

# Modifying Child Support, Custody and Access

**How do I change orders for child custody or visitation?** You can change the order by filing a suit to modify the parent-child relationship. Either parent (or nonparent with court ordered custody or access) can file the petition to change the prior court order. Modifications can include changes to custody, access and possession (“visitation”), child support – any change that can be shown to be in the child’s best interest. Unless the parties agree, the Petitioner (person who wants the change) must show:

- the changes are in the *best interest* of the child, AND
- the circumstances of the child, or either parent (or other person with legal rights to the child) have *materially and substantially* changed since the last order, OR
- the person with legal custody allowed another person (the petitioner) to keep the child for at least 6 months, OR
- the child is at least 12 years old and will tell the judge, (in the judge’s chambers, not in the courtroom) the person or parent that he or she wants to live with most of the time.

If you want to change a *custody order that was entered by the court less than a year ago*, you must show:

- The child’s present environment endangers the child’s physical health or impairs the child’s emotional development, OR
- The parent (or non-parent with custody) agrees to the change in custody and the change is in the child’s best interest, OR
- The parent (or nonparent with custody) allowed someone else to have custody of the child for at least 6 months and the change is in the child’s best interest.

**How do I modify child support?** Depending on your situation, you can:

- Request a *child support review* from the Office of Attorney General – Child Support Division (OAG) if:
  - the current support is higher or lower than the child support guidelines, and
  - the last child support order (the order you want to modify) was entered over 3 years ago.
- Request a *change of status review* from the OAG if:
  - You are the noncustodial parent currently ordered to pay support,
  - for a child that now lives with you.
- Hire a private attorney to modify your custody, child support or visitation orders at any time.
- Use the free do-it-yourself “Modification Kit” from [www.texaslawhelp.org](http://www.texaslawhelp.org) to modify at any time.

If the OAG was ever involved with order you now want to modify, you are required to send them copies of your petition to modify and notify them of any hearings. More about OAG child support review and modification: [www.oag.state.tx.us/cs](http://www.oag.state.tx.us/cs).

**How long does it take?** If the parties agree to the change, it can be entered as an agreed, “uncontested” order, signed by the judge without the need for a court hearing. If the parties don’t agree, the modification will proceed as a lawsuit, with formal legal notice to the opponent and a court hearing.

**What if my order is from another state?** Texas must respect out-of-state court orders. A Texas court cannot modify a custody, child support or visitation order from another state until the child has lived in Texas at least 6 months. The only exception is if all parties and children no longer live in the state that rendered the order. If a party still lives in the other state, you would have to file in that state and ask the court to allow the case to be heard in Texas “for the convenience of parties and witnesses.” There are some exceptions to these rules for emergency situations that involve serious danger to the child.