

### Completing A Modification Order- CAO 10-3B

[REMOVE THESE INSTRUCTION PAGES BEFORE FILING] (Revised 7/29/2005)

#### For use when Health and Welfare is a party to the original action

In an uncontested or default modification, the Modification Order must have exactly the same information as the Motion. You cannot change anything without the agreement of the other party. If you do need or want to make changes that both of you agree upon, you can file a “Stipulation for Modification,” Court Assistance Office Form No. CAO 10-7B, along with this order.

Talk to an Attorney, if Possible

**Warning:** When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, a lawyer can give you more information about your rights. Call the Idaho State Bar Lawyer Referral Service (208-334-4500) to provide you with the name of an attorney in your area who handles this type of case.

**Make a copy of the form to use as a rough draft before writing on it.** Type or print legibly in black ink your information on all blanks on the forms. In Ada County, all forms must be typed. Write N/A in the boxes you don't select on the forms.

TO AVOID MAKING ANY MISSTATEMENTS, BE SURE TO READ THE ENTIRE COMPLETED FORM BEFORE SUBMITTING IT.

#### Instructions

Type (or print neatly in **black ink** where allowed by the local court—in Ada County all forms must be typed) your information on all blanks on paper forms. Type your information at the underlines on computer forms before printing. Type N/A in the boxes you don't select on paper forms. If the section does not contain a boldface “or” it is necessary and you should type in the appropriate information (which might be the word “none” or “N/A”). Always keep a copy of the completed form for your records.

At the top left-hand corner of page 1, fill in your full legal name, address and telephone number. Fill in the county and judicial district in the heading (for example, “In the District Court of the Fourth Judicial District in and for the County of Ada”). Fill in both parties' names in the caption above “Father” and “Mother” just as they appeared in the caption in the original case. Fill in the case number.

- Check the box to indicate which parent filed the Motion to Modify.

- Check the first box if this is a default order against the other party, **and/or**
- Check the second box if this is a default order against the Department of Health and Welfare. **and/or**
- Check the third box if you and the other parent have agreed and stipulated to this order.
- Fill in the name and date of birth for each minor child.

1. Custody.

- Check the box if the custody arrangement is being changed **and**
- Fill in the date of the latest Custody Order.

A. Legal Custody.

- If there will be no change in legal custody of the child/ren, check the first box **or**
- If there will be a change:
  - Check the second box if both parents are fit persons to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**
  - Check the third box if one parent is to have sole legal custody of the child/ren, **and**
  - Fill in the blank to indicate which parent will be given sole legal custody.

B. Physical Custody.

- Check the first box if both parents are to be given physical custody of the child/ren **and**
  - Attach a copy of the same Parenting Plan you attached to your Motion for Modification (or the one agreed to by stipulation). **IMPORTANT:** The Parenting Plan must be attached to make it a part of the Modification Order.
- or**
- Check the second box if physical custody of the child/ren will be given to only one parent, **and**
- Fill in the blank to indicate which parent will have sole physical custody.
  - If the other parent will have time with the child/ren, write in the parent's name, **and**
  - If you want the court's order to give the other parent restricted or conditional time with the child/ren, write in the parent's name **and either** write in the terms and conditions of the other parent's time with the child/ren, **or** check the box and attach a Parenting Plan, with "Exhibit A" written on the bottom of the first page of the plan, to the Motion to Modify.

2. Child Support.

- Check the first box if there will be no change. If the Child Support Order is in another case, attach a copy of the Order, labeled "Exhibit B".
- or**
- Check the second box if child support will be changed in this case **and**
  - Fill in the name of the parent paying child support and the total amount of each monthly payment.
  - Fill in the base amount of child support.

- If your child support calculation includes a pro rata sharing of medical insurance premiums and/or tax benefits, check the appropriate boxes and fill in the amount(s).
- If you have more than one minor child, fill in the total amount of child support that will be due as each child is emancipated (no longer eligible for support under Idaho law), as calculated according to the Idaho Child Support Guidelines.

#### NOTICES

According to Chapter 12, Title 32, Idaho Code, a Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent.

The Support Order can also be enforced by license suspension or the filing of a lien upon all real and personal property of the paying parent.

#### **Extended Visits:**

If this is a default divorce, and you were eligible to and completed this paragraph in the Motion for Modification, complete this paragraph in the form. If you have a stipulation for entry of a decree/order, and the child/ren will be living in the home of one parent at least 75% of the time, you can adopt either or both of the next two paragraphs of the form. If the child/ren spends more than 25% of the overnights in a year with each parent (shared physical custody), ignore the next two paragraphs of the form. **NOTE:** Section 10(e) of the Idaho Child Support Guidelines, Rule 6(c)(6) of the Idaho Rules of Civil Procedure, describe "Shared Physical Custody" and the computation of child support with that parenting arrangement. You can get a copy of the Child Support Guidelines from a Court Assistance Office or the Internet at <http://www2.state.id.us/judicial/rules/ircp6c6.rul>. If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filing in your own percentage as you did on the Motion for Modification.

