

# **SELF-REPRESENTED LITIGANT** **RULE TO MODIFY CUSTODY**

## **This form is intended for litigants who:**

- ✓ Wish to modify a custody order previously issued by the court.

## **Information you will Need:**

1. Court information and the docket number from the previous custody hearing or any related matters.
2. The exact name and address of the opposing party or the opposing party's counsel.
3. The exact name(s) and date(s) of birth of all children listed in the custody order.

## **Instructions:**

These instructions are meant to guide you through the process of **asking the court to modify an existing custody order** for your minor child(ren). If a custody order has not been issued by the court, you may want to petition the court to *establish* custody rather than *modify* custody. The court will set all custody orders based on the best interest of the child(ren).

This packet of forms is not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action. **When you represent yourself in court, you must follow all the proper procedures and the law. It is your responsibility to see your case through the whole process.**

1. Be sure you have the correct form.
2. Read all instructions before you begin.
3. Fill in the blanks with 100% accurate information- *any false statement made in court or written in a court document may constitute perjury.*
4. Check all options that pertain to your situation.
5. If you have trouble reading, writing, or understanding what is in this motion, seek help at

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# 1

## STEP ONE

## THE RULE

*The first step is to fill out and file the **Rule to Modify Custody** form with the attached **Verification and Order**. Read everything carefully, double check the information you fill in, and make sure you fill out the forms completely.*

These instructions will guide you through the Rule paragraph by paragraph.

- The top part of this form is your case information.
  - If there is already a case open in court between you and the other parent, you will have to file this rule in that case. You will have to get all of the case information from the Clerk's office when you file it. The information that you put in this part must match the open case information. Leave this part blank for now if you are unsure.
  - Since there is a previous case in court with the other parent, the name in the first blank on the left shall correspond to the name on this same line as on the first filed petition. The other parent is the defendant, so write his/her name underneath. You should also fill in the docket number on the right.
- The beginning paragraph asks you to fill in your name and domicile. Your domicile is the parish/county and state of your current permanent address.
- Paragraph 1 asks you to fill in the other parent's name and domicile.
- Paragraph 2 asks you to fill in the names and dates of birth of all the minor children born or adopted to you and the other parent.
- Paragraph 3 asks you information about the custody judgment in place right now. To fill this part out, it's a good idea to have a copy of that custody judgment with you. Write the date of the order in the first blank, then the case title in the next two blanks. This is usually listed at the top of your original petition, and looks something like "John Doe v. Jane Roe." In the next blank, write the docket number from the original custody order. Finally, write in the name of the court that gave the order and the parish where the court gave the order.
- Paragraph 4 asks you to write in the details of the current custody order, including how both parents split the physical custody of the child(ren).
- Paragraph 5 asks you to give the court all of your reasons for requesting a change in the original custody order. Remember, the court can only change custody if there has been a material change in circumstance since the last order. Make sure you explain these changes fully.
- Paragraph 6 asks you to select the physical custody arrangement that you are requesting from the court.
  - The first option is if you are requesting joint custody of the child(ren), with one parent getting more time and the other parent getting physical custody with the child(ren). If this is what you're requesting, check this option and write the name of the parent you want to have domiciliary status in the first blank. Usually, the domiciliary parent is the one the child primarily resides with and the parent that gets to make important decisions for the child. Then, write the other parent's name in the second blank, so that he/she can have physical custodial periods with the child. Then in the lines that follow, explain the time periods you would like for that parent to have those custodial periods.
  - The second option is if you are requesting joint custody of the child(ren) with both parents sharing equal time with the child(ren). If this is what you're requesting, check this option and write the name of the parent you want to

have domiciliary status in the first blank. Then, write the other parent's name in the second blank, and in the lines that follow, explain the time periods that you consider equal time for both parents.

