

## *Legal Services Programs*

**Statewide Legal Services:** (Entry point for the legal services network in Connecticut). **860-344-0380** Central CT area or **1-800-453-3320**.

### *Other Legal Services Programs:*

#### **Hartford, Hartford County:**

##### **Greater Hartford Legal Aid**

999 Asylum Avenue  
Hartford, CT 06105  
(860) 541-5000  
FAX: (860) 541-5050

#### **Greater New Haven Area:**

##### **New Haven Legal Assistance Association, Inc.**

426 State Street  
New Haven, CT 06510  
(203) 946-4811  
TDD: (203) 946-4811  
FAX: (203) 498-9271

#### **Visit us on the internet:**

[www.slsct.org](http://www.slsct.org)  
[www.ghla.org](http://www.ghla.org)  
[www.nhlegal.org](http://www.nhlegal.org)  
[www.connlegalservices.org](http://www.connlegalservices.org)  
[www.larcc.org](http://www.larcc.org)



This pamphlet was produced by the Legal Assistance Resource Center of CT in cooperation with Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services.

The information in this pamphlet is based on the laws in CT as of Dec. 2007. We hope that the information is helpful. It is not intended as legal advice for an individual situation. If you need further help and have not done so already, please call Statewide Legal Services (see above) or contact an attorney.

**Copyright: Dec. 2007**

#### **Throughout Connecticut:**

##### **Connecticut Legal Services:**

*Administrative Office:* (860) 344-0447

##### *Offices:*

211 State Street  
**Bridgeport, CT 06604**  
(203) 336-3851

587 Main Street  
**New Britain, CT 06051**  
(860) 225-8678

153 Williams Street  
**New London, CT 06320**  
(860) 447-0323

20 Summer Street  
**Stamford, CT 06901**  
(203) 348-9216

85 Central Avenue  
**Waterbury, CT 06702**  
(203) 756-8074

872 Main Street  
**Willimantic, CT 06226**  
(860) 456-1761

##### **CLS Satellite Offices:**

**Danbury** (203) 348-9216  
**Meriden** (860) 225-8678  
**Middletown** (860) 225-8678  
**Norwalk** (203) 899-2451  
**Norwich** (860) 447-0323  
**Rockville** 1-800-413-7796  
**Torrington** 1-800-413-7797

##### **AIDS Legal Network for CT**

999 Asylum Avenue  
Hartford, CT 06105  
(860) 541-5027 or 1-888-380-3646

# **How to Modify and Enforce Child Visitation Orders**



This pamphlet will tell you how to modify child visitation orders and how to get a contempt order if visitation orders are not being obeyed.

- If you want to modify a visitation order, **follow the instructions in Part 1.** (Starts on page 1.)
- If you want a visitation contempt order, **follow the instructions in Part II.** (Starts on page 9.)



Please be sure you carefully read all the steps in this pamphlet before starting your paperwork.

## Part I. How to Modify Visitation Orders

If you are having problems with visitation, you should first contact the Family Services Office in the court where the visitation orders were made. Someone from that office may be able to meet with both parents and informally work out the problems. If the Family Services Office cannot help you, this pamphlet is designed to help you ask the court to change the child visitation court orders.



There will be a \$70 fee to file your Motion for Modification and about a \$40 to \$60 marshal's fee. (Note: *Marshals* used to be called *sheriffs*.) If you cannot afford to pay certain fees, you can ask the court to waive them by filing a fee waiver application. See the Legal Aid pamphlet, *A Guide to Fee Waivers*).

If you can afford to get a lawyer to represent you, we urge you to do so. If not, be sure you follow the steps in this pamphlet very carefully. Please note that court and marshal procedures may be different from one part of the state to another. **Read the entire pamphlet before going forward.**

## The procedures outlined in this pamphlet will work only if:

- A.** A visitation order has been made by a court in Connecticut, and the other parent of your child now lives in Connecticut; **and**
- B.** You can prove that there has been a "substantial change in circumstances" since the last court order about visitation. A *substantial change* means that there has been **more than** one minor problem. *For example:* a minor problem would be if one visit was missed because of a temporary scheduling problem, while a substantial change would be a work schedule change or if you think the other parent is hurting your child.

