

Instructions for a Modification of an Order of Custody/Visitation Petition

As an alternative to these forms, a step-by-step computer program is available at www.nycourthelp.gov which can help you prepare and print a petition for modification of an order of custody/visitation.

Do not make copies of these instructions, as they are for your information only.

All forms must be completed with black ink only, and printed legibly.

To satisfy the legal requirements to have your petition for modification of an order of custody/visitation considered, every question must be answered on the petition and applicable forms, and required documents must be attached. Failure to do so may result in the dismissal of your petition.

These forms and instructions are available in the General Clerk’s Office in the Nassau County Family Court at 101 County Seat Drive, Mineola, NY and on the Nassau County Family Court website at www.nycourts.gov/courts/10jd/nassau/family.shtml .

The following are required to file your petition:	
<ul style="list-style-type: none"> ● Petition (GF 40) and applicable attachments-> 	original and 3 copies; if you file the petition in person and you bring an extra copy (5th set), 1 copy will be stamped by the court and given back to you as proof of filing,
<ul style="list-style-type: none"> ● Current order of Custody/Visitation-> 	<p>if the order is a Nassau County Family Court order, then 3 copies,</p> <p>if the order is not a Nassau County Family Court Order, then 3 copies and 1 certified copy, except if a certified copy of the order was previously submitted on a prior custody/visitation matter filed after January 1, 2013, then only 3 copies,</p> <p>if the order is part of a judgment of divorce, all attachments are required with each copy,</p>
<ul style="list-style-type: none"> ● Nassau County Family Court (NCFC) Information Sheet-> 	original (one or more, to include each petitioner and/or respondent).

Do not use this petition and instruction packet if the order of custody/visitation/parenting time is not from a New York State court.

Do not use this petition and instruction packet if the child(ren) are in the custody of the Department of Social Services.

Page 1

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In the Matter of a Proceeding for Custody/Visitation
under Article 6 of the Family Court Act

PETITION for Modification
of an Order of Custody/Visitation
Made by

- NYS Family Court
- NYS Supreme Court

Petitioner (1) Print your name here
Petitioner (2) If there is an additional person filing
this petition, print the name here

-AGAINST-

Respondent (1) Print the name of the person you
are filing the petition against here

Respondent (2) If there is an additional person you are
filing the petition against, print the
name here

File # _____ leave blank
Docket #(s) _____ leave blank
<i>(Court use only)</i>

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Pages 1 - 2

The following refers to the numbered sections of the petition:

1. Child's Information: In the separate sections labeled Child (1), Child (2), etc., print the name of each child named in the current order of custody/visitation/parenting time that you are requesting to modify. Print the date of birth, check box regarding whether the child is male or female, print address, and name of person(s) the child resides with for each child.

If there are more than three children, use an additional sheet of paper and make sure to include the name, date of birth, sex of each additional child, address, and name of person(s) the child resides with.

*The family court does not share personal information with the public, but petitions are provided to all parties. If the child's(ren)'s address is not known to the respondent(s) and you are requesting that the child's(ren)'s address be kept confidential from the respondent(s), print the word CONFIDENTIAL on the address line; print the child's(ren)'s name(s), address(es) and the word CONFIDENTIAL on an additional sheet of paper and attach it to the NCFC Information Sheet only.

Page 2

2a. & 2b.

Petitioner's - Information: You are the petitioner(s) (person(s) requesting to modify the custody/visitation/parenting time order).

Print your name, date of birth, address (where you reside or where you are temporarily located, including zip code) and your relationship to the child(ren), including whether you are on the maternal or paternal side of the family, if applicable. If the relationship is not the same for all the children in the petition, explain on the line provided.

*The family court does not share personal information with the public, but petitions are provided to all parties. If your address is not known to the respondent(s) and you are requesting that your address be kept confidential from the respondent(s), print the word CONFIDENTIAL on the address line. Include your address on the NCFC Information Sheet. Check box on the NCFC Information Sheet directly below the section for your address, which asks if you are requesting to keep your address confidential.

3a. & 3b.

Respondent's Information-

The respondent(s) is(are) the person(s) you are filing against. You must include both legal parents, unless one or both are the petitioner(s). You must also include the current custodian(s).

Print the name, date of birth, address (including zip code and if the current address is unknown then you must include the last known address), and the relationship to the child(ren) for each respondent. If the relationship is not the same for all the children in the petition, explain on the line provided.

