

PRO SE INSTRUCTIONS FOR MOTIONS TO CHANGE CHILD SUPPORT

The legal term “**pro se**” means “for himself” or “for herself.” This refers to filing legal papers and appearing in court without an attorney. Persons acting as their own attorney must follow the same Wisconsin Statutes and court rules that attorneys have to follow. The Wisconsin Court System (WCS) has an extensive set of family law **pro se forms** that can be obtained (and completed) online at:

http://www.wicourts.gov/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=12 . The WCS pro se forms assist you by providing line by line instructions, on the form itself.

MOTION TO CHANGE CHILD SUPPORT

WCS form **FA-4170** is a motion used to request changes in several kinds of orders, including child support. It can also be used for changes in other financial orders, such as responsibility for health insurance and uninsured health care expenses, and the right to claim children as dependents for income tax purposes. Before deciding to file a motion, **review your present order**. If you do not have a copy and you do not know the date it was entered, you can find out from the Child Support Agency or the Clerk of Courts Office and then get a copy from the Clerk of Courts.

In addition to being certain of the date of the present order, make sure that you understand what it says about “current support.” (The total stated for “current support” may be less than the total payment required by withholding from the payer’s wages, because the order may include an amount due on arrearages.) Also make sure you understand what the order was based on – that is - the “circumstances” existing at that time.

If the order was entered less than 33 months ago, in order to qualify for a hearing your motion must state a specific **substantial change in circumstances** since the order was entered. Circumstances relating to child support include the number of children entitled to support, physical placement, each party’s gross income (before taxes) and any other facts used to help determine the amount of support when the order you now want changed was made. **If the order was entered more than 33 months ago**, you are automatically entitled to a hearing to consider a change in the amount. But, that does not mean the order will automatically be changed, if in fact there has not been a substantial change in circumstances or the changes do not justify an increase or decrease in the amount of support. These are matters that have to be decided in court. To request a hearing:

1. Get a Copy of the Required Form: WCS form **FA-4170** (“Notice of Motion and Motion”) is available on our website under the Child Support Agency’s Department page under “Forms”, or online at: <http://www.wicourts.gov/forms/FA-4170.PDF> (Adobe Acrobat Reader) OR <http://www.wicourts.gov/forms/FA-4170.DOC> (Microsoft Word); and it is also available from the office of the Family Court Commissioner.

2. Read the Form and Instructions: Before filling out the form, carefully read through the line by line instructions from start to finish. This will answer many questions you may have, and will help to avoid mistakes and delays in the processing of your case.

3. Fill in the Form: Complete the form by filing in the blanks (online, by typewriter, or by hand, neatly and in ink) according to the line by line instructions. If the form is not completely filled in, it will be returned to you, causing unnecessary delay. All of the information called for is necessary to:

- assist you in presenting your case
- provide the other party fair notice of what your motion is based on
- permit the court to handle your case efficiently and accurately.

At certain places, the form states you may attach additional information. Do this only if:

- necessary to state the change you are asking for, or
- necessary to state the change in circumstances.

If you do need to attach additional information:

- type or print neatly (in ink) & be very brief (State only the facts directly related to child support.)

4. Be Prepared to Pay the Filing Fee or to Request a Waiver: The filing fee is \$30.00. If you cannot afford the fee, you may fill out a Request for Waiver/Affidavit of Indigence (WSC form CV-410) available from our website, the office of the FCC or at <http://www.wicourts.gov/forms/CV-410.PDF> (Adobe Acrobat Reader) or <http://www.wicourts.gov/forms/CV-410.DOC> (Microsoft Word). If you are receiving any public assistance (W-2, SSI, Medical Assistance, Badger Care, Healthy Start, Food Share, Child Care Assistance, WIC, etc) you are automatically eligible for waiver of the filing fee. The family court commissioner will sign the order, doing one of the following:

- Granting the waiver
- Granting an extension of time to pay the fee
- Denying the request, if you are not indigent

5. Get a Hearing Date: Return the properly completed form to the Family Court Commissioner's office, to obtain a hearing date. The hearing will be set for one half hour.

