

### Is there a filing fee?

Yes, there is a filing fee.

Modify legal custody or physical placement - \$50.00

Modify all other types of orders - \$30.00.

Contact your local Clerk of Court to learn about any other associated fees.

### Must I notify the other party?

Yes, you must serve notice of the hearing along with the court papers on the other party no later than five (5) business days before the date of the hearing.

### How do I serve a motion?

You must serve the documents you filed on the respondent. Your local Sheriff's Department, a private process server, or a private person (over the age of 18) may serve the documents. You, as petitioner, may not personally serve the papers. The Sheriff's Department or private process server will charge you for serving the papers.

The person serving the papers will have to fill out an Affidavit of Service Form. The process server must sign the affidavit in front of a Notary Public and then file it at the Clerk of Courts office prior to the hearing. If this is not possible, you should bring the form with you to the hearing.

### What will happen at the hearing?

At the final hearing you must show the court what you want changed since the last order was entered and why. The court will then determine if you have met the standard for modification.

The courts only have the best interest of the child in mind and do not favor one parent or another.

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## Post Judgment Motions

### *Modification/Change Legal Custody, Physical Placement, Child Support or Maintenance*

Explanations,  
procedures and where  
to go for help.

Sponsored by: Wisconsin's  
Ninth Judicial District  
Self-Represented Litigants  
Committee

Disclaimer: This brochure is intended to provide the public with general information regarding post judgment motions. It is in no way intended to be legal advice. You must contact a licensed attorney for specific legal advice.

## Legal Definitions:

### The Percentage Standards in a Non-Shared Placement Case:

The Percentage Standards are:

- 17% for one child
- 25% for two children
- 29% for three children
- 31% for four children
- 34% for five or more children

For more information on child support, visit the Department of Workforce Development at [www.dwd.state.wi.us](http://www.dwd.state.wi.us).

### Can I file a motion to modify/change at any time?

Yes, you may file a motion at any time. However, according to *Wisconsin Statute 767.451*, a court may not modify physical placement or custody within two years unless there is substantial evidence that modification is necessary because the current custodial conditions are physically or emotionally harmful to the best interest of the child.

### What may the court order if we cannot come to an agreement?

Cou<sup>t</sup>In custody and/or placement disputes the court may cou<sup>o</sup>order mediation. Mediation helps you come to an lea<sup>s</sup>agreement with the assistance of an impartial third party.

Eac<sup>h</sup>sup A Guardian ad Litem may also be ordered by the for court. This is an attorney who is assigned assess the best interests of the child and make a recommendation Th<sup>e</sup>to the court.

sup<sup>er</sup>The court may feel that a home study should be done The<sup>y</sup>by Family Court Counseling Service or other agencies. sha<sup>re</sup>A social worker conducts the investigation and the results are used by the courts to help decide what is in the child's best interest.

### What forms do I need?

FA-4170 Notice of Motion and Motion to Change- Notice of Change – Post Divorce

FA-4171 Order to Show Cause (OTSC) and Affidavit- Order to Show Cause

FA-4175 Decision & Order on Motion or OTSC- Decision and Order on Motion or OTSC

### What If we come to an agreement on our own?

FA-604 Stipulation Order to Amend Judgment for Support/Maintenance/Placement. Allows parties to stipulate to certain modifications of an original family court judgment for child placement, custody, and support issues. This eliminates the need for a court hearing.

### Where do I get the forms I need?

You can get the forms you need from your local Clerk of Court, or you can get them on the Wisconsin Court System's Self-Help Center quick link at [www.wicourts.gov](http://www.wicourts.gov)

### How do I fill out the Forms?

When filling out the forms, be very precise regarding the changes you want and why you believe the proposed change is best for the child. Make sure the forms are filled out completely. Type or print neatly. The court must be able to read your writing and have no questions about what it is you are asking for.

### What do I do after I have the forms filled out?

After the forms are filled out, make five (5) copies. Take these to your local Clerk of Courts and file your motion. You will then get a time and date for the hearing. Write the time and date on all copies. The Clerk of Courts will keep the original and two copies. You will need to keep one copy for yourself, and you will need the other two copies to be served on the other party.