctlawhelp.org

FAMILY

LEGAL SERVICES

Self-Help Series

How to Change Your Custody or Visitation Order

March 2018



We offer free legal help in many areas, including

- welfare,
- SNAP (food stamps),
- divorce,
- child support,
- domestic violence,
- bankruptcy,
- special education,
- nursing home care,
- health insurance,
- eviction,
- foreclosure,
- and more.

See the reverse side for more about legal services.

If you're 60 or over, call your local legal aid office:

Eastern CT	800-413-7796	Western CT	800-413-7797
Hartford Area	860-541-5000	Bridgeport Area	800-809-4434
Stamford Area	800-541-8909	New Haven Area	203-946-4811

If you're under 60, call SLS for help:



Statewide Legal Services
 1-800-453-3320
 860-344-0380

Search our website for help:



www.ctlawhelp.org

If you're under 60, call us for help:



Statewide Legal Services
 1-800-453-3320 or 860-344-0380

Search our website for help:



www.ctlawhelp.org

If you're over 60, call your local legal aid office.

Connecticut Legal Services

www.ctlegal.org

Bridgeport

1000 Lafayette Blvd 203-336-3851
 Suite 950

New Britain

16 Main Street 860-225-8678

New London

125 Eugene O'Neill Dr.
 Suite 120 860-447-0323

Stamford

20 Summer Street 203-348-9216

Waterbury

85 Central Avenue 203-756-8074

Willimantic

1125 Main Street 860-456-1761

Greater Hartford Legal Aid

www.ghla.org

999 Asylum Avenue
 Hartford, CT 06105
 860-541-5000

New Haven Legal Assistance Association

www.nhlegal.org

426 State Street
 New Haven, CT 06510
 203-946-4811

Consumer Law Project for Elders

Free legal assistance to people 60 and over throughout Connecticut who have money/debt problems.

1-800-296-1467

How to Change Your Custody or Visitation Order

My custody or visitation arrangement isn't working.
 What can I do?3
 Will I have to pay to change an order?3
 Will the court make the changes I ask for?.....3
 How do I change my custody or visitation order?.....4
 Step 1: Fill out the court forms4
 Step 2: Take the forms to the court clerk's office6
 Step 3: Have a marshal serve the other parent6
 Step 4: File your forms with the court clerk.....8
 Step 5: Go to court on your hearing date.....8
 The court hearing 10
 When will the judge decide? 12
 What if the other parent doesn't follow the new order? 12
 Sample letters and forms..... 13-14

This booklet was produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services of Connecticut. The information in this booklet is based on laws in Connecticut as of 3/2018. We hope that the information is helpful. It is not intended as legal advice for an individual situation. Please call Statewide Legal Services or contact an attorney for additional help.
 © March 2018

Marshal's Letter

► To print a copy of this letter,
visit www.ctlawhelp.org.

(Date)

(Marshal's Name)

(Address)

(City, State)

Dear Marshal:

Enclosed please find a *Motion for Modification* to be served on _____
(name of person to be served)

The best place to serve him/her is at his/her home address at _____
_____ between the hours of _____ and _____
and/or at his or her place of employment, _____
_____ located at _____
_____, between the hours of _____ and _____.

_____ is _____ years old,
(name of person to be served)
_____ tall, and _____
(physical description)

Please make your return of service to me and (check one)

bill me directly, or

submit to State of CT for payment in accordance with enclosed *Order to Waive Fees*.

Please call me if you have any questions. Thank you.

Sincerely,

(Your Name)

(Your Street Address)

(Your City, State, Zip)

(Your Telephone Number)

My custody or visitation arrangement isn't working. What can I do?

First, contact the Family Services office in the courthouse where your case was first heard. They can meet with you and the other parent and try to work out the problem.

If Family Services can't help you, then you'll have to ask the court to change your custody or visitation order. Most courts have a Court Service Center that can help you with the forms.

Will I have to pay to change an order?

It depends. There are fees to file court papers and to have a marshal serve the papers on the other parent. If your income is very low and you cannot afford to pay fees, you can fill out a fee waiver form asking the court to allow you to skip paying court fees. For more information, see the legal aid booklet: *Can't Afford to Pay Court Fees? Ask for a Fee Waiver*.

