

INSTRUCTIONS FOR FILING A PETITION FOR MODIFICATION OF CHILD SUPPORT OBLIGATION

South Dakota allows either parent or a caretaker to request a South Dakota child support order to be changed. In certain situations, Division of Child Support (DCS) may request a child support order to be changed on behalf of a parent or caretaker. In limited circumstances another state's child support order may be modified if registered in South Dakota. Please contact DCS or your attorney for more information regarding out-of-state child support orders.

The Petition for Modification is the starting point to request the child support obligation to be changed.

You are the Petitioner, and the other parent/party is the Respondent.

Make certain you complete all sections within the Petition for Modification (DSS-SE-415) and Financial Statement (DSS-SE-415A).

- The Petition for Modification (Petition) must be signed and dated.
- Signatures must be original and cannot be a photocopy.
- You must submit all necessary attachments with the Petition. See the Checklist for required attachments. Failure to attach the required attachments or failure to indicate why the attachment is not included will result in the Petition being returned to you.
- Petition and all attachments must be on 8 ½ x 11 size white paper. If on any other size of paper or on colored paper, the Petition will be returned to you.
- Attachments must be in black and white. Color documents are not acceptable.
- You must use black ink or type the information. If you use any other ink color or pencil, the Petition will be returned to you.
- Please print the information clearly.

There is a \$50 filing fee to be paid to the Clerk of Courts and must be included with the Petition. However, you are not subject to the \$50 filing fee if you are a recipient of assistance benefits pursuant to Title 28, Public Welfare and Assistance (i.e., Temporary Assistance to Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Medicaid, Child Care Assistance, Energy Assistance, etc.) (SDCL 16-2-29(4)(a)). You may request the court to waive the \$50 filing fee by completing and submitting the enclosed Filing Fee Waiver Request form with this Petition for Modification.

- If you are not a recipient of Title 28 benefits or if you do not submit the waiver request form, attach a \$50 check or money order payable to the Clerk of Courts. DO NOT ATTACH CASH.
- If you wish to have the waiver considered, only include the waiver.
- If you include both the waiver and \$50 filing fee, the waiver will not be considered.
- If you are filing more than one Petition, a separate \$50 payment or waiver must be attached to each Petition.
- If the payment is made out to an entity other than the Clerk of Court, the Petition will be returned to you and will result in a delay in filing.

Mail your Petition, financial statement, and supporting attachments to:

**Division of Child Support
Attn: Modification Unit
700 Governors Drive
Pierre, SD 57501-2291.**

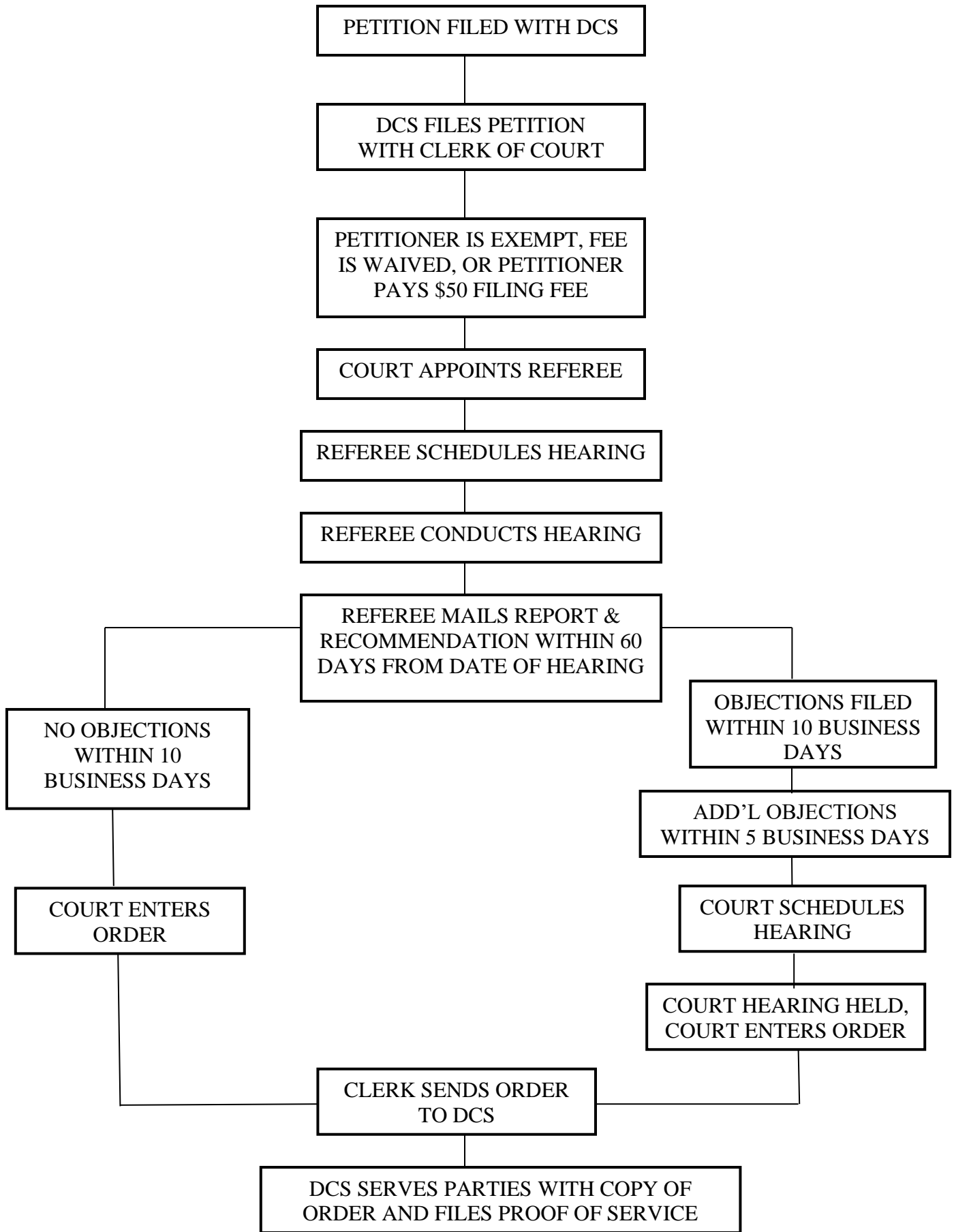
If you have any questions, call the Modification Unit at (605)773-4724. A brochure explaining the modification process is available online at <https://dss.sd.gov/childsupport/modifysupportorder.aspx> .

MODIFICATION OF SUPPORT ORDERS

South Dakota law provides a special process for a parent or a caretaker of a minor child to request the court for a modification of a child support order, including an increase or decrease in the amount of child support payment (SDCL 25-7A-22). The process includes the DCS, a court appointed child support referee, and a circuit court judge. Below is a summary of the child support modification process.

