

**Completing an Agreed Modification Stipulation – CAO 10-7B
7/29/2005 Revision**

[REMOVE THESE INSTRUCTION PAGES BEFORE FILING]

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 (208-334-4500) to provide you with the name of an attorney who handles this type of case.

You will be signing a sworn statement that you have read the motion, know what it says, and believe it's true. To guarantee the truthfulness of that statement, be sure to read the entire completed form.

Instructions

Fill in the forms by typing or by printing neatly and legibly in **black ink**. If you are working on a computer, you may delete the optional sections you don't need and renumber the remaining sections, or type in "none" if a section doesn't apply. Optional sections are shown with a boldface "**or**". 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"). Always keep a copy of the completed form for your records.

1. At the top left-hand corner of page 1, fill in each of your names, addresses, and telephone numbers, followed by "Father" or "Mother" as each of you were identified in the original divorce or custody case.

Fill in the county and judicial district in the heading (for example, "In the District Court of the Seventh Judicial District in and for the County of Butte"). Fill in your names in the caption (for example, "John Doe, Father vs. Mary Doe, Mother") as they appeared in the caption in the original case. Fill in the case number from the original case. Check one or both of the boxes indicating the part of your current order you want to change, for "child support" and/or "child custody/visitation".

2. Fill in the date of the order or decree you want to change (modify) in the introductory sentence. If you want to modify child support, use the date of the most recent order with respect to child support. If you want to modify custody or visitation, use the date of the most recent order with respect to custody or visitation (or "parenting plan"). Consult the court file if you are unsure about the date of the most recent order.

3. Fill in the name and date of birth for each child. Fill in each child's addresses (city and state is sufficient) for the last five years. You are required to inform the court of any court case

(proceeding) in this or any other state that could affect the current proceeding (examples include proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights and adoption), and of any person claiming visitation/custody rights with your children. Check the appropriate boxes and complete any necessary information as indicated on the form.

4. **Child Custody/Visitation, paragraph 5:** Check this box if you want to have the previous order modified with respect to custody or visitation, (or “parenting plan”). Fill out your new parenting plan, if you are using one, and mark it Exhibit A. Check the appropriate boxes and complete any necessary information as indicated on the form.

5. **Child Support, paragraph 6:** Check this box if you want to have the previous order modified with respect to child support. You will need information from the Child Support Worksheet you filled out (or which was generated for you by using the child support program). Fill in the name of the parent paying child support, the parent to whom child support will be paid, and the amount of each monthly payment. 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. Attach your income affidavit(s) and child support worksheet to the petition, marking each as Exhibit “B”.

WARNING: If you are the parent paying child support (the “obligor”) you should be aware that the order will provide for collection of unpaid child support from your wages, and from your real estate or personal property. The decree will also provide that if you move to another state, the child support award (and any spousal maintenance award) can be enforced directly by courts in other states. Additionally you should be aware that according to Idaho law should unpaid child support equal or exceed the total support owing for ninety (90) days or the sum of \$2,000, whichever is less, **you are subject to suspension of any license** to practice or engage in any business, occupation or profession, operate a motor vehicle, carry a concealed weapon, or engage in any recreational activity, including hunting or fishing. Further, the State Tax Commission will withhold and set-off any state tax refund to collect any unpaid child support, or unpaid spousal support, and the Idaho State Lottery will likewise withhold and set-off a prize of a lottery prizewinner. Your Order will also state:

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.

5. **Paragraphs 7-10.** Check the appropriate boxes and complete any necessary information as indicated on the form.

6. **Signatures:** Leave the spaces for the State and County blank. Go to an office where there's

a Notary. Have the notary fill in the spaces. Sign the Stipulation in front of the Notary and have your signatures notarized.

7. **Exhibits:** Complete Exhibits “A” and “B” as instructed above. Mark your Parenting Plan as Exhibit “A” and your Child Support Order from another case or Child Support Affidavit and Worksheet as Exhibit “B”. Make an extra copy of the Parenting Plan for use with the proposed order before attaching to the stipulation. Attach Exhibits to the Petition. Then make two copies of the Petition with Exhibits. Take the original and both copies to the clerk of the court for filing and conforming.

REMEMBER TO REMOVE THESE INSTRUCTIONS BEFORE FILING YOUR PETITION.

(Father's name)

(Street Address)

(City, State and Zip Code)

(Telephone)

(Mother's name)

(Street Address)

(City, State and Zip Code)

(Telephone)

Father

Mother

State of Idaho, Department of Health and Welfare

Case No.: _____

STIPULATION TO MODIFY AN ORDER OR
DECREE WITH RESPECT TO

CHILD SUPPORT

CHILD CUSTODY/VISITATION

Fee Category: _____

Fee: _____

Father and Mother agree, stipulate and ask the court to enter its order pursuant to Rule 60(c), I.R.C.P., modifying the Order/Decree entered in this matter on _____. As grounds therefore the parties state that there have been substantial and material changes in their circumstances since the date of the last Order/Decree herein.

1. The following child/ren 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:

<u>Name</u>	<u>Date of Birth</u>	<u>Addresses for last 5 years</u> (city and state) (beginning with most recent)

Name

Date of Birth

Addresses for last 5 years (city and state)

2. Mother resides at (city, county, state) _____.

Father resides at (city, county, state) _____.

