

Changing a Child Support Order in Your State

 The information below applies only to Delaware

1. How can I find out if I have a “IV-D” child support case in this state?

Contact the Delaware Division of Child Support Enforcement (DCSE) to find out if there is a IV-D child support case. If there is a IV-D support order, DCSE will be able to provide the parents the amount of the support order, the arrears owed and the date the order was last modified. A parent can use the phone numbers below.

2. How can I contact my child support agency?

The DCSE Customer Service phone numbers are (302) 577-7171 in New Castle County, (302) 739-8299 in Kent County, and (302) 856-5386 in Sussex County.

The DCSE mailing address is P.O. Box 15012, Wilmington, DE 19850.

The DCSE website is available online at <http://www.dhss.delaware.gov/dcse/>.

3. If I am incarcerated, are there any barriers to having my order changed?

Incarcerated parents may only request a modification of the order if more than 2 ½ years have passed since the current support amount was last determined or calculated.

4. Do you provide any materials online that I can use to ask for a change to my child support order?

Yes, information about the modification process and petitions for modifications can be found at the Delaware Family Court website at <http://courts.delaware.gov/family/>. The modification petition is Petition for Child Support Modification (Form 342), which is attached here.

5. Do you have any printed materials I could read to learn more about child support for parents who are incarcerated?

No.

6. When can I ask to have my order changed?

Parents have the right to request modification of their child support order. In Delaware, a parent can request that the Family Court review a child support order after 2 ½ years, or within 2 years if there has been a substantial change in either parent’s income (such as day care or medical expenses, loss/gain in income) that would impact the results of the Delaware Child Support Formula and significantly change the support obligation.

While incarceration that exceeds or is anticipated to exceed one year may be considered as evidence of a diminished earning capacity, incarceration is not a ground for modification of a current support obligation that is less than 2 ½ years old.

7. How do I request the change?

IV-D clients can request a modification through DCSE, and DCSE will review the case and generate the modification petition if the case qualifies. A non-TANF client is required to submit a signed and completed “Review Authorization Letter” to DCSE before a modification petition can be generated by DCSE and submitted to Family Court.

Non-custodial parents and parents in non-IV-D cases should file modification petitions directly with the Family Court of the State of Delaware.

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8. What is the process after I've asked to have my order changed, and how long does it take?

Once a petition is filed with the Family Court of the State of Delaware, the parties will be sent notice of the filing and a hearing will be scheduled (this will likely take a few months, depending upon availability within the Court's calendar). At the court hearing, each party will be required to provide financial information to the Court to apply the child support guidelines to calculate the child support obligation. The calculation may result in an increase, decrease, or no change in the child support order.

9. Is this process different if the other parent agrees to the change in advance?

N/A

10. Does it cost anything to try to have my order changed?

There are no filing fees in cases where either parent is a client of DCSE.

In all other cases, the Court charges a fee for filing petitions. However, the fee may be waived if an individual is unable to pay it. To request that the fee be waived, you must complete the "Application to Proceed In Forma Pauperis."

11. If I am incarcerated, do I need to do anything else to have my order changed?

No.

12. If I am incarcerated, does my state have any programs to help me with child support?

The Division of Child Support staff makes visits to correctional facilities on a scheduled basis to meet with inmates who have general questions concerning the child support program or to discuss individual cases. DCSE staff also provides information and resources to Department of Corrections staff so that they can assist clients with child support issues. Visits occur at the James T. Vaugh Correctional Center, the Howard R. Young Correctional Institution and the Sussex Correctional Institution. Sessions are held twice yearly or upon special request.

13. Can I get help with child support questions from other sources?

Limited services for inmates are available through the Delaware Center for Justice. DCJ offers inmate programs in the various facilities and can assist inmates with various legal issues including child support enforcement. The DCJ can be reached at <http://www.dcjustice.org/> or 302-658-7174.

14. Is there anything else I should know about trying to change my order?

No.



The federal Office of Child Support Enforcement prepared this guide; however, your local child support agency can provide the most current information. This guide does not have any binding legal authority and does not constitute legal advice. You may wish to consult a lawyer before using the forms or information provided.



The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

PETITION FOR CHILD SUPPORT MODIFICATION

Increase Decrease

DCSE # _____ FILE # _____ PETITION # _____ Other state # _____

Petitioner

v. Respondent

Name		DOB	
Street Address			
Apt. or P.O. Box Number			
City		State	Zip Code
Home Phone #			
Work Phone #			
Cell Phone #			
Attorney Name and Phone Number			
Employer:			
Employer Address:			

Name		DOB	
Street Address			
Apt. or P.O. Box Number			
City		State	Zip Code
Home Phone #			
Work Phone #			
Cell Phone #			
Attorney Name and Phone Number			
Employer:			
Employer Address:			

IN THE INTEREST OF: (Include last name.)

Name	DOB	Name	DOB	Name	DOB
Name	DOB	Name	DOB	Name	DOB

The Petitioner seeks a modification of the Child Support Order dated _____ and alleges the following:

- More than 2 ½ years have passed since entry of the order in which current support was last determined.
- Less than 2 ½ years have passed since the last current support determination and **a substantial change of circumstance**, through no wrongful conduct of the Petitioner, has occurred regarding.
 - Income or deductions
 - Health insurance cost or availability
 - Daycare or private school tuition
 - Number of minor children on this Order to support
 - Number of other minor children to support
 - Other

Required for #2 – Describe exactly what changed since the above order:

Therefore, the Petitioner requests modification of the current child support Order in accord with recalculation pursuant to the Delaware Child Support Formula and acknowledges:

- If the petition was filed within 2 ½ years of the entry of the order in which current support was last determined, only modifications of greater than 10% will be imposed.
- Whenever a modification petition is filed, the ordered obligation may increase or decrease regardless of which party filed the petition.
- Loss of license and incarceration for nonpayment of child support are not grounds for child support modification.
- If Petitioner sends a copy of the Petition to Respondent by certified mail, the order may be effective the date of first attempted delivery. Otherwise summonses for modification petitions are sent by the court by 1st class mail and maximum retroactivity of a modified order is to the date of the 1st scheduled court appearance.
- If I have not properly completed paragraph one(1) or two (2), my petition may be dismissed.

Date

Petitioner/Attorney