

INSTRUCTIONS TO FILE A MOTION TO MODIFY OR SET ASIDE PARENTAGE

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ Use these instructions if you already have obtained a Court order for Child Support and want to modify or set aside parentage if genetic test results based on DNA testing establish the exclusion of the individual named as the biological father in the Order.
- ◆ The Motion must be filed within two years from the date of the entry of the support order. For orders entered before August 15, 2008, a motion to modify pursuant to this section must be filed on or before August 15, 2010.
- ◆ A Court Order establishing child support shall not be modified or terminated **if one of the following apply**:
 1. The child support payor/obligor acknowledged paternity knowing that he was not the father of the child;
 2. The child was adopted by the child support payor/obligor; or
 3. The child was conceived by means of assisted reproduction.
- ◆ If the child support is modified, the change will be applied retroactively to the date of the filing of the Motion.
- ◆ The Court shall not modify or set aside a final order determining parentage without a hearing.
- ◆ For additional information, please review Colorado Revised Statute §14-10-122(6) and §19-4-107.3, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

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| <input checked="" type="checkbox"/> Petitioner: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Co-Petitioner: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Respondent: | The person identified in the original Petition filed with the Court. |
| <input checked="" type="checkbox"/> Hearing Date: | The date that the Petitioner and Co-Petitioner/Respondent must appear in Court. |
| <input checked="" type="checkbox"/> May: | In legal terms, "may" is defined as "optional" or "can". |
| <input checked="" type="checkbox"/> Shall: | In legal terms, "shall" is defined as "required". |

If you do not understand this information, please contact an attorney. You may also contact the Family Court Facilitator at your local courthouse, if one is available in your Judicial District.

FEES

A \$70.00 filing fee is required. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide if you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

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| <input type="checkbox"/> Response (Required, unless previous filing fee paid by party.) | \$ 116.00 |
| <input type="checkbox"/> Service Fees | Varies (not payable through or to the Court) |
| <input type="checkbox"/> Certification Fee | \$ 20.00 |
| <input type="checkbox"/> Copies of Documents (Documents on File) | \$.75 per page or \$1.50 if double sided |
| <input type="checkbox"/> Copies of Documents (Documents not on File) | \$.25 per page or \$.50 if double sided |

FORMS

- The Magistrate or Judge will complete the remaining sections of the form following the hearing and give you and the other party a signed copy.

Genetic Testing Forms:

The Petitioner or Co-Petitioner/Respondent has the right to ask the Court to order genetic testing on all parties. It is the responsibility of the person requesting the tests to prepare the forms. If one of the parties does not agree, prepare JDF 1505, Motion for Genetic Testing. It is the responsibility of the party completing the form to contact a court approved testing agency to schedule the date and time for the collection of the genetic specimens. The fee for the test is the responsibility of the parties being tested and should be paid to the agency at the time of the test(s). The price of genetic testing varies with each lab.

- Helpful hints** to locate a laboratory that performs genetic testing, either HLA or DNA testing. There are a number of national laboratories that perform this service. You can locate a laboratory in the yellow pages under Paternity.

Questions to ask the lab when contacting to schedule an appointment.

- ✓ Type of genetic testing performed.
- ✓ Cost for genetic testing, per person and total cost.
- ✓ Address for the Lab, as you will need the complete address when completing the forms.
- ✓ Identification required for the parties completing the tests.

If the Petitioner and Respondent **do not agree to Genetic Testing**, complete the two forms below:

Motion for Genetic Testing (JDF 1505):

- Schedule the testing at least a month out. Once you have scheduled a date and time for the lab test, you are ready to complete and file the Motion and Order.
- Complete all sections on this form.
- File the signed original with the Court, mail a copy of the completed form to the Co-Petitioner/Respondent.
- Complete the Certificate of Service portion on the form indicating that you have provided the other party with a copy of the Motion.
- Make copies for your own records.

Order for Genetic Testing (JDF 1508):

- Complete the caption only on this form.
- The Court will complete the remaining sections.

Step 2: File Verified Motion, DNA Results and/or the Appropriate Genetic Testing Forms.

Provide the Court with the documents..

- Pay the \$70.00 filing fee.
- Provide the Court with the appropriate Motion and Order forms.
- If applicable, provide the Court with a self-addressed stamped envelope to receive the Order for Genetic Testing once reviewed and approved by the Court.
- Make sure you make copies for your records.

GENETIC TESTING

Complete the genetic testing if ordered by the Court. You will be notified of the results. If the Petitioner or Co-Petitioner/Respondent is not the biological father of the child(ren), additional documents can be filed to support the modification/termination of child support.

COURT HEARING

A court hearing is required to make a final determination regarding parentage. The Judge or Magistrate will review all documents filed and enter an Order re: Parentage. Child support will be modified or terminated as appropriate. The Court may vacate or deem as satisfied, in whole or in part, any unpaid child support obligation.