- o The third option is if you are requesting sole custody of the child(ren). If this is what you're requesting, check this option and then select one of the three options underneath. The first option here is if you want the other side to be allowed some visitation with the child(ren). The second option here is if you want the other side to have visitation with the child(ren) but under supervision. The third option here is if you don't want the other side to have any visitation with child(ren) at all.
- Finally, sign and provide your name, address, and telephone number at the top, under where it says "Respectfully submitted."

Along with your rule, you will also have to sign the "Verification" form, which states that you are swearing that everything in your rule is true.

- This step requires you to go to a notary.
- Fill out the top part with your case information just like your rule.
- Write the parish that you get the form notarized in the first blank. Write your name in the center blank but **do not sign the form until you are directly in front of the notary.**
- The notary will fill in the bottom part of the form.
- **Do not fill in the "Order" section. The Judge will do this if applicable.**

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## 2 STEP TWO FILING

After you've filled out all of the documents, you must file them with the Clerk of Court's office.

- You must go to Clerk of Court's office in the parish where you are filing.
- You must file the original forms that you filled out. It's also a good idea to make 4 copies of your filled out forms and bring them with you. When you file the originals, ask the Clerk of Court's office to stamp 4 copies for your records. The clerk will keep 2 copies for service on the defendant.
- The Clerk of Court's office can also provide your case information, like the name of your case, your case number, and your division. Write this information down and keep it because you will need it to check the status of your case.
- Anytime you file something with the Clerk of Court's office, you will have to pay a filing fee, unless you have been granted pauper status. There are different fees for different documents. The Clerk of Court's office can tell you how much the fees are.
- If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the first box on the last page of the Rule. You also have to fill out and file a separate "In Forma Pauperis" form, which you can get from the Self-Help Resource Center or the Clerk of Court's office. \*IMPORTANT- Pauper status doesn't make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

Once you file your documents with the Clerk of Court's office, it will take a little time for it to get to the judge's office. Once the judge signs it, the judge's office will send the documents back to the Clerk of Court's office.

# 3

## STEP THREE COMING TO COURT

*This is the final step in modifying your child custody order. You will have to come to court to put on your case and explain to the judge why your child custody order should be changed.*

Be sure to bring any evidence or witnesses that will help you prove your case. Remember, it is your responsibility to show the court why you should get a modification in child custody. You have to prove this in court using testimony from the witnesses and any evidence that you have that is relevant. It is very important to bring a copy of the custody judgment in place right now with you on your court date.

Make sure you are present in the courtroom on the day and time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, and getting through security.

Go to the courtroom, or hearing officer's office, check in, and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will allow you to call your witnesses and testify first. The judge will also allow the other side to question you and your witnesses. Make sure to introduce any evidence that you brought with you when it's your turn.

ORLEANS CIVIL DISTRICT COURT

\_\_\_\_\_  
(Petitioner)

VERSUS

DOCKET NUMBER: \_\_\_\_\_

\_\_\_\_\_  
(Defendant)

ORLEANS PARISH, LOUISIANA

FILED:

DEPUTY CLERK \_\_\_\_\_

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**RULE TO MODIFY CUSTODY**

**NOW INTO COURT** comes \_\_\_\_\_ (your name), of full age of majority and domiciled in the Parish/County of \_\_\_\_\_, State of \_\_\_\_\_, (parish and state where you permanently reside) who respectfully represents:

**1.**

Made Defendant herein is \_\_\_\_\_ (other parent or guardian in previous custody order) of full age of majority and domiciled in the Parish/County of \_\_\_\_\_, State of \_\_\_\_\_ (parish and state of defendant=s permanent residence).

**2.**

The following minor children were born of or adopted by the parties:

\_\_\_\_\_  
(CHILD'S NAME) (DATE OF BIRTH)

**3.**

There is currently a court order in place for the custody of the minor child(ren) that was rendered on \_\_\_\_\_ (date of previous custody judgment) in a suit entitled \_\_\_\_\_ v. \_\_\_\_\_ (official name of previous case), bearing the docket number \_\_\_\_\_, filed in the \_\_\_\_\_ (location of court from previous custody order).

