

Changing a Child Support Order in Your State

 The information below applies only to Montana

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

Contact: Child Support Enforcement Division
PO Box 202943
Helena, MT 59620-2943
(406) 444-6856

www.childsupport.mt.gov

2. How can I contact my child support agency?

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PO Box 202943
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3. If I am incarcerated, are there any barriers to having my order changed?

Yes. Under Montana case law, “involuntary” incarceration in and of itself is not so substantial and continuing a change of circumstances as to make a child support order unconscionable. Therefore, the Child Support Enforcement Division (CSED) does not consider a decrease in income resulting from incarceration to be a qualifying condition for a review. The cases are Mooney v. Brennan, 257 Mont. 197, 848 P.2d 1020 (1993) and Marriage of Olsen, 257 Mont. 208, 848 P.2d 1026 (1993).

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

No.

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?

- Every three-years the CSED provides a notice to each parent or non-obligated custodian subject to a support order in a CSED case that he or she may request review and possible modification of the support order. The three-year review is available regardless of any showing of change of circumstance.
- If a parent requests a review less than three-years after the support order was established or last reviewed, the CSED will grant the request only if a change of circumstances applies.
- Under Montana case law, “involuntary” incarceration in and of itself is not so substantial and continuing a change of circumstances as to make a child support order unconscionable. Therefore, the CSED does not consider a decrease in income resulting from incarceration to be a qualifying condition for a review. However review may be available if the requestor proves a 30% change in gross income that is not related to the incarceration, and the incarcerated party waives any right he or she would have to an in-person hearing during the course of the review and modification process.
- A review is not appropriate for income reduction resulting from a voluntary employment change, reduced work hours or termination. A full review is appropriate only if the income reduction is not caused by a parent’s voluntary acts and the parent is incapable of obtaining similar employment.

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7. How do I request the change?

- The CSED conducts review and modification in three stages, at increasing levels of formality. In the first stage, the CSED receives and screens a request for review. The CSED investigates the allegations and then either denies the request or agrees that modification is appropriate. Activities at this level involve all parties to the request.
- For a CSED initiated review, a case that involves IV-A assignment of rights, the first stage of the three-stage process is to review the case for possible modification. Activities at this level do not involve the parties.
- In the next stage, the CSED initiates and resolves a contested case action to modify the support order. At this level there is an opportunity for a statutory modification hearing to contest the action. Review and modification of an administrative support order ends with this stage.
- The final stage (judicial level) applies only for court-issued support orders. Under MCA § 40-5-277, Montana court orders and court orders from other states must be modified by a Montana district court. The CSED decision and order from stage 2 is not effective as a final modification order until it is filed with and approved by the applicable Montana court. The parties may contest the CSED's order by requesting a hearing with the court. The court may adopt, modify, reject or remand the order.

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

Federal regulations require that the CSED conduct a review, and modify the order or determine that the order should not be modified within 180 calendar days of receiving the complete request for review and locating the other parties to the request. The requirement applies to modification of court orders as well as administrative orders. The time is not extended to accommodate the additional steps (or delays) involved in obtaining a final modification from the district court.

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

No.

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

No.

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

A review may be available if the requestor proves a 30% change in gross income that is not related to the incarceration, and the incarcerated party waives any right he or she would have to an in-person hearing during the course of the review and modification process.

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

No.

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

No.

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.