3. **UCCJEA Jurisdiction.** The parents consent and agreed that the Idaho court has exclusive, continuing jurisdiction to determine custody of this/these child/ren in accordance with the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act, Section 32-11-101, et seq..

a. Neither parent has participated as a party or witness, in any other case involving our child/ren. **or**

I/we have participated as a party or witness in the following case involving our children (provide all specifics including the parent's name, the state, the court, the case number and the date of the child custody order, if any): _____

b. Neither parent knows of any other case that could affect our child/ren. **or**

I/we know of the following court case that could affect our child/ren (provide all specifics including the parent's name, the state, the court, the case number and the nature of the proceeding): _____

c. Other than the two of us, no one claims custody or visitation rights with our child/ren. **or**

In addition to the parents, the following person/s claim custody or visitation for our child/ren (list names and addresses): _____

d. Our child/ren live(s) only with both parents. **or**

If our child/ren lives(s) with someone other than a parent, the name(s) and present address(es) of the person(s) with whom our child/ren live(s) is/are: _____

4. There have been substantial and material changes in the circumstances of the parties since the date of the last Order/Decree herein. The following changes have occurred

(check all boxes that apply):

- The custodial arrangement.
 - The gross annual income of one or both parents.
 - A parent is providing medical insurance.
 - The parent claiming the tax dependency exemption should be changed.
 - (other reason) _____
-
-

5. Custody. No change. **or** The court should modify the order entered (date of last custody order) _____ respecting custody of the minor child/ren as follows:

Legal Custody. No change. **or**

Both parties are fit to act as parents. It is in the best interest of our child/ren that we be awarded joint legal custody. **or**

It is in the best interest of our child/ren that _____ be awarded sole legal custody because _____

Physical Custody. No change. **or**

It is in the best interest of our child/ren that we be awarded joint physical custody of our child/ren according to the Parenting Plan which is attached as "Exhibit A". **or**

_____ should be awarded sole physical custody of our child/ren because _____

_____ should spend time with our child/ren
 as follows: _____

or

in accordance with the Parenting Plan which is attached as "Exhibit A".

6. Child Support.

Child support does not need to change. If child support was set in a different case, a copy of the Child Support Order is attached as **“Exhibit B”**. **or**

This court has jurisdiction to determine child support, Title 32, Chapter 7, Idaho Code.

Child support should be paid by _____ in the total amount of \$_____ per month, based on the Idaho Child Support Guidelines, according to the Affidavit Verifying Income and Child Support Worksheet(s) attached as “Exhibit B”. The total amount includes: Base child support in the amount 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 the Modification Order is signed and continue to be paid on the twentieth (20) day of each following month until the child/ren for whom support is being paid reach/es 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, when one child is no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when two children are no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$_____ per month; when three children are no longer entitled to support, child support for the remaining child should continue in the total amount of \$_____ per month.

NOTICES

According to Chapter 12, Title 32, Idaho Code, this 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: Our child/ren live/s in the home of one parent at least 75% of the time.

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 should be reduced for that period of time; however, visitation of two overnights or less with the other parent should not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody should be 50% **or** _____% of the base child support obligation. The reduction should 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 a continuous period of fourteen (14) or more overnights in a row, before a reduction is made, the base child support obligation should first be divided by the number of children under eighteen (18) years of age. The reduction for the paying parent should 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 days. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 days = \$2.50 per day per child x 14 days = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

7. Medical Insurance. No change. **or**

_____ is/are currently providing health insurance for the minor child/ren and should 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 should 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 should 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.

Where medical insurance is provided, each parent should be ordered to provide the other with all medical insurance information necessary to obtain health care for the child/ren.

Insurance proceeds will 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 our 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.

8. Health Care Costs Not Paid by Insurance. 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, should be prorated between the parents. Father should pay _____ % and Mother should pay _____ %. These payments should be in addition to the base child support award and be promptly paid directly between the parents.

Any health care 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, must be approved in advance, in writing, by both parents or by prior court order. (Note: The court may consider whether consent for out-of-pocket expenses in excess of \$500 was unreasonably requested or withheld and order payment of the incurred expense in some percentage other than the Guidelines Income.)

9. 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 should be paid _____% by Father and _____% by Mother.

Payment should 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 should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

10. Income Tax Exemption. No change. **or**

[] The state and federal dependency tax exemption(s) for the parties' minor child/ren should be assigned as follows: _____

_____.

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

Verification: We each swear to have read this Stipulation for Modification and state all facts included are true.

Wherefore, we ask the Court to enter the orders requested above.

Date: _____, 20 ____.

Father's signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public for Idaho

Residing at: _____

My Commission expires: _____

Date: _____, 20 ____.

Mother's signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public for Idaho

Residing at: _____

My Commission expires: _____

REMOVE THIS PAGE AND

If you are using it, Attach and Mark it “EXHIBIT “A”:

PARENTING PLAN

**If child support was set in another case, Attach the support Order and Mark it
“EXHIBIT B”**

If you are modifying support, Attach and Mark as “EXHIBIT “B”:

**AFFIDAVIT VERIFYING INCOME
and
CHILD SUPPORT WORKSHEET(s)**