1. A parent or caretaker must complete and submit to DCS a Petition for Modification of Child Support (see attached form), together with (a) a copy of the most recent child support order, (b) certain financial documents, and (c) a check made payable to "Clerk of Courts" in the amount of \$50 for the court filing fee (unless the parent/caretaker qualifies for an exemption or waiver of the fee).
2. DCS will file the Petition and other documents with the Clerk of Court in the county where the child support order was filed.
3. The court will appoint a child support referee to conduct a hearing on the Petition.
4. The referee will schedule a hearing on the Petition and send the parties a Notice of Hearing containing the date, time, and location of the hearing, and other important information about the parties' rights and responsibilities with respect to the hearing.
5. The referee will conduct a hearing, either in person or by telephone, to determine whether the child support order should be modified. The parties will be given an opportunity to testify at the hearing and present evidence regarding their financial circumstances.
6. After the hearing, the referee will prepare a report summarizing the evidence presented at the hearing and a recommendation regarding any changes to the child support order. The referee will file the report with the Clerk of Court and send a copy of the report to the parties. This is usually done within 60 calendar days from date of hearing.
7. Within ten (10) business days after the referee mailed the report, either party may file with the Clerk of Court an objection to the report. A party filing an objection may be required to obtain a transcript of the hearing, at the party's own expense, and file it with the Clerk of Court.
8. If either party files an objection to the referee's report, a circuit court judge will hold a hearing to consider the objection. The judge may then adopt the referee's report, with or without change, or the judge may reject the referee's report and return the matter to the referee for further consideration. In some instances, this may require the referee to conduct another hearing.
9. If neither party files an objection, the judge will sign an order based on the referee's report and recommendations.
10. After the order is filed with the Clerk of Court, DCS will send a copy of the order to each party by certified mail.
11. Within 30 days after the order is filed with the Clerk of Court, either party may appeal the order to the SD Supreme Court.

MODIFICATION PROCESS FLOWCHART



DSS-SE-415 (11/2023)
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD SUPPORT

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT

)

COUNTY OF ORDER _____) _____ JUDICIAL CIRCUIT

_____) PETITION FOR

PETITIONER,) MODIFICATION

vs) OF CHILD SUPPORT

_____)

RESPONDENT,)

INFORMATION ON PETITIONER (Person completing this form – Your Name):

NAME _____ TELEPHONE # _____

RESIDENTIAL ADDRESS _____

CITY _____ STATE _____ ZIP _____

COUNTRY _____ EMAIL _____

MAILING ADDRESS (if different than Residential Address): _____

LAST KNOWN INFORMATION ON RESPONDENT (Other Person’s Name):

NAME _____ TELEPHONE # _____

RESIDENTIAL ADDRESS _____

CITY _____ STATE _____ ZIP _____

COUNTRY _____ EMAIL _____

MAILING ADDRESS (if different than Residential Address): _____

Address current as of (month, year): _____

I am the (select one) custodial parent, non-custodial parent, or legal guardian of the child(ren) involved in this proceeding.

On _____ (date of order), _____ (name of parent) was ordered to pay child support. A copy of the order, judgment, decree, or administrative order, including the stipulation and agreement, is attached.

Reason for requesting child support amount to be changed:

If the child support order was entered after July 1, 2022 and is less than three years old, you must indicate why you are requesting the child support amount to be changed. (Please print. Use additional sheets if necessary.)

If you are currently incarcerated, please complete the following:

Date you became incarcerated: _____ (MM/DD/YYYY)

Date your sentence expires: _____ (MM/DD/YYYY)

Deviations/Adjustments

Either parent may request the child support referee consider any of the following factors for purposes of increasing or decreasing the basic amount of child support required by the SD Child Support Schedule. These factors are called deviations (see SDCL 25-7-6.10). If you want the referee to consider a deviation, you must request the deviation at the child support modification hearing and present evidence to support the request. Mark those you wish to have considered.

- 1. Income of a subsequent spouse or contributions of a third party to the income or expenses of that parent but only if the application of the schedule works a financial hardship on either parent.
- 2. Financial condition of either party that would make application of the schedule inequitable. If the total amount of the child support obligation, including any adjustments for health insurance and child care costs, exceeds 50% of the obligor’s monthly net income, it is presumed that the amount of the obligation imposes a financial hardship on the obligor.
- 3. Any necessary education or health care special needs of the children.
- 4. Agreements between parents for extra forms of support for the direct benefit of the child.
- 5. Obligation of either parent to provide for subsequent natural children, adopted children, or stepchildren. However, an existing support order may not be modified solely for this reason.
- 6. Voluntary and unreasonable act of a parent that causes the parent to be unemployed or underemployed, consistent with the provisions of SDCL 25-7-6.26.