If **both A** and **B** described above are **NOT true** for you, you will need to talk to a lawyer about your case.

**Note:** It is often much easier to use the court system if you are represented by a lawyer. If you cannot afford a lawyer, this pamphlet can help you represent yourself.

## A

### Fill Out Your Papers

1. There are a few forms you need to fill out and file with the court clerk (see list below). **You can get the forms at the court clerk's office and on the State of Connecticut Judicial web site ([www.jud.ct.gov](http://www.jud.ct.gov)).** You also will need to fill out a letter to give to the marshal (included in this booklet) to get the papers served.

#### Court Forms

- Motion for Modification (Form JD-FM-174).
- Appearance (Form JD-CL-12). *Only if needed. See Step 3.*
- Request for Leave (Form JD-FM-202). *Only needed if the court asks to you fill this out. See Step 4.*
- Fee Waiver Application (Form JD-FM-75). *May not apply to you. See Step 5.*

**2. Fill out a *Motion for Modification*** (JD-FM-174) using Sample Form 1 on page 11 as a guide. This sample will help you understand what goes in the blanks. **Do NOT fill** in the **second page** of the form--the court clerk will fill that out. You can ignore questions about alimony or child support if you only want to change visitation.

**You need to file your Motion** with the **same court that made the original order.** (*See Step B-5*). If you don't know your docket number, contact the clerk's office in person or by telephone. Give the name of your case and ask for your docket number and the dates of any child visitation orders made or changed by the court.

**3. Fill out an *Appearance*** form (JD-CL-12). You only need to fill out this form if you have not already filed one, or you are the plaintiff (the one who filed the case), or you have had an address change, or a long time has passed since the final judgment was made. The Appearance form tells the court that you are representing yourself.

**4.** If you are asking the court to change a visitation order that was already made ("*post-judgment*"), the court **may** ask you to fill out a ***Request for Leave*** form (JD-FM-202). This form asks the court to give you permission to file the Motion for Modification.

## **B** Take the Papers to the Clerk's Office

**5. Give your completed forms to the clerk** at the courthouse that made the original order. (This is called "filing" the papers). The clerk will fill in the date and time when the other parent is ordered to appear in court, as well as the date by which the marshal must serve the papers.



**6.** In some courts, you must pay the filing fee (or file a Fee Waiver) at this time. In other courts, you pay the fee after the papers have been served. If you cannot afford to pay the fee, fill out a Fee Waiver Application (JD-FM-75). (See the legal aid pamphlet, *A Guide to Fee Waivers*).

**7. Ask the clerk for a list of marshals** to arrange getting the papers "served" (*see below*).

**8. Make three copies of the original papers** that the clerk gives back to you. Keep one copy for yourself; give one to the court clerk. The original and the third copy are for the marshal (*see below*).

## **C** Get the Papers "Served" (Officially given to the other parent)

**9.** Before you contact the marshal, **fill out the blank letter to the marshal** (white paper in the center of this pamphlet). Use **Sample 2** on page 12 as a guide. This letter makes it easier for the marshal to "serve" the other parent.

**10. Contact a marshal who covers the town where the other parent lives or works.** You can get a list of marshals from the court clerk or from the CT Judicial Department website ([www.jud.ct.gov](http://www.jud.ct.gov)).

The marshal's fee for serving the papers is around \$40 to \$60. Some marshals will bill you *after* the papers are served and some marshals make you pay *before* papers are served. You can call the marshal and find out. Tell the marshal if you have a fee waiver.

### **Either bring or mail the marshal:**

- the blank letter to the marshal, and
- the original Motion **and** one copy of the Motion.

11. After the marshal serves the papers, he/she will give you the original Motion of Modification with a *Return of Service*. The Return of Service is a paper signed by the marshal showing when and where he/she gave the other parent the papers. **Make a copy** of the *Return of Service* and keep it with your copy of the Motion. Some marshals file the Return of Service with the clerk directly.

## **D** File the Court Forms at the Court Clerk's Office

12. Bring or mail the original *Motion of Modification*, the marshal's *Return of Service* (and the *Request for Leave*, if applicable--see Step 4) **to the clerk's office to file**. You will have to pay the \$70 filing fee unless the court waived the fee.

