

INSTRUCTIONS TO FILE A MOTION/STIPULATION TO MODIFY/RESTRICT PARENTING TIME

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ This information provides a guide to the process and forms necessary to file a Motion to modify parenting time or to restrict parental contact.
- ◆ You must have an existing court order concerning parenting time.
- ◆ If this is a motion to restrict parenting time or parental contact pursuant to §14-10-129(4), C.R.S., based on imminent physical or emotional danger, you must indicate such in the caption. It is important that the Court is aware of this request. Once you file the Motion, you should seek guidance from the Clerk's Office regarding their procedures for setting a hearing as each court may have different procedures.
- ◆ If a Motion/Stipulation has been filed for a substantial modification of parenting time **which also changes the party with whom the child resides a majority to time**, whether or not it has been granted, no subsequent motion may be filed within two years after disposition of the prior motion, **unless you believe that the child's present environment may endanger the child's physical health or significantly impair the child's emotional development**.
- ◆ Parties can modify/restrict parenting time by agreement (stipulation) at any time. If both parties agree, a written agreement (stipulation) can be filed with the Court. If this applies to you, please see JDF 1423 Stipulation Regarding Parenting Time Modification and JDF 1424 Order re: Modification/Restriction of Parenting Time.
- ◆ If a party is seeking to relocate with a child to a residence that will substantially change the geographical ties between a child and the other party, please refer to Instructions for Filing a Motion to Relocate Minor Children (JDF 1407I).
- ◆ Either party can ask the Court to modify the parenting time schedule (to increase or decrease parenting time or to impose or remove restrictions), if the modification is in the best interest of the children.
- ◆ When modifying parenting time, please consider whether child support also needs to be modified. If child support needs to be modified, check box 12 on the Motion to Modify Parenting Time. Child support is calculated under statutory guidelines. You may file for a modification of child support, only if there has been a "substantial and continuing" change in circumstances (for example, one of the parties has received a significant pay raise or pay cut). The change in circumstances must amount to a 10% increase or decrease in the current amount of child support or your motion will be denied with a hearing. Please review Instructions to Modify Child Support – JDF 1403I.
- ◆ If the Court finds that the motion filed under §14-10-129(4), C.R.S. is substantially frivolous, groundless or vexatious, the Court will require the party who filed the motion to pay the reasonable attorney fees and costs of the other party.
- ◆ For additional information, please review Colorado Revised Statute §14-10-129.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
<http://www.courts.state.co.us/Administration/Unit.cfm/Unit/interp>

COMMON TERMS

- | | |
|---|---|
| <input checked="" type="checkbox"/> Petitioner: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Co-Petitioner/Respondent: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Stipulation: | A written agreement prepared by both parties. |
| <input checked="" type="checkbox"/> Service of Process: | The official means by which a party is notified that a document has been filed against him/her and provided a copy of the document and a description of the person's rights and obligations as a party to the case. |
| <input checked="" type="checkbox"/> Hearing Date: | The date that the Petitioner and Co-Petitioner/Respondent must appear in Court. |
| <input checked="" type="checkbox"/> May: | In legal terms, "may" is defined as "optional" or "can". |
| <input checked="" type="checkbox"/> Shall: | In legal terms, "shall" is defined as "required". |

If you do not understand this information, please contact an attorney. You may also contact the Family Court Facilitator at your local courthouse, if one is available in your Judicial District.

FEES

A filing fee of \$105.00 is required. A filing fee is required for all motions/stipulations filed 60 days or more after the original decree or order is issued. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

- Response (Required, unless previous filing fee paid by party.) \$116.00
- Service Fees Varies (not payable through or to the Court)
- Certification Fee \$20.00
- Copies of Documents (Documents on File) \$.75 per page or \$1.50 if double sided
- Copies of Documents (Documents not on File) \$.25 per page or \$.75 if double sided

FORMS

To access a form online go to www.courts.state.co.us and click on the “Forms” tab. The packet/forms are available in PDF, WORD or EXCEL by selecting **Divorce, Family Matters, Civil Unions – Custody and Child Support – Modify Parenting Time**. You may complete a form online and print or you may print it and type or print legibly in black ink. **You may need all or some of these forms. Read these instructions carefully to determine what forms you may need.**

