

# **PETITION TO MODIFY PARENTING TIME (VISITATION) and CHILD SUPPORT**

# **3**

**When Parties Do Not Agree**

Part 3: Getting the Court Order

(Instruction Packet)

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# TO CHANGE A COURT ORDER FOR PARENTING TIME AND CHILD SUPPORT

## PART 3 – THE COURT ORDER

(INSTRUCTIONS ONLY)

This packet contains instructions to file a petition to modify parenting time and child support. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

Order	File Number	Title	# Pages
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4	DRMV80p	Procedures: How to Get Your Order to Modify Signed by a Judge	1
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**INSTRUCTIONS: HOW TO COMPLETE COURT PAPERS TO MODIFY PARENTING TIME (VISITATION) AND CHILD SUPPORT**

**STEP 1: Complete the forms in this packet before you go to your court hearing.**

- Have in front of you a copy of the current **“Parenting Plan”** (if you have one), **“Child Custody/Parenting Time Order,”** the **“Child Support Order,”** and any **“Income Withholding Order”** You will need to look at these documents to complete the paperwork and to answer the Judge’s questions at the hearing.

**STEP 2: Complete the Order Modifying Parenting Time and Support.**

- If your court order was originally from another county, make sure you use the new case number the Maricopa County Clerk of the Court assigned you.
- Leave the rest of the Order blank for the Judge to fill in.

**STEP 3: Complete the other necessary documents to change parenting time and child support.**

- **Parenting Plan.** See the **“Joint Custody Information”** document in this packet and the **“Planning for Parenting Time: Arizona’s Guide for Parents Living Apart”** booklet for help. The **Guide** is available for purchase at all Superior Court Self-Service Center locations, **or** may be viewed online and downloaded for **free** from the state courts’ web page.
- **Hints to help you complete the “Parenting Plan.”**
  1. State your parenting time arrangements as clearly as possible. For example, **“Alternating weekends from after work on Friday, at 6:00 p.m. until Sunday at 6:00 p.m.”**
  2. Avoid vague or unclear statements such as “will share, will divide, or will decide later.” These statements may result in future disputes related to different interpretations. Although flexibility and mutual agreement is encouraged, the document must be specific to be legally enforceable.
- **“Current Employer Information Sheet.”** – Required if this modification results in:
  1. the person currently ordered to pay *no longer having to pay*, **AND**
  2. another person *now* having to pay *who did not under the previous Order*.

**If BOTH situations result from this modification, copy this form before filling it out! You will need one for:**

1. the party who gets to stop making payments, (and a separate one for)
2. the party who must begin making payments.

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### PARENTING PLAN INFORMATION

#### **A.R.S. § 25-401 defines legal decision-making and parenting time as follows:**

1. **"Legal Decision-Making"** means the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions.
2. **"Joint Legal Decision-Making"** means both parents share decision-making and neither parent's rights or responsibilities are superior except with respect to specified decisions as set forth by the court or the parents in the final judgment or order.

**PARENTS PLEASE NOTE:** Per A.R.S. § 25-403.09, an award of joint legal decision-making or a substantially equal parenting time plan does not diminish the responsibility of either parent to provide for the support of the child. Also note that joint legal decision-making does not necessarily mean equal parenting time. A.R.S. § 25-403.02(E)

3. **"Sole Legal Decision-Making"** means one parent has the legal right and responsibility to make major decisions for a child.
4. **"Parenting Time"** means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.

You may view the "Parenting Time Guidelines" online at the Arizona Supreme Court's website.

#### **Drafting a Parenting Plan:**

The written parenting plan pays attention to how the parents will make decisions pertaining to the child(ren)'s education, health care, religious training, and personal care; it is a blend of specific information with generalized plans of action. It should reflect what the parents are currently doing or what they actually plan to do. It should reflect a commitment to the minor child(ren)'s needs as predominant.

If the parents cannot agree on a plan for legal decision-making or parenting time, each parent must submit a proposed parenting plan. A.R.S. § 25-403.02(A)

**In order for the court to approve a parenting plan, A.R.S. § 25-403.02 requires the court to make the following findings:**

- a. The best interests of the minor child(ren) are served;
- b. The plan designates legal decision-making as joint or sole;
- c. The plan sets forth each parent's rights and responsibilities for the personal care of the minor child(ren) and for decisions in areas such as education, health care, and religious training;
- d. The plan provides a practical schedule of parenting time for the child, including holidays and school vacations;
- e. The plan includes a procedure for exchanges of the child, including location and responsibility for transportation;

- f. The plan includes a procedure by which proposed changes, disputes and alleged breaches may be mediated or resolved, which may include the use of Conciliation Services or private counseling;
- g. The plan includes a procedure for periodic review (e.g., parents agree to review the terms of the agreement every 12 months.);
- h. The plan includes a procedure for communicating with each other about the child, including methods and frequency;
- i. The plan includes a statement that each party has read, understands, and will abide by the notification requirements of A.R.S. § 25-403.05(B). (A parent must immediately notify the other parent if the parent knows that a convicted/registered sex offender or a person who has been convicted of a dangerous crime against children may have access to the child. Notice must be provided (i) by first class mail, return receipt requested, (ii) by electronic means to an e-mail address the recipient provided to the parent for notification purposes, or (iii) by other communication accepted by the court.)

