

**CHANGING A COURT ORDER**

To change a court order, you usually will have to file a Complaint for Modification.

**When can I file a Complaint for Modification?**

Sometimes, an earlier judgment or order of the court no longer is appropriate because the circumstances have changed in a significant way since the order was made. For example, children may be much older than when the last child support order was made, or there has been a significant change in the income of parties paying or receiving child support.

**What types of changes can be made?**

Some, but not all of the types of changes that can be made are:

- ★ alimony or other forms of spousal support
- ★ custody of children
- ★ visitation arrangements with children
- ★ the amount of child support which you receive or pay
- ★ any other provision in an order, except for the division of property\*

**What if there is no change in circumstances, but there are other reasons to change an order?**

Sometimes, a party may want to change a judgment or order because there is a valid reason and it would not be reasonable for the court not to allow a change. For example, when there is a mistake in the typing of a written judgment, or when the opposing party lied to the court about the value of a significant asset, and the lie influenced the court's judgment. If you think the change in your case is due to clerical errors or misrepresentation, please see the Court staff for further information on how to file to request this type of change in a court judgment or order.

**Modification is not enforcement.**

If a party is in **violation of a court order**, you need to file a Complaint for **Contempt**, not a Complaint for Modification. A Complaint for Modification is filed when you wish to change a court order or judgment.

**Final Judgment or Temporary Order?**

A Complaint for Modification can be filed after your earlier case has ended in a **FINAL JUDGMENT**. If there is no final judgment in your case and you wish to change the **TEMPORARY ORDER**, you can file a motion asking the court to change the prior order.

\*There are circumstances when a matter related to division of property may be considered support and is therefore modifiable. If you think you are in this situation, you should consult an attorney for legal advice.

Produced by the Suffolk Probate & Family Court Community Outreach Program—Richard Iannella, Register

**READ THIS:**

Information provided by the Community Outreach Program and the Addington Resource Center IS NOT LEGAL ADVICE, it is information. This information is not a substitute for a competent lawyer.

When you sign a legal document or file any papers in court, it can seriously affect you in the future. You should always try to get legal advice before filing documents.

Bar Association lawyer referral services are listed in our brochure "Legal Resources in and around Suffolk County." Also listed are free legal service providers. You may be eligible for help.

**Read this carefully. If you do not understand the information, ask for help. This is an outline of the procedure for filing a Complaint for Modification.**

**1 COMPLETE THE FOLLOWING FORMS :** Fill out all the forms completely and in black ink. You may want to get an extra copy of the blank forms before you fill them, in case you make mistakes as you are completing the forms. **There are detailed instructions for each form.**

- ✓ **COMPLAINT FOR MODIFICATION**
- ✓ **AFFIDAVIT DISCLOSING CARE OR CUSTODY PROCEEDINGS**
- ✓ **FINANCIAL STATEMENT (if the change you are requesting is related to money issues)**
- ✓ **AFFIDAVIT OF INDIGENCY.** If you do not have much income, you may not have to pay the court fees related to the complaint for modification. Fill out these forms if you think you cannot afford to pay the court fees.

**2 COPIES:** Make one (1) copy of all the completed forms. Assemble the copies so that you have 2 COMPLETE SETS OF THE FORMS-- the originals and copies for yourself.

**3 TAKE THE ORIGINALS AND COPIES TO THE CLERK TO BE FILED:** Take the originals of the documents to **Office of the Register of Probate, Richard Iannella**, on the third floor of the court, for processing. If you file the papers in person, the first thing you should do at the Register's office is retrieve your court file. Then see an Assistant or Deputy Register to file the papers. **You may also file the papers by mail to:**  
Register of Probate, Richard Iannella  
Suffolk Registry of Probate, Docketing Department  
24 New Chardon Street  
Boston, MA 02114-4703

**4 GET A SUMMONS FORM FROM THE COURT. YOU MUST ARRANGE FOR THE PAPERS TO BE DELIVERED TO THE OTHER PARTY TO THE CASE.**(See detailed instructions on how to serve the defendant in a modification case.)

**5 AFTER THE TIME PERIOD ON THE SUMMONS HAS PASSED, FILE A REQUEST FOR TRIAL/PRE-TRIAL ASSIGNMENT.** The defendant has 20 days after s/he has been served with the complaint, to file a written response, called an "Answer." If the defendant does not file an answer the case is considered "Uncontested." If the defendant does file an answer the case is considered "Contested." **If you are the person seeking the change, you are the plaintiff. You must file a "Request for Trial Assignment " form with the court.** You may not file this form until 20 days after the defendant has been served with the Complaint. The court will notify both parties by mail of the court date. **The court will not assign a date for hearing until proof that the summons has been served is on file and also 20 days have passed since the date of service of the summons.**

**OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "Attorneys". Also, the Resource Center has a list of legal assistance and lawyer referral programs.