If there are more than 2 respondents, use an additional sheet of paper and make sure to include the name, date of birth, address, and relationship to the child(ren) for each additional respondent.

Page 2-3

4. Check one box for each question. If yes to either question, complete and attach the **4a. Military Service Attachment** before the petition is signed and verified. If no to both questions, discard the **4a. Military Service Attachment**.

4a. Military Service Attachment, if applicable:

Check one box for each question. If yes, fill in the information required. If the answer to any of the four questions in this section applies to more than one petitioner parent or respondent parent, use an additional sheet of paper and include the name of the parent, whether he/she is actively deployed or returning from active military service, deployment or temporary assignment, and include all the corresponding information requested on the form.

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- 5a. Check applicable box. If the current custody/visitation/parenting time order is from a New York State court other than Nassau County Family Court, then print the required information on the line given. Fill in the date of the order, the petitioner's/plaintiff's name, the respondent's/defendant's name, the docket #/index #, and the terms of the order. If the current order is not a NYS order than this petition and instruction packet are not the correct forms to request modification of the order.
- 5b. Check one box.
- 5c. Check applicable box, which directs the type and number of copies of the current custody/visitation/parenting time order required for filing the petition according to your particular circumstances. To satisfy the legal requirements to have your petition for modification of custody/visitation/parenting time considered the appropriate box must be checked and the corresponding copies of the order must be provided when filing the petition. If you need assistance with this section, go to the Clerk's Office in the Family Court at 101 County Seat Drive, Mineola, NY.

Pages 3-4

6a. Check ✓ one box. If yes, fill in the information required.

Page 4

6b. Check ✓ one box. If yes, fill in the name of the child's(ren's) attorney.

7a. Specifically list what has changed regarding the parties and/or the children since the entry of the order/judgment.

7b. Explain what changes to the order/judgment you are requesting the court to make. Be specific.

8. Check ✓ one box for each question. If yes to all three questions, complete and attach the **8a. Child Protective Attachment** before the petition is signed and verified. If no to all three questions, discard the **8a. Child Protective Attachment**.

8a. Child Protective Attachment, if applicable:

1. Check ✓ one box. Fill in the corresponding information for the box checked, including the date the petition was filed, the docket number(s), and the name(s) of the respondent(s) on that petition.
 2. The first check box should be checked if the neglect or abuse allegations in the child protective petition have been resolved either by an admission by the respondent(s) or after a trial before the judge determining that the child(ren) is(are) abused or neglected; or if the destitute child petition resulted in a finding that the child is destitute. If the first box is checked, check ✓ one of the next two boxes. The disposition on a neglect or abuse case comes after a finding is made where the judge makes a decision directing care of the child(ren) and other orders; the disposition on a destitute child petition comes after a finding where the judge then makes a decision on custody and or guardianship of the child. If a disposition has not been made, fill in the next court date.
 3. If the child(ren) has(have) been ordered removed from the home, a permanency report and a permanency hearing are required within eight months from when the child(ren) was(were) removed from the home. Check ✓ one or both boxes as applicable. Fill in the required information.
 4. Check ✓ one box. If no, list your extraordinary circumstances on the lines provided.
 5. Check ✓ one box. If no, list your extraordinary circumstances on the lines provided.
 6. Check ✓ one box in the first set of boxes. If yes, fill in the required information, and check ✓ one box in the second set of boxes.
 7. Check ✓ one box.
 8. Check ✓ one box.
-

9. Check one box. If yes, fill in the information required.

Page 5

DATED: fill in the date you sign the petition

Sign and print your name on the lines provided.

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VERIFICATION

When all of the sections in your petition and applicable attachments are complete, you must affirm to the truthfulness of the petition by filling out and signing your name in the verification section.

After signing the verification on the original petition, make 3 copies. If required, see section 5c of the petition, attach the certified copy of the current custody/visitation/parenting time order or the certified copy of the judgment of divorce with the certified attachment(s) to the original petition. Then attach the original NCFC Information Sheet(s) to the original petition. Attach 1 copy of the current custody/visitation/parenting time order or judgment of divorce with attachment(s) to each of the 3 copies of the petition. Staple each set. Bring the 4 complete sets of papers to the General Clerk's Office of the Family Court between the hours of 9:00 a.m. and 4:45 p.m.

