

INCARCERATION AND CHILD SUPPORT

LA R.S. 9:311.1 DEFINITIONS

- “Suspension” the modification of a child support order to zero dollars during the period of an obligor’s incarceration.
- “Incarceration” placement of an obligor in a county, parish, state or federal prison or jail, in which the obligor is not permitted to earn wages from employment outside the facility. “Incarceration” does not include probation or parole.

LA R.S. 9:311.1 REQUIREMENTS

- Effective August 1, 2020.
- Mandatory suspension of child support when the obligor will be or is incarcerated for any period of 180 consecutive days or more.
- **Exceptions:**
 - Obligor has the means to pay support while incarcerated;
 - Obligor is incarcerated for an offense against the CP or child subject to the support order;
 - The incarceration resulted from the obligor's failure to comply with a court order to pay child support.

LA R.S. 9:311.1 REQUIREMENTS

- Upon finding that none of the exceptions apply, the department shall provide notice to the custodial party by certified mail, return receipt requested.
- The notice shall inform the custodial party that the child support order will be suspended unless the custodial party objects no later than 15 calendar days after receipt of such notice.
- **Grounds for Objection:**
 - The obligor has sufficient income or assets to comply with the order of child support;
 - The obligor is incarcerated for an offense against the CP or child subject to the order of child support;
 - The offense for which the obligor is incarcerated is due to the obligor's failure to comply with an order to pay child support.

LA R.S. 9:311.1 REQUIREMENTS

- The custodial party may object to the proposed suspension by delivering a signed objection form, no later than 15 calendar days after receipt of the notice.
- If no objection is received from the custodial party, the department shall file an affidavit with the court that has jurisdiction over the order of child support.
- The suspension of the order shall begin upon the date the department files the affidavit.
- If the custodial party makes a timely objection, the department shall file a contradictory motion with the court that has jurisdiction over the order of child support.
- When an objection is made, the order of child support shall continue until further order of the court.

LA R.S. 9:311.1 REINSTATEMENT

- An order of support that is suspended shall resume by operation of law on the first day of the second full month after the obligor's release from incarceration.
- An order that suspends an order of support because the obligor's incarceration shall contain a provision that the previous order will be reinstated on the first day of the second full month after the obligor's release from incarceration.
- Unless the terms of the support order have been otherwise modified, the suspended order of support shall resume with the same terms that existed before the suspension.
- The suspension of an order of support in accordance with this statute shall not affect any past due support that has accrued before the effective date of the suspension.

POLICY J-460 INCARCERATED NONCUSTODIAL PARENTS

- J-461 Review and Adjustment Requirements
 - J-462 Suspension of Child Support Orders
 - J-463 Ending the Suspension of Child Support Orders
 - J-464 Deferment of Child Support Orders
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POLICY J-461 REVIEW AND ADJUSTMENT REQUIREMENTS

- **If the child support obligation does not qualify for suspension**, the obligation will continue to run until further order of the court.
 - Manually generate the CSE 143 and mail to the parties.
 - Once one of the parties responds, process the review on CORA per J-420.
 - If the review is warranted, initiate actions to have the order referred to court.
 - If the review is not appropriate at the time or is not warranted, the caseworker documents the review determination in CALO and dispositions the review on CORA.
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POLICY J-461

REVIEW AND ADJUSTMENT REQUIREMENTS

- **If the child support obligation qualifies for suspension**, the federal requirement for a review of the obligation has been met; proceed to Policy J-462.
- Do not mail the CSE 143 to the parties unless there are other expenses or debts that need to be addressed.

POLICY J-462

SUSPENSION OF CHILD SUPPORT ORDERS

- When CSE receives notice that the NCP's incarceration will last 180 days or more, mail the CSE 149 (Notice of Right to Object) by certified mail to the CP, return receipt requested.
- **CP DOES NOT OBJECT:**
 - If the CP does not object within 15 days, file the CSE 147 (Affidavit for Suspension of Child Support) in the court record to suspend the child support obligation.
 - The suspension begins on the date CSE files the affidavit.
 - Image one time stamped copy.
 - End date the child support debt (all other debts remain in effect until modified by the court).
 - End date EMDA records and generate the 415 Termination notice (415-T).
 - The suspension does not affect any past due support that has accrued before the effective date of the suspension. CSE must report the arrears and must not add suppressions to the case.