- JDF 1113 Parenting Plan
- JDF 1273 Parenting Plan (Civil Union)
- JDF 1129 Pretrial Statement
- JDF 1406 Verified Motion to Modify/Restrict Parenting Time
- JDF 1416 Affidavit in Support of Motion to Modify
- JDF 1423 Stipulation Regarding Parenting Time Modification
- JDF 1424 Order re: Modification/Restriction to Parenting Time

STEPS TO FILING YOUR MOTION OR STIPULATION

Selecting these instructions indicates that you are planning to file a motion or stipulation to modify/restrict parenting time. You must identify yourself as the Petitioner or Co-Petitioner/Respondent depending on your “title/role” in the original case. It is important to remember that your “title/role” in the case does not change based on who files the motion or stipulation to reopen a case. The caption area below needs to be completed on all forms filed. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

Complete the steps identified below under Option 1 or Option 2 depending on if you plan to file a stipulation or a motion.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile Court _____ County, Colorado Court Address: _____ <hr/> In re: <input type="checkbox"/> The Marriage of: <input type="checkbox"/> The Civil Union of: <input type="checkbox"/> Parental Responsibilities concerning: _____ Petitioner: and Co-Petitioner/Respondent: Attorney or Party Without Attorney (Name and Address): _____ Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	▲ COURT USE ONLY ▲
Case Number: _____ Division Courtroom	NAME OF FORM

Option 1: Stipulation to Modify Parenting Time. You have an existing order and both parties agree that parenting time should be changed.

Step 1: Complete Forms.

- Stipulation Regarding Parenting Time Modification (JDF 1423):**
 - Please complete all sections of this form.
 - If the modification to parenting time results in a modification to child support indicate such in the Stipulation and also complete a Stipulation to Modify Child Support (JDF 1404).
 - This form must be notarized or signed in the presence of a court clerk or Notary Public
 - If any addresses have changed since the original case was filed, please provide current address information to the Court in writing.**

- Parenting Plan (JDF 1113) or Parenting Plan (Civil Union) (JDF 1273):**
 - Complete all sections of this form, as appropriate. Review section E – Child Tax Exemption to determine if the changes to the Parenting Plan affect this section. If you have any unique situations, identify them in the “Other Terms” section. The Parenting Plan should identify only those parties who will have court-ordered parenting time and decision-making responsibilities. Day care/babysitting arrangements do not need to be specifically identified on this form.
 - Please indicate if this is a full or partial parenting plan.
 - If this is a partial parenting plan you or the other party must complete JDF 1129 – Pretrial Statement.** The purpose of this form is for you or the other party to identify to the Court what issues have not been resolved
 - Please check with the Court Facilitator in your judicial district regarding what additional information the Court may need.

If a modification to child support applies, complete Section D on the Parenting Plan and complete the Sworn Financial Statement (JDF 1111) and the appropriate Child Support Worksheet and file them with the Court.

- Sworn Financial Statement (JDF 1111):**

You must provide true and complete information to the Court about your assets, debts, and income. You can be assessed a fine or jailed for providing false information. In addition, your case can be reopened due to fraud.

 - The Financial Statement must contain current personal and financial information to determine whether the modification of child support is fair to each party. Failure of a party to file a Financial Statement may result in a refusal by the Court to enter an Order to Modify Child Support. The Court may impose sanctions against the party who does not file the required paperwork. Complete and file with the Court a Supporting Schedules for Assets (JDF 1111SS) only if applicable to your case.
 - Each party **must** complete his/her own Financial Statement and all sections **must** be completed.
 - The form must be signed in the presence of a Court Clerk or Notary Public.

- Child Support Worksheets A or B:**

Use the information from each of your Sworn Financial Statements to complete the appropriate worksheet. You have two options to complete the worksheet:

 - Automatic Calculation Option:** New child support guidelines became effective on January 1, 2014. To access the software for electronically calculating child support based on the new guidelines, go to www.courts.state.co.us – “Calculate Child Support/Maintenance” (you can also find the link to the

software at the top of the “Child Custody” page). If you are trying to calculate retroactive child support that was ORDERED prior to January 1, 2014, you will need to use the guidelines that were in effect at that time. You can also access the old Excel electronic worksheet (JDF 1820E).

