

CUSTODY AND CHILD SUPPORT MODIFICATION INFORMATION AND INSTRUCTIONS

CONFIDENTIALITY: If you have concerns about keeping information confidential, such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the circuit court clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (844) 264-8080 (toll free) or (307) 755-0992. There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the **Response** or the **Counterclaim**.

NOTE: The person who files the Petition for Modification of Custody and Child Support is called the Petitioner regardless of whether they were the Petitioner or the Respondent when the previous order was first entered. The other party is called the Respondent.

This packet is to respond to a Petition for Modification of Custody and Child Support. If you are modifying child support only, a separate packet is available.

Either party may seek to modify a custody and child support order. To qualify for a modification, the Petitioner must show that there has been a material change in circumstances.

1. **Material change in circumstances.** Under Wyoming law, a court may modify an existing custody, care, or visitation order only if two conditions are met:
 1. There has been a material change in circumstances since the entry of the original order, and
 2. The proposed modification is in the best interests of the child. (See Wyo. Stat. § 20-2-201(a)).

NOTE: A condition that already existed at the time the original custody order was entered does not count as a material change in circumstances.

2. **Burden of proof.** It is up to the person trying to modify or change the custody arrangement of the earlier order/decreed to establish that a material change in circumstances has occurred, following the entry of the previous order.
3. **Judges have broad decision-making authority.** Under Wyoming law, judges have broad discretion when making decisions related to custody, visitation, child support, and alimony. In every case, the court's primary concern is the welfare and needs of the children. It is up to the judge to determine what is in the best interests of the child, and once that decision is made, it is very difficult to overturn on appeal.

4. **Modifying child support.** In many cases, changes to custody may also require changes to child support. If that applies to your situation, this packet includes information and forms to request a modification of child support as well.

Make sure to complete all the forms carefully. If any parts are left blank, the Judge may not accept them. Not all of the forms need to be completed at the same time. Read through the instructions for each step. There are some steps you must complete before moving on to the next step.

STEP 1: Response or Response and Counterclaim

If you have been served or have signed an **Acknowledgment and Acceptance of Service**, you should file a Response to Petition for Modification of Custody and Child Support with the Clerk of District Court where the Petition for Modification of Custody and Child Support was filed.

A **Response to Petition for Modification of Custody and Child Support** is a written response where you tell the Court what parts of the petition you agree with and what parts you disagree with. **If you don't file a Response, the court might grant everything the Petitioner asked for in the Petition for Modification of Custody and Child Support without your input.**

You have two options for responding:

1. **Response:** This is where you respond to each part of the **Petition**, saying what you agree or disagree with.
2. **Response and Counterclaim:** This includes your response to the **Petition** and also lets you tell the Court what you want.

Tips: Here are some helpful hints in completing either the Response or Response and Counterclaim:

You must fill in the top section of either the Response or Response and Counterclaim with the names and case number. Don't forget to include the case number, which is found on the Summons or Petition for Modification of Custody and Child Support.

Time Limits:

You have **20 days** to file if you were served in Wyoming, or **30 days** if you were served outside Wyoming. If you miss the deadline to file a Response, a default judgment may be entered against you, granting the other party what they requested in the Petition.

How Time is Calculated:

- When counting the days, don't include the day the papers were served.
- Include the last day of the time period, unless it falls on a Saturday, Sunday, or legal holiday. In that case, the deadline moves to the next business day.

NOTE: If you have any question or concerns about when the deadline is to file the Response, you should consult an attorney.

Admit or Deny:

In the **Response**, admit or deny each paragraph of the **Petition**. For each paragraph in the Petition that is correct or that you agree with, list that paragraph number in the first line of the Response to admit it. For each paragraph in the Petition that is not correct or that you do not agree with, list that paragraph number in the second line of the Response to deny it. If you do not have enough information to admit or deny a paragraph, list that paragraph number in the third line of the Response. If you don't agree with something in the Petition, but you don't "deny" it in your Response, the court may find that you admitted it.

Required Information for Children:

You must provide certain information under oath for each child unless you have a court order or law that lets you keep addresses or other details confidential. If you don't provide this information, the court may not allow the case to move forward until you do. The necessary information is included in the Response and the Response and Counterclaim forms.

