

Support Modification: Relief Using Motions vs. Statutory Reviews

Support is not retroactively modifiable. [MCL 552.603](#). A motion requesting modification permits relief as early as the date of the motion's service on the parties. Either party or the FOC can file a motion. Motions requesting support modification are more efficient when the amount and duration of a change of income is uncertain and when it is important to preserve the earliest retroactive date to allow the court the maximum flexibility to grant fair relief.

By contrast, while statutory review procedures (i.e., party-requested reviews through the FOC, three-year reviews, or other system-initiated assistance reviews) provide a means to modify child support, the time required to complete most reviews makes using the statutory process ineffective when immediate relief from an inaccurate order is necessary. Within 14 days of receiving a request from a party, the FOC must determine whether to start a statutory review and, once started, must complete a review within 180 days. The effective date for relief using the statutory process cannot be earlier than the date that notice of the recommended change is delivered to the parties and filed with the court.

Temporary Orders

In either support modification process, the office can recommend a temporary order. Temporary orders may be retroactively modified if the order meets all the requirements from [MCR 3.207](#) and *Fisher v Fisher*, 276 Mich App 424 (2007). The following checklist helps the court create a temporary order that is retroactively modifiable, provides model language, and helps ensure that orders are final once the temporary uncertain situation ends.

Support Modification Order Checklist

- **Step 1:** Preserve the earliest possible effective date by verifying the date the motion was filed. Either party or the FOC (on its own initiative) may file a motion for a support modification¹ under the court's authority in [552.505\(1\)\(h\)](#). *If the FOC decides to file a motion, it should make sure a party has not already filed a motion on the case.*
 - **1.A. When the outcome of a limited time period situation is known, enter as a final order.**

When the extent of the change in income is known but is expected to be of a limited time, enter the order as a final order with the use of multiple grids based on the current income and another amount when the expected date the change in income will end or a future event occurs.² This is not a temporary order, and the Uniform Support Order (USO) should be marked as "Final."

¹ A motion can lead to a court-referred support investigation.

² For changes brought on by the COVID-19 State of Emergency, we recommend using conditional language, and not a set number of days post-SOE.

- **1.A.i. Fill in the effective date(s) for the grid(s).³**

If the court knows that a future condition will reinstate the party's original income, the court can use a second grid or incorporate a prior order by reference. Make sure to include the date or condition for resuming/changing the support charges in the future (i.e., second grid or reinstating the prior order).

- **1.A.ii. Include language in paragraph 13 to effectuate the second grid.**

If the second grid takes effect on a date certain (e.g., August 1; or "30 days after the state of emergency is lifted"), include language similar to, "The FOC can update its records to implement the change without further action from the parties according to [MCL 552.509](#)."

- If the second grid takes effect based on a condition, then paragraph 13 should include language similar to, "The parties shall notify the friend of the court that the [conditions for a temporary order] no longer exist; if no party contacts the FOC, the revised amount will become effective ____ days after the SOE ends. Upon the FOC receiving notice that the conditions causing the need for a temporary order no longer exist, the FOC will update its records to implement this order."

- **1.A.iii. Upon the date certain or condition being met in the second grid, administratively adjust the order.**

- **1.B.** If the amount, or when the change in income will end, is uncertain, the court should use a temporary order. Continue with the steps below.
- **Step 2:** When entering the USO, check the box at top of USO that says "Temporary."
 - **Step 3:** On the middle of page 1, check that box that says, "Standard provisions have been modified."
 - **Step 4:** Fill in the effective date(s) for the grid(s) during the temporary uncertain situation (earliest date possible can be the filing/notice date).
 - **4.A.** If it is uncertain whether a previous income will reinstate, there is no need for a second grid. Instead, paragraph 13 should include language to make the order final similar to, "A party is required to report any change in income within seven days to the friend of the court upon receipt of which the FOC will recalculate support and issue a recommended support order to the court and to the parties, subject to a 21-day objection. If a party fails to submit the change in income, the prior support order shall reinstate effective the date of the change of

³ For a more complete discussion of conditions and when to use a second grid, see <https://courts.michigan.gov/Administration/SCAO/OfficesPrograms/FOC/Documents/Pundits/Pundit-Aug2015.pdf>.

employment. If a party objects to the recommendation, the FOC shall schedule a hearing to determine support.”

- **Step 5:** To preserve retroactive modifiability, on the last page of the USO, check the “Other” provision in paragraph 13, and add language that says, “Due to the state of emergency surrounding the COVID-19 crisis, this order is retroactively modifiable to [date].”
 - **5.A.** If the future condition is uncertain and there is no second grid or order incorporated by reference, once the uncertainty ends, then further action (i.e., a hearing or complete an FOC review) will be needed to enter a final order.
 - **5.A.i.** To prevent orders from remaining as temporary orders, language should be added to paragraph 13 that says, “A party is required to report any change in income within 7 days to the friend of the court upon receipt of which the FOC will recalculate support and issue a recommended support order to the court and to the parties, subject to a 21-day objection. If a party fails to submit the change in income, the prior support order shall reinstate effective the date of the change of employment. If a party objects to the recommendation, the FOC shall schedule a hearing to determine support.”
- **Step 6:** Upon learning that the temporary uncertain conditions no longer exist, ensure the order is made final and proper notice is provided.
 - Allow the FOC to conduct a review and enter a proposed final order subject to a 21-day objection.
 - Have the court hear the case and enter a new final order.
 - Have the FOC administratively adjust its records (if there is a second grid) after notice is provided with a 14-day objection period.