



Frequently  
Asked  
Questions  
About  
Child Support

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## CHILD SUPPORT OVERVIEW

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Under Delaware law, both parents have a duty to support their child until the child is 18 years of age, or, if the child is still in high school, until the child graduates or turns 19 years of age, whichever comes first.

A support action begins when one parent files a support petition, requesting the Court to order the other parent to pay child support. After the petition is filed, the Court may order genetic testing to establish paternity, if necessary. Most parents seeking support are represented by the Division of Child Support Services (DCSS). In those cases, DCSS files all actions and pursues administrative remedies also. The Court encourages all parents seeking support to explore the services of DCSS.

After filing a Petition for Child Support, the first time that individuals come to Family Court for a child support order, they must attend a mediation conference, unless it is a petition for child support from an out-of-state agency, which will be scheduled directly with a Commissioner. A Family Court mediator will use the Delaware Child Support Formula to calculate the support amount and try to help the parents reach an agreement as to a support amount. If parents cannot reach an agreement at the mediation conference, a temporary order may issue and a hearing before a Commissioner will occur either on the same day or on a future date. If there is a no-contact order between the parties or an adjudicated history of domestic violence, mediation will be bypassed.

The amount of child support is set using the Delaware Child Support Formula, sometimes called the “Melson Formula”. The formula considers both parents’ incomes and the needs of the child in arriving at a monthly figure. The formula is used in every case to ensure that the amount is fair and that children receive enough support.



