ANSWER TO CUSTODY MODIFICATION INSTRUCTION PACKET



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ANSWER TO CUSTODY MODIFICATION INSTRUCTION PACKET

Use the **Answer to Custody Modification Packet ONLY** when:

☐ You have been named as the Respondent in a Motion and Affidavit to Modify Custody.

If you and the Petitioner already agree how you want the custody arrangement to be handled, you may file a **Consent Order**. To file a Consent Order, you and the Petitioner write down how you want the custody arrangement to work and a Hearing Officer will sign your agreement and make it an order of the Court. To obtain a Consent Order, you or the Petitioner must have filed <u>all</u> of the following forms: (Each form is described in detail in the **Custody Modification Instruction Packet** on the page number listed in parenthesis after it.) You or the Petitioner must file the **Motion and Affidavit to Modify Custody** (page 8), the **Custody Separate Statement** (page 10), the **Information Sheet** (page 11) and the **Consent Order-Custody, Visitation** (page 12).

To make this Packet easier to read, it will explain Custody Modification as if the Petitioner wanted to file for Custody Modification of one child. If the Petitioner has more than one child with the other parent, the Petitioner may file for Custody Modification of all of his/her children with the other parent on the same Motion. Please note that if the children have different fathers or mothers, the Petitioner must file for Custody Modification on separate motions. For example, if two of the children have one father and one of the children has a different father, the Petitioner would be required to file two motions, one for each father.

HOW TO USE THE PACKET

This packet contains general information about the process of filing an Answer to a Motion to Modify Custody, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. **ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET.**The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet.

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE.

For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to ensure you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.



READ THIS SECTION CAREFULLY



THIS DOCUMENT MUST BE FILED



FILL IN THE BLANKS OR WRITE INFORMATION HERE



YOU DO NOT HAVE TO TAKE THESE STEPS NOW.



- ✓ Make sure to read any Answers to Frequently Asked Questions on Custody. They will help you to better understand the Custody process.
- ✓ Remember who is the Petitioner and who is the Respondent.
 - The PETITIONER is the person who filed the Motion and Affidavit to Modify Custody.
 - ➤ The **RESPONDENT** is the person replying (responding) to the Motion, in other words, you.
- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to <u>you</u> at the court hearing to prove why the Court should give you what you want.
- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.
- ✓ Please remember that COURT STAFF CANNOT GIVE YOU LEGAL ADVICE. Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and answer your questions without having to hire that attorney for full representation. Before you meet with the attorney, ask what fees may be involved for such limited services.

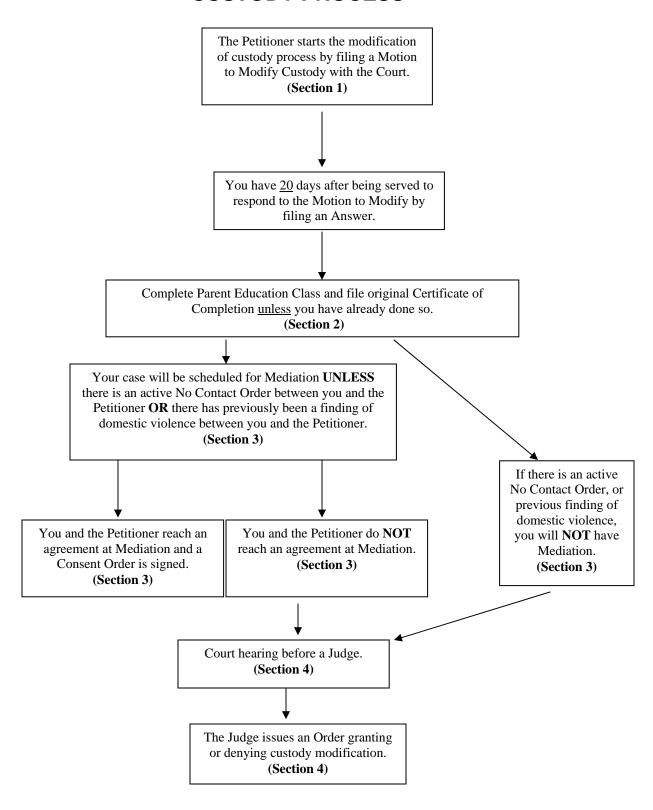
- ✓ If you would like assistance in finding an attorney, you can call the Lawyer Referral Service in New Castle County, 302-478-8850, and in Kent and Sussex Counties, 1-888-225-0582. (You may call the same telephone numbers and ask for the Legal Help Link to find out if you qualify for free legal assistance.) You also can refer to the Attorney Roster that is located in the Family Court Resource Centers. The Attorney Roster is a listing of some of the attorneys who practice family law in Delaware and includes information about how to contact the attorneys and what fees the attorneys charge.
- ✓ Always bring your photo identification with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.
- ✓ THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE
 COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- Keep a copy of every document and court paper.
- Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.
- Bring the folder with your papers with you every time you go to Court.
- When you file a document with the Court, <u>bring</u> the required number of copies of each paper and an extra copy for you to have "clocked-in." Keep the clocked-in copy <u>in your folder</u> so you have proof of the time and date you filed each document. You may make copies at the Resource and Self-Help Centers but there is a small fee.
- When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).
- When you must mail something, we suggest that you use regular mail AND "certified mail, return receipt requested" so that you have proof that the other party received the envelope. If you cannot afford to pay for "certified mail" we suggest you get a "certificate of mailing" at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource and Self-Help Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.

