

Modification of Visitation Packet
\$5.00 for paper copy; free to download

If you want to change a final order in a family law case, you must file a new case with the court in the county where the custodial parent lives (or if you are the custodial parent, you will file in the county where the non-custodial parent lives). Both parties should follow the terms of the original order until the court issues a new order. Even if the parties agree to a change, the change is not official until the court approves it.

Child custody, visitation and child support orders are frequently changed by the courts. Still, the court follows certain guidelines to determine whether a requested change is proper.

Visitation can be changed if it is in the best interests of the child. The Plaintiff need not prove that there has been a "material" change in the child's life or a parent's life. Once the court grants a modification of visitation, the parties must wait two (2) years to ask the court for another change. However, if the reason for the requested change is a material change of circumstances, the two (2) year waiting period does not apply.

Allegations of a denial of visitation are sufficient to allege the required change of condition so that visitation privileges may be re-determined.¹ The same is true of allegations of improper supervision² and prejudicing the child against the other parent³.

Modification of a court order in family law cases can be a complex process. If possible, you should discuss your case with an attorney or hire an attorney to represent you.

IF THERE IS ANY QUESTION in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you speak to an attorney. If you do not know a Georgia attorney, you may find one at http://www.qabar.org/directories/member_directory_search/.

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in these packets may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Office of the Court Administrator, Clerk of Court, the Law Librarian or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any indirect or consequential damages resulting from the use of this packet.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED.

IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE.

¹ Dean v. Dean, 229 Ga. 612, 193 S.E.2d 838 (1972); Beckman v. Beckman, 225 Ga. 693, 171 S.E.2d 135 (1969).

² Wrede v. Beuke, 221 Ga. 778, 147 S.E.2d 324 (1966).

³ Jones v. White, 209 Ga. 412, 73 S.E.2d 187 (1952); but see Everly v. Everly, 223 Ga. 853, 159 S.E.2d 78 (1968).

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

COMPLAINT FOR MODIFICATION OF VISITATION RIGHTS

The Plaintiff, _____, states [his/her] claim for a change in visitation rights as follows:

Jurisdiction, venue and service (check a or b)

1.

- a) The Defendant is subject to the jurisdiction of this Court and may be served with a copy of the complaint and summons at _____.
- b) Defendant is a resident of _____ County, Georgia, and has acknowledged service of the Complaint and Summons and has waived further service of process.

Type of custody order (check a or b)

2.

- a) The Plaintiff or Defendant presently has legal custody of the minor child(ren), _____, age(s) _____, by virtue of a final decree of Divorce Civil Action No. _____, entered on _____ (month and day), _____ (year), in the Superior Court of _____ County, _____ (state).
- b) The Plaintiff or Defendant presently has legal custody of the minor child(ren), _____, age(s) _____, by virtue of a final decree of Legitimation in _____.

Amendment to original Agreement

4.

a) The parties have entered into an Amendment to Agreement dated the ____ day of _____, 20____, modifying the original Order of Visitation. The parties wish to have the Amendment to Agreement incorporated into an Order of this Court modifying the pre-existing Order of Visitation. The Amendment to Agreement begins on page twelve (12) of this packet.

b) The parties are unable to reach an Agreement regarding the proposed modification of visitation.

THEREFORE, Plaintiff requests:

(a) That the final decree of divorce be modified to provide for the requested change in visitation rights;

(b) That the Plaintiff have such additional relief as the Court may consider equitable and appropriate.

/S/ Plaintiff *pro se*

Address _____

Telephone number(s) _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
Plaintiff,)
v.) Civil Action No. _____
_____,)
Defendant.)

VERIFICATION

Personally appeared before me the undersigned who on oath states that the facts set forth in this Complaint are true and correct to the best of his/her knowledge and belief.

Plaintiff *pro se*
[Sign IN FRONT OF a Notary Public]

Sworn to and subscribed before me
this _____ day of _____, 200_.

Notary Public, State of Georgia

My Commission Expires: _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____ ,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
_____ ,)	
)	
Defendant.)	

**PLAINTIFF’S AFFIDAVIT
(REQUIRED BY O.C.G.A. § 19-9-69)**

1.

Children born of the parties

- There are _____ minor children born of the parties.
- Name: _____ DOB: _____
- Name: _____ DOB: _____
- Name: _____ DOB: _____
- Name: _____ DOB: _____

2.

Child(ren)’s Current Living Arrangements

- The child(ren) currently live with _____ (name),
who is related as follows: _____ (mother, father, etc.). The
child(ren)’s home address is: _____
_____.

3.

