

FORM FA-4170V

NOTICE OF MOTION AND MOTION TO CHANGE

Wisconsin Court System www.wicourts.gov / representing yourself in Court

Representing yourself in court is a big decision. You must follow the same standards of a lawyer and understand the legal process. In many matters, such as a disputed divorce or a complicated child custody case, it may be best to get legal advice. You may need to consult an attorney to determine that you are doing the right thing and that you are fully prepared for the court hearing. If you are unsure, it may be best to seek the help of an attorney.

Preparing your forms

- Make sure you have chosen the correct forms for your case. Read the instructions carefully before you complete the forms.
- ***Wait! Do not sign the forms.*** Many of the forms require that you sign them in the presence of a Notary Public.
- Make sure that all of the required information is attached to the forms and documents.
- **Make correct number of photocopies.**
- Be prepared to pay the filing fees required for your specific court matter at the time you file the papers.

Preparing for court

- Look over the forms and materials you are going to present in court. Make sure they are filled in accurately and completely and that you have made the proper number of copies for the court.
- If the opposing party, or his/her attorney, requests case-related information, you must comply. This process is called Discovery. It is necessary for parties to honestly share requested financial and other material.
- Verify that people you wish to serve as your witnesses will be available at the time of your hearing. ***Remember: All witnesses must be present.***
- Make notes before you go to court so you are prepared and know exactly what you want to say.
- Be prepared to provide any information requested by judges, court commissioners and court staff.

Remember: The judge or commissioner cannot speak to you about your case except when your case is in court and when the other party is there. Court staff can help you with questions such as when your hearing is scheduled, or if you are in the right courtroom, but they cannot give you legal advice or recommendations about what you should do.

FORM SUMMARY

Name of Form:	Notice of Motion and Motion to: (Change Legal Custody, Physical Placement, Child Support, Maintenance, and/or Other)
Form Number:	FA-4170V
Statutory Reference:	§§767.105, 767.451 and 767.59, Wisconsin Statutes
Benchbook Reference:	
Purpose of Form:	This form may be used to give notice to another party that a request is being made and a hearing will be held to change a current order concerning legal custody, physical placement, or child support of a minor child, as well as to change maintenance or any other aspect of a court order.
Who Completes It:	Party seeking the change in the current order.
Distribution of Form:	Original to Clerk of Court, Copies for service on all of the other parties.
Accompanying Forms:	Generally the form may be the only document needed. However if the form's instructions indicate a supporting document is needed (such as placement schedules or additional documentation), those document(s) should be attached.
New Form/Modification:	Modification; last update 01/09.
Modification:	New rule which took effect Jan. 1, 2010 to DCF 150, the Percentage of Income Standard which creates requirements for establishing medical support orders. Under the new rules, a parent who has insurance coverage available that means certain defined criteria must carry that coverage and the other parent may be ordered to contribute to the cost of that coverage. That contribution would be in the form of an upward or downward deviation in the child support amount dependent on which parent is the court ordered payee.
Comments:	<ol style="list-style-type: none">1. The party seeking the change could alternatively use an Order to Show Cause (FA-4171) to accomplish the same end. The basic differences between the two are who signs it and how is service made on the other party. An order to show cause must be signed by a court official while the notice and motion may be signed by the party. An order to show cause must be personally served on the other party; a notice can be served by other means as well. The reason there are two forms is that the statutes provide that the request can be brought either by "motion" or "order to show cause."2. If the parties can stipulate or agree to a change in the type of matters covered by this motion, the parties may use FA-604 to do so without the need for a hearing.
About this Form:	This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office. As a <i>pro se</i> form, its use is NOT mandatory but it is required to be accepted and distributed by the circuit courts of the State of Wisconsin.

PRINT in BLACK ink

Enter the name of the county in which the original case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<i>For Official Use</i>
Check marriage or paternity. If paternity, enter initials of child.	In RE: The <input type="checkbox"/> marriage <input type="checkbox"/> paternity of _____ Petitioner/Joint Petitioner:	Notice of Motion and Motion to Change: <input type="checkbox"/> Legal Custody <input type="checkbox"/> Physical Placement <input type="checkbox"/> Child Support <input type="checkbox"/> Maintenance <input type="checkbox"/> Other: _____
Enter the name, address and daytime phone number of the petitioner or joint petitioner from the original case file.	_____ First name Middle name Last name _____ Current Mailing Address _____	
On the far right, mark the box for the change(s) you are requesting and enter the original case number.	_____ City State Zip Daytime Phone Number vs.	
Enter the name, address, and daytime phone number of the respondent or joint petitioner from the original case file.	Respondent/Joint Petitioner:	
Check if the State of Wisconsin is a party or not. If you are unsure, you may call your local Child Support Agency.	_____ First name Middle name Last name _____ Current Mailing Address _____ _____ City State Zip Daytime Phone Number The State of Wisconsin (Child Support Agency) <input type="checkbox"/> is <input type="checkbox"/> is not a party to this action.	