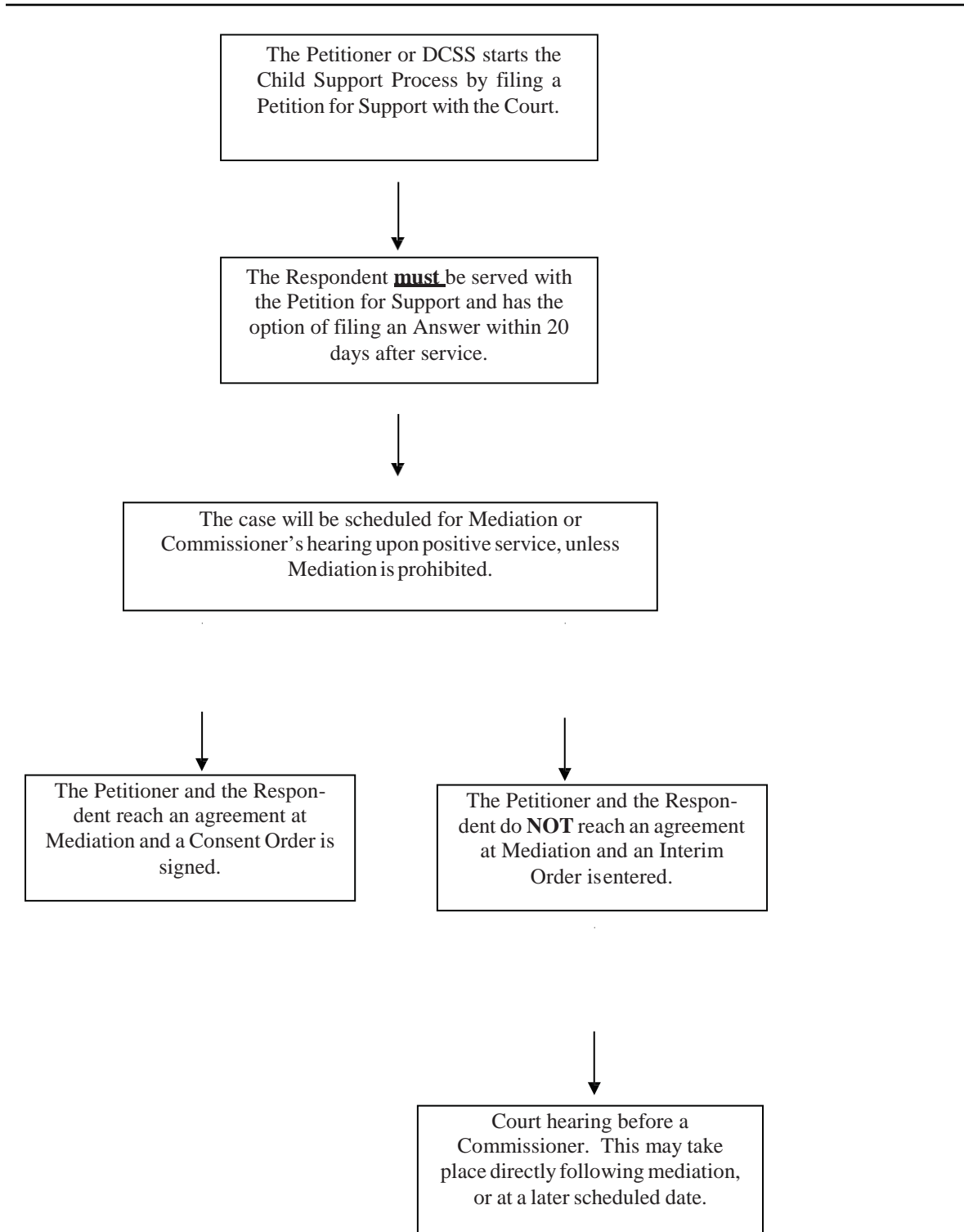
## CHILD SUPPORT OVERVIEW, cont'd

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If a parent fails to pay support as ordered, DCSS or the person entitled to receive support may file a petition for “arrears”. At the hearing, an additional amount may be added to the order and remedies such as license suspension or incarceration may be considered. Attachment of wages is the most common remedy and will occur upon identification of an employer. An arrears petition is not required for a wage attachment.

Upon a substantial change in circumstances, either parent may file a Petition for Child Support Modification.

# THE CHILD SUPPORT PROCESS





## Chapter 1: General Information

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### **What is the Delaware law regarding child support?**

Both parents have a duty to support a child until the child is 18 years of age; or, if the child is still in high school until the child graduates or attains age 19, whichever occurs first. This is true regardless of whether the parents are, were, or never married.

-The Delaware law regarding support can be found in the Delaware Code, Title 13, Chapter 5.

### **How is the amount of the support order calculated?**

The Delaware Child Support Formula is used to set the amount of the support order. It is based on both parents' incomes and the needs of the child. The Formula calculation must be performed for every case to ensure that the amount will be fair and the children will receive enough support. However, it may be challenged if there are special circumstances, and a different amount may be ordered.

- Specific instructions for child support calculations are found in chapter 9 of this packet and Family Court Civil Rules 500-509.

### **What factors are taken into consideration in calculating the child support amount?**

1. All earnings and income of both parents.
2. Support of other children.
3. Cost of health insurance, pension plans, union dues and disability insurance.
4. Daycare expenses necessary for the parents to work, and private school expenses (under limited circumstances).
5. The number of average annual overnights the child spends with each parent. 80 and 125 each trigger a parenting time adjustment. At least 164 indicates shared placement.

### **Will a wage attachment be ordered?**

Yes, in most cases. Wage attachments are the best way to get regular payments for the child since the payments are made on the same schedule that the wages are paid (monthly, weekly, bi-weekly, etc.). Delaware law requires a wage attachment to be sent to the employer of the obligated parent. DCSS issues all wage attachments. The employer must honor the wage attachment. If the parent changes jobs, the Court and/or DCSS must be notified by the parent so that a wage attachment can be sent to the new employer. Until a wage attachment is in place, the obligated parent is required to make payments each month directly to DCSS.

## Chapter 1: General Information cont'd

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### **If the parent who pays support is not allowed visitation, must he/she continue to pay support?**

Yes, visitation and child support are two separate issues. Support is for the child, and his/her needs do not end if visitation stops. If a Court order for visitation is not followed, the obligated parent may file a separate Rule to Show Cause Petition to enforce the order. Similarly, nonpayment of child support is not a justification for withholding visitation.