## **E** Present Your Case in Court

13. **Be in court on the day and time set for the hearing.** It's a good idea to arrive about 15-20 minutes early. **Note:** Your witnesses (who must have personally seen or heard what they are testifying to) must also go to court. Witnesses might be the child's doctor, teacher or someone who was watching how the other parent behaved with the child.

14. **Go to the court clerk's office and ask about the way the court starts the day** (called "opening" the court). Courts operate differently--some courts open with a "calendar call" (where the names of the cases are read out loud in the courtroom), while others do not call the cases.

**If you do not have an agreement** with the other party **or if you think you need help writing down your agreement**, also ask the clerk about signing up on the Family Services list. (*See Step 15 for more on Family Services*).

### ■ **Calendar Call**

- If you **do NOT have an agreement**, say, "Ready," when your name is called. You will probably have to meet with Family Services to try to work out an agreement.
- If you **do have an agreement**, say, "Ready with an agreement" and follow the judge's instructions. The judge may take agreements immediately after the calendar call.

### ■ **NO Calendar Call**

- If you **do NOT have an agreement**, find your name and room assignment on the list which is posted in the lobby. Then go directly to your assigned room to meet with Family Services. Put your name on the Family Services list.
- If you **do have an agreement**, prepare a "Memo to the Clerk" form (you can get it from the court clerk) to let the court know that you are ready to present your agreement to the judge.

**IMPORTANT:** Agreements do not change a court order until the judge approves or accepts the agreement and makes it an order of the court. Once the judge issues an order, you must follow it and abide by its terms.



15. **Meet with Family Services.** A meeting is only needed if you do not have an agreement or if you need help writing down your agreement. The Family Services Officer (sometimes called Family Relations Officer or Counselor) will ask both of you questions and try to help you reach an agreement.

The Family Services' Officer may make a recommendation to both of you about how to settle your disagreement. You do not have to accept his/her recommendation. You have a right to tell your side to the judge. The judge may order something different after hearing both sides. If you still have not reached an agreement

after this meeting, you will have a hearing where you present your case to the judge. The judge will then make a decision. You will have to accept and follow his/her orders.

### **16. Present your case to the judge after your meeting with Family Services:**

- If you **do have an agreement** after the meeting,
  - Write down the agreement. Both parties must sign it.
  - In some courts you will need to fill out a “Memo to the Clerk” to let the court know you are ready to present your agreement. Just check the proper boxes.
  - When your name is called, say, “Ready with an agreement.” Then follow the judge's instructions.
  - Present the agreement to the judge for approval.
- If you **do NOT have an agreement** after meeting with Family Services, you will have a *hearing* (called an "oral argument") where you will present your side to the judge.
  - Go back to the courtroom. You may need to fill out a “Memo to the Clerk”. Check the box that says you do NOT have an agreement.
  - When your name is called, say, “Ready.” Then go stand behind one of the tables in the front of the courtroom and follow the judge’s instructions.

### **What happens at the hearing (oral argument) if you DO NOT have an agreement after meeting with Family Services?**

- ✓ You will present your case first since you filed the Motion for a change in the court's order(s).
- ✓ Be polite and respectful of the judge and the other side. The judge will probably require that you be “sworn in” (take an oath to tell the truth) before you testify.

- ✓ Give your side of the story slowly and completely. **Be specific as to what changes you want in visitation and give the reasons why you want these changes and why it is in the child's best interests to make these changes.** Stick to the facts. The other side will have the right to ask you questions (*cross-examine*).

- ✓ When you finish testifying, call your witnesses to the witness stand one at a time. Ask the witnesses to tell the judge what they saw. The other side can cross-examine your witnesses.

- ✓ The other side will be allowed to present its case when you are finished presenting your case. You have the right to cross-examine his/her witnesses. Your questions should relate only to what they testified. Never argue with a witness. You also have a right to testify again to rebut (prove false) what was said.

- ✓ The judge may allow both sides to make a short argument or summary after the witnesses have testified. You will probably be given the chance to speak first. Stay on the specific issues raised in your Motion and be brief.