**or - mail to: Nassau County Family Court
101 County Seat Drive
Mineola, NY 11501
Attn: General Clerk's Office**

If you file the petition in person and you bring an extra copy (5th set), 1 copy will be stamped by the court and given back to you as proof of filing.

*Address: _____

Name of person(s) with whom child resides: _____

If there are 4 or more children, provide the same information on an additional sheet of paper.

*** If address is not known to the respondent(s) and you are requesting that the address be kept confidential from the respondent, print the word CONFIDENTIAL above and print the child's(ren's) name(s), address(es) and the word CONFIDENTIAL on an additional sheet of paper and attach it to the NCFC Information Sheet only.**

2a. Petitioner (1) - Information:
Name: _____
Date of Birth: _____ / _____ / _____
*Address: _____

Relationship to the child(ren): _____

2b. Petitioner (2) - Information, if applicable:
Name: _____
Date of Birth: _____ / _____ / _____
*Address: _____

Relationship to the child(ren): _____

If the relationship is not the same for all children, please explain:

*** If address is not known to the respondent(s) and you are requesting that the address be kept confidential from the respondent, print the word CONFIDENTIAL above and print the child's(ren's) name(s), address(es) and the word CONFIDENTIAL on an additional sheet of paper and attach it to the NCFC Information Sheet only.**

3a. Respondent (1) - Information:
Name: _____
Date of Birth: _____ / _____ / _____
Address: _____

Relationship to the child(ren): _____

3b. Respondent (2) - Information, If applicable:
Name: _____
Date of Birth: _____ / _____ / _____
Address: _____

Relationship to the child(ren): _____

If the relationship is not the same for all children, please explain:

4. Is/Are either the petitioner parent(s) or respondent parent(s) activated, deployed or temporarily assigned to military service? Yes No

Has/Have either the petitioner parent(s) or respondent parent(s) returned from active military service, deployment or temporary assignment? Yes No

If yes to either question, complete and attach the **4a. Military Service Attachment.**

5a. The information following applies to the current custody/visitation/parenting time order/judgment:

Name of Court: Nassau County Family Court
 NYS _____ County Family Court
 NYS _____ County Supreme Court

Date of Order/Judgment: ____ / ____ / ____

Name of Petitioner/Plaintiff: _____

Name of Respondent/Defendant: _____

Docket #/Index #: _____

Terms of the Order/Judgment (state the terms of who has custody of the children and the terms of who has visitation or parenting time with the children): _____

Use an additional sheet of paper if necessary.

5b. Is the current custody/visitation/parenting time order from a NYS Family Court? Yes No

If no, under the terms of the order/judgment, the court has not retained exclusive jurisdiction to modify the order/judgment.

5c. Check one box below:

- The order is a Nassau County Family Court order; three copies have been provided for service.
- A certified copy of the non-Nassau County Family Court custody/visitation/parenting time order/judgment (with a certified copy of attachments) is attached and three additional copies have been provided for service.
- A certified copy of the non-Nassau County Family Court custody/visitation/parenting time order/judgment (with a certified copy of attachments) was previously submitted to Nassau County Family Court on a prior custody/visitation/parenting time matter filed after January 1, 2013 and three copies have been provided for service.

6a. Was the order entered in conjunction with a child protective dispositional order or a permanency hearing order, directing custody with a relative or other non-parent, pursuant to the Family Court Act §1055-b or §1089-a? Yes No

If yes, complete the following pertaining to the child protective case:

Family Court, County of _____, Docket # _____ .

6b. Did the order provide that the local department of social services and the attorney for the child(ren) be notified and be made parties to any subsequent proceedings for modification, enforcement or termination of the order? Yes No

If yes, complete the following:

Name of the Attorney for Child(ren): _____ .

7a. Upon information and belief, since the entry of the order/judgment, there has been a change of circumstances. The following has changed since the entry of the order/judgment:

Use an additional sheet of paper if necessary.

7b. Due to this change in circumstances, the order/judgment should be modified. I(We) am(are) requesting the following changes to the order/judgment:

Use an additional sheet of paper if necessary.

8. Has there been a child protective (neglect or abuse) petition or a permanency hearing report filed regarding the child(ren) and is it currently open? Yes No

Is it true that the petitioner(s) is(are) not the parent(s) of the child(ren) in this petition?