Notarizing Signatures:

After you fill out either the Response or Response and Counterclaim, you need to sign and have it notarized. Do not sign the Response or Response and Counterclaim until you are in front of the Clerk of Court or a Notary. The Clerk or the Notary must witness you signing the form. Since each Clerk's office has its own rules, check with them first to see if they can notarize your signature before looking for a notary public elsewhere.

Certificate of Service:

Copies of all documents that you file in the case must be sent to the Petitioner before the Judge will consider them. This certificate is included at the end of each document that requires it.

Make Copies and File Your Response:

Take the original and two copies of each document to the Clerk's office. The Clerk will stamp all the copies with the date they were filed. This is called a "file stamp." The original document will be filed with the Clerk. You should keep one copy for your records. You must send the other copy to the Petitioner on the date that you listed on the Certificate of Service.

Documents to Complete:

1. Fill out the **Response to Petition for Modification of Custody and Child Support**.

OR

2. Fill out the **Response and Counterclaim**.

File Your Documents:

Bring the original and two copies of the following documents to the Clerk of District Court:

1. **Response to Petition for Modification of Custody and Child Support**.

OR

2. Response and Counterclaim.

Petitioner's Reply to Your Counterclaim:

If you file a Counterclaim, the Petitioner must reply to it. The Petitioner has 20 days to respond by filing a Reply to Counterclaim. In this reply, the Petitioner will admit or deny the points you made in your Counterclaim.

If the Petitioner does not reply within 20 days, you may be able to file Default paperwork to request the relief you asked for in your Counterclaim.

STEP 2: Fill out a Confidential Financial Affidavit

Documents to Complete:

Confidential Financial Affidavit with all required documents attached.

Both parties must fill out and file a Confidential Financial Affidavit with the Court, along with any required documents. You must provide documents that prove your current and past earnings. For current earnings, include pay stubs, employer statements, or receipts and expenses if self-employed. Also, attach your most recent tax return to show your earnings over a longer period. Include income tax returns for the last two years and your latest pay stub(s) to show your current earnings. If you and the other party filed a joint tax return, and the other party has already submitted the required tax returns, you don't need to file them again. If you have health insurance, include copies of your insurance cards.

File Your Documents:

Bring the original and two copies of the Confidential Financial Affidavit to the Clerk of District Court to file.

NOTE: You must file the Confidential Financial Affidavit with the Clerk's office at the same time you file your Response or Response and Counterclaim.

STEP 3: Initial Disclosures

DO NOT FILE INITIAL DISCLOSURES WITH THE CLERK OF DISTRICT COURT

Send Initial Disclosures to the Other Party:

The law requires you to share certain information with the other party within **30 days after your Response is due**. You need to provide a list of financial assets, non-financial assets, all debts (individual and joint), locations of any safety deposit boxes, employment details, information about other income and retirement accounts, and a summary of facts supporting your claim for custody (if child custody is involved). Both parties must provide this information to ensure full financial disclosure for calculating child support. **Be sure to keep a copy of your Initial Disclosures for your records.**

NOTE: You must share the information you currently have available to you. You cannot delay your disclosures because you think the other party's information is incomplete or because they haven't provided their information yet.

When to Provide:

You need to give your **Initial Disclosures** to the Petitioner (or their lawyer) within 30 days after you are supposed to respond to the Petition. Here's how to figure out the date:

1. Start with the date you were served with the **Petition**: _____
2. Next, figure out when you have to file a **Response**: (Choose One)
 - a) If you were served in Wyoming, add 20 days to the date in #1: _____
 - OR**
 - b) If you signed an **Acknowledgment and Acceptance of Service**, add 20 days to the date in #1: _____
 - OR**
 - c) If you were served out-of-state, add 30 days to the date in #1: _____
3. Add 30 days to the date in #2(a), (b), or (c): _____

The date in #3 is when you and the Petitioner must send each other your completed Initial Disclosures.

NOTE: DO NOT FILE THE INITIAL DISCLOSURES WITH THE COURT. These forms are only given to the Petitioner (or their lawyer).

