

Changing a Child Support Order in Your State

 The information below applies only to New York

1. How can I find out if I have a “IV-D” child support case in this state?

Contact the court that issued the order, or call the NYS Child Support Helpline (CSHL) at 888-208-4485.

2. How can I contact my child support agency?

New York State Child Support Helpline: (888) 208-4485, Monday through Friday from 8:00 AM to 7:00 PM (TTY: 866-875-9975 – Video Relay Service <http://www.fcc.gov/encyclopedia/trs-providers>)

New York State website: childsupport.ny.gov

The mailing addresses for each local child support office are available on our website under the Local Child Support Offices tab, https://www.childsupport.ny.gov/DCSE/LocalOffices_input.action.

3. If I am incarcerated, are there any barriers to having my order changed?

Child support orders prior to October 13, 2010 are subject to incarceration being treated as “voluntary unemployment” and typically may not be modified. For orders issued after October 13, 2010, incarceration **shall not** be a bar to finding a substantial change in circumstances provided such incarceration is not the result of nonpayment of an order of support for child support, or an offense against the custodial parent or child who is the subject of the order or judgment.

4. Do you provide any materials online that I can use to ask for a change to my child support order?

No, but there is information in the brochure, “If Life Has Changed, so Can Your Child Support”, attached and available here: <http://otda.ny.gov/programs/publications/4960.pdf> Modification forms are available through the local child support office for IV-D cases, and the family court.

5. Do you have any printed materials I could read to learn more about child support for parents who are incarcerated?

No. The child support agency produced a DVD called “Child Support Information for Incarcerated NonCustodial Parents” for use in correctional facilities.

6. When can I ask to have my order changed?

Either party has the right to seek a modification of the order of support based upon a showing of a substantial change in circumstances.

Additionally, under certain conditions, an order of support for child support can be modified based upon: (1) the passage of three years since the order was entered, last modified or adjusted; or (2) a change in either party’s gross income by fifteen percent or more since the order was entered, last modified or adjusted. Note that bases (1) and (2) for seeking a modification of the order of support for child support do not apply if the: Original order establishing support was entered prior to October 13, 2010; or parties entered into a validly executed agreement or stipulation prior to October 13, 2010 which was incorporated into the original order of support; or parties have specifically opted out of the cases provided in (1) and/or (2) in a validly executed agreement or stipulation entered into on or after October 13, 2010.

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7. How do I request the change?

In New York modification of support orders is a judicial process. Assuming the other parent's address is known, the process is started by the completion of a modification petition and an affidavit in support of the petition along with any other supporting documentation and filing it with the court. A parent with questions about the modification process can obtain assistance by contacting the child support helpline or the court.

8. What is the process after I've asked to have my order changed, and how long does it take?

Once the petition is filed with the court, the matter is calendared by the court and a summons along with the petition is served on the non-modifying party. An initial hearing is set whereupon the matter could be resolved if there is agreement or it is adjourned for a fact finding hearing. The length of time varies.

9. Is this process different if the other parent agrees to the change in advance?

If the parties agree and are willing to stipulate to the modification petition, then the court may proceed to order the modification without need for further hearing.

10. Does it cost anything to try to have my order changed?

No if through the IV-D program, unless they ask for legal services. For non-IV-D cases, there may be filing fees.

11. If I am incarcerated, do I need to do anything else to have my order changed?

If the incarcerated parent cannot appear in person, arrangements can be made with the court for telephonic testimony.

12. If I am incarcerated, does my state have any programs to help me with child support?


Yes, child support staff visit 3 major correctional facilities in the State DOCCS system. There is also a specific child support video and leader's guide for inmates used in each facility.

13. Can I get help with child support questions from other sources?

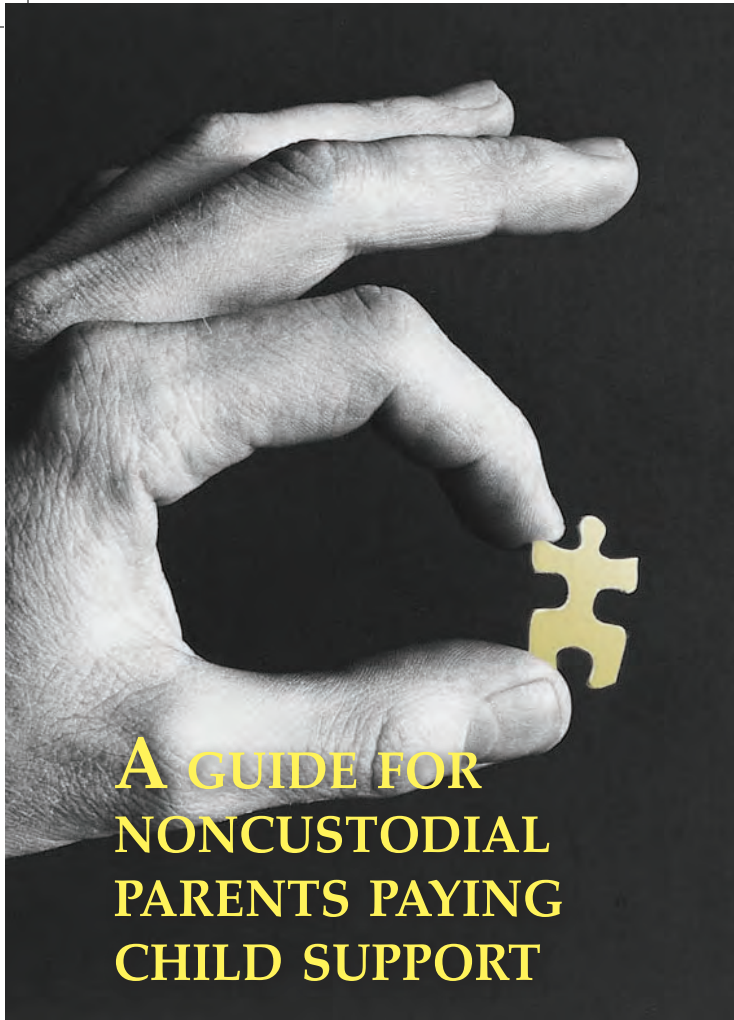
The New York State Unified Court System provides a modification packet available online at <http://www.nycourthelp.gov/diy/statewide.html>. NYS "DIY Forms" are only for court users who don't have a lawyer and legal services and pro bono attorneys and staff helping clients who cannot afford lawyers. The modification link is <http://www.nycourthelp.gov/diy/supportmodification.html>. These are fillable forms, with PDF of the "Support Petition for Modification (Form 4-11)" available at <http://www.nycourts.gov/forms/familycourt/childsupport.shtml>.

