

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when the court has ordered child support and you want the court to modify monthly child support payments. You can use this form if you want to modify child support to a higher or lower amount.

FORMS INVOLVED. The form is a **Motion for Modification of Child Support**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court. Remember you need to mail a copy to the opposing party and fill out the certificate of service showing that you did mail a copy of the motion to the opposing party.

How to file a Motion for Modification of Child Support. You must file your motion for modification of child support by filing the original with the court and by mailing a copy to the opposing party if they are not represented by legal counsel or to their attorney if the opposing party is represented. The clerk will find a hearing date and send notice of hearing to all parties.

BURDEN OF PROOF. If you file a Motion for Modification of Child Support, you have the burden of proving that claim in court. In a typical civil case you have the burden of proving your claim by a preponderance of the evidence. This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). You as the moving party have the burden of showing the following to the court:

If there was an agreement between the parties regarding child support, the person seeking modification (the moving party) of child support only has to show the court that modification would be in the best interest of child(ren).

If the issue of child support were contested and the court made these decisions after a trial then the person seeking modification must show two (2) things in order for the court to modify a custody or visitation order. First, the moving party must show that there has been substantial and material change of circumstances since the order was entered. Second, the moving party must also show that modification would be in the best interest of the child(ren).

You will need to prove one of the party's income has either increased or decreased through no fault of their own (meaning they didn't voluntarily take a job with less pay). If a party is fired or terminated from their employment may not be grounds for modifying their support obligation because they would be at fault for being fired or terminated.

Or you may not prove that the costs of the special needs of the child(ren) require an increase in child support.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form

where the information for that number needs to be inserted on the form.

Instructions for filling out the motion:

- (1) on this line insert the name of the plaintiff from the order you are seeking to modify.
- (2) on this line insert the name of the defendant from the order you are seeking to modify.
- (3) insert your name
- (4) insert the date of the order you want to have modified.
- (5) insert the reasons you want the child support order modified. Look at the burden of proof section of the brochure to see whether you need to show a substantial and material change of circumstances or what is in the best interest of the child(ren) or both.
- (6) on this line insert the day.
- (7) on this line insert the month.
- (8) on this line insert the year.
- (9) on this line insert your name by signing.
- (10) on this line insert the address where you mailed your motion for modification of child support. It will be either the opposing party if they are not representing by legal counsel or to their attorney if the opposing party is represented.

**ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)**

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

MOTION FOR MODIFICATION
OF CHILD SUPPORT

VS

(2) _____

DEFENDANT(S)

Comes now (3) _____ and moves this Court to modify its order of child support herein as follows:

1. That on (4) _____, this Court entered an order of child support and is contained in the court file herein.

2. That I move this court to modify its order for the following reasons:

(5) _____

_____.

Wherefore, the undersigned prays this court to issue an order:

- A. Modifying its previous order as prayed for;
- B. Setting this matter for hearing;
- C. For any other relief the court finds just and equitable.

Dated this (6) _____ day of (7) _____, (8) _____.

(9) _____
Plaintiff/Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that I mailed a true and correct copy of this Motion for Modification of Child Support upon the opposing party(s) or their attorney by first class mail at (10) _____

_____.

Dated this (6) ____ day of (7) _____, (8) _____.

(9) _____
Plaintiff/Defendant