- Manual Calculation Option:** Each worksheet is available in a MANUAL “M” format; you will need to obtain and calculate the Child Support Guidelines to determine your child support if you select this format. If you wish to use the Manual Worksheets, please review Instructions for Completing Worksheets A & B Manually (JDF 1822).
 - Worksheet A (JDF 1820M): Sole Physical Care. Physical Care for 273 nights or more per year. If one or more of your children spends at least 273 nights with one parent they are considered to have a primary home with that parent.
 - Worksheet B (JDF 1821M): Shared Physical Care. If one or more of your children spends more than 92 nights per year with each parent, they are considered to have two homes (one at your residence and one at the other parent’s residence).
 - Split Care: If each parent has primary physical care of at least one of the children because that child or children reside with that parent the majority of the time, you have a split physical care situation. Each parent should complete a separate worksheet A for the child or children for whom he/she provides primary care.
- Complete a Certificate of Service (JDF 1313) indicating that you have provided the other party with a copy of your completed Child Support Worksheet.

- Order Re: Modification/Restriction of Parenting Time (JDF 1424):**
 - Complete the caption only on this form.
 - Provide the Court with the appropriate number of copies you would like. If you want any of the copies to be certified, you will need to provide the Court with a \$20.00certified copy fee .

Step 2: You are Ready to File your Stipulation with the Court.

- Pay the \$ 105.00 filing fee, if applicable.
- Provide the Court with the Stipulation and all other appropriate documents listed above.
- If any addresses have changed since the original case was filed, please provide current address information to the Court in writing.
- Provide the Court with a self-addressed stamped envelope to receive a copy of the Order. If a Court is mandatory e-file, self-addressed stamped envelopes may not be required.

Step 3: Court Review of Stipulation.

Within 49 days of the date a post decree matter is filed, the Court will review the matter and determine whether the Stipulation will be approved or not.

- No hearing is required and following the review of the Stipulation, you will receive a signed copy of the Order Re: Modification/Restriction of Parenting Time.
- If you are requesting a modification to Child Support, the Court will use the Child Support Guidelines to review the adequacy of child support order negotiated by the parties as well as the financial affidavits. If child support is modified, you will also receive an updated Support Order.

Option 2: Motion to Modify/Restrict Parenting Time. If you have an existing order and both parties do not agree that parenting time should be modified or restricted.

Step 1: Complete Forms.

- Verified Motion to Modify/Restrict Parenting Time (JDF 1406):**
 - Please complete all sections of this form **and indicate in the caption if this is a motion to modify or restrict parenting time.**

- This form must be signed in the presence of a Court Clerk or Notary Public
 - Describe precisely the changes in the parenting time schedule you are requesting and explain why you believe the requested changes are in the best interest of the child.
 - Include any requested restrictions or limitations on parenting time. If you are requesting a restriction of parenting time or parental contact because you believe that the child is in imminent physical or emotional danger from the other parent, you may state that in your motion and request that the Court hear your motion immediately. You may request that any parenting time which occurs during the time you are waiting for your motion to be heard be supervised by an unrelated third party deemed suitable by the Court or by a licensed mental health professional. (§14-10-129(4), C.R.S.)
 - If you state in your Motion that the child is in imminent physical or emotional danger due to the parenting time or contact by the other parent, and the Court finds that your statement was substantially frivolous, groundless or vexatious, the Court may require you to pay reasonable and necessary attorney fees and costs of the other party.
 - If child support needs to be modified, please check and complete Section 12 and file a Motion to Modify Child Support (JDF 1403).
 - Make sure you have the appropriate number of copies of all documents for the Court and the other party.
 - If your address has changed since you originally filed your case, please provide your current address to the Court in writing.**
- Affidavit in Support of Motion to Modify (JDF 1416):**
- This form must be signed in the presence of a Court Clerk or Notary Public.
 - Make sure you have the appropriate number of copies of all documents for the Court and the Co-Petitioner/Respondent.
- Parenting Plan (JDF 1113) or Parenting Plan (Civil Union) (JDF 1273):**
- Complete all sections of this form, as appropriate. Review section E – Child Tax Exemption to determine if the changes to the Parenting Plan affect this section. If you have any unique situations, identify them in the “Other Terms” section. The Parenting Plan should identify only those parties who will have court-ordered parenting time and decision-making responsibilities. Day care/babysitting arrangements do not need to be specifically identified on this form.
 - Please indicate if this is a full or partial parenting plan.
 - If this is a partial parenting plan you or the other party must complete JDF 1129 – Pretrial Statement.** The purpose of this form is for you or the other party to identify to the Court what issues have not been resolved.
 - Please check with the Court Facilitator in your judicial district regarding what additional information the Court may need.