### **What are the methods by which I can make my child support payments?**

An obligated parent can make a child support payment to DCSS by:

- CHECK or MONEY ORDER
- INCOME WITHHOLDING ORDER (IWO) – Employer must withhold child support payments from the obligated parents' pay and transmit these payments within 7 business days after the date the income would have been paid to the obligated parent.
- iPAYONLINE - Employers & obligated parents can make either a one time or recurring payment for FREE securely via the web using funds from their bank account(s) or debit/credit card. Website: <https://deipay.dhss.delaware.gov/iPayOnline/>
- TOUCH PAY KIOSKS - are now accepting payments in the form of cash or credit/debit @ DMV & Probation offices statewide. A convenience fee is assessed for using the kiosk.

### **What are the methods by which I can receive child support payments from DCSS?**

- DIRECT DEPOSIT: Child support payment can be deposited directly into a Custodial Parents (CP) account. Once a CP enrolls, DCSS sends a credit to their bank, savings and loan, or credit union and the funds are conveniently deposited directly into their checking or savings account. All banking information is confidential.
- FIRST STATE FAMILY CARD: This is a pre-paid account that is credited whenever a disbursement is made to any/all of a client's child support cases. No line of credit is associated, no bank account is required, and it can be used anywhere credit/debit is accepted. Every CP with a child support case and a valid social security number or Individual Taxpayer Identification Number (ITIN) can enroll; but, they'll have to choose one method of electronic payment only: Direct Deposit or First State Family Card.



# Division of Child Support Services

## Information

The Division of Child Support Services provides a full range of child support services to any individual who applies for services and pays an application fee. The Division will file petitions in Family Court for child support, modification of support orders, and enforcement of support orders. The Division also may enforce support orders administratively by intercepting tax refunds and suspending licenses.

DCSS has two Customer Websites offering online access for services 24 hours a day, 7 days a week. These websites are:

- ONLINE APPLICATION WEBSITE - Apply for services online
- CUSTOMER WEBSITE - Receive certain notices electronically
  - Submit case specific questions to a caseworker
  - Update contact and employment information
  - View scheduled appointments, including court hearings
  - View and print child support payment history

Visit DCSS's website <http://www.dhss.delaware.gov/dcss> to learn more.

### Delaware Fatherhood Initiative:

- The Delaware Fatherhood Program works with non-custodial parents (NCP) and custodial parents (CP) who are in need of training, educational support and programs to help acquire the skills to obtain and keep long-term employment. Additionally, participants in this program can receive help with receiving GED's and counseling services, such as anger management or parenting classes. For more information on this call (302) 577-7171.
- The Incarceration and Supervision Resource Unit works with individuals who are currently housed by the Department of Corrections or are in Community Supervision with Delaware's Probation offices. This unit provides information regarding next step case processing issues or modification of existing child support orders during incarceration. Additionally, this unit will continue the work of the Individual Assessment, Discharge and Planning Team (I-Adapt) to provide soon-to-be released inmates with state and community resources to reduce the likelihood of returning to incarceration.

Below is contact information for the Division of Child Support Services:

Customer service: Automated Assistance Lines– Toll Free  
 New Castle County: (302) 577-7171  
 Kent County: (302) 739-8299  
 Sussex County: (302) 856-5386

### Office Locations

| New Castle County  | Kent County  | Sussex County  |
|--|--|--|
| Churchman's<br>Corporate Center<br>84A Christiana Road<br>New Castle, DE 19720 | Blue Hen Corporate Ctr.<br>655 South Bay Road<br>Suite 2J<br>Dover, DE 19901 | Georgetown<br>Professional Park<br>20105 Office Circle<br>Georgetown, DE 19947 |

Mailing Address: P.O. Box 15012, Wilmington, Delaware, 19850

## Chapter 2: Petition for Child Support

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### **What do I need to do to ask for child support?**

Most child support petitions are filed through the Division of Child Support Services (DCSS). DCSS offers a broad range of services including establishing paternity and child support, medical support, modification and enforcement. There are NO FILING FEES for petitions filed through DCSS. State of Delaware Deputy Attorneys General facilitate the litigation of all child support petitions filed by DCSS. All persons seeking child support should ALWAYS look into DCSS services before deciding whether to file a child support petition on their own.

