

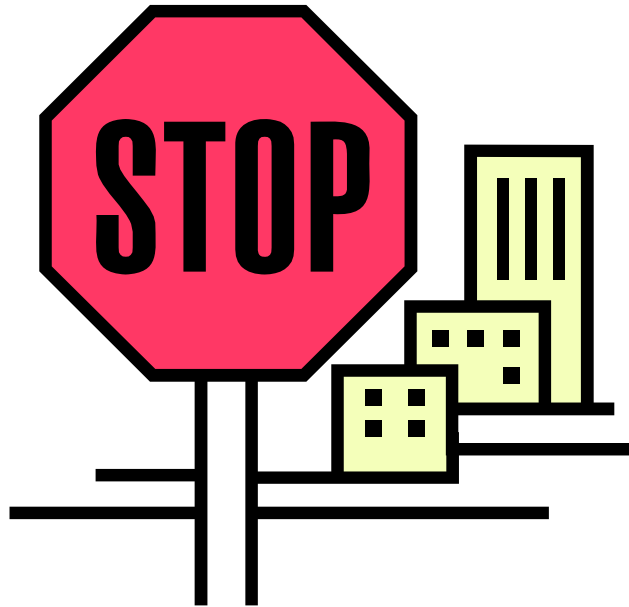
## **Judicial District 20B MODIFICATION CUSTODY OR VISITATION**

Due to the changing nature of the law, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from use of the forms or information provided to you.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.

**USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!**



**PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET.**

**IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.**

THESE ARE EDUCATIONAL FORMS AND INSTRUCTIONS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF. PLEASE REVIEW AND FOLLOW THE DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN YOUR CASE. FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

**NO ONE AT THE JUDICIAL CENTER, CLERK OF COURT'S OFFICE OR JUDGE'S OFFICE, MAY GIVE LEGAL ADVICE OR TELL YOU HOW TO FILL OUT FORMS!**

# Steps for Modification of Custody/Visitation

## STEP 1

### Filling out the forms

\*\*\*CHECKLIST\*\*\*

You must complete the following documents:

- ◆ **Motion for Modification of Custody or Visitation Order**
- ◆ **Domestic Civil Action Cover Sheet AOC-CV-750**
- ◆ **Notice of Motion to Modify Custody/Visitation**

Please note that the **Motion for Modification** needs to be signed in the presence of a Notary Public. *Please* make sure to place your existing case number in the upper right hand corner of each document before bringing to the Clerk of Superior Court Office.

## STEP 2

### Filing the documents

Take the original documents and 2 copies to the Civil Filing Department (Union County Judicial Center, 400 N. Main Street, 1<sup>st</sup> Floor). The clerk will file them for you.

## STEP 3

### Further information

You will be mailed notice of any and all dates of your case. PLEASE MAKE SURE THAT YOUR CORRECT MAILING ADDRESS IS IN THE FILE, AS WELL AS THE CORRECT ADDRESS FOR THE OTHER PARTY. **Please note that your claim may be resolved in Mediation. If a signed parenting agreement is reached in Mediation, you will not be given a hearing date.**

## STEP 4

### Service of Process

North Carolina General Statutes require that you give notice to the defendant about the filing of your claim. This is known as "Service of Process." The correct way to serve the defendant is determined by law. If the documents are not correctly served on the defendant, the court will not hear your case.

You are now ready to serve the documents on the defendant. You may do this using 1<sup>st</sup> class US mail.

## STEP 5

### Attendance

Be sure to attend all scheduled court events on time and dressed appropriately (as if you were going to a job interview). This is very important. If you do not appear for the Mediation an Order to Show Cause may be issued by the Judge.

*North Carolina Bar Lawyer Referral Service: (800) 662-7660*

## SERVICE OF PROCESS

**PLEASE READ THIS SECTION VERY CAREFULLY.**

**If you have concerns or are confused, consult with an attorney immediately!**

In order for your case to be binding against the Defendant, the Defendant must be given notice of the case, or *served* in a manner that is recognized by the court. **PLEASE NOTE that service of process must be *completed successfully* for your case to proceed and avoid dismissal. IT IS YOUR RESPONSIBILITY.** Service of the motion may be served by using 1<sup>st</sup> class US mail. Then complete the affidavit of service form.

### **2. You do not know where the Defendant is.**

If you do not know where the Defendant is located, you will need to serve the Defendant by "publication." This is a complex process using the newspaper to run notice of the case. You should speak to an attorney regarding this type of service. If you need an attorney, you can contact the **North Carolina Lawyer Referral Service** at **1-800-662-7660**. If you cannot afford an attorney you may be eligible for representation or assistance from **Legal Services of Southern Piedmont** at **704-376-1600**.