MODIFICATION OF CUSTODY PROCESS



SECTION 1

STARTING THE CUSTODY MODIFICATION PROCESS

After the Petitioner files a Motion and Affidavit to Modify Custody, you will be **served** with notice of the motion. This means that you will receive a **Summons** (a Court document explaining your rights and responsibilities) and **copies** of the motion and any other paperwork the Petitioner filed. Service can be accomplished in the following ways:

- You can be personally served. This means that a person designated by the Court will hand the papers to you directly at your home or your job.
- You can be served by mail. This means the papers will be mailed to you by certified mail.
- You can be served by publication which means the Petitioner must publish notice of the Motion to Modify Custody in a local newspaper. If you read a notice in the newspaper naming you as a Respondent, You must come to Family Court and obtain copies of all the papers that have been filed by the Petitioner.

Regardless of how you receive notice of the petition, it is **VERY IMPORTANT** to read all documents **carefully** so you can properly respond to the allegations in the Motion to Modify Custody.

The Petitioner can only file for custody modification if the following jurisdictional requirements are met. If the statements on the following page are not true, you should request that the Court dismiss the Motion to Modify Custody. Please see page 12 for information on how to file a Motion to Dismiss.

There is a Custody Order in place in Delaware; AND			
The child or a parent had been living in Delaware for AT			
LEAST 6 CONSECUTIVE MONTHS BEFORE the Petitioner			
filed the Motion to Modify Custody. (There are exceptions to			
this 6 month requirement. If the parent or child has not lived			
in Delaware for at least 6 months, talk to an attorney to see if			
an exception applies in your situation.);			
-OR-			
There is a custody order in place in a state other than			
Delaware; AND			
The child has been living in Delaware AT LEAST 6			
CONSECUTIVE MONTHS BEFORE the Petitioner filed to			
Modify Custody. (There are exceptions to this 6 month			
requirement. If the child has not lived in Delaware for at			
least 6 months, talk to an attorney to see if an exception			
applies in your situation.); AND			
The state that issued the Custody Order has given up			
jurisdiction.			

FILING AN ANSWER IS YOUR WAY OF TELLING YOUR SIDE OF THE STORY TO THE COURT. The Court will use the information in your Answer when deciding whether or not the Petitioner should be granted a custody modification. If you do not file an Answer, the Court will not know how you feel regarding the Motion to Modify Custody. It is VERY IMPORTANT that you file an Answer, so the Court knows how you feel about the motion to modify.