### **Can I seek child support without DCSS?**

Yes. If the parents are not living together, either parent may file a Petition for Child Support. A sample petition is on page 8. Please note the following:

- Only check the first box if you are seeking spousal support (support before a divorce is pending).
- Check the second box if you are requesting the Respondent provide medical support (health insurance/out of pocket expenses) for the child(ren).
- Check the third box if you want the child support to be retroactive (you want the Court to order child support prior to the date of filing the Petition).

### **What happens after a Petition for Support is filed?**

After a Petition for Support is filed, the Respondent will receive a copy of the Petition and has the option of filing an answer within 20 days after being served. Both parties will then receive notice of a scheduling date for a mediation conference or hearing before a Commissioner.

### **Do I need to attach any evidence to my Petition for Support?**

No. Evidence such as pay stubs, child care bills, etc. will be reviewed at the mediation conference and/or hearing, if one is necessary. You do not need to attach any documentation to the Petition for Support.

### **Do I need to state how much child support I want on my Petition?**

No. Child Support is calculated based on a formula that considers many factors including, but not limited to the incomes of both parties and expenses for the child.

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

## PETITION FOR SUPPORT

DCSS # \_\_\_\_\_

Petitioner

Fill in information about the Petitioner (person requesting support) and Respondent (person being asked to pay support).

|   |   |
|---|---|
| Name<br><b>Sarah Smith</b>  | Name<br><b>Michael Jones</b>  |
| Street Address (including Apt)<br><b>111 South Oak Street</b>                           | Street Address (including Apt)<br><b>555 Main Street</b>                                |
| P.O. Box Number<br>_____  | P.O. Box Number<br>_____  |
| City/State/Zip Code<br><b>Dover, DE 19901</b>   | City/State/Zip Code<br><b>Dover, DE 19901</b>   |
| Date of Birth<br><b>2/25/1989</b>   | Date of Birth<br><b>3/14/1987</b>   |
| Attorney Name and Phone Number<br><b>n/a</b>  | Attorney Name and Phone Number<br><b>n/a</b>  |
| Driver's License #: <b>345678</b> State: <b>DE</b>                                      | Driver's License #: <b>987654</b> State: <b>DE</b>                                      |
| Employer: <b>ABC Corporation</b>  | Employer: <b>DEF Corporation</b>  |
| Employer Address: <b>123 South Street<br/>Dover, DE 19901</b>                           | Employer Address: <b>456 North Street<br/>Dover, DE 19901</b>                           |
| Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Language<br>_____   | Language<br>_____   |

|                                  |
|----------------------------------|
| File Number<br><b>CK15-99999</b> |
| Petition Number<br>_____         |

IN THE INTEREST OF the following child(ren):

|                            |  |               |                        |
|----------------------------|--|---------------|------------------------|
| Name<br><b>Shawn Jones</b> | Date of Birth<br><b>5/25/2012</b>  | Name<br>_____ | Date of Birth<br>_____ |
| Name<br>_____              | Date of Birth<br>_____   | Name<br>_____ | Date of Birth<br>_____ |
| Name<br>_____              | <input type="checkbox"/> Only check this box if you are requesting <b>spousal</b> support. |               |                        |

Fill in child(ren) information here. If you are asking for support for children with different fathers, you must file a separate petition for each child.

RESPONDENT owes legal duty of support to PETITIONER.

1. PETITIONER requires the sum of \$ \_\_\_\_\_ per \_\_\_\_\_ for spousal support.

RESPONDENT owes legal duty of support to Children.

