

# Modification

**NOTICE:** Family and divorce laws change often. These forms may not be appropriate for all situations. They are intended to be useful in many cases and may have to be changed in some way to fit your case. Talk to a lawyer if you are unsure that these forms are the most appropriate for your situation. **Court staff cannot give legal advice.**

You may use this packet to seek **changes** to court orders or judgments. **Do Not** use this packet if:

- You and the other party agree to the changes (use the **Stipulation and Order Form: FA-604A/B** form),
- Your divorce, legal separation or paternity judgment has **not** yet been granted, or
- You want to enforce a court order or judgment (use the **Contempt Packet: FA-5009V**).

## Which form should you use?

Wisconsin Statutes allow individuals to request that a court change or modify a court order or judgment in two ways. The following outlines the procedural differences between the two.

**You must choose which option is the best for you; Court Staff cannot tell you which form to use.**

<b>Order To Show Cause and Declaration to Change: Legal Custody, Physical Placement, Child Support, Maintenance, Arrears Payment (FA-4171VA/B)</b>	<b>Notice of Motion and Motion to Change: Legal Custody, Physical Placement, Child Support, Maintenance, Arrears Payment (FA-4170V)</b>
The other party is <b>ordered</b> to appear at the scheduled hearing. The party's presence is mandatory.	The other party is <b>notified</b> that there is a hearing. The party's presence is not mandatory.
The document(s) must be <b>Personally Served</b> on the other party. If the party does not appear, the court may proceed without them if served properly (see <b>Service Packet (FA-5000V)</b> ).	The documents may be <b>served by mail</b> . <b>CAUTION:</b> Some judges may require personal service under certain circumstances. If the party does not appear, the court may proceed without them if served properly (see <b>Service Packet (FA-5000V)</b> ).
<b>Signed</b> and made an order <b>by a court official</b> after a review of the supporting declarations.	<b>Signed by the requesting party</b> only.

## Custody and/or Placement Disputes:

Mediation is an option parties may use to try to come to an agreement with the assistance of an impartial third party. The first session is free, however, once you have used the first session there may be an additional fee. You can either request mediation before you file this request for a court date or request the court date and wait for the court to order the mediation if necessary.

If the parties are unable to come to an agreement, the court may feel it is necessary to appoint an attorney for the children known as a Guardian ad Litem (GAL). The court may also order a placement study to be done by Family Court Services or other agency. A social worker conducts an investigation and the results are used by the court to help decide what is in the child(ren)'s best interest.

#### **Filing Fees (paid to Clerk of Court)**

There are filing fees in order to file a **Motion or Order to Show Cause** to modify a court order. To learn more about fee requirements, contact your local Clerk of Courts.

### **Procedural Checklist**

#### **Getting a Court Date**

- 1. Complete either **Notice of Motion and Motion to: Change of Legal Custody, Physical Placement, Child Support, Spousal Maintenance, Other (FA-4170V)** form OR **Order to Show Cause and Declaration: Change of Legal Custody, Physical Placement, Child Support, Spousal Maintenance, Other (FA-4171VA/B)** form.
- 2. Make at least three copies.
- 3. Go to the Clerk of Courts in the county where the case is filed. The clerk will:
  - Collect the appropriate filing fees.
  - Assign you a court date or direct you to the office that will assign the court date.
  - Return the appropriate number of authenticated copies to you.

#### **Caution!**

**You may have to wait for court staff to obtain a court official's signature.**

- 4. Attach a blank **Financial Disclosure Statement (FA-4139V)** form to the other party's copy.

#### **Notifying the Other Party (Personal Service)**

- 5. Give the other party(s) notice of the hearing by having them served with the court papers. Which form you completed to request the court date will determine which method you must use to have the other party served. See the **Service Packet (FA-5000V)** for options and procedural instructions.

**Deadline:** The other party(s) must be notified properly and provided with the forms **at least five (5) business days before the date of the hearing.**

- 6. Make a copy of the proof of service (**Declaration of Service (FA-4120V)**, **Admission of Service (FA-4119V)**, or **Declaration of Mailing (FA-4121V)** forms) for your records and bring it to court on the date of the hearing.

**Warning:** Without proof of service, the court cannot proceed with the hearing.

## Preparing for and Going to Court

- 7. Take the following items with you to court:
  - Copy of the **proof of service**.
  - Original and two copies (three if the State is a party) of your **Financial Disclosure Statement (FA-4139V)** form **unless your county allows FA-4138V**.
  - Any other documents you think may help you make your case to the court.
  - If you wish to have other people testify for you, make sure they come to court. A letter, affidavit, email, or text from them is not acceptable.
- 8. Go to the correct courtroom at least 20 minutes before your assigned court time and:
  - If there is a bailiff or court clerk let them know that you have arrived (you may sit and watch court).
  - When your case is called, go to the front of the room and sit where directed.
- 9. Present your case to the Court:
  - Be prepared to state your side of each issue clearly and completely.
  - Be prepared to answer questions that may be asked of you by the Court or others.
  - If you wish to offer written evidence or documents to the court, give the original to the court and a copy to the other side.
  - While you are in court, use the forms you prepared as an outline to remind you of each issue you want to talk about.
- 10. The Court will make their decisions/rulings. Take notes because you may be required to write the ruling on the **Decision and Order (FA-4175V)** form. **Ask the court who will be completing the Decision and Order**. The court **may** also set another hearing for the parties to return to court.

## If the court requires YOU to complete the Decision and Order (FA-4175V) form, follow 11 – 15 below.

- 11. After your court hearing, complete the **Decision and Order (FA-4175V)** form.
- 12. Make four copies (six copies if the State is a party) of the completed **Decision and Order**.
- 13. Send one copy to the other party and the State of Wisconsin (local child support agency), if it is a party.
- 14. File in the Clerk of Court's Office, in person or by mail, the original, the remaining copies of the **Order**, and two self-addressed stamped envelopes (one addressed to you, one addressed to the other party, and one unstamped envelope addressed to the Child Support Agency, if a party).
- 15. The court will hold the **Decision and Order** for five business days to give the other party(ies) time to review the order and object to its accuracy. If there are no objections within five business days and the court agrees with how you have written the **Order**, the court will approve and send each party a signed copy.