POLICY J-462

SUSPENSION OF CHILD SUPPORT ORDERS

- CP OBJECTS:
 - If CSE receives an objection from the CP within 15 days, staff **must** refer the case to the staff attorney or DA to schedule a hearing.
 - The contradictory hearing must be scheduled in the court that issued the support order.
 - The support order shall continue to run until further order of the court.
 - When the child support obligation does not qualify for suspension, the court shall use the child support guidelines in RS 9:315 et seq to determine an obligor's support obligation during the period of incarceration.

J-463 REINSTATEMENT

- If the order was suspended, manually generate the CSE 178 (NCP Pre-Release Letter) and CSE 143 (Notice of Right to Request a Review) six months before the NCP's release date.
- The suspended child support order restarts on the first day of the second full month after the NCP's release regardless of the original effective date.
- The caseworker should use the first day of the second full month from the NCP's release date as the new begin date on LICD.
- The obligation resumes at the same amount that existed prior to the suspension unless the court modified the order.

LA R.S. 9:315.27 DEFERMENT

- If a child support award is suspended pursuant to RS 9:311.1 and the obligor is released from incarceration while the child is a minor, DCFS may petition the court to continue the award beyond the termination date provided by RS 9:315.22.
 - If the court extends the child support award, the amount of support shall be established using the child support guidelines.
 - Continuation of the support order shall not exceed the amount of time the child support order was suspended.
- If the NCP is released from incarceration after the child has reached the age of majority, the CP or child may petition the court to establish an award of support for the period of suspension within 24 months of the obligor's release.
 - If the court extends the child support award, the amount of support shall be established using the child support guidelines.
 - Continuation of the support order shall not exceed the amount of time the child support order was suspended.

POLICY J-464 DEFERMENT OF CHILD SUPPORT ORDERS

- If CSE suspends the child support while the child is a minor, DCFS may petition the court to continue the award beyond the termination date at the CP's request.
- When CSE receives a request for continuation of support, provide the CP with the CSE 175 (Request for Review after Suspension of Child Support) to request extension of the order beyond the emancipation date.
- Once the caseworker receives the completed CSE 175, refer the case to the DA or staff attorney to petition for an extension.
 - If the court awards the extension, the court will establish the amount using the child support guidelines.
 - Any child support established must not exceed the amount of time CSE suspended the child support order.

POLICY J-464

DEFERMENT OF CHILD SUPPORT ORDERS

- If CSE suspends the child support while the child is a minor, DCFS may petition the court to continue the award beyond the termination date at the CP's request.
- When CSE receives a request for continuation of support, provide the CP with the CSE 175 (Request for Review after Suspension of Child Support) to request extension of the order beyond the emancipation date.
- Once the caseworker receives the completed CSE 175, refer the case to the DA or staff attorney to petition for an extension.
 - If the court awards the extension, the court will establish the amount using the child support guidelines.
 - Any child support established must not exceed the amount of time CSE suspended the child support order.

POLICY J-464

DEFERMENT OF CHILD SUPPORT ORDERS

- If a party other than CSE suspends the child support order and the NCP gets out after the child has reached the age of majority, the CP or child may petition the court to extend the support.
- The CP or child must take the action within 24 months of the NCP's release.
- If the court awards the extension the court must establish the amount using the child support guidelines.
- Any child support established shall not exceed the amount of time of the suspension.
- If CSE receives an application for services with an order that extends beyond the emancipation date of the child, CSE must enforce the order.

FORMS

- CSE 149 Notice of Right to Object
- CSE 147 Affidavit for Suspension of Child Support
- CSE 143 Notice of the Right to Request a Review
- CSE 141 Decision Regarding Review for Adjustment of Child Support Obligation
- CSE 178 Noncustodial Parent Pre-Release Letter
- CSE 175 Request for Review After Suspension of Child Support Order
- CSE 886 Rule to Modify Child Support

CASE CLOSURE INCARCERATED NCP

- The case may be closed if the NCP cannot pay for the child's minority because:
 - The NCP is incarcerated with no chance of parole.
 - The NCP's parole eligibility/early release date is more than 2 years after the child's emancipation date.
- Arrears Only cases
 - If the NCP has been or will be incarcerated for at least 10 years after the child's emancipation date or incarcerated with no chance for parole, the case may be closed.
- Office must determine there are no income or assets that are available to the NCP that could be levied or attached for support.

