

Child Support and Bankruptcy from a Child Support Attorney's Perspective.

Child Support Enforcement Agencies: Why were they created & what do they do?

Title 42, The Social Security Act, created Title IV-A - Aid to Dependent Children (later called Aid to Families with Dependent Children) in 1935. Forty years later (January 4, 1975) President Ford signed into law a new part D of Title IV creating what is known as the "IV-D program." The Federal government provides federal funds as an incentive to the States to provide avenues for parents of children who are not in intact families to: locate noncustodial parents, establish paternity, and obtain and enforce orders for support, now including orders for health insurance, due for children. Support enforcement agencies were created with "cost recovery" and "cost avoidance" for taxpayers as primary goals. Support agencies would help the federal government collect some of the public assistance costs paid, and by setting and collecting meaningful support, help families leave public assistance and/or help families avoid having to apply for public assistance. Generally the incentives include Federal funding that matches (\$2 for \$1) State and local funding, and grants for responsible fatherhood programs.

IV-D cases: All applicants for, and recipients of, public assistance assign their right to collect support to the State as a condition of receiving benefits, and are required to cooperate with the establishment of paternity and/or support unless they can demonstrate "good cause." Families not on public assistance can also apply for the same services. Milwaukee currently has 125,000 IV-D cases.

States initially retained all support, but if a parent received support for 1 child, but not the other(s), they could choose the benefit payment for the smaller family unit, and retain all support for the other child. Later, as part of the Deficit Reduction Act of 1984, AFDC recipients received the first \$50 paid each month and the State retained the remainder, but custodial parents could not exclude a child. All family members living in the home were required to be part of the household. Currently W-2 recipients receive 75% of support paid, and recipients of all other assistance (child care, food stamps, badger care) receive 100%.

Once a support obligation is established is it a Domestic Support Obligation? 11 U.S.C. (14A)

A DSO includes a debt owed to or recoverable by: (1) a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative; or (2) a governmental unit. The debt must be in the nature of alimony, maintenance or support (including assistance provided by a governmental unit), without regard to whether such debt is expressly so designated.

It must be established or subject to establishment before, on, or after the date of the order of relief pursuant to: (1) a separation agreement, divorce decree, or property settlement agreement; (2) an order of a court of record; or (3) a determination made in accordance with applicable nonbankruptcy law by a governmental unit.

It does not apply to a debt assigned to a nongovernmental entity, unless it was assigned voluntarily by the spouse, former spouse, child or parent solely for the purpose of collecting the bill.

Where a trustee administers assets that may be available for payment of a DSO, administrative expenses of the trustee allowed under section 503(b)(1)(A), (2) and (6) must be paid before such claims to the extent the trustee administers assets that are otherwise available for the payment of these claims.

Things to do if there is a DSO:

- A. Who to notify/put on list of creditors:
 - (1) The Custodial Parent – Federal law prohibits us from providing their address, but we can provide their name.
 - (2) State - WI Bureau of Child Support P.O. Box 7935 Madison, WI 53707
 - (3) Child Support Agency for the County where the DSO was ordered.
- B. Ask client if there is a current support obligation, *and if s/he's paying it*:
If the Debtor is required by judicial or administrative order or statute to pay a DSO, then the debtor must pay all amounts payable under such order or statute that became payable post-petition as a prerequisite for confirmation. Further, failure to pay a DSO payable post-petition is cause for conversion or dismissal 11 U.S.C. 1129(a)(14) and/or denial of discharge 11 USC 1328(a).

What if the Debtor doesn't know if he has support arrears, or what they are?
See childsupport.wisconsin.gov. Once the Debtor creates a User ID/Password a letter with an access code will be mailed that allows the Debtor to view balances and print the payment history. I can also answer these questions, and am frequently called to do so. 414.278.4305

Exceptions to Automatic Stay: What does not stop? 11 U.S.C. 362(b)(2)

The commencement or continuation of an action or proceeding:

- (1) For the establishment of paternity; or
- (2) Establishment or modification of an order for alimony, maintenance or support.
- (3) The withholding of income that is property of the estate or property of the debtor for payment of a DSO under a judicial or administrative order;
- (4) The withholding, suspension, or restriction of a driver's license, or a professional, occupational or recreational license under state law.
- (5) The reporting of overdue support owed by a parent to any consumer reporting agency.
- (6) The interception of tax refunds.
- (7) The enforcement of medical obligations.