The following questions may be used as a starting place when drafting a parenting plan:

1. **The geographical location of the parents:** Where do parents live relative to one another? What are their addresses? Permanent or temporary?
2. **Arrangements regarding the residential requirements of the minor child(ren):** How much time will the minor child(ren) spend with each parent? Be as specific as possible, including days and times.
3. **Arrangements for holidays and vacations:** What are your plans for summer vacation and school breaks? List specific details including dates and times.
4. **Arrangements for education:** How will decisions be made for educational matters? For example, if preschool age, what school will the minor child(ren) attend? If private school, who pays what?
5. **Additional transportation arrangements:** Will any additional transportation arrangements be needed? If so, what will be the responsibilities of each parent?
6. **Determinations regarding minor child(ren)'s health care:** For example, how will medical decisions be made? Who will provide insurance? How are non-insured expenses paid? Who decides on seeking non-emergency treatment? Is there a dental plan? If not, who will pay what?
7. **Arrangements regarding extraordinary expenses:** For example, what financial arrangements are made for the minor child(ren) (such as each sharing extraordinary expenditures and the parent with whom the minor child(ren) resides bearing the ordinary ones during the minor child(ren)'s residency)? A fixed amount per month?
8. **Arrangements for minor child(ren)'s religious training, if any:** For example, how will decisions be made for religious training? What, if any, are the plans for religious training?
9. **Any other factors:** What other arrangements (such as music lessons, sports/activity fees, camp or Scouts) are needed?

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**PROCEDURES: HOW TO GET YOUR ORDER TO MODIFY  
SIGNED BY THE JUDGE**

**STEP 1** Make two (2) copies of the following documents\*:

*“Order Modifying Parenting Time and Child Support”*

*“Parenting Plan”*

*“Order Stopping Income Withholding Order”*<sup>1</sup> (if applicable)

*“Current Employer Information Sheet”*<sup>2</sup> (for person who gets to stop paying) (if applicable)

*“Current Employer Information Sheet”*<sup>3</sup> (for person newly ordered to pay) (if applicable)

**STEP 2** Separate your documents three (3) sets: One set of Originals and Two sets of copies:

<p><b>Set 1 (Originals):</b></p> <p><i>“Order Modifying Parenting Time and Child Support”</i> <i>“Parenting Plan”</i> <i>“Order Stopping Income Withholding Order”</i><sup>1</sup> <i>“Current Employer Info. Sheet”</i> (for current payor)<sup>2</sup> <i>“Current Employer Info. Sheet”</i> (for new payor)<sup>3</sup></p>	<p><b>Set 2 (Copies for you)</b></p> <p><i>“Order Modifying Parenting Time and Child Support”</i> <i>“Parenting Plan”</i> <i>“Order Stopping Income Withholding Order”</i><sup>1</sup> <i>“Current Employer Info. Sheet”</i> (for current payor)<sup>2</sup> <i>“Current Employer Info. Sheet”</i> (for new payor)<sup>3</sup></p>
<p><b>Set 3 (Copies for Other Party)</b></p> <p><i>“Order Modifying Parenting Time and Child Support”</i> <i>“Parenting Plan”</i> <i>“Order Stopping Income Withholding Order”</i><sup>1</sup> <i>“Current Employer Info. Sheet”</i> (for current payor)<sup>2</sup> <i>“Current Employer Info. Sheet”</i> (for new payor)<sup>3</sup></p>	<p><b>NOTE :</b></p> <p><sup>1</sup> Required <b>only</b> if this modification results in the person who is currently ordered to pay <i>no longer</i> having to pay. <sup>2</sup> Required if this modification results in the person who is currently ordered to pay no longer having to pay. <sup>3</sup> Required if this modification results in a (new) person having to pay who did not under the previous Order.</p>

**STEP 3** Take the documents to your court default hearing or to your trial for the Judge to review and sign if he or she approves them.

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**INSTRUCTIONS FOR COMPLETING AN  
“ORDER STOPPING AN INCOME WITHHOLDING ORDER”**

**DEFINITIONS:**

"Obligor" "Payor" is the person ordered to make support payments.

"Obligee" "Payee" is the person or agency entitled to receive support.

**COMPLETE THIS FORM IF:**

You completed a ***“Request to Stop Income Withholding Order”*** and marked a box in Section A of Item 8 on the Request form.

**TO COMPLETE THIS FORM YOU WILL NEED:**

Information from, or your copy of, the ***“Income Withholding Order.”***

**FOLLOW THESE INSTRUCTIONS NUMBERED TO MATCH THE IDENTIFYING NUMBERS ON THE FORM. TYPE OR PRINT NEATLY USING BLACK INK.**

- (1) Fill in the name of the person shown as the petitioner on the ***“Income Withholding Order.”***
- (2) Fill in the name of the person shown as the respondent on the ***“Income Withholding Order.”***
- (3) Fill in the case number that appears on the ***“Income Withholding Order.”***
- (4) Fill in the Atlas Number on the ***“Income Withholding Order.”***
- (5) Fill in the name and social security number of the person shown as the respondent on the ***“Income Withholding Order.”***
- (6) Fill in the date the ***“Income Withholding Order”*** was signed (Item 10 on the Order).

Leave the rest of the form blank. The judicial officer (judge, commissioner, or referee) will complete the remaining items at the time of hearing.