How to File for a Child Support Modification in Massachusetts

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Amber Cohen

By Amber Cohen on June 10, 2026

A child support order is not always permanent, as the initial order may not be appropriate over time as life circumstances change. The Massachusetts courts understand this and allow you to file for a modification of child support if you meet certain criteria.

At Cohen Cleary, P.C., our Massachusetts child support lawyers are here to help you make your case for modification of your child support order and walk you through the process.

When Can You Modify Child Support in Massachusetts?

It can feel overwhelming to determine whether you are eligible for a child support modification in Massachusetts. While you are unlikely to get what you're looking for if you are intentionally unemployed or underemployed, you may qualify if you can show a material and substantial change in circumstances and that the modification is in the best interest of the child. Some of the more common examples include:

- A significant change in income for either parent
- A substantial change in the child's needs, whether medical, educational, or otherwise
- A material shift in parenting time or custody order

Additionally, some parents may provide health insurance coverage for the child as part of their child support order. However, if they are unable to keep health insurance for the child, or there are other more appropriate options through the primary parent's policy, you may request a modification that considers this change.

Who Can File for a Child Support Modification?

Generally, either parent can file for a modification in child support regardless of whether they are paying or receiving the funds. In fact, any party with a legal interest in the support may make the request to modify and may include a legal guardian or custodian. In some cases, the Massachusetts Department of Revenue may begin the process on behalf of a parent, though it is ultimately the parent who is making the request.

The Process to File for Child Support Modification in Massachusetts

While the process for filing a modification is relatively straightforward, there are several steps vulnerable to mistakes that may make your request take longer or cause it to be denied altogether.

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Step 1: Determine If You Have Legal Grounds

The first step is obviously to determine whether you are even eligible for a change. The standard in Massachusetts is a material change in circumstances. For example, taking a new job that pays you $10 less an hour is not likely to qualify. However, if your child previously needed full-time daycare that cost $1,500 a month, and they are now in school with afterschool care costing only $200 a month, it may be time to consider an adjustment.

Similarly, if your child has recently developed health or behavioral complications that require expensive therapies or treatments, this is often a valid reason to request a modification.

Step 2: Complete the Complaint for Modification Form

Once you determine you're eligible for a modification, you have to notify the courts. This is done through submitting a Complaint for Modification. You will need to provide basic information on this initial form, including the current order, the reason you are requesting a change, and the other parent's information. There are a handful of other court forms that you must submit with the Complaint. This process can feel overwhelming, but an experienced family law attorney can help you through the process.

Step 3: Gather Financial Documents and Supporting Evidence

The specific information you will need to make your case depends on your circumstances. Some of the more common information our clients need includes pay stubs, tax information, medical records, and receipts for childcare, medical treatment, or other needs. You can save yourself future stress and overwhelm by gathering the necessary information early in the process so you have it on hand when it's needed. Remember, family law matters, like any civil lawsuit, might require the exchange of discovery between parties. Be prepared to fully disclose your financial information as necessary to the court.

Step 4: File in the Appropriate Probate and Family Court

Typically, you will file your request for modification with the probate and family court that issued your initial order. However, jurisdiction is determined by several factors including where the child(ren) currently resides. While this process can be overwhelming, a family law attorney can help you identify the appropriate jurisdiction to file for modification.

Step 5: Pay Filing Fees or Request a Fee Waiver

You will need to pay a filing fee when you file with the courthouse. According to the probate and family court filing fees, you can expect to pay around $50 for the initial filing. If you are facing financial hardship and are unable to pay the filing fees, you may be eligible to receive a waiver by filing for indigency.

Step 6: Properly Serve the Other Parent

After filing your request, you must notify the other parent. This is generally done through a professional process server, which your attorney can help arrange. If you have a civil relationship with the other parent and they will agree to waive formal service, this can be an easier route. If you are unable to find the other party, an attorney will guide you through the necessary steps to satisfy service of process.

Step 7: Await the Other Parent's Response

In most situations, the other parent has 30 days to respond to your service and "answer" your

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complaint. If they fail to respond, you may be able to have the hearing without them.

Step 8: Attend the Court Hearing or Case Conference

Once the date is set, you will attend the hearing or conference with your evidence to support your request. In many instances, the Court requires that parties meet with a mediator to narrow or solve issues. If a hearing is required, each side will argue before a judge. From there, the judge will make a decision and notify you of the new order. Oftentimes, judges create temporary orders to address major issues during the pendency of the matter.

What If Both Parents Agree to Modify Child Support?

If both parents agree to modify the child support order, the process can be easier, and often provides better outcomes for parents. You may be able to draft a new child support agreement through mediation services or other alternative dispute resolution models and present that to the judge for approval. In most situations, the judge will approve an agreement drafted in good faith as long as it is not illegal or clearly biased in one person's favor. A family law attorney will help you negotiate during mediation.

How Massachusetts Courts Decide Child Support Modifications

When it comes to a child support modification, once they determine you likely qualify for an adjustment, the judge will review your current order and the provided evidence to determine what, if any, adjustments should be made. This includes factors such as:

- Parenting time schedule
- Each parent's income
- The child's needs
- Childcare expenses
- Health insurance expenses

They will consider all of the typical factors from the child support worksheet and make a determination from there. Once they make adjustments, they will issue a new order. If the judge deviates from the standard guidelines in consideration of extenuating circumstances of hardship, they will provide a written justification along with the order.

How Long Does a Child Support Modification Take in Massachusetts?

The timeline for a Massachusetts child support modification order depends on several factors and may range from a couple of weeks to several months, though it is a safe bet to expect at least four months. In some instances with highly-disputed facts, cases can take years. Some of the biggest factors influencing the length of your case include things like how willing your child's other parent is to cooperate, whether everyone submits the appropriate paperwork on time, and the court's schedule. Courts are quite busy which can lead to substantial delays.

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While many of these factors may be out of your control, you can go a long way in preventing unnecessary delays by staying organized, meeting deadlines, and completing all paperwork accurately and completely. Working with an attorney experienced in family law and modification orders can go a long way toward ensuring this process runs smoothly by helping avoid some of these common pitfalls.

Work With an Experienced Massachusetts Child Support Lawyer

Most parents want the best for their children, and child support can be an uncomfortable point of contention, whether you are unhappy about having to pay the other parent or feel that you deserve more for being the primary caregiver.

Our team at Cohen Cleary, P.C. is here to help you center your child's needs while taking into account each parent's individual situation. Our experienced Massachusetts child support lawyers will help you fight for a modification order that is fair and appropriate to your current situation. Your child deserves financial support from both parents, so call us today to schedule a case consultation and discuss your options.

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