Additional Factors

The following factors may be considered in the modification proceeding. Mark those you wish to have considered.

- 1. Reduction of support for parenting time purposes. (SDCL 25-7-6.14) (**Attach copy of parenting time order**)
- 2. Cross Credit for shared parental responsibility. (SDCL 25-7-6.27) (**Attach copy of parenting time order**)
- 3. Allocation of travel costs for parenting time. (SDCL 25-7-6.15) (**Attach verification of costs, if available**)
- 4. Health insurance coverage for the child(ren). (SDCL 25-7-6.16) (**Attach verification of coverage and cost**)
- 5. Child care costs due to employment, job search, training, or education. (SDCL 25-7-6.18) (**Attach verification of costs**)

I request the following relief:

- 1. Respondent be required to appear and answer in this proceeding;
- 2. The Court modify the support obligation as determined by the Court after the hearing taking into consideration the deviations and other factors identified in this petition; and
- 3. The Court grant other relief as deemed just and equitable.

I declare and affirm under the penalties of perjury that the information contained herein has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Note: A person who signs this document knowing the information to be false or untrue, in whole or in part, is guilty of perjury – a Class 5 Felony punishable by imprisonment of not more than five years and a fine of not more than \$10,000.

PETITIONER SIGNATURE

DATE

CHECKLIST

The following list of attachments **MUST** be attached with the Petition for Modification along with this form. If not attached, the Petition will be returned to you.

Petition and all attachments must be on 8 ½ x 11 size white paper. If on any other size of paper or colored paper, the Petition will be returned to you.

The accompanying financial documents will be treated as confidential by the court and will not be available to the public as defined by SDCL 15-15A-2(1)-(3). Please note the other party to this action is not considered “the public” and may have access to this information.

1. A completed, signed and dated Petition for Modification of Child Support (DSS-SE-415 form). If you do not know the other person’s address or contact information, write unknown.
2. A completed, signed and dated Financial Statement (DSS-SE-415A form). Failure to include or sign and date will result in the Petition being returned to you.
3. Complete copy of your most recent South Dakota child support order; divorce decree, including stipulation and agreement; or judgment, which establishes the support obligation you wish to modify.
4. Information Regarding Parents of Child(ren) form.
5. A completed, signed and dated Child Support Order Filing Data form (UJS/DSS Form 089).
6. A completed, signed and dated Application for Indigent Waiver of \$50 Filing Fee Request form **OR \$50 check or money order payable to Clerk of Courts. DO NOT ATTACH CASH.**
 - If you wish to have the waiver considered, only include the waiver.
 - If you include both the waiver and \$50 filing fee, the waiver will not be considered.
 - If you are filing more than one petition, a separate \$50 payment must be attached to each Petition for Modification of Child Support.
 - If the payment is made out to an entity other than the Clerk of Court, the Petition for Modification of Child Support will be returned to you and will result in a delay in filing.

If neither a \$50 check or money order or completed Application for Indigent Waiver of \$50 Filing Fee Waiver Request form are attached, indicate which Title 28 benefit(s) you are receiving. If you are receiving benefits from a state other than South Dakota, verification must be attached.

- | | |
|--|--|
| <input type="checkbox"/> Temporary Assistance to Needy Families | <input type="checkbox"/> Medicaid |
| <input type="checkbox"/> Supplemental Nutrition Assistance Program | <input type="checkbox"/> Child Care Assistance |
| <input type="checkbox"/> Energy Assistance | <input type="checkbox"/> SSI/SSDI |
| <input type="checkbox"/> Other: _____ | |

The following list of attachments **MUST** be attached. If not attached, you **MUST** indicate why the attachment is not included. Failure to include or indicate why will result in the Petition for Modification being returned to you.

