

MOTION TO ESTABLISH/MODIFY VISITATION

INSTRUCTIONS

NOTES: IN 1991, OHIO DOMESTIC RELATIONS LAW CHANGED SIGNIFICANTLY. USE THE ATTACHED FORMS.
(AUGUST 1991)

This packet contains three (3) legal forms that you may need to request a modification of visitation. The forms enclosed are: (1) Motion to Establish/Modify Visitation, (2) Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), and (3) Affidavit of Inability to Prepay or give Security for Costs. In every parenting proceeding, a Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) **MUST** be included with the Motion. These instructions are intended to be a general guide to help you get the forms filled out, filed with the Court, served on the opposing party and to get your request properly before the Judge/Magistrate. These instructions are not intended to be a legal analysis of your request but are merely to assist you in preparing and presenting your request. ***PLEASE READ ALL THE INSTRUCTIONS BEFORE YOU BEGIN TO COMPLETE THE FORMS.***

PLEASE PRINT ALL INFORMATION CLEARLY.

A. **FILLING OUT THE FORMS:**

1. You should fill out these forms **before** you go to the Courthouse to file them. **THE COURT STAFF WILL NOT HELP YOU IN COMPLETING THESE FORMS.** They can only provide you with general information concerning your case number, and the date and time of your hearing. **PLEASE PRINT ALL INFORMATION CLEARLY.**
2. **MOTION TO ESTABLISH/MODIFY VISITATION** - In the #1 blank, fill in the county that previously ordered visitation or established paternity. In the #1A blank, fill in the Case Number. In the #2 blank, fill in the Plaintiff's name. In the #3 blank, fill in the Defendant's name. In the #4 blank, fill in your name. In the #5 blank, fill in the reason for the request. In the #6 blank, fill in the requested visitation schedule. In the #7 blank fill in the reason this will be in the child(ren)s best interest and the reason that you think the Motion should be granted. In the #8 blank, you should sign your name and fill in your address.
3. You will also need a **DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)**, which is enclosed.
4. The UCCJEA **MUST** be filled out completely and notarized. If this document is not filed, the Court has no jurisdiction over this matter and the Court cannot hear your case. **THE COURT STAFF WILL NOT NOTARIZE THESE DOCUMENTS FOR YOU.** A Notary Public can be found by looking into the yellow pages or can often be found at your local bank.
5. Leave the **MAGISTRATE'S ORDER/NOTICE OF HEARING** blank until you are at the Courthouse and ready to file the Motion. The Clerk's office may give you the date and time of the hearing. If they do, fill in the blank while at the Clerk's office.
6. You will also need to file a **REQUEST FOR SERVICE**. Fill in the names of the children and case number on the Request for Service just as you did on the Motion. You should probably check the box for certified mail service, though you have other options. In the spaces provided, write in the names and address of the people you want served with these papers. In general, the natural parents and the caretaker of the child(ren) will need to be served.
7. You must have a valid address of the other party for the Clerk's office to mail the Motion. ***IF YOU DO NOT HAVE A VALID ADDRESS FOR THE OTHER PARTY, DO NOT FILE THE MOTION.*** The Judge/Magistrate has no authority to grant your Motion unless the other person has been served with a copy of the papers and has been given an opportunity to be heard on the Motion.

B. FILING THE MOTION:

1. After you have filled all the forms out, go to the Clerk of Juvenile Court's office at the County Courthouse in the county where the last order for custody was made. This is the only place you can file the Motion.
2. All cases require the payment of Court costs. **When you file your case, you should be prepared to pay a deposit of \$70.00.** This is an initial deposit. If your costs exceed this amount, you will be billed for the balance.
3. If you are unable to prepay these Court costs, you must fill out the enclosed **AFFIDAVIT OF INABILITY TO PREPAY OR GIVE SECURITY FOR COSTS.** ***DO NOT*** sign this Affidavit unless you are in front of a Notary Public. **THIS MUST BE DONE BEFORE YOU TAKE THE PAPERS TO THE COURT FOR FILING.** The Judge/Magistrate will review this Affidavit and decide whether or not you are permitted to file your documents without prepaying the Court costs. *Remember, this does not mean that you will never have to pay Court costs.* It means that you will not have to ***prepay*** the costs. It is up to the Court to decide who pays Court costs. As a general rule, ***ANYONE WHO IS EMPLOYED MUST PAY THEIR COSTS AT THE TIME OF FILING.***

