

How to File to Modify Child Support

How do I change a Child Support Order

To change a Child Support Order, you must prove one of the following (unless by prior court order or agreement you have opted out of one and/or 2 of these provision):

1. Three years have passed since the order was last entered, modified, or adjusted; or
2. There has been a change in either party's gross income by 15% or more since the order was entered, modified, or adjusted; or
3. There has been a substantial change in circumstances.

NOTE: For support orders dated prior to October 2010, the basis for a modification is only a showing of a substantial change in circumstances.

Examples of a substantial change in circumstances are: a change in custody, an injury or disability that renders the payor unable to work, etc. You must prove that something has happened since the order was last entered, modified, or adjusted.

Where can I find the forms to file the Child Support Modification Petition?

You can find the forms on the court's website, or obtain copies from Family Court.

<https://ww2.nycourts.gov/forms/familycourt/childsupport.shtml>

What if I think the payor changed their income to get out of paying?

A reduction in income shall not be considered as a ground for modification when the reduction was **voluntary**. For example: if a party is terminated from employment and that party has not made diligent efforts to secure employment that is related to his or her education, ability, and experience, the Court will not consider this as a ground to modify.

What if there was a Cost of Living Adjustment (COLA)?

A COLA can be automatically done by the Support Collections Unit for older orders. This does not restart the time for the basis listed above.

Can I get a free Attorney?

You are not entitled to free counsel through the Assigned Counsel Program (Erie County) or the Public Defender's office (Niagara County) in actions to obtain, modify or enforcement child support orders. You are only entitled to free counsel if you are a Respondent in a support action and you are facing jail time for willful non-payment of child support.

Can I represent myself?

Yes. You can file a petition and represent yourself in Family Court in a support action. See Support Actions in Family Court for more information.