

MODIFICATION OF COURT ORDERS

While the Divorce is pending:

- If the Court has issued a Temporary Order in your divorce on issues such as parental rights and responsibilities, child support, spousal support, possession of property or payments of debts, the Order may only be changed if unanticipated changes of circumstances occur after the Order was entered. The fact that you do not like what the judge or magistrate did, or what you agreed to earlier, is not good enough reason for the court to change a court order.

After the Final Order of Divorce:

- The court cannot change the Final Order regarding division of Property and division of debts after the divorce becomes final after the *nisi* period, (see Glossary for definition) regardless of unanticipated changes of circumstances after the divorce. All other provisions may be changed if real, substantial, and unanticipated changes of circumstances have occurred since the Final Order.

Modification of Parental Rights and Responsibilities:

- Children need stability, and it is therefore difficult to change the primary home from one parent to the other unless there is agreement between the parents. Before you attempt to change the parenting plan for your children, over the objection of the other parent, you should consider consulting with a lawyer.

Filing a Motion to Modify:

- Before the Court can set a hearing to determine whether there have been sufficient changes to justify modifying the Order, you have to file a Motion to Modify (ask the Clerk for the form 830) and an Affidavit (Form 804) where you explain under oath what has happened since the last order which you believe entitles you to a change in the order.
- When you file the paperwork you will be charged a filing fee of \$75.00. (If you feel that you cannot afford to pay this fee, ask the court for Form 228c, "Application to Proceed *In Forma Pauperis*.")
- If the Motion to Modify and the Affidavit do not show that you are entitled to a modification, the Court will dismiss the Motion without a hearing. If the Court determines that the Motion and affidavit show sufficient facts to set a hearing, the court clerk will set the case for a hearing.
- The Motion to Modify, together with the Affidavit and a Notice of Hearing, must be served on the other spouse or ex-spouse before a hearing can be held. (See #25 Service of the Divorce Papers.) Some courts hold a status conference before a hearing is scheduled on these motions.

What happens at the Hearing to Modify?

- Before the Court can change a court order, the Court must first find that there have been sufficient real, unanticipated and substantial changes in circumstances. If no such changes exist, the Court will dismiss the Motion. If such changes are found, the Court will then decide how the court order should be changed.

When is a Modification effective?

- The Court cannot change an existing order until a Petition/Motion to Modify has been filed with the court. If the requested change is for child support, the court may modify the order back to the date the Motion to Modify was filed with the court.

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**

