

## WAKE COUNTY FAMILY COURT INSTRUCTIONS: MODIFICATION OF CHILD CUSTODY

### STEP 1

#### THE DOCUMENTS YOU NEED TO COMPLETE FOR MODIFICATION

- Motion to Modify Child Custody or Visitation
- Affidavit as to Status of Minor Child (AOC-CV-609)
- Custody Mediation Cover Sheet (WAKE-DOM-06)
- Order to Attend (WAKE-DOM-07)
- Affidavit re: Servicemembers Civil Relief Act

### STEP 2

#### COMPLETING & FILING YOUR DOCUMENTS

1. You may handwrite or type the information required in these forms, however TYPING is preferable.
2. Please note that both the Motion to Modify and Affidavit as to Status of Minor Child (AOC-CV-609) contain “Verification” sections which must be signed in the presence of a Notary Public. There are no notaries in the Family Court Office.
3. There may be a filing fee for this motion. To determine the amount of the fee, please refer to [www.nccourts.org/Courts/Trial/Costs](http://www.nccourts.org/Courts/Trial/Costs) or contact the Clerk’s Office at (919) 792-4125.
4. Bring the **original plus 3 copies** (original – for the clerk, one copy – to be retained by you, other copies – for service) of all the documents you have now completed to the Clerk’s Office in Room 102 of the Wake County Courthouse for filing. Please note that the Family Court Office cannot make photocopies for you. **If you do not bring the appropriate number of copies at the time of filing, the clerk’s office will make your copies at a cost of \$2.00 for the first page, and \$0.25 for each additional.**
5. Take the *Custody Mediation Cover Sheet* (WAKE-DOM-06) and *Order to Attend* (WAKE-DOM-07) to the Family Court Office in Room 1112 to obtain a date for mandatory Custody Mediation Orientation. If you have previously attended Custody Mediation Orientation, please advise the Family Court staff.

### STEP 3

#### SERVING THE OTHER PARTY

You are now ready to serve the other party. See Rule 5 of the North Carolina Rules of Civil Procedure regarding service and filing of pleadings and other papers. A copy of the North Carolina Rules of Civil Procedure is available on this website under *Domestic Rules & Forms*. If you are unclear as to how to serve the other party, you should speak to an attorney.

## **STEP 4** **CUSTODY MEDIATION**

Rule 8 of the Tenth Judicial District Family Court Rules for Domestic Court sets forth the procedures involved in Custody Mediation. A copy of the Tenth Judicial District Family Court Rules for Domestic Court is available on this website under *Domestic Rules & Forms*. If you have any questions about Custody Mediation, you may contact the Custody Mediation Office at (919) 792-4425.

## **STEP 5** **OBTAINING A HEARING DATE FOR MOTION TO MODIFY**

Rules 3 and 4 of the Tenth Judicial District Family Court Rules for Domestic Court set forth the procedures involved in scheduling your hearing on your motion to modify. A copy of the Tenth Judicial District Family Court Rules for Domestic Court is available on this website under *Domestic Rules & Forms*.

If the Defendant has failed to file any pleadings or response in the case, and fails to appear on the trial date, you will need to file (or have with you at the trial) a completed and notarized *Affidavit re: Servicemembers Civil Relief Act*.

## **STEP 6** **APPEARING AT COURT ON THE DAY OF YOUR HEARING**

1. Calendar call will take place at 9:00 a.m. on the date set forth in your *Calendar Request* (WAKE-DOM-04) and *Notice of Hearing* (WAKE-DOM-01). Please arrive at the assigned courtroom no later than 8:45 a.m. Make sure you allow yourself ample time to find parking (either on-street or in one of the public garages), go through courthouse security, and take the busy elevators up to your judge's courtroom on the 8<sup>th</sup> or 9<sup>th</sup> floor. It is recommended that you arrive downtown no later than 8:15 a.m. on the date of your hearing.
2. At calendar call, your Judge will tell you on what date and/or time you need to return for your hearing.
3. On that return date, your hearing will then be conducted. At the conclusion of the hearing, your Judge will render his/her ruling, or take the matter under advisement and announce his/her ruling at a later date.

## **STEP 7** **CUSTODY ORDER**

1. Your Judge will then typically prepare a final Custody Order. If the other party is represented by an attorney, the Judge may request that the attorney prepare a proposed order for the Judge's signature. Make sure that the other party's attorney has your address, telephone number, facsimile number, email

address and any other pertinent contact information so that the attorney can share with you a proposed draft order prior to submission to your Judge.

2. Your Family Court Case Coordinator will contact the parties when the Order has been signed by the Judge. One of the parties will need to pick up copies of the Order from the Family Court Office in Room 1112, and *serve* the other party with one copy.

## **QUESTIONS**

After reading these instructions and reviewing the forms and all relevant statutory laws and procedural rules, if you feel that you are unable to represent yourself or complete the paperwork **ON YOUR OWN** (note: Family Court staff **CANNOT** assist you in preparing your paperwork), or if any of the instructions are unclear to you, you should speak with an attorney. If at any point during the process you should wish to proceed with the help of an attorney, some resource information is available on this website under *Domestic Attorneys in Wake County*.