What happens when the local agency receives a Notice of Ch. 13 filing?

The case is put in UBFL or RSTR Status and:

Monthly statement of account notices stop.

Civil enforcement actions stop.

Collection of repayment order(s) is suspended.

Account seizure, license suspension and/or passport denial will not be initiated.

Administrative liens are not enforced.

Existing Liens: Filing Chapter 13 does not impact existing liens or credit bureau reporting of existing liens. A lien for a court case that is in effect as of the bankruptcy filing date remains in effect. However, the agency will not take account seizure action or other action to enforce the lien. If the plan is for 5 years the lien will expire before the plan is completed, so I rarely file a secured claim.

Passport Denial: Passport denial requests may continue to be electronically submitted to the Office of Child Support Enforcement (OCSE) for forwarding to the Department of State even after a bankruptcy filing. A U.S. passport is not property of the debtor and, therefore, is not "property of the estate," which would be subject to bankruptcy automatic-stay provisions. Department of State regulations provide that "A passport shall at all times remain the property of the United States, and shall be returned to the Government upon demand." Typically a passport denial requires full satisfaction of the debt to restore passport privileges. The State/Agency may negotiate this. However, in Chapter 13 cases, Court/Trustee approval should be obtained prior to negotiating payment outside a confirmed repayment plan.

Tax Intercept: Tax intercept is permissible if the debts were certified before the plan was confirmed. However, once the debt repayment plan has been confirmed only the enforcement activities as stated in the plan may be pursued. Therefore if tax intercept for the collection of a DSO is not specifically allowed under the plan, it is not permissible.

Filing a Proof of Claim: Most agencies will file a proof of claim. If the case is a IV-D case a claim is filed for support arrears + interest due State and/or Custodial Parent (CP), court costs, and birth expenses. GAL fee only cases are usually referred to Corporation Counsel's office in Milwaukee County. Matter of Seibert, 914 F. 2d 102, (7th Cir. 1990).

DSO priority: 507(a)(1)(A) accords first priority in payment to allowed unsecured claims for DSO obligations that, as of the petition date, are owed to or recoverable by a spouse, former spouse, or child of the debtor, etc. without regard to whether such claim is filed by the claimant or by a governmental unit on behalf of such claimant, on the condition that funds received by such unit be applied and distributed in accordance with nonbankruptcy law. The same priority is also afforded to government assigned debts. However, 11 USC 1322(a) permits paying less than 100% towards 507(a)(1)(B) DSO if

the plan provides that all of the debtor's projected disposable income over a five-year period will be applied to make payments under the plan.

If the case is NIV-D: State arrears only, but case closed (unable to locate NCP and no activity for 3+ years, or other closure reason) unless the debt is large, the case will remain closed and no claim filed. The arrears aren't expunged, but it's unlikely the State will ever take action to collect them.

NIV-D Custodial Parent arrears (with or without State arrears) – Milwaukee County Child Support Services Agency will send the custodial parent a proof of claim form, instructions, and case obligation print to the last known address in the KIDS system. Other counties choose not to take any action. Debtor should file a claim for the custodial parent if DSO creditor doesn't and there's a possibility they will be sought later.