*Can't Afford
to Pay Court
Fees?*

*Ask for a
Fee Waiver.*

Will the court make the changes I ask for?

The court will probably change your custody or visitation order if these three things are true:

- A Connecticut court made the custody or visitation order.
- You can prove there have been big changes to your situation since the order was made.
- A judge decides that changing the order is best for the children.

What if the other parent doesn't follow the new order?

You may be able to get a *contempt order* against the other parent. Contempt means someone has disobeyed a court order.

If you ask the court for a contempt order, the court can make the other parent go to court to explain why he or she has not followed the court's orders. For more information, see the legal aid booklet, *How to Ask for a Contempt Order*.

Should I ask for a lawyer for my child?

If you and the other parent agree on custody and visitation, your child probably does not need a lawyer.

But you may want to ask for a lawyer for your child if

- you and the other parent disagree about custody or visitation; or
- you are worried about your child's safety (child abuse, family violence, etc.).

See the legal aid booklet, *Does Your Child Need a Lawyer?*

Affidavit Concerning Children (#JD-FM-164)

This form tells the court about your children, including where they have lived in the past 5 years, and any other court cases related to this case.

Financial Affidavit (#JD-FM-6)

This form tells the court about your income and expenses. Bring it to your court hearing. For instructions on filling it out, see the legal aid booklet, *A Guide to Financial Affidavits*.

You may also need to fill out these forms:

Appearance (#JD-CL-12)

Fill out this form if you'll be representing yourself in court and you have not already filed this form or if your address has changed.

Application for Waiver of Fees (#JD-FM-75)

You can use this form to ask the court to let you skip paying court fees if you can't afford them. For more information, see the legal aid booklet, *Can't Afford to Pay Court Fees? Ask for a Fee Waiver*.

If there is an emergency affecting the care of your child, you will also need to fill out this form:

Application for Emergency Ex Parte Order of Custody (#JD-FM-222)

Fill out this form if you have a safety concern about your child. For example:

- your child has been injured in the care of the other parent; or
- the child is in a dangerous environment due to drugs, alcohol, or weapons.

This form must be given to the clerk along with the *Motion for Modification*. It can't be submitted alone.

2. Take the forms to the court clerk's office.

Go to courthouse that made your current custody or visitation orders and give your completed forms to the court clerk.

The clerk will write a hearing date and time on the *Motion for Modification* form. The hearing date is when you and the other parent must go to court.

Make four copies of the *Motion*.

- Give one copy to the clerk.
- Keep one copy for your records.
- Give the original paper and one copy to a state marshal.
The marshal will fill out the original and give it back to you or to the court after serving the other parent.

You will have to pay a filing fee unless the court gave you a fee waiver. Note: In some courts, you pay the filing fee *after* the papers have been served on the other parent.

3. Have a marshal serve the other parent a copy of the Motion.

You must ask a marshal to give (or *serve*) the other parent a copy of the *Motion*. The court can give you a list of marshals in the area where the other parent lives or works, or you can get a list of marshals from the court's website.

Is there a deadline to have the marshal serve the other parent?

Yes. You must have the other parent served a copy of your *Motion* at least 12 days before your court hearing date. The clerk wrote the hearing date on your *Motion* form. (If you filed the *Application for Emergency Ex Parte Order of Custody*, then the marshal has to serve the papers at least 5 days before your hearing date.)

Tips for the Court Hearing

- If you are asked questions, tell the truth, speak slowly, and give complete answers.
- If you don't understand the question, it's ok to say so.
- Be polite to everyone in the courtroom. Don't argue and try not to get upset.
- When other people are talking, wait for them to finish.
- Speak only to the judge unless it is your turn to ask questions.

When will the judge decide my case?

The judge often decides cases at the end of the hearing. If this happens in your case, the judge will announce the orders in the courtroom while you are still there.

Sometimes the judge will say, "I'll take the papers." That means the judge will decide later and the clerk will mail you a copy of the judge's orders. If you don't hear from the court in a few days, call the clerk and ask about your case.