C. **HEARING:**

1. You should be prepared for the hearing. You should be neat, clean and appropriately dressed. You must have with you at the time of the hearing any witnesses that you want to verify why the Motion should be granted. You should also have with you any papers or other documents or evidence (such as work schedules, etc.) that you want the Judge/Magistrate to see during your case. Because the Court may ask you about your financial information, you should bring with you proof of your income (i.e. letter from the Welfare Office [Department of Jobs and Family Services], letter from employer, check stubs, letter from Social Security, etc.).
2. You should have in front of you at the start of the hearing the specific part of the Court's prior Order that you want to have changed. You should tell the Judge/Magistrate in clear and simple terms why you want the change and why it is in the best interest of your child(ren) to have the Motion granted. The hearing is your opportunity to present your side of the story, so make certain that you include everything in your testimony. It may be helpful if you sit down before the hearing and make a written outline of everything that has happened and the current circumstances that support your Motion so that you will have something you can use to remind yourself of what it is you want to say when you testify.
3. **VERY IMPORTANT!** Time is limited. Restrict yourself to the issue before the Court and the factors involved with that issue. The Judge/Magistrate will only want to hear the evidence that you have that shows or supports the specific Motion before the Court.
4. At the hearing you may be asked questions by the Judge/Magistrate, or the other party in this case or the attorney of the other party, if there is one. You must answer the questions truthfully, but you don't need to volunteer information. Listen to the question and make sure that you are providing the information that you were asked. If you do not understand a question, or are not sure what you are being asked, you have the right to have the question explained to you before answering it.
5. The Judge/Magistrate **may not** make the decision to grant your Motion at the end of this hearing. Listen closely to what the Judge/Magistrate has to say at the end of the hearing to know if the matter will be taken "under advisement" or if the Motion was granted or denied.

**Confidential Information Page
Juvenile Court**

Please complete the following information. You do not need to make copies of this page, but you must submit this form when filing ANY document that includes social security numbers or financial account numbers. This will allow the court to have needed demographic information without it being released to the other parties on your case.

*****This form – which will include complete social security numbers – will be kept in a confidential envelope in your file and will not be available for public viewing.**

On your filing (not this form), you must only place the last four digits of the social security number or the account number (in each area required). It should appear in this format: xxx-xx-1234. Addresses and Dates of Birth may only be omitted if you present a valid protection order, or proof under the Family Violence Act.

Case No. _____

Case Caption: _____

SETS No. (if applicable): _____

Plaintiff/Petitioner #1

Defendant/Respondent #1

Name

Name

DOB: _____

DOB: _____

SSN: _____ (complete number)

SSN: _____ (complete number)

Address

Address

City State Zip

City State Zip

Plaintiff/Petitioner #2

Defendant/Respondent #2

Name

Name

DOB: _____

DOB: _____

SSN: _____ (complete number)

SSN: _____ (complete number)

Address

Address

City State Zip

City State Zip

Minor Children:

Child #1:

Name
DOB: _____
SSN: _____

Child #2:

Name
DOB: _____
SSN: _____

Child #3:

Name
DOB: _____
SSN: _____

Child #4:

Name
DOB: _____
SSN: _____

Additional Parties:

Name
DOB: _____
SSN: _____ (complete number)

Additional Parties:

Name
DOB: _____
SSN: _____ (complete number)

Address

City State Zip

Address

City State Zip

Name
DOB: _____
SSN: _____ (complete number)

Name
DOB: _____
SSN: _____ (complete number)

Address

City State Zip

Address

City State Zip

Additional Information (ex. COMPLETE Financial Account Numbers, Employer ID numbers):

STATE OF OHIO, (1) _____ COUNTY, SS:
IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION

(2) _____
Plaintiff

CASE NO.: (1A) _____

vs.

**MOTION TO ESTABLISH/
MODIFY VISITATION**
(Oral Hearing Requested)

(3) _____
Defendant

I, (4) _____, move this Court to establish and/or modify
visitation with my child(ren). A court ordered visitation schedule is requested because:

(5) _____

I am requesting the following visitation schedule be ordered by the Court:

(6) _____

It is in the best interest of the child(ren) that this be granted because: (7) _____

Respectfully submitted,

(8) _____
Signature

Phone Number

Address

IN THE _____ COURT
 _____ COUNTY, OHIO

 Petitioner

Case No. _____

v.

Judge: _____

 Respondent

**INFORMATION FOR PARENTING PROCEEDING
 AFFIDAVIT (R.C. 3127.23(A))**

**(Filed with Petition for Domestic Violence Civil
 Protection Order)**

NOTE: By law, an affidavit **must** be filed and served with the first pleading filed by each party in every parenting (custody/visitation) proceeding in this Court, including a Petition for a Domestic Violence Civil Protection Order. Each party has a continuing duty while this case is pending to inform the Court of any parenting proceeding concerning the child(ren) in any other court in this or any other state. **If more space is needed, attach an additional page.**

I (full legal name) _____, being sworn according to law, certify these cases involve the custody of a child or children and the following statements are true:

1. I am requesting the court to not disclose my current address or that of the child(ren). My address is confidential pursuant to R.C. 3127.23(D) and should be placed under seal in that the health, safety, or liberty of myself and/or the child(ren) would be jeopardized by the disclosure of the identifying information.