What if Debtor challenges/questions arrears requested in proof of claim? Sec. 767.59(1r)

The Court may grant credit to the payer against support due prior to the date on which the petition, motion, or order to show cause is served for payments made by the payer [other than through the KIDS system] in any of the following circumstances:

1. The payer shows the payments were **made by check or money order AND** that the payments were intended for support and not intended as a gift to the child, or as some other voluntary expenditure, or for the payment of some other obligation to the payee.
**The Veteran's Administration will not deduct support. Support payments (called allotments) are sent directly to the custodial parent. The service does deduct wages of active military servicemen, and some receive additional pay for dependents which is often directed to the custodial parent, but sometimes to the service member's current girlfriend instead.)*
2. The payer proves with evidence of a written agreement that the payee expressly agreed to accept the payments in lieu of child support ... not including gifts or contributions for entertainment.
3. The payer proves that, for a period during which unpaid support accrued, the child received [social security benefits] based on payer's entitlement. Any credit granted under this paragraph shall be limited to the amount of unpaid support that accrued during the period for which the benefits under 42 USC 402(d) were paid.
**Sub. (1r)(d) should not be construed to bar credit in a situation where a child support payer has made all requisite support payments. Paulhe v. Riley, 295 Wis. 2d 541.*
4. The payer proves that the child lived with the payer, with the agreement of the payee, for more than 60 days beyond a court-ordered period of physical placement. Credit may not be granted if ... the payee sought to enforce the physical placement order through civil or criminal process or if the payee

shows that the child's relocation to the payer's home was not mutually agreed to by both parents.

5. The payer proves that the payer and payee resumed living together with the child and that, during the period for which a credit is sought; the payer directly supported the family by paying amounts at least equal to the amount of unpaid court-ordered support that accrued during that period.

What if the Debtor's income has gone down and the Order is too high?

The Debtor should file a motion to modify the order, preferably before preparing a budget that shows the debtor can pay the order, his monthly bills, and fund a plan.

What if the Debtor isn't able to pay Sec. 507(a)(1)(A) arrears in full through the Plan?

The State cannot agree to accept less than 100% for (a)(1)(A) arrears, but if the arrears are substantial, and payment through the plan is meaningful, in many cases I encourage the custodial parent to compromise and/or accept less through the Plan. 11 U.S.C. 1322 (a)(2).

DSOs are not dischargeable - 11 U.S.C. 523(a)(5), but this was not always true.

Shortly after enacting IV-D legislation Congress passed amendments to Title 11 (in effect October 1, 1979 – August 13, 1981) saying child support assigned to the State was dischargeable, and *only non-dischargeable if due the custodial parent in connection with a separation agreement, divorce decree, or property agreement*. Support debts due custodial parents in paternity cases were dischargeable. Between August 13, 1981 and October 8, 1984 *arrears in connection with a separation agreement, divorce decree or property agreement (due Custodial Parent OR the State) were non-dischargeable*. October 8, 1984 to the present, support debts in connection with "an order of a court of record," regardless of assignment "to the federal government or to a state or any political subdivision of such state" are non-dischargeable.

Who determines if a debt is dischargeable?

The family court has concurrent jurisdiction with the bankruptcy court to decide if obligations imposed by a family court were discharged. Goss v Goss, 722 F.2d 599 (10th Cir. 1983); In Re Lockwood, 148 B. R. 45 (Bankr. E.D. Wis. 1992)

Final thought/disclaimer: I am 1 attorney in 1 County of the State. It's possible, no probable, that an attorney in another County will not agree with something written above.

Louis Jones Breakfast Club
June 11, 2013



THE MILWAUKEE JUSTICE CENTER

Milwaukee County Courthouse | 901 North 9th St, Milwaukee, WI 53233

www.MilwaukeeJusticeCenter.org

Family Law Forms Clinic (Room G9)

Volunteer assistance with family law forms for:

- Divorce
- Child Support
- Legal Custody
- Visitation
- Physical Placement
- Name Changes

Volunteers do NOT provide legal advice.

Hours (Clinics close PROMPTLY at listed time)

Monday	8:30am-12pm 1pm-4pm
Tuesday	8:30am-12pm 1pm-4pm
Wednesday	8:30am-12pm 1pm-4pm
Thursday	8:30am-12pm
Friday	8:30am-12pm

Clinic stops taking walk-ins once the sign-in list is full.
For an informational message, call (414) 278-2910.

Family Law Appointments (Rm. G9) for Part 2 Divorce ONLY

In Wisconsin, the divorce process happens in two parts. If you have completed the first step, the MJC can help you with paperwork for the second step of divorce by appointment ONLY.