Case No. _____

NOTICE OF MOTION

Enter the name of the person to whom this motion is directed.

TO _____

You are notified that at the following date and time:

Before _____

Location _____

Date _____

Time _____ a.m./p.m., or as soon as the matter may be heard.

For Court Use Only: This section will be completed by the court.
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I will be asking the court to change the existing order in this case as indicated below.
If you object to this motion, you need to appear and say so. Otherwise, the court may proceed without you and grant the request.

You may contact the Circuit Court Commissioner for more information on modifying and enforcing court orders or judgments.

MOTION

Check A if you are requesting a change to physical placement, list the children affected, check 1-4 and/or 5 and/or 6 and complete the necessary information.

Indicate if you have or have not attempted Mediation. If you have, indicate the date of the Mediation session.

1. Modify as follows:

A. **Physical Placement Order(s)** (time with children) for the following children: _____

- 1. from primary physical placement with (Name of Parent) _____ to primary placement with (Name of Parent) _____
- 2. from shared placement to primary placement with (Name of Parent) _____
- 3. from primary placement to shared placement.
- 4. from the current shared placement schedule (if any) to a new shared placement schedule.

The requested placement schedule for the changes in 1-4 above is as follows:

See attached

- 5. to require placement with (Name of Parent) _____ be supervised. unsupervised.
- 6. Other: _____

See attached

The other party and I attempted mediation on (Date) _____.
 have not attempted mediation for this issue.

B. **Legal Custody** (decision making) for the following children: _____

- 1. to joint legal custody with both parents.
- 2. to sole legal custody with (Name of Parent) _____
- 3. Other: _____

See attached

C. Change the following support orders as follows:

1. **Child support**

- a. that is currently \$ _____ per _____ that
 - 1. does not include a deviation for health insurance or any other reason.
 - 2. does include a deviation of \$ _____ upward downward for health insurance.
- b. To a new amount beginning _____ to be paid by (Parent) _____ to (Parent) _____
 - 1. based on state child support standards determined by the court.
 - 2. a new set amount of \$ _____ per _____.
 - 3. held open (no payment).

I request that this new amount

- A. not include a deviation for health insurance or any other reason.
- B. include a deviation of \$ _____ upward downward as a cash contribution for health insurance.

2. **Maintenance** (Spousal Support) that is currently \$ _____ per _____ to

- a. an amount beginning _____, 20____ to be determined by the court based on current income.
- b. a new set amount of \$ _____ per _____ beginning _____, 20____.

3. **Arrears payment** that is currently \$ _____ per _____ to

- a. an amount beginning _____, 20____ to be determined by the court.
- b. a new set amount of \$ _____ per _____ beginning _____, 20____.

4. **Arrears balance** as it is currently reflected in the WI SCTF KIDS computer system as \$ _____ to \$ _____ because

- a. I have made support or other payments directly to the other party.
- b. I dispute the amount that is currently on record.

Check B if you are requesting a change to legal custody, list the children affected, check 1, 2, or 3 and complete the necessary information.

Check C if you are requesting changes to support orders.

Check 1 if you are requesting changes to child support, enter the amount and frequency of the current payment and check whether it includes a deviation for health insurance. In b, check 1, 2, or 3. Check A or B, indicate deviation information.

Check all that apply in 2-4, and complete all relevant information for each section checked.

I will be able to provide documentation to the court that supports my request.

NOTICE: Both parties must bring to court their fully completed, dated, and signed Financial Disclosure Statement and all required attachments.

In D, enter any other changes you may have.

D. Other change(s): _____

See attached

In 2, enter the date the current court order or judgment was signed by a court official.

2. The court order that I am asking to be modified was dated _____.

In 3, check all that apply in A-H. If E or F, enter the party's information that has changed. If other, enter the change in circumstance that has prompted you to bring this Motion.