Child(ren)’s Past Living Arrangements

For the past five years, the children lived at the following addresses with the following
persons:

Address	Dates	Lived With

Address	Dates	Lived With

4.

Other actions involving the children (Choose only one: a or b)

(Please tell the court about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.)

- a) Plaintiff asserts that he/ she has not participated as a party or a witness or in any other capacity in any other litigation concerning the children named above, and knows of no proceeding concerning the minor children in this or any other state. No person other than the parties to this action has physical custody of the minor children or any claim to custody or visitation with the minor children.
- b) The minor children have been involved in the following actions:

(Please tell the court about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.)

County/State/Court	Type of Custody Action	Date Filed	Status
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5.

Other Parties with a Custody Claim (Choose only one: a or b)

a) I know of no other person, not a party to this proceeding, who has physical custody of the children or claims to have custody or visitation rights with respect to the minor children.

b) The following persons who are not a party to this proceeding have custody or visitation rights with the minor children:

Name	Claim
_____	_____
_____	_____
_____	_____

Plaintiff *pro se*
[Sign this IN FRONT OF a Notary Public]

Sworn to and subscribed before me
this _____ day of _____, 200_.

Notary Public, State of Georgia

My Commission Expires: _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

RULE NISI

The within and foregoing Complaint having been read and considered, the same is allowed and ordered filed.

Let the Defendant be served with a copy of this Complaint and Order thereon and let the Defendant show cause before the Honorable _____, at _____ o'clock __.M., on the _____ day of _____, _____, then and there to be heard, why the prayers of the Plaintiff's Complaint should not be granted.

This _____ day of _____, _____.

Judge, Superior Court of _____ County

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

AMENDMENT OF VISITATION

WHEREAS, this Amendment of Visitation having been executed on the ____ day of _____, 20____, by and between _____ and _____, the parties above; and

WHEREAS, a Visitation Order was entered by the Superior Court of _____ County, Georgia, in a Divorce Legitimation Other _____ case on the ____ day of _____, 20 (the "Order"); and

WHEREAS, the parties have reached an agreement concerning a revised visitation schedule; and

WHEREAS, the parties desire to amend the Order and to incorporate said Amendment of Visitation in a Consent Order of this Court modifying this Court's earlier Final Judgment and Decree;

NOW, THEREFORE, in consideration of the mutual promises, agreements, and covenants expressed herein, it is agreed by each party as follows:

1.

The original visitation Order is hereby amended to read as follows:

[attach additional sheets if necessary, or use the schedule on page 14]

2.

□ In all other respects, the original Order shall continue in full force and effect without any Amendment thereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Plaintiff *pro se* (Sign)

Witness:

Notary Public

My Commission Expires:

Defendant *pro se* (Sign)

Witness:

Notary Public

My Commission Expires:

Exhibit “__”

VISITATION SCHEDULE

The non-custodial parent is _____.

The custodial parent is _____.

The non-custodial parent shall be entitled to exercise reasonable visitation with the minor child with the following minimum provisions:

- A. On every 1st, 3rd, and 5th Friday at 6:00 p.m. until the following Sunday at 6:00 p.m.;
- B. During even numbered years (2002, 2004, etc.), the non-custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. Martin Luther King’s Birthday
 - 2. Memorial Day
 - 3. Labor Day
 - 4. Thanksgiving
 - 5. Second week of Christmas Vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- C. During odd numbered years (2003, 2005, etc.) the non-custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. New Year’s Day
 - 2. Easter or Spring Break
 - 3. July 4th
 - 4. Halloween
 - 5. First Week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- D. During even numbered years (2002, 2004, etc.), the custodial parent shall have the minor child on the holidays delineated below:
 - 1. New Year’s Day
 - 2. Easter or Spring Break
 - 3. July 4th
 - 4. Halloween
 - 5. First week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- E. During odd numbered years (2003, 2005, etc.), the custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. Martin Luther King’s Birthday
 - 2. Memorial Day
 - 3. Labor Day
 - 4. Thanksgiving
 - 5. Second week of Christmas vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- F. The Mother shall have the minor child on Mother’s Day.
- G. The Father shall have the minor child on Father’s Day.
- H. The non-custodial parent shall have the right to visit with the minor child for two consecutive weeks in the summer between June 15 and August 15. During this period, the custodial parent shall have the minor child on the first (1st) weekend from 6:00 p.m. Friday until 6:00 p.m. Sunday. The non-custodial parent shall give the custodial parent a minimum of thirty (30) days written notice of the intent to exercise this visitation.
- I. Holiday visitation shall take precedence over week-end visitation.

