

Directions for Custody Modification

Elk County Filing Fee - \$25.00

Cameron County Filing Fee - \$25.00

\$100.00 Conference Fee (nonrefundable)

These forms are used to request to change a custody order from the Court in Elk or Cameron County.

Courthouse employees cannot give you legal advice.

You should talk to a lawyer before filing any of these forms if:

- a. Either parent is under 18 years old; or
- b. You are a relative (grandparent, aunt, etc.) of the child(ren); or
- c. There is a custody order from another county, state, or foreign jurisdiction; or
- d. The child(ren) has/have not resided in Elk or Cameron County for the past six months.

If you have questions about your custody rights, you should talk to a lawyer.

Read these instructions carefully and look over the forms before you start filling out the papers.

1. If you are the person who wants to change the current custody order and filing the Petition to Modify, you are the **Petitioner** and the person you are filing against is the **Respondent**. The child or children must have lived in Elk or Cameron County for the past six (6) months. You must know an address for the Respondent so the Respondent can be mailed or given copies of the custody complaint and other papers. If you do not know where the Respondent is, you cannot file for a custody modification.

If the child(ren) lives in Elk County, file the custody papers with the Prothonotary's Office at the Elk County Courthouse in Ridgway. If the child(ren) lives in Cameron County, file the custody papers with the Prothonotary's Office at the Cameron County Courthouse in Emporium.

Use a typewriter or pen to fill in the blanks on the forms. Circle the county you are filing the custody papers in. Print clearly, making sure your name and the Respondent's name are spelled right, and also use middle names or middle initials. Use the same case number from your custody order. Make sure you sign all forms on the signature lines for the Petitioner.

If you want to ask the Court to let you file the petition without having to pay the conference fee, you must ask for a ***Petition to Proceed In Forma Pauperis***. You must fill out the form and file it at the same time you file the Petition to Modify. The judge will decide if you can afford to pay based on your income. If the judge denies your petition, you will have to pay the conference fee before the conference is scheduled.

2. Fill in the blanks of the **Order and Notice** and the **Petition to Modify**. The Plaintiff and Defendant names are the same as shown on your custody order. Make four (4) copies of your current custody order. Make three (3) copies of the Notice and the Petition. Attach one copy of your custody order to the original Petition to Modify and one to each of the three (3) copies. You must also complete the information requested in the **Order** (found on the Notice) but leave blank the part where a date will be scheduled. Check the box next to "conciliation or mediation conference" as that is the first step in a custody case. Cross out any information that does not apply to your case.
3. Take the original and the three (3) copies to the Prothonotary's office in the county where your custody order is filed. Be prepared to pay the conference fee unless you filled out the Petition to Proceed In Forma Pauperis form. Credit/debit cards are not accepted. You will need a check or money order for \$100.00 made payable to "Joshua A. Dean, Esq." to cover the conference fee. Once the Prothonotary takes the original paperwork and stamps it with a date stamp, the paperwork is "filed."
4. Ask the clerk at the Prothonotary's office to certify the three (3) copies. The Prothonotary will send the original and the three (3) copies to court administration to schedule a conference and the judge will sign the order. This will not happen while you wait. The Prothonotary's Office will contact you when you can return to pick up your copies.
5. Once you have your copies back, you will need to deliver a copy to the Respondent. This is called "service." The Respondent must be served at least 10 days before the date of the conference. If the Respondent is not served correctly, the conference cannot be held.

You cannot hand a copy of the paperwork to the Respondent in person, so choose one of the service methods below:

- a. **Certified Mail:** Mail one certified copy of the Petition and Notice to the Respondent by regular first class mail and mail the other certified copy to the Respondent using “certified mail, restricted delivery, return receipt requested.” You need to go to your post office to get the right mailing forms and you will pay extra postage. A green card will be attached to the certified mailing envelope, and once the Respondent receives the mailed paperwork and signs the green card, the card will be mailed back to you. Keep the green card once you get it back.

Be sure that the Respondent signed the green card. If someone else signed the card, you must send everything to the Respondent again, making sure the mail is certified, restricted delivery, return receipt requested.

After the custody paperwork has been served (when the green card comes back from the certified mail, or if the certified mail is refused by the Respondent, but the regular mail is not returned within 15 days), fill out and file the **Proof of Service** with the Prothonotary. If the green card is returned, staple or tape it to the Proof of Service. The Proof of Service must be filed before the date of the conference.

- b. **Personal Service:** The Sheriff can serve the Respondent. You must give a certified copy of your paperwork to the Sheriff’s Department and a deputy will take the copy to the Respondent, either at the Respondent’s home or place of work, etc. There is a fee for the Sheriff to serve the paperwork. The deputy will file an affidavit of service at the Prothonotary’s Office.
 - c. **Personal Service:** A person who is over 18 years of age who is not a party to your case or an employee or a relative of either party may hand deliver the certified copy of the paperwork to the Respondent. The person who does this must fill out the **Affidavit of Service** form and you must file the Affidavit with the Prothonotary. The Affidavit of Service must be filed before the date of the conference.
6. Before you go to the custody conference, you should think about what kind of custody arrangements and schedules you want. Often agreements are made at the conference and the conference officer will prepare an order for the judge to sign.
 7. If you and the Respondent cannot agree on the custody arrangements, then you and the Respondent will have to attend a pre-trial conference with the judge to discuss the special issues in your case. If you have not talked to a lawyer about your case, you may want to talk to or hire one now. The pre-trial conference is not a hearing so you do not need to bring any witnesses or the child or children. You will have to fill out a pre-trial

form and send it to the judge's office at least seven (7) days before the pre-trial conference. If you and the Respondent still cannot agree on the custody arrangements, then your custody trial will be scheduled.

8. Once a custody trial is scheduled, you will need to prepare for your case. If you plan to represent yourself, read the information included called "7 Tips When Representing Yourself In Court." If you are representing yourself, you are expected to know the correct way to ask questions of your witnesses, the correct courtroom procedures and follow the rules of court. Again, you are strongly encouraged to talk to or hire a lawyer before the custody trial.

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