To schedule an appointment:
(414) 278-2912

You will not get a final court date until you have turned your Part 2 paperwork into the court.

Legal Advice & Referral Clinic (Room G9)

Marquette Volunteer Legal Clinic, staffed by volunteer attorneys and law students. Provides free, confidential, and brief legal advice and referrals for Milwaukee County Circuit Court civil legal matters. This includes:

- Family Law Matters
- Landlord-Tenant
- Probate
- Small Claims
- Large Claims

Hours (Clinics close PROMPTLY at listed time)

Thursday	2pm-4pm
Friday	2pm-4pm

For a message on other locations and hours, call:
(414) 238-6912

Clinic stops taking walk-ins when the sign-in list is full. Services are on a walk-in basis, and meant to be a brief, one-time consultation. Attorneys cannot take cases or provide ongoing legal services. We also cannot see you more than once for the same legal issue.

MJC Services are only for those without an attorney.
Due to high demand for services and limited volunteer capacity, we cannot guarantee all clients will be seen

Packet 16

Modification Motion

PLEASE NOTE: This packet is designed to help pro se litigants with family law procedures. While the information contained in this packet is about legal issues, it is *not legal advice*. The packet is not a substitute for legal advice from an attorney and the Courts will not be lenient towards you simply because you are representing yourself.

Every effort has been made to provide packets with forms and procedures that are current. However, because of the rapidly changing nature of the law, there is no guarantee of the accuracy or reliability of every form or process identified within the packet. Some forms and procedures may be obsolete or in the process of revision.

If you have questions that this packet does not answer, it is in your best interests to talk to an attorney.

The Milwaukee Justice Center's Family Law Help Desk is available to help fill out forms, if needed. Information on that service is included in this packet.

Extra copies of forms designated FA, CV or GF are available on-line at <http://wicourts.gov>. Use the tab for Forms-Circuit Court.

Packet Contents

Instructions

MJC Information

Forms

- Motion and Notice of Motion FA 4170

Available in ROOM 104 – Courthouse

- Waiver of Fees Affidavit CV 410

Available on-line at <http://wicourts.gov> or in Room G-9 Courthouse

- Admission of Service FA 4119
- Affidavit of Service FA 4120

Packet 16 Instructions and Overview

Modification Motion

This information is to help you to ask a court to change an existing family court order when you and the other party do not agree on the change. **When using these forms, you are acting as your own lawyer. You have to do everything a lawyer would do. Courthouse employees can answer questions about procedures, but they cannot fill in your forms, handle your case or give you legal advice. That is an attorney's job. These materials are NOT a substitute for legal advice.** It is always better to have an attorney help you, because there are questions and legal issues that can come up in any case.

A motion is your request that the court take some action in your case. Generally speaking, before the court can change an existing order, things now must be substantially different than when the court made the order. For example, income has changed or the child is much older. Some changes are NOT legally enough to allow a court to change orders; for example, changing your mind after you have agreed to something or having more debt. Some types of orders, like property division or a waiver of maintenance, are NOT modifiable. The statutes dealing with modifying court orders are found in 767.451 Stats (revising custody and placement) and 767.59 Stats (revising support and maintenance). As the person asking for the change, you have to present evidence of the change to the court. If you have questions regarding the requirements for modifying an order, you should review the statutes or talk to a lawyer.

FEES

The fee is \$30 for child support/maintenance motions and \$50 for custody/placement motions. If you are asking to modify both support and custody/placement, you only pay the \$50.00 fee. There may also be fees relating to service (see below). Filing fees and certain service fees can be waived with an approved fee waiver.

PREPARING PAPERS

1. Fill in all 3 pages of the motion. Make sure to print and use black ink. Sign and date the motion.
2. Make 5 *photocopies* of all 3 pages of the motion.

3. **Room 609 (Chief Judge's Office)** – If requesting a fee waiver, fill out Form CV 410 Petition for Waiver of Fees and take it to **Room 609**. You **must** also bring with you a month's worth of pay stubs or proof of public benefits (this can be obtained in the Legal Resource Center, Room G10-1.) The clerk in 609 will make a decision to approve or deny your request.
4. **Room 104** – File your motion. If you have an approved fee waiver, show it to the cashier. If not, pay your fee (cash, checks, and credit cards accepted).

