

1 Case No.

2 Dept. No.

3 The undersigned hereby affirms this document

4 Does not contain a social security number.

5
6 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
7 NEVADA IN AND FOR THE COUNTY OF WHITE PINE

8
9
10 _____
11 Plaintiff,

12 Vs.

13 _____
14 Defendant.

**MOTION FOR ORDERS TO MODIFY
CHILD CUSTODY, VISITATION,
AND/OR CHILD SUPPORT**

15 TO: Name of Opposing Party and Party's Attorney, if any, _____

16 PLEASE TAKE NOTICE THAT (Plaintiff/Defendant) _____ (the)

17 "Moving Party") has filed a Motion seeking to modify existing orders relating to child custody,
18 visitation, and/or child support.

19 IF YOU OBJECT TO ANY OF THE RELIEF SOUGHT BY THIS MOTION, YOU ARE
20 REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF
21 THE COURT AND TO PROVIDE THE MOVING PARTY WITH A COPY OF YOUR
22 RESPONSE WITHIN 10 COURT DAYS OF THE SERVICE OF THIS MOTION. FAILURE TO
23 FILE A WRITTEN RESPONSE WITH THE CLERK OF COURT WITHIN 10 COURT DAYS
24 OF THE SERVICE OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING
25 GRANTED BY THE COURT WITHOUT YOU HAVING AN OPPORTUNITY TO BE
26 HEARD. (NOTE: IF SERVICE IS MADE BY MAIL, YOU HAVE AN ADDITIONAL 3 DAYS
27 TO FILE YOUR WRITTEN RESPONSE).

28 Submitted By: _____

(check one) Plaintiff / Defendant In Proper Person

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MOTION

(Your name) _____, in Proper Person, moves this Court for an Order modifying child custody, visitation, and/or child support.

**POINTS AND AUTHORITIES
LEGAL ARGUMENT**

(you must check and comply with the box below)

When considering whether to modify physical custody, the court must determine what type of physical custody arrangement exists between the parties. The court must look at the actual physical custody timeshare the parties are exercising to determine what custody arrangements is in effect. Rivero v. Rivero, 125 Nev. 410, 430, 216 P.3d 213, 227 (2009).

Different tests apply to modify custody depending on the current custody arrangement. Joint physical custody may be modified or terminated if it is in the best interest of the child. NRS 125C.0045(2); Truax v. Truax, 110 Nev. 473, 874 P.2d 10 (1994). Primary physical custody may be modified only when “(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the modification would serve the child’s best interest.” Ellis v. Carucci, 123 Nev. 145, 153, 161 P.3d 239, 244 (2007).

Pursuant to NRS 125C.0035(4), in determining the best interest of the child, the court must consider and set forth its specific findings concerning, among other things:

- (a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.
- (b) Any nomination of a guardian for the child by a parent.
- (c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.
- (d) The level of conflict between the parents.
- (e) The ability of the parents to cooperate to meet the needs of the child.
- (f) The mental and physical health of the parents.
- (g) The physical, developmental and emotional needs of the child.
- (h) The nature of the relationship of the child with each parent.
- (i) The ability of the child to maintain a relationship with any sibling.
- (j) Any history of parental abuse or neglect of the child or a sibling of the child.

1 (k) Whether either parent or any other person seeking physical custody has engaged in an
2 act of domestic violence against the child, a parent of the child or any other person
3 residing with the child.

4 (l) Whether either parent or any other person seeking physical custody has committed any
5 act of abduction against the child or any other child.

6 A child support order must be reviewed by the court every three years upon request of a
7 parent or guardian. A child support order may be reviewed at any time on the basis of changed
8 circumstances. A change in 20% or more in the gross monthly income of a person subject to a
9 child support order shall be deemed changed circumstances. NRS 125B.145. Any inaccuracy or
10 falsification of financial information which results in an inappropriate award of child support is
11 also grounds to modify child support. NRS 125B.080.

12 FACTS AND ARGUMENT

13 A. Request to Modify Child Custody and/or Visitation

14 1. **Current Custody Order.** The current custody order was filed on (date) _____.