- 3. This request is based on the following substantial change in circumstances that have occurred since the entry of the prior court order in this case.
 - A. A child who was living with the other parent is now living with me.
 - B. A child is no longer eligible for child support because the child has reached age 18, or is over 18 but under 19, and is no longer pursuing a course of education leading to a high school diploma or its equivalent.
 - C. One of the parties has or will be moving to a different residence.
 - D. There is not a placement schedule and the parties cannot agree.
 - E. Employment or work shift of _____ has changed.
 - both parties has changed.
 - F. Income or wages of _____ has changed.
 - both parties has changed.
 - G. The availability or cost of health insurance has changed.
 - H. The party to whom maintenance is owed has remarried.
 - I. Other: _____

In 4, describe the facts that justify the change you want. Attach additional pages, if necessary.

4. The facts explaining the substantial change in circumstances or deviation in child support percentage standard are:

See attached

If you require reasonable accommodations due to a disability to participate in the court process, please call: _____ at least ten (10) working days prior to the scheduled court date. Please note that the court does not provide transportation.

Sign and print your name.

Enter the date on which you signed your name.

NOTE: This signature does not need to be notarized.

Signature

Print or Type Name

Date

A copy of this Notice of Motion and Motion must be served upon all other parties at least 5 business days before the date of the hearing. If service is by mail, it must be mailed at least 8 business days before the date of the hearing. See the Service Packet for more information.

FORM SUMMARY

Name of Form: Affidavit of Service

Form Number: FA-4120

Statutory Reference: §801.10, Wisconsin Statutes

Benchbook Reference: FA-2

Purpose of Form: To provide a document by which a person who has served documents on another person can sign under oath the necessary information concerning that service.

Who Completes It: The person who has formally served documents on a person fills out the information concerning the date and time of service and the documents served. That person then seeks out a notary public and, after being sworn, signs the document. The notary public will complete the notarial section.

Distribution of Form: Original will be filed with the court after it has been signed and notarized.

Accompanying Forms: The documents for which service is being made will be given to the process server along with a copy of this Affidavit.

New Form/Modification: Modification; last update 01/06.

Modification: Updated to comply with 2005 Wis. Act 443.

Comments: None

About this Form: **This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office. As a *pro se* form, its use is NOT mandatory but it is required to be accepted and distributed by the circuit courts of the State of Wisconsin.**

PRINT in BLACK ink

Enter the name of the county in which this case is filed.

STATE OF WISCONSIN, CIRCUIT COURT,
_____ **COUNTY**

For Official Use

Enter the name of the petitioner. If joint petitioners, enter the name of the wife.

In Re: The marriage paternity of _____

Petitioner/Joint Petitioner-Wife:

First name Middle name Last name

and

Respondent/Joint Petitioner-Husband:

First name Middle name Last name

Affidavit of Service

Case No. _____

Enter the name of the respondent. If joint petitioners, enter the name of the husband.

Enter the case number.

UNDER OATH I STATE THAT:

Note: A party to this action **cannot** serve the documents on the other party.

I am an adult resident of the State of Wisconsin.

I am not a party to this action.

On (Date) _____ at _____ o'clock in the a.m./p.m.

At (Address) _____

After the documents have been served, the person serving the documents must complete the information. Enter the date [month, day, year], time and the address at which the documents were served.

I served copies of the following documents:

- Authenticated **Summons and Petition**
- Order to Show Cause and Affidavit for Temporary Order** (Date) _____
- A blank **Financial Disclosure Statement**
- Requirement to attend parent education
- Order to Appear**
- Other: _____
- Other: _____
- Other: _____

Check the boxes indicating the specific documents that were served.

If one of the documents is an Order to Show Cause, enter the date [month, day, year] the Order To Show Cause was signed by a court official.

If other, enter the name of the document.

Enter the name of the party to whom the papers were served.

personally by delivering to and leaving these documents with the person served whom I know to be _____

Take Notice: You must complete this task.

At the time of service, I signed my name, time, date, place and manner of service and upon whom service was made **on the copy that was served.**

STOP!
Take this document to a Notary Public BEFORE you sign it.

After you, the server, have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public.

 Signature

 Print or Type Name

 Date

Have the Notary Public sign, date, and seal the document.

Subscribed and sworn to before me
 on _____

(Seal)

 Notary Public, State of Wisconsin

My commission expires: _____