STEP 4: Moving Your Case Forward

Once the time for the Petitioner to respond to your Response and Counterclaim has passed and you have sent your **Initial Disclosures**, there are several options to move your case forward to get a **Modification of your Custody and Child Support Order**. Choose the option that fits your situation best:

Option A: If you and the Petitioner both agree on everything, follow Option A.

Option B: If you and the Petitioner don't agree on everything, follow Option B.

Here are some important laws and helpful hints regarding child support for all cases:

Important Child Custody Information:

Considered Factors When Awarding Custody and Visitation:

In awarding custody and setting forth a visitation plan, Wyoming law requires that the Court consider the following factors:

1. The quality of the relationship each child has with each parent.
2. The ability of each parent to provide adequate care for each child throughout each period of responsibility, including arranging for each child's care by others as needed.
3. The relative competency and fitness of each parent.
4. Each parent's willingness to accept all responsibilities of parenting, including a willingness to accept care for each child at specified times and to relinquish care to the other parent at specified times.
5. How the parents and each child can best maintain and strengthen a relationship with each other.
6. How the parents and each child interact and communicate with each other and how such interaction and communication may be improved.
7. The ability and willingness of each parent to allow the other to provide care without intrusion, respect the other parent's rights and responsibilities, including the right to privacy.
8. Geographic distance between the parents' residences.
9. The current physical and mental ability of each parent to care for each child
10. Either parent had a conviction that would require them to register as a sex offender under W.S 7-19-301- 7-19-10.
11. Any other factors you want the court to consider necessary and relevant.

Children's Best Interests Should Dictate Schedule

Use a calendar to plan visitation. When creating a visitation plan, consider the parents' work schedules and the children's school and activities. This is especially important if parents don't have a traditional workweek. Visitation should be an enriching experience and is both an obligation and a responsibility, as well as a right and a privilege for both parents. Both parents must sincerely commit to creating and following a visitation plan. Focus on what schedule is in the children's best interest.

Parenting Classes

The Court may require parents to attend parenting classes. Usually, both parents must attend these classes when ordered.

NOTE: If you are required to take a class, you **MUST** file a **Certificate of Completion** with the Clerk's office. The class instructor will provide this certificate.

Important Child Support Laws:

- a) **Recipients of certain public benefits.** If either parent or the child(ren) are receiving public benefits—such as POWER or other state-funded programs—

Wyoming law requires that the right to collect child support be assigned to the Department of Family Services (DFS). The recipient must also cooperate with DFS in establishing paternity and support obligations. Any proposed child support changes may affect the public benefits received, so it's important to consult with your DFS caseworker or local child support enforcement office if public assistance is involved. See W.S. § 20-6-105.

- b) **Military Personnel.** If either parent is in the military, child support is generally calculated using basic pay only. Military regulations prohibit using active duty as a means to avoid support obligations, although determining the correct amount remains a civilian court issue. Up-to-date information on military pay can be found at www.dfas.mil, and additional guidance for military families is available at [A Handbook for Military Families](#).
- c) **Overtime Income.** Overtime compensation is generally not included in calculating net income for child support unless the Court finds that such earnings have been received consistently over the previous 24 months and are likely to continue.
- d) **Income Withholding Order.** The Court will issue an Income Withholding Order (IWO) that allows child support payments to be taken directly from the paying parent's wages. This takes effect immediately unless both parents agree in writing to an alternative payment method or the Court finds good cause to delay withholding. If child support becomes delinquent by an amount equal to one month's obligation, the IWO becomes active regardless of any alternative arrangement.
- e) **Limits on Wage Withholding.** The amount withheld from a parent's paycheck for child support is subject to federal limits under the Consumer Credit Protection Act (CCPA). Generally, no more than 50% of disposable income may be withheld if the parent supports another family, or 60% if not. These limits may increase by 5% if the parent owes more than 12 weeks of past-due support.
- f) **Social Security and Veteran's Benefits.** If the children receive part of the noncustodial parent's Social Security or veteran's benefits directly, that amount is counted as part of the noncustodial parent's gross income. The amount received by the custodian is then subtracted from the calculated support obligation. If the result is zero or negative, the child support obligation may be reduced accordingly. See W.S. § 20-2-304(e).
- g) **Start Date for New Support Amounts.** Modifications to child support are not retroactive unless the parties agree otherwise in writing, or unless a petition for modification has been served and is pending. In that case, changes may apply starting from the date the Respondent was served. See W.S. § 20-2-311(d).
- h) **Termination of Support Obligation:** An ongoing child support obligation ends when any of the following occur: (1) the child dies, (2) the child becomes legally