**4.**

The custody order rendered by that court order is as follows:

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**5.**

Petitioner is entitled to a modification of the existing custody order because the following material changes in circumstance have occurred since the time that the previous order was set:

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**6.**

Petitioner believes it is in the best interest of the child(ren) that the current custody order be modified as follows: *(please select one of the following)*

Petitioner requests that the parties be awarded joint custody, with \_\_\_\_\_ designated as domiciliary parent, and with custodial periods awarded to \_\_\_\_\_ as follows: \_\_\_\_\_

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Petitioner requests that the parties be awarded joint custody, with \_\_\_\_\_ designated as domiciliary parent, and with the parties sharing equal time with the minor child(ren) as follows: \_\_\_\_\_

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Petitioner requests that Petitioner be awarded sole custody subject to one of the following by the Defendant: *(please select **one** of the following)*

\_\_\_\_\_ Petitioner requests that the Defendant be awarded reasonable visitation as follows:

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\_\_\_\_\_ Petitioner requests that the Defendant be awarded supervised visitation as follows:

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\_\_\_\_\_ Petitioner requests that the Defendant not be awarded any visitation.

**WHEREFORE**, Petitioner prays that after all legal delays and due proceedings, this Court issue a Judgment modifying the custody arrangement between the parties for their minor child(ren), and for all general and equitable relief.

**PETITIONER FURTHER PRAYS** that a rule *nisi* issue herein ordering the Defendant to appear and show cause on a date and time fixed by this Court why a Judgment should not issue herein ordering a modification of the prior custody arrangement between the parties, as outlined herein.

**PETITIONER FURTHER PRAYS** that:

\_\_\_\_\_ Petitioner be allowed to proceed *In Forma Pauperis*. (*Separate form required.*)

\_\_\_\_\_ Petitioner be cast with the costs of these proceedings.

\_\_\_\_\_ Defendant be cast with the costs of these proceedings.

\_\_\_\_\_ The parties share the costs of these proceedings in equal amounts.

Respectfully submitted,

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(PRINTED FULL NAME)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(CITY/STATE/ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER)

\_\_\_\_\_

(Petitioner)

ORLEANS CIVIL DISTRICT COURT

VERSUS

DOCKET NUMBER: \_\_\_\_\_

\_\_\_\_\_

(Defendant)

ORLEANS PARISH, LOUISIANA

FILED:

DEPUTY CLERK \_\_\_\_\_

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VERIFICATION

STATE OF LOUISIANA

PARISH OF \_\_\_\_\_

**BEFORE ME**, the undersigned Notary Public, duly commissioned and qualified in this state and parish, personally appeared:

\_\_\_\_\_  
PETITIONER'S NAME

who after being duly sworn, did depose and state that he/she is the Petitioner in the above and foregoing numbered and entitled cause, that he/she has read the same, and that all of the allegations contained therein are true and correct to the best of his/her knowledge, information, and belief.

\_\_\_\_\_  
PETITIONER SIGNATURE

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_

(Petitioner)

ORLEANS CIVIL DISTRICT COURT

VERSUS

DOCKET NUMBER: \_\_\_\_\_

\_\_\_\_\_

(Defendant)

ORLEANS PARISH, LOUISIANA

FILED:

DEPUTY CLERK \_\_\_\_\_

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**ORDER**

Considering the above and foregoing Rule:

IT IS ORDERED that a rule *nisi* issue herein ordering the Defendant to appear and show cause on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock a.m./p.m. why a Judgment should not issue herein ordering a modification of the prior custody arrangement between the parties.

THUS DONE AND SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
JUDGE

PLEASE SERVE:

\_\_\_\_\_  
(DEFENDANT'S FULL NAME)

\_\_\_\_\_  
(STREET ADDRESS)

\_\_\_\_\_  
(CITY/STATE/ZIP CODE)

\_\_\_\_\_  
(TELEPHONE NUMBER)