In IV-D cases, the CSA will assist you in obtaining service on the other party and /or mail a copy of the motion to the other party and file the required Affidavit of Mailing for you. This will apply if:

- There is now or in the past has been any public assistance for the child(ren)
- You have previously applied for CSA services
- You are willing to apply for CSA services now and pay a one time \$25 fee

IF YOU ALREADY HAVE OR ELECT TO NOW APPLY FOR CSA SERVICES, THE CSA ATTORNEY MAY APPEAR AT THE HEARING. EVEN IF THE CSA DID NOT ATTEND THE HEARING, THE CSA MAY SUBMIT A MOTION SEEKING RECONSIDERATION OF THE ORDER.

6. Get Financial Disclosure Statement Forms: WCS form [FA-4139](#) is the Financial Disclosure Statement (FDS) form. It is available on our website and/or at <http://www.wicourts.gov/forms/FA-4139.PDF> (Adobe Acrobat Reader) or <http://www.wicourts.gov/forms/FA-4139.DOC> (Microsoft Word). It is also available from the FCC office. You are required to:

- complete one and bring it to the hearing
- staple a blank FDS form to the other party's copy of the motion

7. Make Copies of Your Motion: In addition to the original, copies of the motion are required. The number of copies needed depends upon how many other parties are involved in the case. If you and the other parent are the only parties, then you need only two copies: one for yourself, and one for the other parent.

If it is a IV-D case you will need an additional copy for the CSA. If there is presently a guardian *ad litem* (G.A.L.) for the child(ren) you will also need a copy of the motion for him or her. You may make your own copies of the motion, or have them made at the FCC office. Please note that there may be a minimal charge for the copies.

8. File and Provide Copies of the Motion and a Blank FDS Form to the Other Party:

After the hearing date has been set and the correct number of copies have been made, go to the Oconto County Clerk of Courts office in the courthouse to:

- File the original with the Clerk of Courts
- Pay the filing fee or file the FCC order waiving the fee

If it is a IV-D case:

- Keep your own copy of the motion
- Take the remaining copies to the Child Support Agency
- **The CSA will assist you in obtaining personal service on the other party, mail the motion and file an Affidavit of Mailing .**

If it is not a IV-D case:

- Keep your own copy of the motion
- Bring a copy of the Motion to the Sheriff's Department for personal service on the other party.

Wisconsin law requires **notice** (a copy of the motion and notice of the hearing date) **to the other party** or parties **at least five (5) days before the hearing**. The Sheriff's Department will provide you with an Acknowledgement of Service once the other party is served. Make a copy of the Acknowledgement and bring both the original and the copy to the Clerk of Courts Office for filing.

9. File an Affidavit of Mailing: If it is non- IV-D case, you must file an "Affidavit of Mailing" to show that you provided adequate notice to all other parties. This is WCS form **FA-4121**. It is available from this office, or online at:

<http://www.wicourts.gov/forms/FA-4121.PDF> (Adobe Acrobat Reader) or <http://www.wicourts.gov/forms/FA-4121.DOC> (Microsoft Word).

State that you mailed both the motion and the FDS form

- Sign the Affidavit of Mailing in the presence of a Notary Public. (The FCC legal secretaries are notaries and notaries may also be found at any bank or law office.)
- Then, make a copy for your own records & file the original with the Clerk of Courts.
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10. Attend the Hearing: Arrive on time and check in at the FCC service window. If you fail to appear, your motion will be dismissed. **Do not bring child(ren) to the hearing.**

- If the case is non-IV-D, or if it is IV-D but the CSA is unable to attend, you must present your own case.
- The party asking for a change in the order has the “burden of proof.” This means that you have to present the evidence. The commissioner may ask you and the other party questions, but only to clarify information presented.
- You may have others in the hearing room, but not at counsel table – and they may not present arguments for you or act on your behalf. (They may testify.)
- In most cases, the commissioner will make a decision and have the new order prepared. A copy will be sent to each party in the mail after the new order is filed.
- If it is a IV-D case and the CSA did not attend the hearing, the CSA may submit a motion seeking reconsideration of the order.
- The rights of the parties to request a hearing “de novo” (new hearing) by the circuit judge will also be explained at the end of the hearing.