### **The Judge Rules on the Case:**

---

At the end of the hearing, the judge may either make a ruling "from the bench" (right at that moment). Often, though, the judge will say "I'll take the papers," which means that a decision will be made later. In that case, the court clerk will send you a copy of the decision that has the judge's orders. If you do not hear from the court in a few days, call the clerk and ask about the case.

- ◆ **Remember:** At the hearing *you* will have to prove to the judge that the circumstances pertaining to the original visitation order have *changed* since the last visitation order was entered so that the original orders are no longer in the best interests of the child.

## **Part II. How To Get A Visitation Contempt Order**

If someone does not obey court orders, he or she may be held in "contempt of court". For example, if the other parent does not allow you to visit the children as the court ordered, you may ask the court to hold him/her in contempt. If found in contempt, the offending parent may have to pay court costs (including the attorney fees of the other parent), may be ordered to allow the parent to make up the missed visitation time, and may be ordered to spend time in jail.

If you want a judge to force the other parent to follow the court order, you need to take some of the same steps as described in the first section of this pamphlet. The process is similar. That is, you need to fill out papers, have the papers served, file the papers at the court, and present your case in court.

### **Fill Out the Papers**

---

■ Fill out a **Motion for Contempt** form (# JD-FM-173) available on the web at [www.jud.ct.gov](http://www.jud.ct.gov) and at the court clerk's office. (Note, if you fill out the Motion for Contempt, you are the *applicant*. The person you want held in contempt is the *respondent*.) See our pamphlet, *How to Get a Contempt Order* for more information.

### **Take the Papers to the Court Clerk and Get the Papers Served**

---

■ Follow **Steps 5 through 12** in Part I.

### **Present Your Case in Court**

---

■ Follow **Steps 13 through 16** on pages 5 through 7. The process will basically be the same. Be sure to read *What Happens at the Hearing* on pages 7 & 8.

Stick to the facts. State what you want -- for example, you want a contempt order because the other parent failed to allow visitation. State what the previous visitation order was and how it has been disobeyed. Be specific.

Here is an example of what you might say:

*"This court ordered on April 12 that I can visit my 10- and 8-year-old children every Saturday from 10 a.m. to 5 p.m. For the past month, every Saturday when I went to my ex-wife's house, she said I could not have the children, that they did not want to go with me because they wanted to go to a friend's house to play."*

Use this form if you are asking for a change in visitation.

Sample Form 1

Marshal's Letter

Sample Form 2

MOTION FOR MODIFICATION

JD-FM-174 Rev. 8-07
C.G.S. § 46b-86, P.B. §§ 25-26, 25-30, 25-57, 25-65

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov



(Check one)
Before judgment After judgment (if the court has ordered you to attach a request for leave with a motion for modification of a final custody or visitation order, you must complete and attach a Request for Leave form (JD-FM-202) to this motion.)

Form with fields for JUDICIAL DISTRICT OF, PLAINTIFF'S NAME, DEFENDANT'S NAME, ADDRESS, and TYPE OF MOTION TO MODIFY.

I am the PLAINTIFF DEFENDANT. I respectfully represent that:

1. This Court issued an order dated (enter date) directing the plaintiff defendant to:

Table with 3 columns: PAY CHILD SUPPORT IN THE AMOUNT OF, PAY ALIMONY IN THE AMOUNT OF, HAVE CUSTODY OF THE CHILD/CHILDREN.

2. (Check appropriate box(es) and explain briefly why you are seeking a modification)

- Since the date of the order, the circumstances concerning this case have changed substantially as follows:
The final order for child support is substantially different from the Child Support Guidelines as follows:

I ask the Court to modify the current order as follows: (Check all that apply)

CHILD SUPPORT

(You must file a Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164), a completed child support and arrearage guidelines worksheet (CCSG-1), and an Advisement of Rights Re: Income Withholding (JD-FM-71)).

- Increase Decrease the amount of child support to be paid. Order immediate income withholding.

ALIMONY

(You must file a Financial Affidavit (JD-FM-6) at least 5 days before the hearing. You must also file an Advisement of Rights Re: Income Withholding (JD-FM-71)).

