

INSTRUCTIONS FOR NON-CUSTODIAL PARENT’S MOTION IN TITLE IV-D CASE

I. When should this form be used?

You are under an order to pay child support (e.g. dissolution of marriage final judgment, child support order, dependency order, foster care order, domestic violence injunction) **and** the order is being enforced the Department of Revenue, Child Support Enforcement Office (Title IV-D agency). If you have a question about whether you case is a Title IV-D case, the clerk can check this for you. This form can be used only in Escambia County and Santa Rosa County.

II. When should this form not be used?

If you are seeking a change or suspension of your child support obligation, you should use the form entitled “Supplemental Petition for Modification of Child Support (Title IV-D Case).”

If you are seeking reinstatement of your driver’s license, you should use the form entitled “Defendant’s Motion for Reinstatement of Driver’s License.”

Note that there are time limits on certain motions. A motion for rehearing or a motion to vacate must be filed within 10 days of the date the order is signed by the circuit judge. You may be able to count a couple of additional days because of mailing. If you are close to the deadline, ask the deputy clerk to help you calculate the days.

A motion to set aside generally must be filed within one year of the date the order is signed. There are some limited exceptions. You may need to contact an attorney if you have a complicated situation.

III. What should you do next?

Along with the completed motion, you have to pay a \$50 case re-opening fee. However, there is no fee for a motion for rehearing or a motion to vacate. You pay this fee to the Clerk. The Clerk will deposit a copy of your motion in the Department of Revenue, Child Support Enforcement Office’s drop box located in the Clerk’s office. So long as the case is an open Title IV-D case, you will not be required to serve the custodian with a copy of the motion. If you are also seeking relief other than regarding child support (e.g., custody, visitation), you will need to file a separate petition and have the custodian/respondent served with the summons and a copy of that petition.

The legal services provider for the Department of Revenue, Child Support Enforcement Office, will contact you by mail with (a) any requests for information (called discovery) concerning the claims contained in your motion; (c) a notice of the hearing—usually within 90 days of service. **If you change your address you should immediately notify the Clerk (850-981-5550) and the Legal Services Provider (850-244-5688).**

You have the burden of proving by the greater weight of the evidence that you are entitled to the relief you request in your motion. If the custodian agrees with you, make sure the custodian (or former custodian) comes to the hearing.

If you are unable to be present on the day and time you are noticed for a hearing, you should *immediately* contact the legal services provider and request a different hearing date. If the legal services provider will not agree to a change in the hearing date, you should file a Motion to Continue Hearing, file it with the clerk, and request that the clerk forward a copy of it to the Support Enforcement Hearing Officer and the legal services provider. Please include in your motion the days during the following 30 days when you will be available to attend a hearing.

If you live out of state or in state but more than 100 miles from Milton, or if your work will require you to be out of state or in state but more than 100 miles from Milton on the date of the hearing, you may appear by telephone. You should contact the legal services provider (850-244-5688) at least five days before the date of the hearing to arrange to appear by telephone and to obtain the information you will need to make the call. Please note that the call is at your expense, that you may have to wait on hold until your hearing is ready to start, and that the length of the hearing cannot be predicted beforehand.

The Support Enforcement Hearing Officer conducts all hearings in Title IV-D child support cases and makes recommended orders, which are reviewed and signed by the circuit judge. If you disagree with the hearing officer's legal conclusions or if you don't believe his recommendations are supported by the evidence presented at the hearing, you can file a Motion to Vacate within 10 days of the date the order is signed by the circuit judge. That motion will be heard by the circuit judge, but decision will be based on a transcript of the hearing before the hearing officer. You will have to furnish the transcript at your expense. The hearing before the hearing officer is recorded. Only a court reporter is authorized to transcribe the recording of the hearing. You can also file a Notice of Appeal to the First District Court of Appeal within 30 days of the date the circuit judge signs the order. If you wish to file an appeal, contact the Clerk of the circuit court concerning the procedure and filing fees.

IN THE CIRCUIT COURT IN AND FOR SANTA ROSA COUNTY, FLORIDA

_____,
Petitioner/Non-Custodial Parent

v.

Case No. _____
Division V

THE STATE OF FLORIDA, on behalf of

_____,
Respondent/Custodial Parent/
Designated Relative

NON-CUSTODIAL PARENT'S MOTION IN TITLE IV-D CASE

I, *(full legal name)* _____, move:

1. I am the obligor of a child support order in this case.
2. I request a hearing on the following matter *(check each appropriate reason)*:

_____ (a) Motion for Rehearing. (Heard by Hearing Officer) I am filing this motion within 10 days of the date the order I am questioning was entered and I want the hearing officer to reconsider his decision or grant me a further hearing because:

_____ I did not receive the notice of the hearing.

_____ I think the hearing officer made an error and I believe the hearing officer will correct the error once I have had a chance to explain it. The error relates to _____

_____ (b) Motion to Vacate. (Heard by Circuit Judge). I am filing this motion within 10 days of the date the order I am questioning was entered and I want the circuit judge to vacate the order because:

_____ The order is not legally correct.

_____ The evidence presented at the hearing does not support the findings made by the hearing officer.

I have arranged to have the recording of the hearing transcribed at my expense.

_____ (c) Motion to Set Aside Paternity Order. I do not believe I am the father of the child or children covered by the order and I did not have a reasonable opportunity to challenge the adjudication of paternity before the entry of the order. I am making this request based on my good faith belief that I am not the biological father of the child(ren). I am requesting genetic testing of myself, the child(ren), and the mother. I understand that this motion must be filed within one year of the date the paternity order was entered.

_____ (d) Motion to Set Aside Support Order. I request relief from the support order based on:

_____ Mistake, inadvertence, surprise or excusable neglect. *(Please be specific)* _____

_____ Newly discovered evidence. *(Please be specific)* _____

_____ Fraud, misrepresentation, or other misconduct by an adverse party. *(Please be specific)* _____

_____ The order is void.

_____ The order has been satisfied, relieved or discharged.

_____ (e) Motion to Change Arrearage Payment. I am not challenging the child support payment, but the arrearage payment along with the child support payment is more than I can presently afford to pay.

_____ (f) Motion for Credit for Direct Payments. I have made payments of child support directly to the custodian, and I can prove these payments with receipts or cancelled checks. *(You will need to bring this proof with you to the hearing)*.

_____ (g) Motion for Relief from a Lien. The custodian or the Department of Revenue has a lien on money or property belonging to me and I want the hearing officer to determine how much I should have to pay to be relieved of the lien.

_____ (h) Other Motion for Relief. *(Please be specific)* _____

WHEREFORE I request a hearing before the support enforcement hearing officer (or before the circuit judge on a motion to vacate) on my motion for relief.

I CERTIFY that a copy of this motion has been deposited in the drop box of the Department of Revenue, Child Support Enforcement Office, located in the Office of the Clerk of the Court on the date indicated below.

Dated: _____

Signature of Petitioner/Non-Custodial Parent
Printed Name _____
Address _____
City, State, ZIP _____
Telephone No. _____
Fax No. _____

This is a local form developed by the Support Enforcement Hearing Officer, First Judicial Circuit, for use only in Title IV-D child support proceedings in the First Judicial Circuit.