INCARCERATED NCP MAILING ADDRESS EB-2584-00

- End date and VN the NCP's mailing address on APDI.
- End date and VN all employers on EMDA unless the employer is valid in association with a work release program/job.
- Enter the correction facility address on APDI as a residential address with a VV code and include the DOC number in the address.
- Update APD2 with the correction facility address, entry date, release date (if known), reason for incarceration(if known), and phone number.

INCARCERATED NCP INTAKE CASES

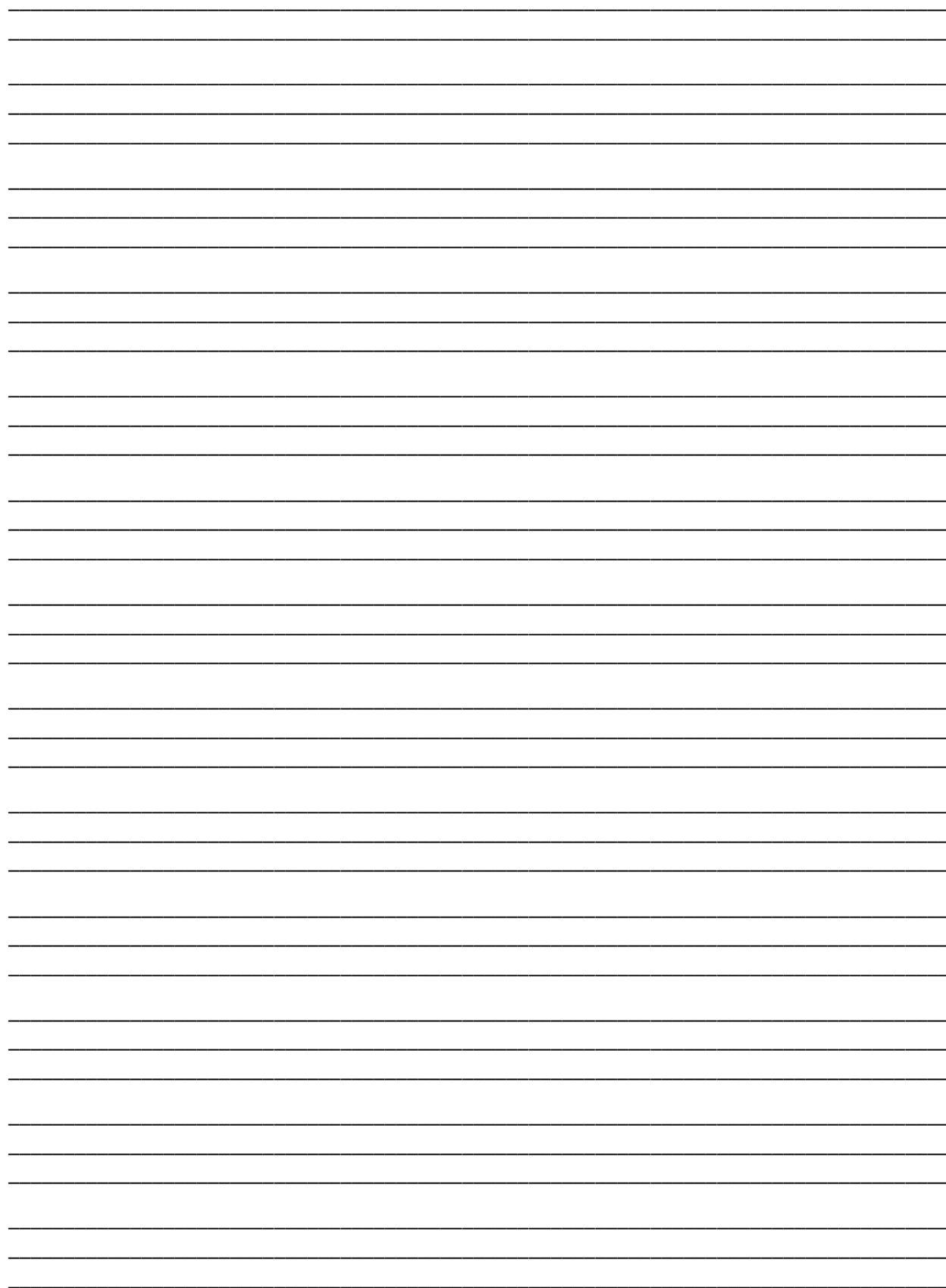
- If a case does not meet closure criteria under 45 CFR 303.11, refer to court for a determination.
- Multiple scenarios may result from this.
 - Examples:
 - *The court may issue an order and allow CSE to suspend administratively.*
 - The court may set a future support obligation.
 - The court may set an obligation and suspend until NCP's release.
- To ensure accurate federal reporting, set up a COOD record when an order has been established.
 - Set up the debt based upon the effective date of the order.