15 2. **Modification of Legal Custody.** (check one)

16 Legal custody should not be changed. (STOP. Go to Section 3)

17 Legal custody should be changed. Listed below is the current legal custody order
18 and the legal custody order I would like the Court to order:

19

20 Child's Name:	Date of Birth	I Have Now: <input checked="" type="checkbox"/> check one:	I Would Like: <input checked="" type="checkbox"/> check one
21		<input type="checkbox"/> No legal custody	<input type="checkbox"/> Joint legal custody
22		<input type="checkbox"/> Joint legal custody	<input type="checkbox"/> Sole legal custody
23		<input type="checkbox"/> Sole legal custody	
24		<input type="checkbox"/> No legal custody	<input type="checkbox"/> Joint legal custody
25		<input type="checkbox"/> Joint legal custody	<input type="checkbox"/> Sole legal custody
26		<input type="checkbox"/> Sole legal custody	
27		<input type="checkbox"/> No legal custody	<input type="checkbox"/> Joint legal custody
28		<input type="checkbox"/> Joint legal custody	<input type="checkbox"/> Sole legal custody
		<input type="checkbox"/> Sole legal custody	

1 It is in the best interest of the children to change legal custody because (*explain*):

2 _____

3 _____

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7 **3. Modification of Physical Custody. (check one)**

8 Physical custody should not be changed. (*STOP. Go to Section 4*)

9 Physical custody should be changed. Listed below is the current physical custody
10 order and the physical custody order I would like the Court to order.

Child's Name:	Date of Birth	I Have Now: <input checked="" type="checkbox"/> <i>check one:</i>	I Would Like: <input checked="" type="checkbox"/> <i>check one</i>
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody

1 It is in the best interest of the children to change physical custody because (*explain,*
2 *referencing any applicable NRS 125C.0035(4) best interest factors listed in the Legal*
3 *Argument section above*): _____

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14 ***You MUST complete this section if the other party currently has primary physical***
15 ***custody and you want to change the custody order.***

16 Since the last order, there has been a substantial change in circumstances affecting the
17 welfare of the children. (*Explain the substantial changes affecting the children that have*
18 *happened since the last custody order*): _____

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4. **Visitation.** (check all that apply)

Visitation should not be changed. (*STOP. Go to Section B*)

The regular visitation / timeshare should be changed. My proposed new visitation/ timeshare schedule is attached as Exhibit 1.

The holiday schedule should be changed. My proposed new holiday schedule is attached as Exhibit 1.

It is in the best interest of the children to change visitation because (*explain, referencing any applicable NRS 125C.0035(4) best interest factors listed in the Legal Argument section above*): _____

B. Request to Modify Child Support

Not Applicable (check if not applicable, and go to Section C. If applicable, you must check and comply with the box below)

I understand that I must file my Financial Disclosure Form to support my request for child support and that failure to file my Financial Disclosure Form may result in my request being denied.

5. **Current Child Support Order.**

(Name of party ordered to pay child support) _____
currently pays (amount) \$ _____ per month in child support for (number) _____
minor children. I want this order modified.

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6. **Public Assistance.** (*check one*)

I have never received Temporary Assistance for Needy Families (TANF).

I am now or have received Temporary Assistance for Needy Families (TANF) in the past.

7. **Parties' Income.**

My gross monthly income is (*insert amount*): \$ _____ / OR unknown.

The other parent's gross monthly income is (*insert amount*): \$ _____ / OR unknown.

8. **Reason for Modification.** I want child support modified because (*check all that apply*):

Child support should be reset based on the change in custody I am requesting.

The gross monthly income of the person paying child support has changed by more than 20% since the last child support order was entered.

It has been more than three years since child support was last reviewed.

The following children have emancipated (*write name(s)*): _____

The current child support order was set based on inaccurate or false information (*give the reason you believe child support was set inaccurately*): _____

The parties are not following the custodial schedule on which child support was based: (*explain the custodial schedule you have been following*): _____

It is in the children's best interest to modify child support because (*tell the Judge why it is in the children's best interest to change child support*): _____

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9. Amount Requested. (check one)

Child support should be modified so that (*name of person who should pay child support*) _____ pays (*amount*) \$ _____ per month in child support.

Child support should be set at the statutory minimum of \$100 per month, per child;

I'm not sure how much child support should be paid. The Judge should set child support.

Other (*explain how much child support should be ordered and how you came up with the amount of child support*): _____

C. Other Relief

10. In addition to the relief requested above, I would like the Court to also order the following: (*Explain anything else that you would like the Judge to order, or enter "N/A" if you do not want anything else. Be specific.*) _____

I respectfully ask the Court to grant me the relief requested above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED _____, 20____.

Submitted By: (*your signature*) _____

(*print your name*) _____

**DECLARATION IN SUPPORT OF MOTION TO MODIFY CHILD CUSTODY,
VISITATION, AND/OR CHILD SUPPORT**

I declare, under penalty of perjury:

1. That I have personal knowledge of the facts contained in this Motion and in this Declaration and I am competent to testify to the same.
2. That the statements in this Motion and Declaration are true and correct to the best of my knowledge.
3. Additional facts to support my requests include: _____

4. I have attached the following Exhibit(s) to the Motion to support my requests. *(Describe exhibit or write N/A on any blank lines.)*

- a. _____
- b. _____
- c. _____
- d. _____

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED _____, 20____.

Submitted By: (your signature) _____

(print your name) _____

Address: _____

City, State, Zip: _____