SCHEDULING YOUR COURT DATE

1. **Room 707** – Take your motion and the copies to get a court date.
 - a. If your motion is about custody or placement consider asking for mediation before your hearing date. There is a form for this available in Room 707
2. **Room 101** – Deliver a copy of the papers to Child Support Services. (if instructed)

SERVING THE PAPERS

You must make arrangements to have a copy of the motion legally served on the other party. This is very important and must be done according to court rules. The other party must be served at least 5 business days before the date of the hearing. (8 days if you are serving by mail.) There are several ways to serve the other person but remember: **YOU CANNOT BE THE PROCESS SERVER.**

1. Personal Service – Sheriff's Department (**Safety Building – Room 102** – there is a skywalk on the first floor). The Sheriff only serves people in Milwaukee County. There is a fee for this.
2. A third party, who is over 18 and lives in Wisconsin can serve the papers. He/she has to complete an Affidavit of Service.
3. The other person can accept the papers voluntarily if he/she signs an Acknowledgment of Service.
4. Certified Mail, Return Receipt Requested – However, if you use this method and the other party does not appear, the court may not hear the case on that date and may require some other type of service.
5. If you do not know the other party's address, the Office of Child Support Services is willing to mail a copy of the papers to the other party for you. There is a \$25 fee for this.

ATTENDING THE HEARING AND GETTING AN ORDER

1. Your case will not be heard if the other party has not been served.
2. Bring to the hearing:
 - a. Proof that the other person was served
 - b. Your copy of the motion you filed
 - c. Proof to support your request. For example, check stubs, doctor bills or school records.

3. Be on time for your hearing and check in with the clerk or bailiff.
4. Be prepared to tell the commissioner exactly what you are asking the court to order and why.
5. The commissioner will write up an order after listening to you and the other party. Usually you will receive a copy at the time of the hearing, sometimes it is mailed to you.
6. If you disagree with the commissioner's order, you have 15 working days from the date the order is signed to file a motion for review before the assigned judge.

These materials are made available to the public pursuant to the directives of Section 767.105 Stat. These instructions must be followed completely and correctly, or your case may not be heard as scheduled.

PRINT in BLACK ink

Enter the name of the county in which the original case was filed.	STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<i>For Official Use</i>
Check marriage or paternity. If paternity, enter initials of child.	In RE: The <input type="checkbox"/> marriage <input type="checkbox"/> paternity of _____ Petitioner/Joint Petitioner:	
Enter the name, address and daytime phone number of the petitioner or joint petitioner from the original case file.	First name _____ Middle name _____ Last name _____ Current Mailing Address _____	
On the far right, mark the box for the change(s) you are requesting and enter the original case number.	City _____ State _____ Zip _____ Daytime Phone Number _____ VS.	
Enter the name, address, and daytime phone number of the respondent or joint petitioner from the original case file.	Respondent/Joint Petitioner: First name _____ Middle name _____ Last name _____ Current Mailing Address _____	
Check if the State of Wisconsin is a party or not. If you are unsure, you may call your local Child Support Agency.	City _____ State _____ Zip _____ Daytime Phone Number _____ The State of Wisconsin (Child Support Agency) <input type="checkbox"/> is <input type="checkbox"/> is not a party to this action.	

Notice of Motion and Motion to Change:
☐ Legal Custody
☐ Physical Placement
☐ Child Support
☐ Maintenance
☐ Other: _____

Case No. _____

Enter the name of the person to whom this motion is directed.	NOTICE OF MOTION
	TO _____
	You are notified that at the following date and time:
	Before _____
	Location _____
	Date _____
	Time _____ a.m./p.m., or as soon as the matter may be heard.

For Court Use Only:
This section will be completed by the court.

I will be asking the court to change the existing order in this case as indicated below.
If you object to this motion, you need to appear and say so. Otherwise, the court may proceed without you and grant the request.