1. Copy of your most recent pay stubs or other verification of income. If you are not submitting this information, please explain why: _____

2. Copy of your last filed Federal Income Tax Return with all supporting schedules and documents. Include your W-2, if applicable. If you are self-employed, please provide the most recent 3 years of tax returns. If you are not submitting this information, please explain why: _____

3. A copy of your most recent parenting time order if you are requesting an abatement for parenting time or shared parenting cross credit.

There is no court order for parenting time.

There is a court order for parenting time. A copy is not included because: _____

If there is no parenting time order in place and you wish to obtain one, you may visit <https://ujslawhelp.sd.gov/implementing.aspx> for information and forms to begin the process.

4. Is a protection order or any other order that prohibits release of information involving the parties in effect?

Yes No Unknown **If yes, please attach a copy of the order.**

Please note that if a protection order exists, your address may still be released to the non-petitioning party during modification proceedings.

If there is no protection order in place and you wish to obtain one, you may visit <https://ujslawhelp.sd.gov/protectionorders.aspx> for information and forms.

5. Do you need interpreter services? Yes No

If yes, specify what type of service you require (language type, sign, etc.) _____

I certify the above information is true and accurate to the best of my knowledge.

Signature

Date

INFORMATION REGARDING PARENTS AND CHILD(REN)

The biological / adoptive parents of the child(ren) listed below in this proceeding are:

Parent: Name _____
Address (if known) _____
City, State, Zip _____
Phone Number _____

Parent: Name _____
Address (if known) _____
City, State, Zip _____
Phone Number _____

1. Child Name _____
Date of Birth: _____

Is there a current order for child support for this child? Yes No

If there is not a current order for child support, please answer the following:

Was the child born during marriage of the parents? Yes No

If yes, date of marriage: _____

If no, was an Acknowledgment of Paternity signed?

Yes (attach affidavit) No

Was genetic testing done showing 99% or higher probability of paternity?

Yes (attach report) No

Was parentage established by court order? Yes (attach order) No

2. Child Name _____
Date of Birth: _____

Is there a current order for child support for this child? Yes No

If there is not a current order for child support, please answer the following:

Was the child born during marriage of the parents? Yes No

If yes, date of marriage: _____

If no, was an Acknowledgment of Paternity signed?

Yes (attach affidavit) No

Was genetic testing done showing 99% or higher probability of paternity?

Yes (attach report) No

Was parentage established by court order? Yes (attach order) No

3. Child Name _____
Date of Birth: _____

Is there a current order for child support for this child? Yes No

If there is not a current order for child support, please answer the following:

Was the child born during marriage of the parents? Yes No

If yes, date of marriage: _____

If no, was an Acknowledgment of Paternity signed?

Yes (attach affidavit) No

Was genetic testing done showing 99% or higher probability of paternity?

Yes (attach report) No

Was parentage established by court order? Yes (attach order) No

STATE OF SOUTH DAKOTA)
IN THE MATTER OF THE CHILD)
SUPPORT OBLIGATION OF) SS
_____)

FINANCIAL STATEMENT
DCS #: _____

Instructions: Please answer every question or state not applicable if the question does not pertain to your financial situation. If you need more space to answer a question, please attach additional sheets if necessary to fully answer any item. Attach a copy of your most recent paycheck stub and a copy of your last filed Federal Income Tax Return, including a copy of your W-2. Sign and date the financial statement after completion. To calculate your monthly gross income, multiply your hourly wage by the number of hours per pay period, multiply this by the number of pay periods, and then divide by 12.

