

INSTRUCTIONS FOR FILING A PETITION FOR CHANGE OF CUSTODY AND CHILD SUPPORT

If you already have a court order awarding custody of a child and you want to change that order, you may file a **Petition for Change of Custody and Child Support**. You must be able to show the court that there has been a material change in circumstances concerning you, the child or the other parent which materially affects the welfare and interest of the child, and that the change happened after the original custody order.

In order for a Georgia court to be able to handle your modification case, there normally must already be a Georgia Superior Court order awarding custody. If your court order is from another state, you still might be able to file your case in Georgia, but you will need to speak with an attorney to determine whether you can.

“Service” is a legal way of making sure that the other side gets a copy of the papers that you are filing with the court. It is very important that you file in the proper county and the other side is served correctly. The general rule is that you file your Petition for Change of Custody and Child Support in the county where the other side lives. If the other side lives in a different county in Georgia, but will agree to you filing in your county, he/she will need to sign a **Waiver of Venue**. This is sometimes included in the **Acknowledgment of Service form**.

- _ **Step 1.** Complete the Petition for Change of Custody and Child Support.
- _ **Step 2.** Complete the Verification page.
- _ **Step 3.** Attach a copy of the prior order to your petition.
- _ **Step 4.** Complete the Summons
- _ **Step 5.** Complete the Case Initiation form and any other required clerk’s forms
- _ **Step 6.** Put the papers together
- _ **Step 7.** File the forms and pay the filing fee to the Clerk of Court
- _ **Step 8.** Arrange to serve the other side with a copy of your petition and the other required documents

HERE ARE THE DETAILED INSTRUCTIONS ON HOW TO FILL OUT THE FORMS:

STEP 1- Complete the Petition for Change of Custody and Child Support

Case Heading

Fill in your name as the Petitioner and the other side’s name as the Respondent. Do not fill in the section where it says “Civil Action File No.” The clerk will assign a number to your case when you file your petition. Then write your name in the space provided after the word, “My name is”.

Paragraph 1: Jurisdiction and Venue

Check (a) if the other party lives in Fulton.

Check (b) if the other party lives in another county but has agreed to have the case heard in Fulton.

Check (c) if the other party lives out of state, the original order is from Georgia, and you or the children live in Fulton.

Paragraph 2: Service

Check (a) if the sheriff will need to serve the other party with a copy of your petition. Write the other side's address in the space provided.

Check (b) if the other side has signed an **Acknowledgment of Service** form saying that he/she has received a copy of the petition from you. This forms must then be filed with the Clerk of Court showing that the other side has been served with a copy of your petition. If the other parent lives outside of Fulton County or outside of Georgia, talk to an attorney about whether any other special waivers may be needed for your case.

Check (c) if you do not know where the other side lives now. In order to do this you will also need to complete and file an Affidavit of Diligent Search. If the children are with the other party and you do not know their location, you should consult with an attorney.

Paragraph 3: Minor Children

Enter the number of children at issue in the case. Then write the name, gender and year of birth for each child at issue in this case.

Paragraph 4: Children's Place of Residence

Write in the space provided the address of where the child(ren) currently live and check the space to show the person with whom they are living. If it is neither the Petitioner or Respondent write the person's name in the blank space.

Paragraph 5: List each address where the child(ren) has/have lived for the past five years.

Paragraph 6: In the space provided, write the names of adults the child(ren) have lived with for for the past 5 years. Write the current address for each adult.

Paragraph 7: Prior Case: Write the information concerning the original custody order in the space provided. On the first line write the date the prior order was entered, on the second space write the type of court that entered the order (Superior, Juvenile, etc.), in the third space write the County name, in the fourth space write the State. Enter the case number of the prior case on the last line. If the order is from a state other than Georgia, talk to an attorney before proceeding.

Paragraph 8: Other Custody Actions

Check box (a) if there has never been any other custody action concerning your child(ren) other than the original order.

Check box (b) if there has ever been or is presently another custody action concerning your child(ren) other than the original custody action. Write in the space provided the location of the custody action, the type of action, and what happened in that custody action.

Paragraph 9: Other Persons with Claims to Child(ren)

Check box (a) if no other person has a claim of custody for your child(ren). This includes that there is no court order granting anyone else custody or guardianship of your child (see (b) for more information).

Check box (b) if someone other than you or the other party has any legal rights to your child(ren). Write in the space provided the name of the person or entity, and what legal rights that person or entity has to your child(ren). If your child(ren) is/are in the physical custody of

another person, then you should list that person also.