- Increase Decrease the amount of alimony to be paid.

CUSTODY

(You must file a Financial Affidavit (JD-FM-6) at least five (5) days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164) and a completed child support and arrearage guidelines worksheet (CCSG-1)).

- Modify custody as follows:

VISITATION

(You must file a Financial Affidavit (JD-FM-6) at least five (5) days before the hearing. You must also file an Affidavit Concerning Children (JD-FM-164) and a completed child support and arrearage guidelines worksheet (CCSG-1)).

- Modify visitation (parenting time) as follows:

Example: have my son visit every other weekend -- Sat. noon to Monday a.m. and every Wednesday 5 - 8pm

OTHER (Please be specific):

Form with fields for SIGNATURE, PRINT NAME, DATE SIGNED, ADDRESS, and TELEPHONE.

(Continued on back/page 2) Check appropriate court: Superior Court Family Support Magistrate Division

Date: October 5, 2005

John Doe
(Marshal's Name)
111 Court St
(Address)
Plainville CT 06100
(City, State)

Dear Marshal:

Enclosed please find a Motion for Modification Motion for Contempt

(check correct box)

to be served on Joe Jones

The best place to serve him/her is at his/her home address at 55 Old Town Rd, Smallville, CT between the hours of 6pm and 7pm or at his/her place of employment, Millpond Tool Co, located at

17 Center St, Plainville CT, between the hours of 8am and 4pm

Joe Jones is 38 years old, 6ft tall, and weighs about 225 lbs, has curly blonde hair, and a beard. (physical description)

check appropriate box

Please make your return of service to me and (check one)

- bill me directly, or
submit to State of CT for payment in accordance with enclosed order to waive fees.

Please file proof of service with this court at least six days before the hearing. Please call me if you have any questions. Thank you.

Sincerely,

Jane Miller
(Your Name)
11 Hall Rd
(Your Street Address)
Smallville, CT 06000
(Your City, State, Zip)
860-555-1111
(Your Telephone Number)

Use this form if you are asking for a CONTEMPT order.

Sample Form 3

Pamphlets In Our Family Law Series

- How to Modify Child Custody Orders
- How to Modify Child Support and Alimony Orders
- How to Modify Child Visitation Orders
- How to Get a Contempt Order
- Custody Disputes: What to Expect From The Family Relations Office
- A Guide to Fee Waivers
- A Guide to Financial Affidavits
- How to Defend Yourself In A Paternity Case
- How to Get A Restraining Order
- How to Extend A Restraining Order
- Getting a Lawyer Appointed for Your Child: Divorce, Custody, or Visitation Cases

Child Support Series

- Help With Child Support Enforcement
- If You Are Behind on Child Support Payments
- Help Modifying Support Orders
- Establishing Paternity and Support For Your Child

**MOTION FOR CONTEMPT**  
 JD-FM-173 Rev. 11-06  
 C.G.S. § 46b-87 § 46b-220 P.B. § 25-27

STATE OF CONNECTICUT  
**SUPERIOR COURT**  
 www.jud.ct.gov

COURT USE ONLY	
MFCONTP	

(Check one)  Before Judgment (pendente lite)  After Judgment

JUDICIAL DISTRICT OF <b>(court that made orders)</b>	AT (Town ) <b>(city where court is located)</b>	DOCKET NO. <b>(from court papers)</b>
PLAINTIFF'S NAME (Last, First, Middle Initial) <b>(see earlier court papers on the case)</b>	DEFENDANT'S NAME (Last, First, Middle Initial) <b>(see earlier court papers on the case)</b>	
PLAINTIFF'S ADDRESS (No., street, city, state, zip code) <b>(enter address)</b>	DEFENDANT'S ADDRESS (No., street, city, state, zip code) <b>(enter address)</b>	

I, the  PLAINTIFF  DEFENDANT, respectfully represent that this Court issued an order on            **(enter date)**  
(month, day, year)  
 directing the  plaintiff  defendant to *(complete only the information below that applies to the order(s) you claim was/were disobeyed):*