What if I don't agree with Family Services' recommendation?

You don't have to accept Family Services' recommendation. You have a right to present your case to the judge and let the judge decide.

There is no guarantee that the judge will agree with you. Even if you don't like the judge's decision, you must obey it.

The Court Hearing

When your name is called, say, "Ready" and follow the judge's instructions.

- You will probably have to swear to tell the truth before you present your case.
- You will probably speak first. Keep it short and only talk about the reasons you asked for the modification. For example, you could say, "Our work schedules have changed and the visitation schedule needs to change."
- The judge may ask you questions. Tell the truth. Speak slowly and give complete answers.
- After you finish explaining your side, the other parent will explain his or her side to the court. The other parent may ask you questions, too.
- You will get another chance to ask the other parent or witnesses questions that support your case. Your questions must be about things they said in court.
- Both parents may have another chance to
 - say you disagree with the other parent, and
 - repeat the main points of your case.

You will need to take or mail the marshal these papers:

- A completed marshal's letter.
- The original *Motion for Modification* with the court hearing date.
- A copy of the *Motion for Modification*. Ask the marshal if you need to provide more than one copy.
- The *Application for Emergency Ex Parte Order of Custody*, if you are asking for one.

Will I have to pay the marshal to serve the other parent?

- If the court gave you a fee waiver, you won't have to pay.
- If you did not get a fee waiver, you will probably pay between \$50 and \$75. You can call the marshal to find out about fees.

What happens after the marshal serves the other parent?

The marshal will either file the forms with the court or give them back to you so you can file them. If the marshal gives them back to you, make a copy for yourself and take or mail the original to the clerk's office before your court hearing date.

If you're not sure if the marshal will be filing the forms, you can call and ask.

If the other parent lives out of state but a Connecticut court made the order, you still have to serve papers on the person. Call the State Marshal Commissions at 860-713-5372 for more information. You will need to know the state and county where the person lives. You may have to pay fees, and the court may not waive the costs. Talk to someone at the Court Service Center for more information.

4. File your forms with the court clerk.

File these forms with the clerk's office:

- the original *Motion for Modification*,
- the marshal's *Return of Service*,
- the *Affidavit Concerning Children*, and
- the *Application for Emergency Ex Parte Order of Custody* (if you're filing one).

You can file in person or by mail. Always keep a copy of any papers you file with the court.

If you did not already pay a filing fee, you will have to pay it now (unless the court gave you a fee waiver).

Note: Some marshals will bring the original paperwork back to the court and file it. Others may give the original papers back to you and you'll have to file them with the court. Check with the marshal about what you'll need to do.

5. Go to court on your hearing date.

Don't be late! Try to get to court 30 minutes early. You'll need time to go through security and find your courtroom.

- Put your name and the other parent's name on the Family Services list. Family Services will meet with you once both parties are present. Ask someone who works at the courthouse where the Family Services office is.
- Bring the completed *Financial Affidavit* with you to your court hearing.
- If you have witnesses, they must arrive at the same time, too. A witness could be the child's doctor, teacher, or someone who was watching how the other parent behaved with the child.
- Go to the clerk's office and ask how your case will be called. Some courts call calendars; some do not.

If the clerk tells you the court does call calendars:

If you and the other parent have a written agreement, say "Ready with an agreement" when your name is called. The judge will tell you what to do next.

If you and the other parent do NOT have a written agreement, say "Ready" when your name is called. You will probably meet with someone from Family Services. They can help you work out an agreement or put your agreement in writing.

If the clerk says the court doesn't call calendars:

If you and the other parent have a written agreement, ask the clerk for a Memo to the Clerk form. Fill out this form to show the court that you're ready to tell the judge about your agreement. Make sure you check that box that says "Ready with an agreement."

If you and the other parent do NOT have a written agreement, look for your name on the list posted in the courthouse lobby. The list will say what courtroom you must go to. Go to that courtroom to meet with Family Services. You may have to put your name on the Family Services list. Family Services will try to help you work out an agreement or put your agreement in writing.

Sometimes the court will make you to meet with Family Services whether there is a written agreement or not. Check with the clerk's office.