To respond to the Motion to Modify Custody, you **MUST** file the **ORIGINAL** with the Court and mail **ONE** (1) **COPY** of each form below to the Petitioner within 20 days of receiving the Motion:



Answer form. (file one original and mail one copy to the Petitioner)

- In your Answer you may do the following:
 - Admit (you agree the statement is true) or deny (you believe the statement is false) any statements made by the Petitioner in the Motion to Modify Custody. If the Petitioner numbered his/her statements, write down the number then state whether you admit or deny that statement. An example can be found on the Sample Answer on page 18. If the Petitioner did not number his/her statements, write down the statement itself then state whether you admit or deny that statement. If you deny the statement, explain to the Court why the Petitioner's statement is not true. If you do not respond to a statement, the Court will assume you agree that the statement is true. If you believe a statement is false, you must deny it.
- ➤ The standard that the Court uses to determine if custody should be modified is different based on the following situations:
 - o If the original custody order that you want to change is a consent order (you and the Petitioner(s) agreed to the custody arrangement), then it can be modified anytime the Court finds that it is in the "best interest" of the child.
 - If the original custody order was entered by the Court after a full hearing AND it has been less than two years since it was entered, the order can be changed only if the Court finds that continuing to enforce the prior order would endanger the child's physical health or significantly impair the child's emotional development.
 - If the order was entered by the Court after a full hearing **AND** if has been **more** than two years since it was entered,

the order can be changed only after the Court considers the following factors:

- Whether any harm caused by changing the order is outweighed by the benefit of changing the order;
- Each parent's compliance with the prior order; AND
- o The "best interest" of the child.
- When responding to the Motion to Modify Custody, you want to give the Court information so that it can decide why it is **NOT** in the child's "best interest" to modify the current custody arrangements. The child's "best interest" is the legal standard the Court must follow when deciding who should have custody of a child. (See Title 13 of the <u>Delaware Code</u>, section 722.) The Court will want to know about the following things when deciding what is in the child's "best interest." Explain to the Court how the following things apply in your situation.
 - The <u>wishes of the child's parents</u> as to his/her custody and living arrangements;
 - 2. The <u>wishes of the child</u> as to his/her custody and living arrangements;
 - The <u>interaction</u> of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home or affecting the child's best interest;
 - The child's adjustment to his/her <u>home</u>, <u>school and</u> <u>community</u>;
 - 5. The mental and physical health of all individuals involved;

- 6. How well each parent has in the past and continues to satisfy their <u>parental rights and responsibilities</u> with respect to their children;
- 7. Evidence of domestic violence; and
- 8. The <u>criminal history</u> of any party or adult member of a household, including guilty pleas, pleas of no contest and criminal convictions.
- ➤ If you need more space to write, you may attach additional pages to the Answer form. Be sure to state on the form that you have attached more pages, so the Court and the Petitioner will know to look for additional information. Also, number each additional page that you attach by writing the page number at the bottom of the page.
- You must sign your Answer in the presence of a notary public or authorized Court staff.

BELOW ARE OPTIONAL FORMS

ONLY file the following forms if the situation applies to you.

If the jurisdictional requirements have not been met, file:



- File this document only if one of the **jurisdictional requirements** described on page 8 has not been met.
- On this form, you will ask the Court to dismiss the Motion to Modify Custody. You MUST explain which <u>specific</u> jurisdictional requirement was not met. An example of a completed Motion to Dismiss is found on page 20.
- When you file the Motion to Dismiss, you must also file a Notice of Motion form and a blank Order form.

If you and the Petitioner agree on the custody modification, file:

Consent Order-Custody, Visitation (file original)

- File this document only if **you and the Petitioner have already agreed** on how the custody modification matter should be decided.
- On this form you will describe for the Court the following things:
 - Which parent(s) will have custody of the child,
 - Whether that parent will have Joint Custody or Sole Custody (see page 28 for information about the types of custody),
 - Where the child will be living,
 - · Which parent will have visitation with the child, and
 - What the visitation schedule will be.
- When describing the visitation schedule, be as <u>specific</u> as possible. Explain the places, dates and times that visitation will occur. Also, explain to the Court who will be responsible for driving

the child to and from the visitations. Avoid agreements that simply state that "visitation shall be by mutual agreement of the parties." While this may make it easier for you and the Petitioner to reach an agreement now, it gives you no guidance in how visitation will occur should you and the Petitioner be unable to reach a mutual agreement regarding visitation at a later date. It may be better to decide on the details of visitation now, rather than have to come back to Court to resolve your differences in the future. For more information about visitation, please see page 29.

- You and the Petitioner must both <u>sign and have notarized</u> the Consent Order.
- Before you file the Consent Order, you and the Petitioner may have to meet with a court employee to review the terms of your agreement.
- Once you have filed your agreement with the Court, it will be forwarded to a Hearing Officer who will review your agreement. If the Hearing Officer finds that the agreement is in the best interest of the child, then he/she will sign the agreement and it will become a court order, called a Consent Order.
- > The Court will mail a copy of the signed order to you and the Petitioner.

