

Change a parenting plan or child custody order

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Learn when and how you can change the final court order about custody and visitation for your children.

To keep it simple, we call all custody orders “Parenting Plans” here, although you might have a Parenting Plan, Residential Schedule, Minor Guardianship Findings and Order, Non-parent Custody Decree, or other final child custody order. When we refer to “the other parent,” that could also be someone else with legal custody or guardianship.

“Judge” here refers to judges and court commissioners.

Major mod: Things have changed since the final parenting plan gave the other parent custody. Can I get custody now?

Maybe. You can file a Petition to Change Parenting Plan and ask the court for a new parenting plan that gives you custody. This is called asking for a **major**

modification of your parenting plan. There are different forms depending on your type of case.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

In a major modification case, you must prove there's been a substantial change in the children's lives or the other parent's life. Here are some specific reasons under state law to file for a major modification:

- The parent with custody under the current Parenting Plan has let the children live with you for a long time.
- The other parent's home isn't safe for the children physically, mentally or emotionally. It would be more harmful to leave the children where they are than to move them to your home.
- A court has held the other parent in contempt at least **twice in 3 years** for not following the Parenting Plan or criminally convicted the other parent of custodial interference.

Minor mod: What if I don't want to change custody, but I want other changes to the parenting plan?

You can still file a Petition to Change Parenting Plan. Depending on what sort of changes you want, your type of case may be a **minor modification**.

Examples:

- A parent's work schedule has changed. The parent can no longer visit the children during the times in the current parenting plan.

- A parent wants to take the children on a longer vacation than the current Parenting Plan allows. The children are much older than when you got the current parenting plan. They can spend more time away from the other parent.
- A parent has become a member of a religious faith which requires them to observe holidays that the current parent plan doesn't cover.

I have custody under our parenting plan. If the other parent has become unstable or dangerous, can I limit their time with our children?

Yes, you can file a Petition to Change Parenting Plan for this reason.

Depending on what kind of changes to the parenting plan you want, this could be either a major or a minor modification. You'll need to prove what the other parent is doing and how it harms the children.

How much does it cost to file a Petition to Change Parenting Plan?

If you file in the same county where you got your current parenting plan, the court will charge you up to a \$56 filing fee. If you file in a different county, or under a different case number, the filing fee may be up to \$260. There will also be copying costs and maybe fees for serving papers on the other parties. If you hire a lawyer, you must pay attorney's fees and costs.

If you have low income, you can ask the judge to cancel (waive) the filing fee.

What's the modification process?

After you file the case and the time for the other parent to respond to your petition has passed, you must schedule a hearing for the judge to decide if there is good reason (adequate cause) for your case to go forward. This is called an **Adequate Cause hearing**.

This hearing is very important. The judge will look at the papers you and the other parent have filed. You'll have a few minutes to say why you filed this case. The other parent will have a few minutes to say why they believe your case shouldn't be allowed to go forward (why it should be dismissed). The judge will then decide if you had valid reason (adequate cause) to file your case. If so, the judge will let the case proceed. If not, the judge will dismiss the case.

What does it mean to let the case proceed?

It means you can continue to try to get a new final parenting plan from the court. Depending on the facts of your case, how urgent your need for a new parenting plan, and how much you and the other parent disagree, you have options for how to finalize your case:

- **Settlement**: You and the other parent come to a negotiated agreement about what a new parenting plan should say.
- **Trial**: You will testify, have others testify for you, and give evidence. A judge will decide if you need a new parenting plan, and if so, what it should say.

If you need orders before your trial date, you can ask for temporary orders.

If the other party is on active military duty, or the dependent of someone who is, talk to a lawyer before filing your motion. Special rules may limit the court's ability to do anything that would negatively affect the service member's or protected dependent's rights.

**The other parent and I agree on what a new parenting plan should say.
What should we do?**

You can file an agreed Petition to Change Parenting Plan. It's easier to get a new parenting plan this way than if you and the other parent disagreed about what a new parenting plan should say or even if you need a new parenting plan in the first place.

There are different forms depending on your type of case.

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What if I'm having other problems with the other parent involving the parenting plan, but I don't want to change the parenting plan?

It depends on what the problems are.

If the other parent hasn't been following the Parenting Plan, or you need its terms made clearer, you should file for contempt or clarification.

If you want to change how much child support the children get, you should file a Petition to Modify Child Support Order.

What if I don't have a final Parenting Plan?

If your Parenting Plan is a **temporary order**, you can file a new motion for temporary orders to change it.

If a court has never ordered a Parenting Plan, you need to start a court case to get one.

I want to move with my children. Do I file a Petition to Change Parenting Plan?

Once you have a Final Parenting Plan, you can probably legally move away with the children if you do what the Parenting Plan says. All Parenting Plans have a section on moving with the children that summarizes state law:

- You usually must give the other parent notice beforehand. (There are a few exceptions to this.)
- You usually must give the other parent a chance to object to a move outside the school district.
- The other parent can ask the court to change your Parenting Plan, including who the children live with, if you ask to move the children outside of the school district.

I lost custody in a nonparent custody or minor guardianship case. How can I get my kids back?

You can file a Petition to Terminate or Change Minor Guardianship or Non-Parent Custody Order case. In this case, you must prove that your situation has gotten better. You must also prove that it won't harm the children to be back in your custody.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

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