If a modification to child support applies to you, complete Section D on the Parenting Plan and complete the Sworn Financial Statement (JDF 1111) and the appropriate Child Support Worksheet and file them with the Court.

- Sworn Financial Statement (JDF 1111):**
You must provide true and complete information to the Court about your assets, debts, and income. You can be assessed a fine or jailed for providing false information. In addition, your case can be reopened due to fraud.
- The Financial Statement must contain current personal and financial information to determine whether the modification of child support is fair to each party. Failure of a party to file a Financial Statement may result in a refusal by the Court to enter an Order to Modify Child Support. The Court may impose sanctions against the party who does not file the required paperwork. Complete and file with the Court a Supporting Schedules for Assets (JDF 1111SS) only if applicable to your case.
 - Each party **must** complete his/her own Financial Statement and all sections **must** be completed.
 - The form must be signed in the presence of a Court Clerk or Notary Public.

Child Support Worksheets A or B:

Use the information from each of your Sworn Financial Statements to complete the appropriate worksheet. You have two options to complete the worksheet:

- Automatic Calculation Option:** New child support guidelines became effective on January 1, 2014. To access the software for electronically calculating child support based on the new guidelines, go to www.courts.state.co.us – “**Calculate Child Support/Maintenance**” (you can also find the link to the software at the top of the “Child Custody” page). If you are trying to calculate retroactive child support that was ORDERED prior to January 1, 2014, you will need to use the guidelines that were in effect at that time. You can also access the old Excel electronic worksheet (JDF 1820E).
- Manual Calculation Option:** Each worksheet is available in a MANUAL “M” format; you will need to obtain and calculate the Child Support Guidelines to determine your child support if you select this format. If you wish to use the Manual Worksheets, please review Instructions for Completing Worksheets A & B Manually (JDF 1822).
 - Worksheet A (JDF 1820M): Sole Physical Care. Physical Care for 273 nights or more per year. If one or more of your children spends at least 273 nights with one parent they are considered to have a primary home with that parent.
 - Worksheet B (JDF 1821M): Shared Physical Care. If one or more of your children spends more than 92 nights per year with each parent, they are considered to have two homes (one at your residence and one at the other parent’s residence).
 - Split Care: If each parent has primary physical care of at least one of the children because that child or children reside with that parent the majority of the time, you have a split physical care situation. Each parent should complete a separate worksheet A for the child or children for whom he/she provides primary care.
- Complete a Certificate of Service (JDF 1313) indicating that you have provided the other party with a copy of your completed Child Support Worksheet.

Order Re: Modification/Restriction of Parenting Time (JDF 1424):

- Complete the caption only on this form.
- Provide the Court with the appropriate number of copies you would like. If you want any of the copies to be certified, you will need to provide the Court with a \$20.00 certified copy fee.
- The Magistrate or Judge will complete the rest of the Order and give you and the other party a signed copy.

Step 2: You are Ready to File your Motion/Stipulation with the Court.

- Pay the \$105.00 filing fee.
- Provide the Court with the Motion and all other appropriate documents listed above.
- If your address has changed since you originally filed your case, please provide your current address to the Court in writing.
- Provide the Court with a self-addressed stamped envelope to receive a copy of the Order. If a Court is mandatory e-file, self-addressed stamped envelopes may not be required.

Step 3: Provide a Completed Motion to the Other Party.

- You must provide a copy of this Motion to all parties to the case.
- Complete the Certificate of Service portion on the form. The purpose of the Certificate of Service is to notify the Court when and how you provided copies of the motion to all parties in the case. This is very important, because the Court must have knowledge that all parties involved are aware of the motion prior to any Court action being taken.

Step 4: Court Review of Motion or Hearing.

- The Judge or Magistrate will review all documents filed and enter an Order regarding your Motion based on the pleadings filed with the Court **or** the Court may set the case for a hearing at which time both parties will have the opportunity to appear and make statements to the Court.
- You will receive a signed copy of the Order Re: Modification/Restriction of Parenting Time. If child support is modified, you will receive an updated Support Order.