Yes No

Is this a petition to modify custody (not a petition to modify visitation only)?

Yes No

If yes to all three questions above, complete and attach the **8a. Child Protective Attachment.**

9. Has(Have) (a) previous application(s) been made to any court or judge for the relief requested in this petition? Yes No

If yes, complete the following:

Name(s) of Parties: _____

Name of Court: _____

Address of Court: _____

Type of Case: _____

Status of Case: _____

If more than one litigation, provide the same information on an additional sheet of paper.

WHEREFORE, the petitioner(s) request(s) that the current order/judgment, be modified and/or respondent(s) be dealt with as set forth above in accordance with Article 6 of the Family Court Act and applicable provisions of law and for such other relief as the court may deem just and proper.

Dated: ___ / ___ / ___

Petitioner (1) [sign name]

Petitioner (1) [print name]

Petitioner (2) [sign name]

Petitioner (2) [print name]

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VERIFICATION

I am the Petitioner in the above-entitled proceeding and affirm this ___ day of _____, 20___, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the above statements are true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

Petitioner (1) [sign name]

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VERIFICATION

I am the Petitioner in the above-entitled proceeding and affirm this ___ day of _____, 20___, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the above statements are true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

Petitioner (2) [sign name]

Complete these pages only if you have checked ✓ yes to one of the questions in section 4 of the petition.

4a. Military Service Attachment

FILE # _____
DOCKET # (s) _____
(Court use only)

1. Is a petitioner parent activated, deployed or temporarily assigned to military service?

Yes No Not applicable, petitioner(s) is(are) not the parent(s).

If yes, fill in the following information:

Name of Petitioner Parent: _____

Type of Service: _____

Military Branch or National Guard: _____

Anticipated Dates of Duty: ____ / ____ / ____ , ____ / ____ / ____

Location of Duty: _____

Specify how military duty is likely to affect custody/visitation, if at all:

2. Has a petitioner parent returned from active military service, deployment or temporary assignment?

Yes No Not applicable, petitioner(s) is(are) not the parent(s).

If yes, fill in the following information:

Name of Petitioner Parent: _____

Type of Service: _____

Military Branch or National Guard: _____

Return Date from Duty: ____ / ____ / ____

Location of Duty: _____

Specify how military duty is likely to affect custody/visitation, if at all:

If there is a 2nd petitioner parent who is activated, deployed or temporarily assigned to military service or who has returned from active military service, deployment or temporary assignment, provide the same information on an additional sheet of paper.

4a. Military Service Attachment

3. Is a respondent parent activated, deployed or temporarily assigned to military service?

- Yes No Not applicable, respondent(s) is(are) not the parent(s).

If yes, fill in the following information:

Name of Respondent Parent: _____

Type of Service: _____

Military Branch or National Guard: _____

Anticipated Dates of Duty: ____ / ____ / ____ , ____ / ____ / ____

Location of Duty: _____

Specify how military duty is likely to affect custody/visitation, if at all:

4. Has a respondent parent returned from active military service, deployment or temporary assignment?

- Yes No Not applicable, respondent(s) is(are) not the parent(s).

If yes, fill in the following information:

Name of Respondent Parent: _____

Type of Service: _____

Military Branch or National Guard: _____

Return Date from Duty: ____ / ____ / ____

Location of Duty: _____

Specify how military duty is likely to affect custody/visitation, if at all:

If there is a 2nd respondent parent who is activated, deployed or temporarily assigned to military service or who has returned from active military service, deployment or temporary assignment, provide the same information on an additional sheet of paper.

Complete these pages only if you have checked ✓ yes to all three of the questions in section 8 of the petition.

8a. Child Protective Attachment (To be used for a Petition for Modification of Order of Custody Made by NYS Family Court or NYS Supreme Court only)

FILE # _____
DOCKET # (s) _____
(Court use only)

These pages are applicable to cases in which a child protective (neglect or abuse) petition, destitute child petition, or a permanency hearing report has been filed regarding the child(ren), the petition or report is currently open, and you are not a parent of the child(ren).