2. **(Number):** _____ **Minor Child(ren) are subject to this case as follows:**
 (Insert the information requested below. The residence information must be given for the last FIVE years.)

a. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)		Relationship
to present	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

b. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)	Relationship	
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

c. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)	Relationship	
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

e. Additional children are listed on Attachment 2(d). (Provide requested information for additional children on an attachment labeled 2d.)

3. **Participation in custody case(s): (only one)**

- I **HAVE NOT** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time) with any child subject to this case.
- I **HAVE** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time) with any child subject to this case.

Explain:

- a. Name of each child _____
- b. Type of case _____
- c. Court and State _____
- d. Date and court order or judgment (if any): _____

4. **Information about custody case(s): (only one)**

- I HAVE NO INFORMATION** of any cases that could affect the current case, any cases relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations or adoptions concerning any child subject to this case.
- I HAVE THE FOLLOWING INFORMATION** concerning cases that could affect the current case, including any cases relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations or adoptions concerning any child subject to this case, other than listed in Paragraph 3.

Explain:

- a. Name of each child _____
- b. Type of case _____
- c. Court and state _____
- d. Date of court order or judgment (if any): _____

5. List all of the criminal convictions including guilty pleas for you and the members of your household for the following offenses: any criminal offense involving acts that resulted in a child being abused or neglected; any offense that is a violation of R.C. 2919.25; any sexually oriented offense as defined in R.C. 2950.01; and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

NAME	CASE NUMBER	COURT/STATE/COUNTY	CHARGE

6. **Persons not a party to this case: (only one)**

- I DO NOT KNOW OF ANY PERSON** not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.
- I KNOW THAT THE FOLLOWING NAMED PERSON(S)** not a party to this case has/have physical custody or claim(s) to have custody or visitation rights with respect to any child subject to this case:

a. Name and address of person _____

- has physical custody claims custody rights claims visitation rights

Name of each child _____

b. Name and address of person _____

- has physical custody claims custody rights claims visitation rights

Name of each child _____

c. Name and address of person _____

- has physical custody claims custody rights claims visitation rights

Name of each child _____

7. **I understand that I have a continuing duty to advise this Court of any custody, visitation, parenting time, divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights, or protection from domestic violence case concerning the child(ren) in this state or any other state about which information is obtained during this case.**

OATH OF AFFIANT

I hereby swear or affirm that the answers above are true, complete and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under Ohio Revised Code 2921.11.

AFFIANT

Sworn to and subscribed before me on this _____ day of _____, _____

NOTARY PUBLIC

STATE OF OHIO, _____ COUNTY, SS:
IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION

Plaintiff

CASE NO. _____

vs.

**AFFIDAVIT OF INABILITY TO PREPAY
OR GIVE SECURITY FOR COSTS**

Defendant

STATE OF OHIO)
) SEC. 2323.31 REVISED CODE
)
_____) COUNTY)

I, the undersigned, a party in the above captioned case, being first duly sworn, represent to the court that I am unable either to prepay or give security for costs in this action and request the Clerk to accept the attached pleading herein without prepaying or giving security for costs as provided by Sec. 2323.21 of the Revised Code.

In support of this request, I submit answers to the following questions:

1. What is your age? _____ years.
2. Do you have any children? _____ If so, give names and ages.

3. What is your occupation or business? _____
4. What did you earn during the past year? _____
5. Are you employed? _____ If so, give names and addresses of your employer(s). _____

6. What is your hourly rate? \$ _____ /hr.
How many hours per week do you work? _____
What have you earned so far this year? _____

7. Do you own any real estate? _____ If so, give its value _____
Is it mortgaged? _____ If so, give the mortgage _____
8. Do you own an automobile? _____ If so, what is the value? _____
9. What other thing(s) do you own? _____
What debts are against it (them)? _____
10. Have you made an advance payment to your attorney for his services in this case? _____ If so, how much? _____ Who paid it? _____
11. Do you have any securities or bank accounts? _____
If so, give its value _____
12. Are you receiving public assistance? _____
If so, what kind? _____ How much? _____

OATH OF AFFIANT

STATE OF OHIO)
)
 _____ COUNTY)

I hereby swear or affirm that the answers above are true, complete and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under Ohio Revised Code §2921.11.

AFFIANT

Sworn to and subscribed before me on this _____ day of _____, _____

NOTARY PUBLIC

STATE OF OHIO, _____ COUNTY
IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION

CASE NO. _____

Plaintiff

vs.

MAGISTRATE'S ORDER
NOTICE OF HEARING

Defendant

Upon the Motion to Modify/Establish Visitation filed _____,
20____, by _____ and for good cause shown, this matter shall
come on for hearing on the _____ day of _____, 20____,
at _____ o'clock ____m.

Magistrate

cc: _____

