

# INSTRUCTIONS TO FILE A MOTION OR STIPULATION TO MODIFY CUSTODY OR DECISION-MAKING RESPONSIBILITY

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

- ◆ Use these instructions if you are the non-custodial parent and you wish to modify the existing custody or decision-making responsibilities order/decreed. The Court shall consider the following factors:
  1. The parties agree to the modification;
  2. The child has been integrated into the family of the party filing the motion with the consent of the other party and such situation warrants a modification of the allocation of decision-making responsibilities;
  3. There has been a modification in the parenting time order that warrants a modification of the allocation of decision-making responsibilities;
  4. A party has consistently consented to the other party making individual decisions for the child which decisions that party was designated to make individually or the parties were designated to make mutually;
  5. The retention of the allocation of decision-making responsibility would endanger the child's physical health or significantly impair the child's emotional development and the harm likely to be caused by a change to the child's environment is outweighed by the advantage of a change to the child;
- ◆ Within 49 days of the date your Motion is filed, the Court will review the matter and determine whether the case will be scheduled and resolved under the provisions of Colorado Rule of Civil Procedure 16.2(c) or will be handled based on the documents provided with no hearing.
- ◆ For modifications to custody/decision-making responsibilities due to military service, please review Colorado Revised Statute §14-10-131.3. An interim order may be necessary to accommodate the parent's active duty deployment.
- ◆ When modifying custody/decision-making responsibilities, please consider whether child support also needs to be modified. Please review the Instructions to Modify Child Support – JDF 1403I.
- ◆ For additional information, please review Colorado Revised Statute §14-10-131.
- ◆ 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/HR/ADA/Coordinator\\_List.cfm](http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm)

## COMMON TERMS

- |                             |   |
|-----------------------------|---|
| ☒ Petitioner:               | The person identified in the original Petition filed with the Court.  |
| ☒ Co-Petitioner/Respondent: | The person identified in the original Petition filed with the Court.  |
| ☒ Stipulation:              | A written agreement prepared by both parties.   |
| ☒ 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. |
| ☒ Hearing Date:             | The date that the Petitioner and Co-Petitioner/Respondent must appear in Court to present evidence in support of the Motion.  |
| ☒ May:                      | In legal terms, "may" is defined as "optional" or "can".  |
| ☒ 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 \$ 105.00 filing fee is required unless you are filing your motion/stipulation in a juvenile support case under Title 19, Article 6 or the motion/stipulation is being filed less than 60 days 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:

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|---|--|
| <input type="checkbox"/> Response (Required, unless previous filing fee paid by party.) | \$ 116.00                                    |
| <input type="checkbox"/> Service Fees   | Varies (not payable through or to the Court) |
| <input type="checkbox"/> Certification Fee  | \$20.00                                      |
| <input type="checkbox"/> Copies of Documents (Documents on File)                        | \$.75 per page or \$1.50 if double sided     |
| <input type="checkbox"/> Copies of Documents (Documents not on File)                    | \$.25 per page or \$.50 if double sided      |



## FORMS

To access a form online go to [www.courts.state.co.us](http://www.courts.state.co.us) and click on the "Forms" tab. The packet/forms are available in PDF or WORD by selecting **Divorce, Family Matters, Civil Unions – Custody & Child Support – Modify Child Custody**. 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 need.**

- |                                   |  |
|-----------------------------------|--|
| <input type="checkbox"/> JDF 1113 | Parenting Plan   |
| <input type="checkbox"/> JDF 1273 | Parenting Plan (Civil Union)   |
| <input type="checkbox"/> JDF 1415 | Verified Motion to Modify Allocation of Parental Responsibilities                |
| <input type="checkbox"/> JDF 1416 | Affidavit in Support of Motion to Modify Allocation of Parental Responsibilities |
| <input type="checkbox"/> JDF 1417 | Order re: Modification to Custody or Decision-Making Responsibilities            |

## STEPS TO FILING YOUR MOTION

Selecting these instructions indicates that you are planning to file a motion or stipulation to modify custody or decision-making responsibilities. 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.**

<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: <hr/> Petitioner: and Co-Petitioner/Respondent:	<b>COURT USE ONLY</b>  
Attorney or Party Without Attorney (Name and Address):  Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number:  Division _____ Courtroom _____
<b>NAME OF FORM</b>	

## Step 1: Complete Forms.

- Verified Motion/Stipulation to Modify Parental Responsibilities (JDF 1415):**
  - Please complete all sections of this form.
  - Describe what arrangements you are requesting to change and why such changes are in the best-interest of the child(ren). Please be specific
  - 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.
  - If your address or the other party's 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 Parental Responsibilities (Decision-making and Parenting Time) (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 custody/decision-making responsibilities. Day care/babysitting arrangements do not need to be specifically identified on this form.
  - Please check with the Court Facilitator in your judicial district regarding what additional information the Court may need.
  
- Order Re: Modification to Custody or Decision-Making Responsibilities**
  - Complete the caption only on this form.
  - The Court will complete the remaining sections.

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

- Provide the Court with all the forms identified in Step 1. If the Motion and Affidavit have not been signed in the presence of a Notary Public, you must sign both forms requiring signature verification in front of the Court Clerk who will verify your signature.
- Provide the Court with a self-addressed stamped envelope to receive a copy of the Order. The Court may review all of the forms filed and issue an order or require a hearing to be set. When filing your forms, you may want to ask the Court what their procedures are for this type of court proceeding.

## Step 3: Provide all Forms to the Co-Petitioner/Respondent.

- You must provide a copy of all forms to all parties on the case by a method stated in the certificate of service.
- 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. 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 Forms or Hearing**

- The Judge or Magistrate will review all of the forms filed and enter an Order regarding your motion to modify custody/decision-making responsibilities. You will receive a copy of the Order Re: Modification to Custody or Decision-Making Responsibilities.
- The Court may set the case for a hearing at which time both parties will have the opportunity to appear and address the Court. You will receive a copy of the Order.
- Please make sure you read and understand all issues addressed in the Order. The Court may order various sanctions to the non-complying party, such as imposing a civil fine or jail sentence, posting a bond or security to insure future compliance. In addition, the Court may require that parenting time for the aggrieved parent or child be made up, and any other orders to meet the best interests of the child(ren).