1. Check ✓ one box.

- A child protective petition was filed in:
[specify name of court]: _____ on [specify date petition was filed]: ____ / ____ / ____ , Docket #: _____ , alleging that [specify name of respondent(s) on that petition]: _____ , _____ neglected or abused the child(ren) who is(are) the subject(s) of this custody petition.
- A destitute child petition was filed in [specify name of court]: _____ on [specify date petition was filed]: ____ / ____ / ____ , Docket #: _____ , alleging that the child(ren) who is(are) the subject(s) of this custody petition is(are) (a) destitute child(ren).

2. Check ✓, if applicable:

- The petition above resulted in a finding being made.
Check ✓ one box:
 - The disposition was as follows:

 - The disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. § 1055-b for a neglect or abuse petition or F.C.A. § 1095 for a destitute child petition. The next court date is: ____ / ____ / ____ .

3. Check ✓, if applicable:

- A permanency report pursuant to Article 10-A of the F.C.A. was filed in the Family Court indicating a permanency plan of custody of the child(ren) with the petitioner.
Name of the County: _____

8a. Child Protective Attachment (To be used for a Petition for Modification of Order of Custody Made by NYS Family Court or NYS Supreme Court only)

Docket #: _____

Date of Report: ____ / ____ / ____

The permanency hearing was adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. § 1089-a.

4. Has(Have) the child's(ren's) birth mother consented to the change to the custody order/judgment?

Yes No

If no, the following extraordinary circumstances support your standing to seek a change to the custody order/judgment: _____

5. Has(Have) the child's(ren's) legally established birth father consented to the change to the custody order/judgment?

Yes No

If no, the following extraordinary circumstances support your standing to seek a change to the custody order/judgment: _____

6. Has(Have) the child(ren) been living with (a) foster parent(s)?

Yes No

If yes, fill in the following information:

Name of Foster Parent(s): _____

Duration (from - to): ____ / ____ / ____ - ____ / ____ / ____

Has(Have) the foster parent(s) consented to the change to the custody order/judgment?

Yes No Unknown

7. Has the Nassau County Department of Social Services in the related child abuse or neglect permanency proceeding consented to the change to the custody order/judgment?

Yes No Unknown

8. Has the attorney for the child(ren) in the related child abuse or neglect permanency proceeding consented to the change to the custody order/judgment?

Yes No Unknown

**Nassau County Family Court
Information Sheet**

Print all information. Every box must be filled in. If you do not know the information, print the word UNKNOWN.

FILE # _____
DOCKET # _____
<i>(Court use only)</i>

Petitioner (Person filing petition)

Name: (First) _____ (Middle) _____ (Last) _____		
Maiden/Alias/Nickname: (First) _____ (Last) _____		
Address: (Street) _____ (Apt. #) _____ (City) _____ (State) _____ (Zip Code) _____ (County) _____		
If your residence address and mailing address are different, check here <input type="checkbox"/> , print mailing address in this section and attach a separate paper with your name and residence address.		
If your address is not known to the respondent and you are requesting that your address be kept confidential check box here <input type="checkbox"/> .		
Home Phone #: () -	Work Phone #: () -	Cell Phone #: () -
Date of Birth: / /	Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Other [specify]: _____	Ethnic Origin: <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Non-Hispanic <input type="checkbox"/> White
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female		
Social Security #: - -	Height: ft. in.	Weight: lbs Eye Color: _____ Hair Color: _____
Distinguishing Marks: _____	Driver's License ID #: _____	State: _____
Are you employed? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, Employer's Name: _____ Employer's Address: _____		

Respondent (Person you are filing petition against)

Name: (First) _____ (Middle) _____ (Last) _____		
Maiden/Alias/Nickname: (First) _____ (Last) _____		
Address: (Street) _____ (Apt. #) _____ (City) _____ (State) _____ (Zip Code) _____ (County) _____		
If the respondent's residence address and mailing address are different, check here <input type="checkbox"/> , print mailing address in this section and attach a separate paper with the respondent's name and residence address.		
Home Phone #: () -	Work Phone #: () -	Cell Phone #: () -
Date of Birth: / /	Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Other [specify]: _____	Ethnic Origin: <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Non-Hispanic <input type="checkbox"/> White
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female		
Social Security #: - -	Height: ft. in.	Weight: lbs Eye Color: _____ Hair Color: _____
Distinguishing Marks: _____	Driver's License ID #: _____	State: _____
Is respondent employed? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, Employer's Name: _____ Employer's Address: _____		