If you, the Respondent, are in the military, file:

Waiver of Rights under the Servicemembers' Civil Relief Act (file one original and one copy)

- ➤ ONLY file this form if you ARE in the military and would like to WAIVE your rights under the Servicemembers' Civil Relief Act.
- This Waiver allows the Court to proceed with the custody process if you are unavailable because of military duties.

➢ If you are in the military, you MUST file a Waiver of Rights under the Servicemembers' Civil Relief Act, an Affidavit of Appearance OR an Answer. If you do not file one of the above, the Court will not schedule your Custody Hearing until a Waiver of Rights under the Servicemembers' Civil Relief Act is filed OR an attorney is appointed for you.

BE SPECIFIC WHEN COMPLETING THE FORMS and make sure you respond to all of the Petitioner's allegations. Remember, that if you fail to respond to any allegation, the Court will assume you agree that the allegation is true. When you complete a form, write in blue or black ink AND write neatly.

File the forms at the Family Court in the County where the child currently lives.

- ➤ In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- ➤ In New Castle County, you may file your papers at the Resource Center on the second floor of the New Castle County Courthouse or, IF, you have all of the forms completed, you do NOT have any questions, you have made the necessary copies and you do NOT need any papers notarized, you may file your papers at the Central Filing and Payment Center located on the first floor of the New Castle County Courthouse. There is no staff assistance at the Central Filing and Payment Center.
- ➤ If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does NOT accept filings that are faxed or e-mailed.

REMEMBER to mail a copy of all the papers that you file with the Court to the Petitioner. You **MUST** fill out the **Affidavit of Mailing** on the bottom of the form telling the Court that you have mailed a copy of the papers you filed to the Petitioner or the Petitioner's attorney (if there is one). If you do not mail a copy

of the Answer form to the Petitioner, the Court **may not consider** the information on that form. If there was more than one Respondent you **MUST ALSO** mail a copy of the Answer that you file to <u>each of the Respondents</u> and indicate you have done so on the Affidavit of Mailing.

ADDITIONAL INSTRUCTIONS FOR SECTION



AUTOMATIC COURT ORDER

- ➤ When the Petitioner filed the Motion to Modify Custody, Family Court immediately entered a **Preliminary Injunction** (an automatic Court Order) that applies to BOTH YOU AND THE PETITIONER. It became effective upon the Petitioner as soon as he/she filed the Motion to Modify Custody. The Preliminary Injunction becomes effective upon **YOU** at the time you are **served** with the motion.
- The Preliminary Injunction contains language that prohibits any party from removing a child from the jurisdiction of the Delaware Family Court without receiving permission from the other party or the Court.
- > The purpose of the Preliminary Injunction is to prevent a person from permanently removing the child from Delaware, or from removing the child for a period of time that would interfere with the other person's right to spend time with the child and participate in the child's life. **NEITHER YOU NOR THE PETITIONER MAY** RELOCATE (MOVE) THE CHILD TO ANOTHER STATE OR TAKE THE CHILD OUT OF DELAWARE FOR A PERIOD OF TIME THAT WOULD CAUSE FAMILY COURT TO LOSE LEGAL AUTHORITY (JURISDICTION) TO DETERMINE THE CUSTODY CASE.
- If you have questions regarding the relocation of a child, you should contact an attorney.

SECTION 2 BEGINS AFTER THE SAMPLE FORMS FOR SECTION 1.

Section 2 PARENT EDUCATION CLASSES

IF YOU HAVE NOT ALREADY DONE SO, You MUST file the certificate below:

Certificate(s) of Completion of Parent Education Class (file original)

- Both parties to a custody modification proceeding must take a Parent Education Class. A listing of available classes is available at the Family Court Resource Centers. Once you have completed the Parent Education Class, a Certificate(s) of Completion of Parent Education Class will be given to you.
- ➤ You must file the **ORIGINAL** signed of the Certificate of Completion of Parent Education Class with the Family Court. If you have already taken the Parent Education Class, an original copy(ies) of the Certificate of Completion should be in your file.
- Although the matter may be scheduled for Mediation, the Court will NOT schedule your Court Hearing before a Judge until you file the required Certificates of Completion.
- You should <u>register</u> for the Parent Education Classes AS SOON AS POSSIBLE because the classes tend to fill quickly and you may be placed on a waiting list.
- ➤ The parent with whom the child primarily lives is responsible for filing the <u>original</u> Certificate of Completion. If your child lives with you and the other parent equally, then the Petitioner, as the person who filed the Motion and Affidavit to Modify Custody, is responsible filing the <u>original</u> Certificate of Completion.