QUESTIONS

THANK YOU!

USEFUL REFERENCES

- 45 CFR 303.8
- 45 CFR 302.56
- Flexibility, Efficiency, and Modernization of Child Support (FEM) Rule
- LA R.S. 9:311.1
- LA R.S. 9:315.27
- Chapter 9 Policy J-460
- EB 2584-00



**Louisiana Department of Children and Family Services
Child Support Enforcement Section**

Date

Decision Regarding Review for Adjustment of Child Support Obligation

LASES No.: _____

Noncustodial Parent: _____

Custodial Parent: _____

Dear _____ :

Child Support Enforcement has completed a review of the child support obligation amount in this case. The result is as follows:

- No change in the child support obligation amount is due.
- CSE will refer this case to court for a possible change in the child support obligation.

If you have any questions, please call us at the telephone number listed below.

1-888-LAHELP-U toll free for customers outside of the Baton Rouge area;
225-922-8100 for callers within the Baton Rouge area;
225-922-8111 for TTY service for the hearing impaired.

In addition, if you have a complaint regarding the way your child support case is being handled, you may request an administrative review of the actions taken on this case. If you wish to request an administrative review, call or write to this office within 30 days of the date of this notice. You will be notified of the time and place of your administrative review.

**Louisiana Department of Children and Family Services
Child Support Enforcement Section**

Date

Notice of the Right to Request a Review

LASES No: _____

Either party to a child support order has the right to request a review of the existing child support award to determine if the amount is correct according to the Child Support Award Guidelines. A review may be requested every three years without requiring a change in circumstances. A review of the child support order outside the three year cycle is conducted only if a substantial change in circumstances warrants the review.

The review is conducted when a request is made by either party, Child Support Enforcement determines that a review should be conducted, or if there is an assignment under Temporary Assistance to Needy Families (TANF). The child support order may be increased or decreased in accordance with the Child Support Award Guidelines.

The state staff attorney, district attorney, and/or private contract attorney providing services pursuant to this letter:

- a. Does not represent you in any actions that may occur.
- b. Represents only the State and the State's interest.
- c. Cannot give you any legal advice. You may contact a private attorney or the local legal aid services for legal advice.

You may request a review of the existing child support amount by completing the response portion of this letter and returning it to the above address or by calling:

1-888-LAHELP-U toll free for callers outside of the Baton Rouge area;
225-922-8100 for callers within the Baton Rouge area;
225-922-8111 for TTY service for the hearing impaired.

Customer Response

- I want to request a review of the existing child support award in this case.
 - My address listed above is correct.
 - My current address is:
-

In addition, if you have a complaint regarding the way your child support case is being handled, you may request an administrative review of the actions taken on this case. If you wish to request an administrative review, call or write to this office within 30 days of the date of this notice. You will be notified of the time and place of your administrative review.

Louisiana Department of Child and Family Services
Child Support Enforcement

Date



LASES No.: _____
Noncustodial Parent: _____
Custodial Parent: _____
Docket No.: _____
Court: _____

CHILD SUPPORT SUSPENSION AFFIDAVIT

I, _____, the undersigned affiant do hereby state
Name of Affiant

and affirm all of the following:

- The obligor will be or is incarcerated for a period of one hundred and eighty consecutive days or more. The period of incarceration is from _____ to _____ .
- Diligent search failed to identify any income or assets that could be used to satisfy the order of child support while incarcerated.
- The offense for which the obligor is incarcerated is not an offense against the custodial party or the child subject to the order of child support.
- The offense for which the obligor is incarcerated is not due to the obligor's failure to comply with an order to pay child support.
- A notice was provided as of _____ to the custodial party and an objection was not received from such party.