Paragraph 10: Material Change in Circumstances

Since the original custody order, there must have been a significant change affecting the the child(ren) in order to file for a change of custody. In the space provided, state what the material change in circumstances is.

Paragraph 11: Custody Modified as Follows:

In the space provided, write how you want custody to be changed from the original custody order. Check (a) if you want sole custody. Check (b) if you want joint legal and sole physical custody. Check (c) if you want some other custody arrangement. Write in the arrangement you are requesting on the lines provided. Note: you should prepare and submit a Parenting Plan.

Paragraph 12: Monthly Income

In the first space, enter your monthly gross income before taxes and other deductions. In the second space enter the Respondent's gross monthly income.

Paragraph 13: Current Child Support Order and Requested Change

Check box (a) if you are currently under an order to pay child support and you want to stop paying child support. Then write in the space provided the amount of child support that you are currently ordered to pay.

Check box (b) if you are currently under a court order to pay child support and you do not want to change it (you want it to stay the same). Then write in the space provided the amount of child support that you are currently ordered to pay.

Check box (c) if you want the amount of child support you are currently ordered to pay to be reduced.

Check box (d) if you are not under a court order to pay child support and you want the other party to pay you support.

Check box (e) if the other party is under a court order to pay child support and you want the other party to pay you more money.

Check (f) if you want some other arrangement for child support. Write what you want on the lines provided.

Note: you must complete and submit a Child Support Worksheet and Domestic Relations Financial Affidavit if you are seeking a change of child support.

Requests

Check everything that you want the court to grant you.

Signature

Date and sign the petition. Then write your name, address, telephone number, and email address in the spaces provided.

Step 2: VERIFICATION

Complete the **Verification** form. By signing this form you are swearing under oath that what you wrote in the petition is true and correct. Write your name as the Petitioner and the

opposing party's name as the Respondent. Do not fill in the section where it says "Civil Action File No.". The clerk will assign a number to your case when you file your petition. Write your name in the blank space on the first line. Fill in the date where indicated. Write your name, address, telephone number, and email address in the spaces provided. **WAIT TO SIGN THE VERIFICATION FORM IN FRONT OF A NOTARY PUBLIC.**

STEP 3: Make a copy of your **original Court Order** (the one you are trying to change) and attach it to your **Petition for Modification of Custody & Child Support**.

STEP 4: Complete the other required forms such as the **Summons** and **Domestic Relations Case Initiation Form**.

STEP 6: Put the papers together.

- **Domestic Relations Case Initiation Form**
- **Petition**
- **Copy of Original Court Order (attached to Petition as an Exhibit)**
- **Verification (attached to Petition)**
- **Summons** (available from Fulton County Clerk's Office or downloadable at <http://www.fultonclerk.org/285/Civil-Forms>)
- **Acknowledgment of Service** (available from FLIC) **OR Sheriff's Entry of Service** (available from Sheriff's Department and done at the courthouse)

Depending on your case, you may also need these forms (all available from FLIC Office unless otherwise noted):

- **Parenting Plan** (for custody and visitation matters)
- **Domestic Relations Financial Affidavit** (for cases addressing child support)
- **Child Support Worksheet** (for cases addressing child support) (<http://cscalc.gaaoc.us/>)
- **Poverty Affidavit / Affidavit of Indigence** (if you are low income and eligible to have your filing fee waived because you cannot afford it)
- **Notice of Publication** (if your petition must be served by publication)
- **Acknowledgment of Service**, Waiver of Venue or Waiver of Jurisdiction (if the other side agrees to sign it)

STEP 7: (a) Follow the Superior Court Clerk's instructions for e-filing. There are fees associated with filing this petition and with the Sheriff's service. Please check with the Clerk to get fee information and e-filing instructions. If you are low income you can submit a Poverty Affidavit (also called an Affidavit of Indigence) to see if you can have your filing fee waived.

STEP 8: Contact the Sheriff's office to arrange for Sheriff's service. Complete the **Sheriff's Entry of Service**. This form is used by the sheriff when he/she serves a copy of these papers on the Respondent. You can skip this step if you have a signed Acknowledgment of Service.)

NOTE: If you and the other parent have already reached an agreement to change custody, you can fill out and have the other parent sign a **Consent to Modification of Custody**. The other parent's signature must be notarized. You will also need to complete a **Parenting Plan**. If the child support order is also being changed, you will also need to complete a **Child Support Addendum** (and Child Support Worksheet).