SECTION 3 DESCRIBES WHAT HAPPENS NEXT.

Section 3

MEDIATION

After you and any other Respondents have had an opportunity to file an Answer, the Court normally will schedule your Custody Modification for Mediation. ALL PARTIES are required to attend.

- ➤ The Court will **NOT** schedule Mediation if there is an active **No Contact Order** involving you and the Petitioner(s) or there has been a previous finding of domestic violence such as the following:
 - A Protection from Abuse Order, **OR**
 - An adjudication of criminal charges.

If there is an active No Contact Order involving you and the Petitioner(s), you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.

- The Court will **NOT** schedule mediation if one of the parties is a sex offender as defined by Delaware law. If one of the parties is a sex offender as defined by Delaware law, you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- Mediation is **NOT** a Court Hearing. At Mediation, a Mediator (a neutral third party) will **try to help** you and the Petitioner(s) reach an agreement about custody. The Mediator will ask you and the other party to tell how you both think the matter should be resolved and will work with you to find a solution you both agree on. In other words, the Mediator is there to help you and the other party work together in deciding what arrangement is best for your child. Therefore, come with a "spirit of cooperation."



CONSENT ORDERS

- ➢ If, at the end of Mediation, you and the Petitioner(s) reach an agreement, the Mediator will type your agreement into a document and you and the Petitioner(s) will sign the agreement. The Mediator will also sign the agreement. Then, you will be allowed to leave and the Mediator will give your signed agreement to a Commissioner. The Commissioner will decide whether your agreement should become a court order, called a Consent Order.
- ➢ If the Commissioner decides your agreement should become a Consent Order, the Commissioner will sign the agreement and the Consent Order will be mailed to you and the Petitioner(s). You will NOT have to go to a Hearing with a Judge.
- Once a Consent Order is signed by a Commissioner, it is a Court Order and you and the Respondent(s) MUST follow the instructions in the order.
- Because the Consent Order is based on your agreement with the Petitioner(s), you will lose your right to appeal the terms of your Consent Order before a Judge.
- If you **DO NOT** reach an agreement at mediation, the prior custody order will remain in effect until you have a hearing with a Judge.

Come to mediation prepared to discuss why the Custody Order should be changed. Keep the following information in mind as you prepare for mediation.

PARENTAL DUTY AND RESPONSIBILITY

The Court generally orders **Joint Custody**, in which parents share the duties and responsibilities of raising the child. If you want to change the prior order so that you have **Sole Custody**, an arrangement where the other parent does not actively share in the duties and responsibilities of raising the child, you must demonstrate that such an arrangement is in the child's best

- interest. (For more information on the best interest of a child see pages 9-10)
- ➤ It is usually in the best interest of the child to have both parents active in his/her life. Regardless of who is awarded custody, generally each parent will have the right to request information concerning the child's progress in school, medical treatment, significant developments in the child's life, school activities and conferences, special religious events and other activities in which the parent may wish to participate. Also, each parent will have the right to reasonable access to the child by telephone or mail.

PLACEMENT

Often parties do not want to change the type of custody (joint or sole) that they have. Instead, the parties want the Court to change the placement of the child, in other words, change where the child will live most of the time. Placement is determined according to what is in the CHILD'S best interest, not the parent's or the custodian's best interest.

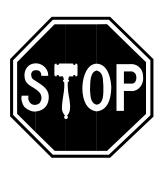
VISITATION

- Generally, when the Court addresses Custody, it will also address Visitation to enable the party not given primary placement to spend time with the child. Visitation establishes a schedule of contact with the child.
- You should review the Family Court's **Standard Visitation Guidelines** to get a general idea about visitation arrangements.