The Department will file the affidavit in the appropriate court for the suspension to be executed.

I solemnly swear or affirm that the foregoing statements are true and correct to the best of my knowledge.

SIGNATURE OF AFFIANT

PRINT NAME OF AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS _____ DAY OF _____

AT _____, LOUISIANA

PRINT NAME OF ATTORNEY OR NOTARY PUBLIC

SIGNATURE OF ATTORNEY OR NOTARY PUBLIC

NOTARY OR BAR ROLL NUMBER

MY COMMISSION EXPIRES: _____

Louisiana Department of Children and Family Services
Child Support Enforcement Section
P.O. Box 94065
Baton Rouge, LA 70821

Date

NOTICE OF RIGHT TO OBJECT

LASES No. _____

Custodial Parent _____

Noncustodial Parent _____

Docket No. _____

Dear _____ :

According to our records, child support is owed by the noncustodial parent (NCP) listed above. This letter is to advise you that the noncustodial parent will be or is incarcerated for 180 days or more. The Department intends to suspend the child support order until the NCP is released from incarceration if you do not object.

You have **15 days to advise this office** if you wish to object to the suspension if any of the following are true:

- The NCP has sufficient income or assets to comply with the order of child support order.
- The NCP is incarcerated for a crime against the custodial party or the child included in the child support order.
- The offense for which the NCP is incarcerated is due to failure to pay the child support order.

If you wish to object, you must sign below and return this notice with the reason for the objection. If you file an objection, the matter will be scheduled for a court hearing. After the court hearing, a decision will be made to determine if suspension is appropriate. If you do not attend the court hearing, the decision may be made to suspend the ongoing child support debt.

If you do not object within 15 days from the date of the letter, CSE will take action to suspend the child support order. The suspension will end on the 1st day of the second full month after the NCP is released from incarceration.

If you have any additional questions concerning this matter, please contact this office.

Sincerely yours,

Department Representative

Telephone No.

Objection Request

I wish to object to the suspension of the child support order for the following reason:

Sincerely,

Custodial Parent Signature

Telephone No.

Louisiana Department of Children and Family Services
Child Support Enforcement Section

Date

LASES No.: _____
Noncustodial Parent: _____
Custodial Parent: _____
Docket No.: _____
Court: _____

Request for Review After Suspension of Child Support Order

Thank you for your inquiry regarding a review of your child support order. Please complete this form and return it to the child support office that is handling your case or submit the request online via the message center.

I request Child Support Enforcement conduct a review of my child support order. I understand the following:

- A review addresses only child support and medical support.
- A review of child support order may be requested to extend child support beyond the child's emancipation date if the noncustodial parent's incarceration resulted in the agency suspending the order.
- A review of a child support order will determine if the order complies with the Louisiana child support guidelines.
- A review of the child support order may be withdrawn by the requestor only.

Please list the reason you are requesting a review:

Signature

Date

After receiving all of the necessary information from you, we will determine if a review of your child support order is appropriate and we will notify you of our decision. If it is determined that a review is appropriate, your child support order will be referred to court to continue the support order beyond the emancipation date. Thank you for your cooperation.

INSTRUCTIONS

Please type, print, or write clearly. Please return the completed form along with copies of your income tax returns for the past two years, and your two most recent pay stubs. If you do not have these items, please send us your W-2 Forms.

Date: _____ Case Number: _____

INFORMATION ABOUT YOU (Please Print All Information)

If you have concerns about your children's safety, there are some protections available in the child support process.

Do you have concerns about any of the following:

- the other parent or other individuals having access to your physical contact information?
- negotiating in person with the other parent?
- contact with the other parent during the court hearing?

Yes No If yes, please explain: _____

Do you have a protective order, police report, or other supporting document? Yes No **If possible attach a copy of any documentation.** If you answered YES to either of the previous questions, you will be sent an Affidavit of Nondisclosure.

