

# It's Important to Know Your Rights... Concerning Child Support Review and Modification



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One of the most important responsibilities of parents is to provide their children financial support. Parents who pay or receive child support 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 the support amount once every 36 months if the child is receiving public assistance or if there is a written request for a review by a party.

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

### **(1) How can I change the amount required in my child support order?**

Only the court that issued the support order may change it. There are two ways that a parent may seek a change in the support order. 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. Another option is that 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.*

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

If 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 to ask 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 FOC office. Commonly referred to as a "do-it-yourself," "pro per," or "in pro se" packet, it includes all the forms that you will need. You must then complete the forms and file them with the court.

If you do not want to travel to the FOC office to pick up a forms packet, 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 who experiences a change in financial circumstances, for example when there has been an increase or decrease in income or expenses, may file a motion to modify support. 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 FOC reviews support orders?**

When an FOC office reviews support orders, it first notifies both parents and asks them for proof of their incomes. The FOC uses 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 situations, an FOC may recommend that support be set at a different amount (called “deviation”) if the FOC determines that basing support on the parents’ actual incomes or a strict application of the MCSF would be unjust or inappropriate. In those circumstances, the court will decide whether to follow the MCSF or the FOC’s case-specific recommendation. The court may also choose to deviate from the guidelines without a recommendation from the FOC to do so.

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 new proposed order will replace 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 FOC, stating that your financial circumstances have changed. If you want your support amount changed, you may also use one of the options previously described to begin the support-review process. But remember that you remain responsible and must continue to pay the support amount ordered until the court decides to modify that amount through a new order.

## **(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 its notice of its recommendation.

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

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

Some FOC 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 approval. If your FOC does not help parties prepare their own agreements, it will be up to the parties to draft their agreement. Only one parent must file the motion and proposed agreement with the court to request a change in the support order.

**(7) In addition to providing basic financial support, what other support requirements should 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. Also, a court order may include an order to pay the mother's confinement expenses and may require reimbursement for genetic paternity testing. Confinement expenses are medical expenses for the birth of the child.

**(8) What do I do if I want to hire a lawyer but cannot afford one?**

The State Bar of Michigan website has several resources for those who cannot afford legal services. The two most common resources are the Lawyer Referral Service and Legal Aid.

You may find information about the State Bar's Lawyer Referral Service at <http://www.michbar.org/programs/lawyerreferral.cfm>.

Information about Legal Aid can be found at [http://www.michbar.org/public\\_resources/legalaid.cfm](http://www.michbar.org/public_resources/legalaid.cfm)