**PLEASE NOTE:** This is service of "last resort." If you know where the Defendant is, or if you can find out where the Defendant is, you should never attempt this type of service.

STATE OF NORTH CAROLINA  
COUNTY OF UNION

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_-CVD-\_\_\_\_\_

\_\_\_\_\_, )  
(Type or print name of Plaintiff here) )  
**Plaintiff,** )  
vs. )  
)  
)  
)  
\_\_\_\_\_, )  
(Type or print Defendant's name here) )  
**Defendant.** )

**AFFIDAVIT OF SERVICE**

I, \_\_\_\_\_ did mail by  Registered Mail, Return Receipt Requested (attach green card),  US First Class a copy of the Motion for Modification in this case to \_\_\_\_\_ addressed  
(insert name of other party here)

as follows: \_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and address of moving party ( your name)

Further, that copies of the Motion for Modification was in fact received by the  plaintiff  defendant on \_\_\_\_\_ as evidenced by the attached  
(insert date of receipt)  
genuine receipt. (Please attach the original return receipt to this affidavit)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the \_\_\_\_\_  
(insert date)  
day of \_\_\_\_\_, \_\_\_\_\_.  
(insert month) (insert year)

\_\_\_\_\_  
(sign here in the presence of a Notary Public)

Sworn to and Subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_

STATE OF NORTH CAROLINA  
UNION COUNTY

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_ CVD \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Plaintiff's address

Vs

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Defendant's address

**MOTION TO MODIFY  
CUSTODY/VISITATION  
ORDER**

The Undersigned moves that the court modify the Order now in effect in this action, and in support of this motion states:

Date of Current Order: \_\_\_\_\_

Plaintiff     Defendant    moves to modify the     Custody     Visitation.

Since the current order for Custody and/or Visitation was entered, circumstances have changed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Therefore, the undersigned request that the Order for Custody/Visitation be modified as follows:

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That during the past five years (or since birth if the child is less than five years old), the (child) (children) have lived with:

Name of child \_\_\_\_\_, birthdate \_\_\_\_\_, birthplace \_\_\_\_\_.

<b>PERIOD</b>	<b>ADDRESS</b>	<b>PERSON LIVED WITH</b>	<b>PRESENT ADDRESS</b>
_____ to present	_____	_____	_____
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____

Name of child \_\_\_\_\_, birthdate \_\_\_\_\_, birthplace \_\_\_\_\_.

<b>PERIOD</b>	<b>ADDRESS</b>	<b>PERSON LIVED WITH</b>	<b>PRESENT ADDRESS</b>
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____
_____ to _____	_____	_____	_____

(If there are more than two children, insert additional sheets.)

**VERIFICATION**

\_\_\_\_\_, being first duly sworn, deposes and says that he/she is the plaintiff/or defendant in the foregoing action, that he/she has read the foregoing MOTION and knows the contents thereof to be true of his/her own personal knowledge except for those matters and things alleged therein upon information and belief, and as to those matters and things, he/she believes same to be true.

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Notary Public

My Commission expires \_\_\_\_\_

NORTH CAROLINA  
UNION COUNTY

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
File No. \_\_\_\_-CVD-\_\_\_\_\_

\_\_\_\_\_  
Plaintiff  
vs.  
\_\_\_\_\_  
Defendant

**NOTICE OF MOTION TO  
MODIFY  
CUSTODY / VISITATION**

The  plaintiff  defendant has filed a Motion to Modify in the above case.

All parties have attended Child Custody Mediation Orientation and Parenting Apart Program on or about \_\_\_\_\_ (date)

Plaintiff's address: \_\_\_\_\_  
\_\_\_\_\_

Plaintiff's phone numbers: (home) \_\_\_\_\_  
(cell) \_\_\_\_\_

Defendant's address: \_\_\_\_\_  
\_\_\_\_\_

Defendant's phone numbers: (home) \_\_\_\_\_  
(cell) \_\_\_\_\_

QUESTIONS MAY BE DIRECTED TO THE CUSTODY MEDIATOR.  
704-296-6007

\_\_\_\_\_  
Date

\_\_\_\_\_  
Filing party or attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT A COPY OF THIS NOTICE OF MOTION TO MODIFY BEEN SERVED IN THE FOLLOWING MANNER:

- By depositing a copy in the United States mail in a properly addressed, postpaid envelope to:
  - Plaintiff at \_\_\_\_\_
  - Defendant at \_\_\_\_\_
  - Plaintiff's Attorney
  - Defendant's Attorney

CC: Mediator