#### 3. Medical Insurance.

- Check the first box if there will be no change. **or**
- Check the appropriate box and fill in the blank to designate how health insurance coverage is now being provided for the child/ren.
  - Write in the percentage to be paid by each parent.
- In the fourth paragraph, if health insurance premiums are NOT included in the calculation of child support and you completed this section in the Motion for Modification, check the box and write in the percentage to be paid by each parent, based on each of your Guidelines income percentage. (These percentages are determined when calculating the child support. Refer to the Child Support Worksheet).

**Warning:** The Court Order will say: Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

4. Health Costs.

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Write in the percentage to be paid by each parent.

5. Work-related Child Care Costs.

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Fill in the percentages each parent will pay.
  - Check the box if both parents will pay the care provider directly.

6. Income Tax Exemption.

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Write in the blank which parent will claim each child as a dependent on their income tax return(s).

Leave the date blank. The judge will fill in the date when s/he signs the Modification Order.

Clerk's certificate of service:

- Fill in name, mailing address, city, state and zip code for yourself and the other parent.
- Leave the date blank. The clerk will fill it in when s/he signs the certificate.

Exhibits:

- Attach to the Order (with a staple): any Exhibits you have checked in the Order. These may include the Parenting Plan ("Exhibit A"), and other court's Support Order, if any ("Exhibit B").

Make copies of the Modification Order with all the Exhibits attached. **Note:** The original will be filed with the court. You need a copy for each parent and, If Child Support is being modified, you will need another copy that will be sent to the Department of Health & Welfare Child Support Services. Prepare stamped envelopes addressed to yourself and other party(s) for the Clerk to mail a copy of the Modification Order with all attachments.

CONTINUE TO FOLLOW INSTRUCTION NO 6B TO FINALIZE YOUR MODIFICATION.

(Remember to remove these instructions before lodging the proposed Order.)

\_\_\_\_\_  
Full Name of Party Submitting This Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone Number

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Father

Case No.: \_\_\_\_\_

MODIFICATION ORDER

\_\_\_\_\_  
Mother

\_\_\_\_\_  
State of Idaho, Department of Health and Welfare

[ ] Mother [ ] Father filed a Motion to Modify Child Support and/or Custody. It appears from the records and files of this action that:

[ ] the Motion was properly served upon the other parent, twenty (20) days have passed since such service and default has been entered. **and/or**

[ ] the Motion was properly served upon the State of Idaho, Department of Health and Welfare, twenty (20) days have passed since such service and default has been entered. **and/or**

[ ] Mother and Father have agreed and stipulated to the entry of this Order.

The following child/ren, who is/are under the age of 18 years, or 19 years and still pursuing a high school education, was/were born to or adopted by the parties:

Name

Date of Birth

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

This court has jurisdiction to modify custody of the child/ren pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act. Idaho Code Section 32-11-101, et seq.  
 This court has jurisdiction to determine child support. Title 32, Chapter 7, Idaho Code.

IT IS ORDERED:

1.  The custody order entered on \_\_\_\_\_ is modified as follows.

**A. Legal Custody.**

No change. **or**

Both parents given joint legal custody of their minor child/ren. **or**

\_\_\_\_\_ is given sole legal custody of their child/ren.

**B. Physical Custody.**

Both parents are given joint physical custody of their child/ren on the terms and according to the Parenting Plan which is attached as "Exhibit A". **or**

\_\_\_\_\_ is given sole physical custody of their minor child/ren **and**

\_\_\_\_\_ shall have time with the child/ren - **EITHER**

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ **or**

according to the Parenting Plan which is attached as "Exhibit A".

**2. Child Support.**

No change. If child support was set in a different case, a copy of that order is attached as "Exhibit B".

**or**

The Child Support Order entered on \_\_\_\_\_ is modified. Commencing with the month of \_\_\_\_\_, 20\_\_\_\_\_, child support shall be paid by \_\_\_\_\_ in the total amount of \$\_\_\_\_\_ per month. The total amount includes:

- Base child support in the amount of \_\_\_\_\_ plus or minus a pro rata share of: \$\_\_\_\_\_
- Work-related childcare expenses \$\_\_\_\_\_
- Insurance premiums allocated in the amount of: \$\_\_\_\_\_
- Tax benefits allocated in the amount of: \$\_\_\_\_\_

Child support payments should begin on the twentieth (20) day of the month after this Modification Order is signed and continue to be paid on the 20<sup>th</sup> day of each following month until the child/ren for whom support is being paid reaches the age of eighteen (18). If a child for whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to: **Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.**

We have more than one minor child. If this Child Support Order has not been modified, upon the emancipation of the first child, child support for the remaining child/ren should continue in the total amount of \$\_\_\_\_\_ per month; upon the emancipation of the second child, child support for the remaining child/ren should continue in the total amount of \$\_\_\_\_\_ per month; upon the emancipation of the third child, child support for the remaining child should continue in the total amount of \$\_\_\_\_\_ per month; upon the emancipation of the fourth child, child support for the remaining child should continue in the total amount of \$\_\_\_\_\_ per month.