You may contact the Circuit Court Commissioner for more information on modifying and enforcing court orders or judgments.

MOTION

Check A if you are requesting a change to physical placement, list the children affected, check 1-4 and/or 5 and/or 6 and complete the necessary information.

Indicate if you have or have not attempted Mediation. If you have, indicate the date of the Mediation session.

1. Modify as follows:

☐ **A. Physical Placement Order(s)** (time with children) for the following children: _____

1. ☐ from primary physical placement with (Name of Parent) _____ to primary placement with (Name of Parent) _____
2. ☐ from shared placement to primary placement with (Name of Parent) _____
3. ☐ from primary placement to shared placement.
4. ☐ from the current shared placement schedule (if any) to a new shared placement schedule.

The requested placement schedule for the changes in 1-4 above is as follows:

5. ☐ to require placement with (Name of Parent) _____ ☐ See attached
be ☐ supervised. ☐ unsupervised.
6. ☐ Other: _____

The other party and I ☐ attempted mediation on (Date) _____
☐ have not attempted mediation for this issue.

☐ **B. Legal Custody** (decision making) for the following children: _____

1. ☐ to joint legal custody with both parents.
2. ☐ to sole legal custody with (Name of Parent) _____
3. ☐ Other: _____

☐ See attached

☐ **C. Change the following support orders as follows:**1. ☐ **Child support**

- a. that is currently \$ _____ per _____ that
 1. ☐ does not include a deviation for health insurance or any other reason.
 2. ☐ does include a deviation of \$ _____ ☐ upward ☐ downward for health insurance.
- b. To a new amount beginning _____ to be paid by (Parent) _____ to (Parent) _____
 1. ☐ based on state child support standards determined by the court.
 2. ☐ a new set amount of \$ _____ per _____.
 3. ☐ held open (no payment).

I request that this new amount

 - A. ☐ not include a deviation for health insurance or any other reason.
 - B. ☐ include a deviation of \$ _____ ☐ upward ☐ downward as a cash contribution for health insurance.

2. ☐ **Maintenance** (Spousal Support) that is currently \$ _____ per _____ to
 - a. ☐ an amount beginning _____, 20____ to be determined by the court based on current income.
 - b. ☐ a new set amount of \$ _____ per _____ beginning _____, 20____.

3. ☐ **Arrears payment** that is currently \$ _____ per _____ to
 - a. ☐ an amount beginning _____, 20____ to be determined by the court.
 - b. ☐ a new set amount of \$ _____ per _____ beginning _____, 20____.

4. ☐ **Arrears balance** as it is currently reflected in the WI SCTF KIDS computer system as \$ _____ to \$ _____ because
 - a. ☐ I have made support or other payments directly to the other party.
 - b. ☐ I dispute the amount that is currently on record.

Check B if you are requesting a change to legal custody, list the children affected, check 1, 2, or 3 and complete the necessary information.

Check C if you are requesting changes to support orders.

Check 1 if you are requesting changes to child support, enter the amount and frequency of the current payment and check whether it includes a deviation for health insurance. In b, check 1, 2, or 3.

Check A or B, indicate deviation information.

Check all that apply in 2-4, and complete all relevant information for each section checked.

I will be able to provide documentation to the court that supports my request.

NOTICE: Both parties must bring to court their fully completed, dated, and signed Financial Disclosure Statement and all required attachments.

In D, enter any other changes you may have.

In 2, enter the date the current court order or judgment was signed by a court official.

In 3, check all that apply in A-H. If E or F, enter the party's information that has changed. If other, enter the change in circumstance that has prompted you to bring this Motion.

In 4, describe the facts that justify the change you want. Attach additional pages, if necessary.

Sign and print your name.

Enter the date on which you signed your name.

NOTE: This signature does not need to be notarized.

D. ☐ Other change(s): _____

☐ See attached

2. The court order that I am asking to be modified was dated _____.

3. This request is based on the following substantial change in circumstances that have occurred since the entry of the prior court order in this case.