PAY CHILD SUPPORT IN THE AMOUNT OF <small>per</small>	PAY ALIMONY IN THE AMOUNT OF <small>per</small>	TOTAL BALANCE OWED	AS OF (Date)
HAVE VISITATION OR PARENTING TIME AS FOLLOWS: <i>(Attach a copy of the visitation schedule if available)</i> <b>(get from earlier court papers)</b>			
PAY MEDICAL BILLS OR PROVIDE HEALTH INSURANCE AS FOLLOWS			
OTHER:			

The  plaintiff or  defendant has disobeyed the court order in the following ways: *(Please be specific. Include the amount of any arrears claimed due as of the date of this motion or a date specifically identified.)*

**Example: "This court ordered on April 12 that I can visit my 10- and 8-year-old children every Saturday from 10 a.m. to 5 p.m. For the past month, every Saturday when I went to my ex-wife's house, she said I could not have the children, that they did not want to go with me because they wanted to go to a friend's house to play."**

I ask the Court to find the  plaintiff  defendant in contempt. I certify that the above information is true to the best of my knowledge.

SIGNATURE*	DATE <b>(enter date)</b>	TELEPHONE (Area Code first) <b>(enter telephone)</b>
------------	-----------------------------	---

**CERTIFICATION (Complete if motion is filed before judgment (pendente lite))**

I certify that I mailed/delivered a copy of this motion to:	NAME**	DATE MAILED/DELIVERED
ADDRESS (No., street, city, state, zip code)		

SIGNATURE	PRINT NAME	DATE SIGNED
-----------	------------	-------------

**\*\*If necessary, attach additional sheet with name of each party served and the address at which service was made.**

**ORDER TO ATTEND HEARING AND NOTICE (TO BE COMPLETED BY THE COURT)**

The court orders  the plaintiff  the defendant to attend a hearing at the time and place shown below to show why you are not in contempt. The Court also orders the  plaintiff  the defendant to give notice to the opposing party of the Motion and of the time and place where the Court will hear it, by having a true and attested copy of the Motion and this Order served on the opposing party by any proper officer at least **12 days** before the date of the hearing. Proof of service shall be made to this Court at least **six days** before the hearing.

BY THE COURT (Judge/Assistant Clerk)	DATE SIGNED
--------------------------------------	-------------

<b>HEARING TO BE HELD AT →</b>	SUPERIOR COURT, JUDICIAL DISTRICT OF	DATE	TIME
	COURT ADDRESS	ROOM NO. (If known)	TELEPHONE (Area code first)

**If you do not attend the court hearing, a civil arrest order (capias) may be issued against you.**

(Continued on back/page 2)                      \*Check appropriate court:  Superior Court     Family Support Magistrate Division

Date: \_\_\_\_\_

\_\_\_\_\_  
(*Marshal's Name*)

\_\_\_\_\_  
(*Address*)

\_\_\_\_\_  
(*City, State*)

Dear Marshal:

Enclosed please find a **\_\_Motion for Modification  
\_\_Motion for Contempt**

to be served on \_\_\_\_\_.

The best place to serve him/her is at his/her home address at \_\_\_\_\_  
\_\_\_\_\_ between the hours of \_\_\_\_\_ and \_\_\_\_\_ or at his/her place  
of employment, \_\_\_\_\_, located at \_\_\_\_\_  
\_\_\_\_\_, between the hours of \_\_\_\_\_ and \_\_\_\_\_.  
\_\_\_\_\_ is \_\_\_\_\_ years old, \_\_\_\_\_ tall, and

\_\_\_\_\_  
(*Name of person to be served*)

\_\_\_\_\_  
(*physical description*).

Please make your return of service to me and (*check one*)

\_\_\_\_\_ bill me directly, or

\_\_\_\_\_ submit to State of CT for payment in accordance with enclosed order to waive fees.

Please file proof of service with this court at least six days before the hearing. Please call me if you have any questions. Thank you.

Sincerely,

\_\_\_\_\_  
(*Your Name*)

\_\_\_\_\_  
(*Your Street Address*)

\_\_\_\_\_  
(*Your City, State, Zip*)

\_\_\_\_\_  
(*Your Telephone Number*)