**NOTICES**

According to Chapter 12, Title 32, Idaho Code, a Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent. A statewide lien on all real and personal property of the paying parent will arise automatically if child support is past due in an amount equal to the smaller of \$2,000 or 90 days of support, according to Idaho Code §§7-1206 and 45-1901, *et seq.* The Support Order can also be enforced by license suspension.

**Extended Visits:** When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of base child support shall be reduced for that period of time; however, visitation of two overnights or less with the other parent will not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody shall be  50% **or**  \_\_\_\_\_% of the base child support obligation. The reduction shall be subtracted from the child support payment due the next month.

If the parent paying child support has physical custody of some but not all of the children for 14 overnights in a row, before a reduction is made, the base child support obligation shall first be divided by the number of children under 18 years of age. The reduction for the paying parent shall only apply to the base child support thus allocated to the children in that parent's custody.

(Example: Parent has 3 of 4 children for 14 overnights. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

### **3. Medical Insurance.**

No change. **or**

\_\_\_\_\_ is/are currently providing health insurance for the minor child/ren and shall continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment shall do so. **or**

Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment shall do so. **or**

The child/ren participate/s in the Children's Health Insurance Program. The parent first reasonably able to obtain group health insurance through employment shall do so.

The total child support amount does not include any actual cost paid by either parent for health insurance premiums for the child/ren. That cost, whether being paid now or incurred in the future, should be prorated between the parents in proportion to their Guidelines income. Father should pay \_\_\_\_\_% and Mother should pay \_\_\_\_\_%. The payment should be in addition to the base child support award and promptly paid directly between the parents.

The actual cost paid by either parent for health insurance premiums for the child/ren shall be prorated between the parents. Father shall pay \_\_\_\_\_% and Mother shall pay \_\_\_\_\_%.

If the payment is not included in the child support calculation as either a credit against or in addition to the basic child support obligation, these payments shall be in addition to the base child support and promptly paid directly between the parents.

Where medical insurance is provided, each parent is ordered to provide the other with all medical insurance information necessary to obtain health care for the child/ren. Insurance proceeds shall be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents shall sign any needed document that provides continuing health care for their child/ren.

#### Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

#### **4. Health Care Costs.**

No change. **or**

The actual cost paid by either parent for health care expenses for the child/ren not covered or paid in full by insurance, including, but not limited to orthodontic, optical and dental, shall be prorated between the parents. \_\_\_\_\_% shall be paid by Father and \_\_\_\_\_% shall be paid by Mother. These payments shall be in addition to the child support and be promptly paid directly between the parents.

Any claimed health care expense for the child/ren (whether denominated as psychiatric, psychological, special education, addiction treatment or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, shall be approved in advance, in writing, by both parents or by prior court order. Relief may be granted by the court for failure to comply under extraordinary circumstances, and the court may in its discretion apportion the incurred expense in some percentage other than that specified herein and, in so doing, may consider whether consent was unreasonably requested or withheld.

#### **5. Work-related Child Care Costs.**

No change. **or**

The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care shall be paid: \_\_\_\_\_% by Father and \_\_\_\_\_% by Mother.  Payment shall be made directly to the child care provider by both parents according to arrangements made with the care provider.

If one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent shall reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

**6. Income Tax Exemption.**

No change. **or**

The state and federal dependency tax exemption(s) for the parties' minor child/ren is/are assigned as follows: \_\_\_\_\_

\_\_\_\_\_.

The parent not receiving the exemption(s) shall sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

**7.** All terms of the Court's prior Order(s) not modified by this Order remain in full force and effect.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge

**CLERK'S CERTIFICATE OF SERVICE**

I certify I served a copy to: (Fill in the mailing address of the attorney for the Department of health & Welfare and both parents' names and mailing addresses)

State of Idaho, Department of Health and Welfare

\_\_\_\_\_  
(Name)

By Hand-delivery

\_\_\_\_\_  
(Street or Post Office Address)

By Mailing

By Fax to (number) \_\_\_\_\_

\_\_\_\_\_  
(City, State and Zip)

To:

\_\_\_\_\_  
(Name)

By Hand-delivery

\_\_\_\_\_  
(Address)

By Mailing

By Fax to (number) \_\_\_\_\_

\_\_\_\_\_  
(City, State and Zip)

Date: \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

REMOVE THIS PAGE  
AND

Attach "EXHIBIT A"

PARENTING PLAN, IF ANY

Attach "EXHIBIT B"

CHILD SUPPORT ORDER IN ANOTHER CASE, IF ANY