- A. ☐ A child who was living with the other parent is now living with me.
- B. ☐ A child is no longer eligible for child support because the child has reached age 18, or is over 18 but under 19, and is no longer pursuing a course of education leading to a high school diploma or its equivalent.
- C. ☐ One of the parties has or will be moving to a different residence.
- D. ☐ There is not a placement schedule and the parties cannot agree.
- E. ☐ Employment or work shift of _____ has changed.
☐ both parties has changed.
- F. ☐ Income or wages of _____ has changed.
☐ both parties has changed.
- G. ☐ The availability or cost of health insurance has changed.
- H. ☐ The party to whom maintenance is owed has remarried.
- I. ☐ Other: _____

4. The facts explaining the substantial change in circumstances or deviation in child support percentage standard are:

☐ See attached

If you require reasonable accommodations due to a disability to participate in the court process, please call: _____ at least ten (10) working days prior to the scheduled court date. Please note that the court does not provide transportation.

► _____
 Signature

 Print or Type Name

 Date

A copy of this Notice of Motion and Motion must be served upon all other parties at least 5 business days before the date of the hearing. If service is by mail, it must be mailed at least 8 business days before the date of the hearing. See the Service Packet for more information.

PRINT in BLACK ink

Enter the name of the county in which this case is filed.

STATE OF WISCONSIN, CIRCUIT COURT,

For Official Use

Check marriage or paternity. If paternity, enter initials of child.

In re the ☐ Marriage ☐ Paternity of _____

Enter the name of the petitioner. If joint petitioners, enter the name of the wife.

Petitioner/Joint Petitioner-Wife:

First name Middle name Last name
and

Enter the name of the respondent. If joint petitioners, enter the name of the husband.

Respondent/Joint Petitioner-Husband:

Affidavit of Service

First name Middle name Last name

Enter the case number.

Case No. _____

Note: A party to this action **cannot** serve the documents on the other party.

Under oath I state that:

I am an adult resident of the State of Wisconsin.

I am not a party to this action.

On (date) _____ at _____ o'clock in the a.m./p.m.

At (address) _____

After the documents have been served, the person serving the documents must complete the information. Enter the date [month, day, year], time and the address at which the documents were served.

I served copies of the following documents:

☐ Authenticated Summons and Petition

☐ Order to Show Cause and Affidavit for Temporary Order dated _____

☐ A blank Financial Disclosure Statement

☐ Requirement to attend parent education

☐ Order to Appear

☐ Other: _____

☐ Other: _____

☐ Other: _____

Check the boxes indicating the specific documents that were served.

If one of the documents is an Order to Show Cause, enter the date [month, day, year] the Order To Show Cause was signed by a court official.

If other, enter the name of the document.

Enter the name of the party to whom the papers were served.

personally by delivering to and leaving these documents with the person served whom I know to be _____

Take Notice: You must complete this task.

STOP!

Take this document to a Notary Public **BEFORE** you sign it.

After you, the server, have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public.

Have the Notary Public sign, date, and seal the document.

At the time of service, I signed my name, time, date, place and manner of service and upon whom service was made on the copy that was served.

Signature

Print or Type Name

Date

Subscribed and sworn to before me
on _____

Notary Public, State of Wisconsin

My commission expires: _____

(Seal)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

☐ Amended

**Petition for Waiver of
Fees and Costs -
Affidavit of Indigency
and Order**

-VS-

Case No. _____

UNDER OATH, I STATE THAT because of poverty, I am unable to pay ☐ any filing and service fees or ☐ _____, in this action, proceeding, or appeal, or to give security for those fees, and request waiver of those fees. I am attaching a copy of my pleading in this matter.

**Complete Section 1 if you receive aid from any of the programs listed.
If you do not receive aid, complete Section 2 only.**

Section 1.

☐ I currently receive

- ☐ Supplemental security income. ☐ Relief funded under §59.53(21), Wis. Stats. ☐ Medical assistance.
☐ Food stamps/FoodShare. ☐ Relief funded under public assistance.
☐ Benefits for veterans under §45.40 (1) or 38 USC 501-562.
☐ Legal representation from a civil legal services program or a volunteer attorney program based on indigency.