 The Standard Visitation Guidelines are on the Family Court website (http://courts.state.de.us/family). Consider whether the Standard Visitation Guidelines accommodate you and the Respondent's schedule as well as the schedule of the child. You are not required to follow the Standard Visitation Guidelines. At Mediation, you and

the Petitioner can work together to establish a visitation schedule that works best for you, Petitioner(s), and most importantly your child.

Be realistic when asking for the terms of a custody order. The law says that it is better for a child to have at least some contact with both parents unless that contact would endanger the child's physical health or significantly impair his or her emotional development. The focus is on what is in the CHILD'S best interests. Just because YOU do not want the parent to be involved in the child's life may not mean that that is in your CHILD'S best interests. Therefore, at Mediation, be prepared and try to work with the Petitioner(s) to accommodate the parent's right to a continuing relationship with the child.



IF YOU REACHED AN AGREEMENT AT MEDIATION, THIS IS THE *END* OF THE PACKET.
OTHERWISE, GO TO SECTION 4.

Section 4 HEARING WITH A JUDGE

SCHEDULING THE HEARING



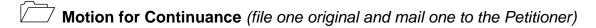
A Court Hearing will be scheduled by the Court ONLY if:

- ➤ The Mediation was <u>unsuccessful</u> (no agreement or a temporary agreement was reached) **OR** Mediation was not required; **AND**
- The original Certificate(s) of Completion for the Parent Education Class has been filed. THE COURT WILL NOT SCHEDULE A HEARING UNTIL THE CERTIFICATE(S) OF COMPLETION HAS BEEN FILED WITH THE COURT.

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing.**

Some judges may schedule a **pre-trial hearing**. The purpose of this hearing is to discuss the status of your case <u>prior</u> to scheduling a full evidentiary hearing where you will present evidence and call witnesses.

If you cannot attend the scheduled hearing, you must file the following form:



▶ If, once you receive your Notice, you cannot attend the scheduled hearing, you must contact the Court IMMEDIATELY by filing a Motion for Continuance. DO NOT call the Court. On this Motion, you must state very specific reasons why you cannot attend the

hearing. You must have a <u>legal</u> and <u>unavoidable</u> reason for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for a Continuance, you must contact the Petitioner regarding the continuance and then **tell the Court in the Motion how the Petitioner feels about the continuance**. Because the law is very strict when it comes to rescheduling hearings, these Motions are not always granted.

- You will be notified by the Court if your Motion for Continuance has been granted. UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING. If you fail to appear at your hearing, the Court can enter an order granting the Petitioner everything that he/she wants. You would not be given any say in how the custody arrangement would work.
- ➤ A sample Motion for Continuance can be found on page ???.

THE DAY OF THE HEARING

The Court Hearing is a Trial in front of a Judge. At the Court Hearing, you and the Petitioner will each be given an opportunity to tell your side of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story.

Family Court has developed a **Court Hearing Procedure Overview** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. Family Court also has developed a series of **Answers to Frequently Asked Questions on Your Court Hearing** to help you prepare and organize for your Court Hearing. It is helpful to read this information before your scheduled hearing. All Overviews and Frequently Asked Questions are available in the Resource Centers located in each courthouse.

At the hearing, it is up to <u>YOU</u> to prove to the Judge WHY it is NOT in the <u>child's best interest</u> for the Court to grant the Petitioner what he/she is requesting in his/her Motion and Affidavit to Modify Custody. You must also prove why it is in the child's best interest for the Court to grant you what you are requesting. The best interest standard is explained on pages 10 & 11 of this Instruction Packet. Review that information before the hearing, so you are prepared to present your case to the Court. You should come to Court prepared to offer evidence regarding Parental Duty and Responsibility, Placement, and Visitation. For more information on these topics see pages 27-28.

After both sides have presented all of their evidence, one of two things can happen. The Judge can announce his/her decision at the end of the

hearing, in which case you will leave the Courthouse knowing what the custody arrangement is. **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the custody arrangement sometime after the hearing. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or the Court Order, in the mail.

Once the Court has entered a Custody Order, you and the Petitioner should follow the terms of the Order. The Court will not enforce any agreements made by the parties that are not in a Court Order. If circumstances change, you and the Petitioner can change the Order by filing the proper motion.



THIS IS THE END
OF THE ANSWER TO
CUSTODY MODIFICATION
INSTRUCTION
PACKET.