PERSONAL INFORMATION

Name: _____ Birthdate: _____
Address: _____ Phone: Home: () _____
City, State, Zip: _____ Work: () _____
Cell: () _____

EMPLOYMENT INFORMATION

Employer: _____ Dates employed: From: _____
Employer Address: _____ To: _____
Employer's Phone #: _____ Job Title: _____
Rate of Pay: \$ _____ per _____ hours worked per week: _____ Tips: \$ _____ per _____

GROSS MONTHLY INCOME

- 1. \$ _____ Salary, Wages, Tips, Commissions, Bonus or Other Designations
- 2. \$ _____ Gain or profit from a business or profession (self-employment)
- 3. \$ _____ Pension, retirement, disability, veterans, social security or insurance payments
- 4. \$ _____ Interest, dividends, rentals, royalties or other gain
- 5. \$ _____ Gain from sale, trade or conversion of capital assets
- 6. \$ _____ Reemployment assistance/Unemployment insurance and workers compensation benefits
- 7. \$ _____ Benefit in lieu of compensation including, but not limited to, military pay allowances
- 8. \$ _____ Other income (including Spousal Support received). Explain _____
- 9. \$ _____ **TOTAL GROSS MONTHLY INCOME** (add lines 1 through 8).

HEALTH INSURANCE INFORMATION

Do you have health care insurance available for dependents? No Yes
If you provide health care insurance (medical, optometric, dental or orthodontic, or counseling costs) for your child(ren) please complete the following:
Name of the Health Care Insurance Company: _____
Address of the Health Care Insurance Company: _____

Policy/Member Number: _____ Group Number: _____
Total monthly cost of the insurance: _____ Number of people covered under the insurance policy: _____
Persons covered under the policy of insurance: _____

Please attach verification of health insurance coverage as well as the premiums associated with the health insurance coverage.

CHILDCARE COSTS

Childcare costs may be considered in computing the monthly child support obligation provided the costs are incurred as a result of employment of either parent, job search of either parent, or the training or education of either parent necessary to obtain a job or enhance earning potential. Please complete the following for only those children the support obligation will pertain to and **attach verification of childcare expenses**. If this information is not provided, there may be no allocation of childcare expenses in computing the support obligation.

Name and address of childcare provider: _____

The name of the child(ren) for whom childcare is provided: _____

How many hours per week is childcare being provided? _____

Cost of Child Care: Monthly: \$_____ Weekly: \$_____ Hourly: \$_____

List the costs, per month, of the childcare expenses incurred for the past six months: _____

Do you receive any state assistance for childcare? No Yes If yes, attach copy of childcare certificate.

Do you claim the Federal Child Care Tax Credit? No Yes

OTHER INFORMATION

Do you make payments on any other child support orders for children other than those involved in this proceeding? No Yes

If yes, attach a copy of the court order and evidence of payments. If not attached, the referee will not consider.

Do you make payments for spousal support? No Yes

If yes, attach a copy of the court order and evidence of payments. If not attached, the referee will not consider.

Do you make contributions to an IRS qualified retirement plan?

No Yes If yes, attach documentation showing the amount being contributed.

I declare and affirm under the penalties of perjury that the information contained herein has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

Note: A person who signs this document knowing the information to be false or untrue, in whole or in part, is guilty of perjury – a Class 5 Felony punishable by imprisonment of not more than five years and a fine of not more than \$10,000.

Signature of person completing this Financial Statement is required.

Signature

Date

To be completed by clerk of court:

(Original Court - Docket Number)

(Court transferred to - new docket number)

Date _____ Clerks Initials _____

CONFIDENTIAL FORM

Please type or print.

- Original Court Order
- Modification Order
- Information Change
- Change of Venue

Child Support Order Filing Data

PLAINTIFF/PETITIONER <i>(Circle one)</i>	DEFENDANT/RESPONDENT <i>(Circle one)</i>
Name: _____	Name: _____
SSN: _____ SEX: M F	SSN: _____ SEX: M F
Driver's License # : _____	Driver's License # : _____
Date of Birth: _____ Race: _____	Date of Birth: _____ Race: _____
Residential Address: _____	Residential Address _____
Mailing Address <i>(if different from above)</i> _____	Mailing Address <i>(if different from above)</i> _____
Phone No. _____	Phone No. _____
Attorney Name _____	Attorney Name _____
Attorney Phone No. _____	Attorney Phone No. _____
Employer _____	Employer _____
Employer Address _____	Employer Address _____
Employer Phone No. _____	Employer Phone No. _____
Second Employer _____	Second Employer _____
Second Employer Address _____	Second Employer Address _____
Second Employer Phone No. _____	Second Employer Phone No. _____

Full names, sex of child, dates of birth, and social security numbers of the children involved in this proceeding *(if more than six, write on back of form)*:

_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____

Is a protection order for domestic violence against a spouse or abuse of a child currently in effect?