Name of program: _____

☐ Other means-tested public assistance: _____

My financial situation ☐ has ☐ has not changed since I became eligible for this program.

If you checked the "has" box, and such changes would make you ineligible for the program(s) if you applied today, you must complete Section 2.

Section 2.

1. I ☐ am ☐ am not married.
2. I ☐ am ☐ am not employed. Name of employer: _____
3. I earn [Gross pay] \$ _____ ☐ weekly. ☐ every 2 weeks. ☐ twice monthly. ☐ monthly.
My take-home pay [after taxes and deductions] is \$ _____ per pay period.
4. I receive gross monthly income totaling the amount of \$ _____ from
☐ Pension ☐ Social security ☐ Unemployment compensation
☐ Disability ☐ Student loans/grants ☐ Other: _____
5. I have the following cash assets:
☐ Savings accounts: \$ _____ ☐ Cash: \$ _____
☐ Checking accounts: \$ _____ ☐ Money owed me: \$ _____
6. I have the following other assets:
☐ Vehicle-Yr./Make: _____ \$ _____ ☐ Household furnishings: \$ _____
☐ Vehicle-Yr./Make: _____ \$ _____ ☐ Equity in real estate: \$ _____
☐ Other individual assets valued over \$200 each: _____ \$ _____
7. My household consists of myself and _____ others:
Full name: _____ Relationship to me: _____ Under age 18 ☐ Yes ☐ No
Full name: _____ Relationship to me: _____ Under age 18 ☐ Yes ☐ No
Full name: _____ Relationship to me: _____ Under age 18 ☐ Yes ☐ No
Full name: _____ Relationship to me: _____ Under age 18 ☐ Yes ☐ No
Full name: _____ Relationship to me: _____ Under age 18 ☐ Yes ☐ No

8. The other members of my household have gross monthly income totaling the amount of \$ _____ from

Wages	Social security	Relief funded under public assistance	<input type="checkbox"/> Food stamps/FoodShare
Pension	Student loans/grants	Unemployment compensation	<input type="checkbox"/> Supplemental security income
Disability	Relief funded under §59.53(21), Wisconsin Statutes		<input type="checkbox"/> Support/maintenance
Other: _____			

9. I have the following debts:

	Amount:	Monthly Payment:
a. Mortgage/Rent	\$ _____	_____
b. Auto loan	\$ _____	_____
c. Credit cards	\$ _____	_____
d. Other: _____	\$ _____	_____
e. _____	\$ _____	_____

10. I have the following unusual expenses, other than ordinary living expenses:

State of _____
 County of _____
 Subscribed and sworn to before me on _____

I understand that if my financial situation changes,
 I must notify the court immediately.

 Notary Public/Court Official

 Name Printed or Typed
 My commission/term expires: _____

 Signature

 Print or Type Name

 Date of Birth

 Address

 Date

THE COURT FINDS AND ORDERS:

This petition is

- ☐ 1. **GRANTED** because the court finds the petitioner is currently indigent. The action may be commenced without payment of filing fees. The sheriff shall serve all necessary documents without payment of service fees. The petitioner may be required to pay filing and services fees if the court later determines the petitioner has the ability to pay.
- ☐ 2. **GRANTED** for waiver of _____. The petitioner may be required to pay fees if the court later determines the petitioner has the ability to pay.
- ☐ 3. **DENIED** because the court finds the petitioner is not indigent, but is currently not able to pay filing or service fees. This action may be filed by the Clerk and all necessary documents may be served by the sheriff without prepayment of fees. Such fees must be paid no later than _____.
- ☐ 4. **DENIED** because the court finds
 petitioner is not indigent. ☐ the allegation of poverty to be untrue.
 petitioner has not stated a meritorious claim, defense, or appeal upon which the court may grant relief:
 [Brief explanation] _____

BY THE COURT:

DISTRIBUTION:

1. Original: Clerk of Circuit Court

☐ Circuit Court Judge ☐ Circuit Court Commissioner

 Date