14. Is there anything else I should know about trying to change my order?

Filing a modification petition to change a support obligation should be done as soon as circumstances change that because the court can only provide relief retroactive to the date the petition for modification is filed.

 The federal Office of Child Support Enforcement prepared this guide; however, your local child support agency can provide the most current information. This guide does not have any binding legal authority and does not constitute legal advice. You may wish to consult a lawyer before using the forms or information provided.





A GUIDE FOR NONCUSTODIAL PARENTS PAYING CHILD SUPPORT

CAN THE CHILD SUPPORT AGENCY CHANGE THE AMOUNT I OWE?

No, only Family Court, based on a modification petition, can change the amount that you owe in child support. If you have experienced a change in circumstance, you need to file a modification petition with Family Court.

WHAT SITUATIONS QUALIFY AS A CHANGE IN CIRCUMSTANCE?

Family Court will consider a change in circumstance if:

- A noncustodial parent becomes unemployed or experiences a reduction in income through no fault of their own.
- A noncustodial parent obtains custody of the child.
- A child becomes emancipated. For example, they work full-time, join the military, or get married.

WHEN SHOULD I FILE A MODIFICATION PETITION?

You should file a modification petition as soon as you experience a change in circumstance. You should file as soon as possible because if Family Court changes the amount you owe, they can only change the amount you owe back to the date you filed the petition, not back to the date you experienced the change.



HOW DO I FILE A MODIFICATION PETITION?

There are a few ways to file:

- Visit the Family Court where your court order was issued and complete a Support Petition for Modification form (also known as form 4-11).
- Call the Family Court where your child support order was issued and they will mail you the Support Petition for Modification form. Fill it out and mail it back.
- Go to the Office of Court Administration website at www.nycourthelp.gov. From there: click on the link for "DIY (Do-It-Yourself) Forms;" "Programs For Statewide Courts;" "Family Court Modification Petition Program;" and then "Start the Support Modification Program." You'll need to mail the completed form to the Family Court where your child support order was issued and they will schedule a hearing date.
- Applying for child support services with local child support agency and requesting assistance in filing a modification petition.

WHAT IF I CAN'T TRAVEL TO MY HEARING?

Upon request, Family Court may allow a noncustodial parent to appear at a hearing by telephone (also known as telephonic testimony). Telephonic testimony is designed to allow parties to appear at their hearing when:

- They do not reside in the county (or a nearby county) where the hearing is held.
- Traveling would cause undue hardship.
- They are incarcerated.

Prior approval of telephonic testimony is required, so you must make sure you request that when you file your modification petition.

WHAT INFORMATION SHOULD I BRING TO MY COURT HEARING?

You will need to bring the following documents to court:

- A signed and notarized financial affidavit
- Recent pay stubs
(or unemployment check stubs)
- Most recent tax returns
- W-2's
- Custody papers or documents to prove you have custody of the child if you are claiming a change in custody
- Information to prove your claim that the child has become emancipated

If you are appearing by telephonic testimony you will need to mail or fax the documents to the Support Magistrate prior to the hearing.

WHAT IF I STOP PAYING CHILD SUPPORT?

Remember, child support is meant to provide financial support to your child so if you stop paying your child may suffer. If you fail to pay all or some of what you owe, the child support agency will take enforcement actions to collect the money. This is done by taking tax refunds, lottery winnings, suspending your driver's license and seizing your bank account. They also notify credit reporting agencies about your debt. Family Court may also take enforcement actions to collect the money you owe by issuing money judgments; suspending state issued business, professional or occupational licenses; and issuing probation or jail sentences.



State of New York

New York State
Office of Temporary & Disability Assistance
Center for Child Well-Being
Division of Child Support Enforcement

Pub #4960

IF LIFE HAS CHANGED...

SO CAN YOUR CHILD SUPPORT

