

Know Your Rights: Review and Modification of Child Support Orders



Friend of the Court Bureau
Michigan Supreme Court
<http://www.courts.michigan.gov/scao>

PSA 21 (updated 02/09)
This publication was produced with federal Title IV-D funds

One of the most important responsibilities of parents is to provide financial support for their children. When parents pay or receive child support, they have the right to ask for a review of the support amount. Michigan law allows a support review if either parent's financial circumstances change. Further, even without a change in financial circumstances, the friend of the court (FOC) office must review support amount once every 36 months.

The following Q&A sections answer the most frequently asked questions regarding child support review and modification.

(1) How can I change my child support order?

Only the court that issued the support order may change it. There are two ways to seek a change: (1) A parent may ask the local FOC office to review the order. After the review, if the FOC concludes that the support amount should change, the FOC will ask the court to modify the support order. (2) A parent may file a motion asking the court to change the support order immediately.

How to ask the FOC to review the order and seek a modification for you.

Write to the FOC office and ask for a review. You are entitled to ask for a review every 36 months, but FOCs will sometimes review support orders more frequently if a parent requests a review and offers evidence that at least one parent's financial circumstances have changed during the time that has passed since the court issued the current order.

When the FOC reviews the support amount and determines that it should be modified, the FOC must then file a motion that asks the court to modify the support amount. The entire process, including the court's ruling on an FOC motion, must be completed within 180 days after the FOC office starts its review.

How to file your own motion asking the court to modify the support amount immediately.

If possible, you should retain an attorney to file the motion for you. If you choose to represent yourself, you may obtain a support modification forms packet from the friend of the court office. Commonly referred to as a "do-it-yourself," "pro per," or "pro se" packet, it includes all the forms that you will need. You then must fill out the forms and file them with the court.

If you do not want to travel to the FOC office, you can view and print state-approved domestic relations forms over the Internet at

<http://courts.michigan.gov/scao/courtforms/domesticrelations/drindex.htm>.

A party in a domestic-relations case may file a motion to modify support anytime either parent experiences a change of circumstances, usually when there is an increase or decrease in income or expenses. When a motion is filed, the party must prove that the court should modify the support amount. The court may penalize a party who files a motion without having a good reason.

(2) What happens when the friend of the court reviews support?

When an FOC office reviews support orders, it first notifies both parents and asks them for proof of their incomes. The FOC uses those income numbers and the Michigan Child Support Formula (MCSF) to determine the correct support amount. Michigan law requires that FOCs use the MCSF to calculate support. In rare cases, an FOC may recommend that support be set at a different amount if it determines that basing support on the parents' actual incomes or a strict application of the MCSF would be unjust or inappropriate. In those exceptional cases, the court will decide whether to follow the MCSF or the FOC's case-specific recommendation.

After finishing a review, the FOC office will send notice of the proposed support amount to both parties. If neither party files an objection to the proposed amount, the amount will replace the amount of the previous support order. If either party files an objection to the proposed amount, the FOC will schedule a hearing before a judge or referee to be held after 30 days from the date of the recommendation.

(3) What do I do if I have been ordered to pay child support and I lose my job or my income decreases?

The law requires that you write to the friend of the court, stating that your financial circumstances have changed. If you want your support amount changed, you may also use one of the options described above to begin the support-review process. But remember that you remain responsible for paying the current support amount until the court decides to modify that amount.

(4) When the court orders an increase or decrease in the amount of a child-support order, is that change permanent?

No, the court may change the support amount again in the future if either parent's circumstances require a change.

(5) What if I disagree with the amount of support recommended by the friend of the court?

If the FOC recommends that the support amount stay the same, you can write to the FOC office and ask it to schedule a court hearing to decide whether the support should be modified.

If the FOC recommends increased or decreased support and you disagree with the recommended amount, you can obtain a support hearing before the judge by following the instructions that you will receive from the FOC along with the notice of the FOC's recommendation.

At a support hearing, you can explain to the judge why you think that the court should set support at a level different from the amount that the FOC has recommended.

(6) If both parents agree to a change in the support order, do we have to go to court?

Some friend of the court offices will help parties prepare an agreement to ask the court to enter a new order. After both parties sign the agreement, it is presented to the court for its approval. If your friend of the court office does not help parties prepare their own agreements, it will be up to the parties to draft their agreement. One parent must file a motion and the proposed agreement with the court to request a change in the support order.

(7) In addition to basic financial support, what other support requirements may a support order include?

In addition to providing for a child's regular expenses, Michigan law requires that a child support order include an amount for the child's medical/health care expenses, and allows the order to require payments for child care and educational expenses.

In addition, if support is not paid on time, the order will automatically assess a twice-yearly surcharge on the past-due amount.