emancipated, (3) the child reaches the age of majority (18), unless they are still in high school full-time or disabled, or (4) the parents remarry each other, in which case the Court may also eliminate any arrears not owed to the state.

Child Support Payments

You need to figure out how much child support is due based on the **Confidential Financial Affidavits** you and the Respondent completed (or by using the **Affidavit of Imputed Income** if the Respondent didn't complete their own **Confidential Financial Affidavit**). You can use the **Child Support Computation Form** to help you calculate the support due or contact your local child support agency for help. Another option is to go online to <https://childdsupport.wyoming.gov/calculator/index.html> and use the online tool to calculate child support.

Important Points to Remember:

- a) **You can't agree to no support:** You **CANNOT** agree that no child support will be paid. (The only time the Court will not order child support is when the noncustodial parent's income is less than the self-support reserve.) Wyoming law allows for a reduced amount of support if you agree on joint physical custody, each parent keeps the children overnight for more than 25% of the year, **and** both parents contribute significantly to the children's expenses in addition to paying child support.
- b) **Self-Support Reserve:** If the noncustodial parent's net income minus the self-support reserve is less than the support obligation calculated from the tables in W.S. § 20-2-304(a), the support obligation will be based on the difference between the noncustodial parent's net income and the self-support reserve. The "self-support reserve" is the current poverty line for one person and is updated annually in the Federal Register by the U.S. Department of Health and Human Services. See W.S. § 20-2-304(f). You can also find the current self-support reserve by going to <https://www.wyocourts.gov/self-help-forms/> and clicking on the Family Law tab.
- c) **No Deviations Allowed:** There are NO DEVIATIONS from the presumed support amount unless the Court decides that the set amount is unjust or inappropriate in your specific case. The Court must include specific reasons for any deviation in the **Order**.
- d) **Government or State Benefits:** NO AGREEMENTS for less than the presumed support can be approved if government or state benefits (such as Title 19, Kid Care, Food Stamps, POWER, etc.) are being provided on behalf of any child. This means the Court cannot lower the amount of child support calculated using the net income of you and the Respondent, even if both of you agree to a lower amount of support.

Medical Support

The law requires that medical support for the children be included in any child support order. The Court may order one or both parents to provide medical insurance if it is

available at a reasonable cost and can be used for the children. This includes dental, vision, or other health care needs.

Additionally, the Court will decide who pays for medical expenses not covered by insurance and any deductibles. If both parents must pay for these expenses, the Court will specify how much each parent is responsible for (for example, 50% to Petitioner and 50% to Respondent).

Important Definitions

- a) **Obligor** – The parent who is legally required to pay child support.
- b) **Custodial Parent** – The parent with whom the children live primarily.
- c) **Noncustodial Parent** – The parent who does not have primary physical custody of the children, typically responsible for paying support.
- d) **Payor** – Any employer or entity that pays income to the obligor and may also provide health insurance coverage.
- e) **Arrearage** – Unpaid past-due child support, medical support, or court-ordered fees. This may include interest or penalties but does **not** include property settlements.
- f) **Gross Income** – All income from any source, including wages, commissions, retirement, disability, military pay, and bonuses, before any deductions.
- g) **Net Income** – Also called “disposable income.” This is **gross income minus mandatory deductions** such as:
 - a. Federal and state income tax,
 - b. Social Security (FICA),
 - c. Court-ordered health insurance for the children,
 - d. Other legally required deductions (e.g., mandatory retirement or disability contributions).
- h) **Imputed Income** – An estimated income amount assigned by the Court when a parent is **voluntarily unemployed or underemployed**. The Court may consider work history, education, job availability, local wages, and childcare responsibilities.
- i) **Self-Support Reserve** – The minimum amount of income a noncustodial parent is allowed to retain for their own basic needs. This amount is based on the **federal poverty level for one person** and is updated annually by the U.S. Department of Health and Human Services.