- Yes No Unknown

If yes, please attach a copy of the order.

I certify that the above information is true and accurate concerning Plaintiff/Petitioner Defendant/Respondent and is accurate to the best of my knowledge as to the other party, or is unavailable. The information is unavailable because _____

I hereby certify that the information required by SDCL 25-7A-56.7 is not available.

Circuit Judge

Signature

Date

STATE OF SOUTH DAKOTA	IN CIRCUIT COURT
COUNTY OF _____	_____ JUDICIAL CIRCUIT
_____ Plaintiff,	CASE FILE NO: _____
vs.	APPLICATION FOR INDIGENT WAIVER OF \$50 FILING FEE FOR THE MODIFICATION OF A FINAL CHILD SUPPORT, CHILD CUSTODY, PARENTING TIME, OR SPOUSAL SUPPORT ORDER
_____ Defendant	

I _____ come before the court to make a PETITION to modify an existing order; however, I am unable to pay the required \$50 filing fee. Therefore, I respectfully request that the court waive the filing fee for this modification.

The existing order was entered into on: Date _____

The existing order was last modified on: Date _____

I (DO) (DO NOT) HAVE A LAWYER Lawyer's Name: _____

- (1) My address is: _____
- (2) My telephone number is: _____, my date of birth is: _____
- (3) I am (check one) _____ EMPLOYED _____ UNEMPLOYED _____ SELF EMPLOYED
- (4) (If employed), my **weekly** take home pay is: \$ _____.
- (5) Retirement, disability, or insurance benefits: \$ _____ per _____.
- (6) My total income before deductions for year _____ was: \$ _____
- (7) My total income **after** deduction for year _____ was: \$ _____
- (8) Including myself, I have the following number of dependants: _____.
- (9) The following amounts accurately represent my assets and liabilities:

I. ASSETS (things I own or am buying)

- a. CASH (on hand or in banks) \$ _____
- b. ACCOUNTS and NOTES RECEIVABLE (IOU's and other money payable to me) \$ _____
- c. INVESTMENTS (stocks, bonds, savings bonds, etc.) \$ _____
- d. REAL ESTATE (house, land, tribal lease land, rental property, etc.) \$ _____
- e. AUTOMOBILE(S) (make, model & year) \$ _____
- f. HOUSEHOLD GOODS (furniture, appliances, TV, stereo, etc.) \$ _____
- g. OTHER PERSONAL PROPERTY (tools, sports equipment, etc.) \$ _____
- h. ANY OTHER ASSETS (anything else I could sell or borrow money on) \$ _____

II. LIABILITIES (money that I owe)

- a. My regular monthly expenses are: (housing utilities, food, etc.) \$ _____
- b. LOANS: I owe _____ this amount \$ _____
- I owe _____ this amount \$ _____
- I owe _____ this amount \$ _____

III. ANTICIPATED INCOME (money or property you are expecting)

a. Total monies or income from the sale of house or land, alimony, gifts inheritance, allotments, trust funds, lease money, etc \$ _____

(10) I affirm the above information is correct and accurate to the best of my knowledge and fully understand any misrepresentation or misleading of fact will subject me to the penalty of perjury.

Dated this ____ day of _____, 20__.

X _____, Petitioner

_____ APPROVED _____ DENIED

ATTEST:

BY THE COURT:

CLERK OF COURTS/DEPUTY
(SEAL)

CIRCUIT COURT JUDGE