

A REDUCTION IN CHILD SUPPORT PAYMENTS

BASIC FACTS

Child support orders are typically established in two ways 1) by South Carolina Department of Social Services Child Support Enforcement (CSE) or 2) as part of an order for divorce. Orders established through CSE can be modified administratively by that agency. Child support obligations established as part of a divorce proceeding are called **Private Orders** and must be modified through the Family Court. A custodial parent can also request that a private order be enforced by CSE in which case the child support obligation can be modified by CSE administratively. If a CSE attorney is present at contempt hearings, your order is enforced by CSE. The clerk at the Family Court can also tell you if your order is enforced by CSE if you are unsure.

The steps to modify are different depending upon how the order was established initially.

WHO MAY BE ENTITLED TO A REDUCTION?

Does parent have a Change in Circumstance?

The **three primary** "changes in circumstance" that warrant a modification are:

1. **Payor makes "substantially" less** at current job than when the child support order was established. The standard formula DSS/CSE uses to define the term "substantially" is when the new child support worksheet is calculated; the amount owed is at least 20% less than before. Visit the www.state.sc.us/dss/csed to calculate your child support payment according to TODAY'S guidelines.

Note: You must have accurate financial information for the custodial parent to really know whether the 20% less standard is met. Often, this is not the case. Therefore, a modification request should be made if a new job pays less than the old job and it is very difficult to make payments in a timely manner. However, understand that DSS/CSE will only modify if the amount that should be paid is 20% less than is currently being paid once the new worksheet is calculated.

2. **Payor has a biological/ adopted child living in his home** that was:
Born since the last child support order was established, or
Adopted since the last child support order was established

3. **Payor was injured or has a medical condition that prevents him from working.**
This has to be documented by a medical doctor. The court nor DSS/CSE want to see stacks of medical papers and attempt to make something out of it. You should request a simple written statement from you medical provider.

MAY ALSO CONSIDER EXTROADINARY EXPENSES, SHARED CUSTODY, OTHER ORDERS

If the payor meets one of these three changes in circumstances, the following steps may be taken depending upon whether it is a CSE Order or a Private Order.

CSE Order – Payor parent has a Change in Circumstances that Warrants Modification, What Do They Do?

Step One: Write a letter to DSS/CSE advising that a change in circumstance does exist and request modification. Send this letter to the CSE caseworker assigned to your case in the regional office that enforces your order. CSE website

provides this information. **Copy of a sample form letter provided.** Note that in your letter you must fully identify who you are; you must state specifically what your change in circumstance is and you must request a review of your case.

Step Two: Collect attachments

Depending on the “change in circumstance,” will need to attach to the sample form letter all relevant information that DSS/CSE will need to verify his “change in circumstance.”

For example:

- Is the change in circumstance related to the income the father makes?
If so, attach at least two pay stubs from current job
- Is the change in circumstance related to a new child in father’s home?
If so, attach birth certificate or adoption papers
- Is the change in circumstance related to a medical injury or illness?
If so, attach statement from doctor which states clearly how long you will be unable to work, stating you can no longer perform the same work and/or temporarily unable to work

Step Three: Always make a copy of what you send.

Suggest that you either hand deliver to the office or send by certified mail with a return receipt requested to the appropriate case worker.

Payor parent should file legal modification paperwork with court if DSS/CSE unresponsive

Private Order – Payor parent steps to reduce child support payments

DSS/CSE will not be able to modify your child support order in the event that you have a change in circumstance. You will need to file your own legal paperwork with the Family Court requesting a modification.

Attached are self represented litigant downward modification forms and instructions for those who need a modification and who pay pursuant to a private order.

Prior to filling out the legal papers:

- A. Determine if the situation fits into one of the three primary change in circumstances categories discussed, or another possible consideration (examples will be provided at clinic)
- B. Collect the relevant attachments for the parent’s change in circumstance
- C. Determine whether or not you have the financial ability to pay to have the legal papers processed.

The average cost involved in filing the modification papers are:

\$150.00 filing fee paid to Family Court

\$ 25.00 service of documents by Sheriff’s Department

\$175.00 total expenses (note that some fees may vary for some counties)

- D. If parent does not have the ability to pay the \$175.00 to process the paperwork, should file along with the Complaint for Decrease, a Motion and Affidavit to Proceed In Forma Pauperis which is provided.