- j) **Disposable Income** – The amount remaining after subtracting mandatory deductions from gross income. This is the income used to calculate how much can be withheld for child support.
- k) **Age of Majority** – In Wyoming, this is 18 years old. However, support may continue beyond age 18 if the child:
 - a. Is attending high school full-time and under 20 years old, or
 - b. Has a mental or physical disability preventing self-support.

Option A. The following instructions apply if you both agree on all of the issues of your case.

If you and the Petitioner agree on all the terms in the Order Modifying Custody and Child Support, the Order will need to be filled out completely, signed by both you and the Petitioner and both of your signatures must be notarized. **In addition to signing the Order, you should also initial each page of the Order to verify that each page contains the terms you agreed upon.**

When Will Your Custody and Child Support be Modified?

Your Order modifying child support is not final until the Judge signs the **Order**, and it is filed with the Clerk. This may take time if the Judge needs to make changes to the Order. Check with the Clerk to make sure the Order has been file-stamped before you can be sure your child support is modified. You should receive a copy of the Order once it is final.

Option B. If you and the Petitioner do NOT agree on all issues of your case, you will need to have a trial:

NOTE: If there is no agreement, your case will have to be heard and decided by a Judge at a trial.

CAUTION: It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. If you choose to represent yourself, you proceed at your own risk and will be expected to know the laws and court rules.

Documents to Complete:

1. If the Petitioner has **NOT** done so, Complete the **Request for Setting**
This form is a request to the court for a hearing. Write in “trial” where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one to three hours).
2. Complete the **Order Setting Modification Trial**
Fill out the top section of page one of the Order Setting Modification Trial. This includes: the county, the judicial district, the names of the Petitioner and Respondent, and the civil action case number. The Clerk of District Court will complete the rest of the document.

3. Provide the Clerk with two addressed, stamped envelopes (one addressed to you and one addressed to the Petitioner).
4. **Order for Income Withholding.** The Court is required by law to enter an Order for Income Withholding in every case where child support has been ordered.
5. **Income Withholding for Support.** Use this form if you want child support to be paid directly from the non-custodial parent's employer. If you need help filling out the form or collecting child support, contact the child support enforcement agency in your district. The Clerk can give you their contact information or you can find it online at <https://childdsupport.wyo.gov/>.

NOTE: Any documents you file (except the Order) must be sent to the Petitioner on the same day you put the date on the Certificate of Service on each document.

Due 30 Days Before Trial:

1. **Complete Pretrial Disclosures**
Both parties must give their Pretrial Disclosures to each other and file them with the Court. These disclosures list the evidence that will be presented at trial. If you have questions, contact an attorney.

Note: Unless the Court says otherwise, they must be made at least 30 days before the trial.
2. Take the original and two copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Petitioner (or his/her attorney).

Trial Information:

Settlement before trial:

If your case is settled before the trial, you must give the Court a completed and signed **Order Modifying Custody and Child Support**. The Court will only remove the trial from the schedule once this is done.

The trial date will not be changed or canceled based on phone calls. If you need to reschedule the trial, you must file a motion to continue or contact an attorney for assistance.

Court Reporter:

If you want a court reporter, you must notify the official court reporter as soon as possible, but no later than three working days before your hearing. You can do this by phone, email or by submitting a written request. If you send the request by mail, it must be received by the court reporter at least three working days before the hearing.

Contact information for each Court Reporter can be found on the Wyoming Judicial Branch website.

The Clerk can tell you which court reporter to contact. The Court will not waive the three-day notice requirement. This notice is required for all civil matters, including jury trials.

Evidence and Witnesses:

At the hearing, you will need to present your evidence and witnesses. If the **Order Setting Modification Trial** is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually three to five days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.

NOTE: If you choose to represent yourself and continue without an attorney, you proceed at your own risk and will be expected to know the laws

Final Decision:

After the trial, the Judge will make a decision or may need more time to think about it. If the Judge gives you instructions, you must type the decision into the Order.

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