Name: _____

Address: _____

Telephone number(s):

Cell: _____ Home: _____ Work: _____

Email Address: _____

Name of the other parent on the order: _____

Address of the other parent on the order: _____

Current Employer of other parent: _____

Information about the children covered by the order:

Is there any other information we should consider that has not been covered on this form? For example; Special needs of the children subject to this order.

Explain: _____

By my signature below, I certify that the information provided by me on this form is true and correct to the best of my knowledge.

Signature

Date Signed

**Louisiana Department of Children and Family Services
Division of Family Support
Child Support Enforcement Section**

Date

Noncustodial Parent Pre Release Letter

Custodial Party: _____

Case ID No.: _____

Dear _____ :

You were ordered by the Court to pay support on the case listed above.

You must pay \$ _____ per _____ in child support. The child support arrearages are \$ _____ .

This notice is to inform you that your child support was suspended upon the Department receiving notification about your incarceration for 180 days or more. However, the suspension will be lifted on the 1st day of the second full month after you are released from incarceration.

The child support will resume at the same terms that existed before the suspension. Before the child support obligation resumes, an appointment may be made to speak with your caseworker to make an agreement to begin making regular payments for current support and agree to a plan to make payments towards the arrearages or you may ask for a review.

All payments must be in the form of cashier's check or money order mailed to:

**Centralized Collection Unit
P.O. Box 260222
Baton Rouge, Louisiana 70826-0222**

If you are unable to mail in a payment, you may make your child support payments through MoneyGram or ExpertPay.com. If you want to schedule an appointment to discuss your case or you would like to request a review, please contact us at 1-888-LAHELP-U.

If you have not requested a review of the child support obligation, take action to request a review of the child support amount to determine if it needs to be changed.

Sincerely,

Agency Representative

PLAINTIFF

VERSUS

DEFENDANT

LASES NO.: _____
(if applicable)

FILED: _____

DOCKET NO.: _____

JUVENILE/DISTRICT COURT/FAMILY COURT

PARISH OF: _____

STATE OF LOUISIANA

DEPUTY CLERK

RULE TO MODIFY CHILD SUPPORT

NOW INTO COURT comes _____, defendant/plaintiff (circle one), in proper person, who shows to this Honorable Court that pursuant to a judgment of this court, child support was entered for the minor child(ren).

Mover avers that he/she is entitled to a modification of the child support because of the following material change in circumstances:

- | | |
|---|---|
| <input type="checkbox"/> involuntary unemployment | <input type="checkbox"/> new employment |
| <input type="checkbox"/> reduction in income | <input type="checkbox"/> increase in income |
| <input type="checkbox"/> order changing custody or visitation | <input type="checkbox"/> adding or dropping medical insurance |
| <input type="checkbox"/> change in childcare costs | <input type="checkbox"/> extraordinary medical expenses |
| <input type="checkbox"/> child turns 18 and is not in high school | <input type="checkbox"/> increase or decrease in expenses for child |
| <input type="checkbox"/> child's living arrangement changes | <input type="checkbox"/> NCP incarcerated |
| <input type="checkbox"/> other (describe): | |

WHEREFORE, mover prays that _____ be ordered to appear to show cause on a date and time to be fixed by the Court, why mover should not be awarded a modification in child support payments to be fixed by the court according to the child support guidelines.

Respectfully submitted,

DEFENDANT/PLAINTIFF (circle one)

ADDRESS: _____

PHONE NO.: _____

ORDER

IT IS ORDERED that _____ show cause on the _____ day of _____, 20 _____, at _____ : _____ am/pm (circle one), why the child support order in the above captioned matter should not be modified in an amount fixed by this court according to the child support guidelines.

_____, Louisiana, this _____ day of _____, 20 _____.

JUDGE/HEARING OFFICER

PLEASE SERVE:

OPPOSING (OTHER) PARTY

ADDRESS: _____

CHILD SUPPORT OFFICE through
DISTRICT ATTORNEY'S OFFICE

OR

CHILD SUPPORT OFFICE through
CHILD SUPPORT ENFORCEMENT (CSE)
DISTRICT OFFICE