1. PETITIONER requests that the Delaware Child Support Formula be used to determine the appropriate obligation.

PETITIONER requests that the RESPONDENT be ordered to provide health insurance for the child(ren); to provide the PETITIONER with copies of all health insurance documents; and to provide unreimbursed health care expenses.

PETITIONER requests that the RESPONDENT be ordered to provide retroactive support from 12/15/2014 (up to a maximum of two years prior to the date of filing), with credit given for support provided, if any.

Check these boxes to tell the Court if you want Respondent to be responsible for health insurance and/or if you want support payments to be retroactive.

2. PETITIONER alleges the following:

RESPONDENT has refused or failed to comply with said obligation.  
 RESPONDENT has been providing some support.

Check one of these boxes to explain to the Court whether Respondent has been paying any support.

Check this box to request child support.

WHEREFORE, PETITIONER prays that a Summons be issued to RESPONDENT.

12/15/2016

Date

Sarah Smith

Petitioner/Attorney

## Chapter 3: Mediation Conference

### **What happens at a mediation conference?**

The first time parties come to Court for a child support order, they must attend a mediation conference. A Family Court mediator will use the Delaware Child Support Formula to calculate the support amount, and help the parents to come to an agreement.

### **Do parties have to go to a mediation conference to get a child support order?**

Yes, a mediation conference is the first step, unless mediation is prohibited by statute or Court Rule. Most parents reach an agreement during the mediation conference, and a child support consent order is signed. If the parents cannot agree, an interim or temporary order may be issued. Then a hearing before a commissioner will be scheduled to determine the amount of child support and issue a permanent order.

### **What do I need to bring to the mediation conference?**

You must bring any evidence of your income and expenses for your child(ren).

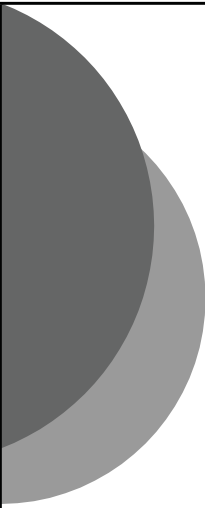
Adequate documentation of income includes, but is not limited to:

- recent tax returns
- W-2 Forms
- three most recent pay stubs
- documentation of payments from Social Security
- documentation of payments from Unemployment Compensation
- documentation of payments from Worker's Compensation
- a recent physician's statement as to any claimed disability

Self-employed individuals must also bring their complete tax return, including a "Schedule C" tax form and supporting documentation for significant expense categories.

Adequate documentation of child care expenses may include, but is not limited to:

- cancelled checks used as payment for childcare
- childcare contracts
- receipts of payment for childcare



## Chapter 3: Mediation Conference cont'd

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### **What happens if a party does not bring documentation of income and expenses to the mediation conference?**

Failure to bring documentation of income or the Court “attributing income” to that party. This means that the Court will determine how much income the party should be earning based on their education, training and experience and will use that number in the calculation. If this number is more than the party actually makes, it will result in a higher child support payment. Therefore, it is in each party’s best interest to bring documentation of income.

Failure to bring documentation of income or expenses may result in the dismissal of your petition or a result contrary to your interests such as the attribution of income or finding of earning capacity or no consideration of child care expenses.

### **What happens if the parties cannot agree at mediation?**

If the parties cannot agree on a support amount at the mediation conference, an interim or temporary order may be issued. A hearing then will be scheduled before a Commissioner.

## Chapter 4: Intergovernmental registration

### **If I relocate to another state, do I still have to pay child support orders from the state that originally issued them?**

Yes. The Uniform Interstate Family Support Act (“UIFSA”) requires states to enforce child support orders entered by other states.

### **If I register my out-of-state child support order in Delaware, can it be modified in Delaware?**

UIFSA prohibits states from modifying child support orders from other states unless certain jurisdictional requirements are met. Modification of the order can only occur under very strict circumstances. An existing support order can be registered as often as needed when an obligated parent relocates from state to state.

### **If I have a support order against me from another state and I move to Delaware, is this order still binding?**

Yes. Under UIFSA, a support order or income-withholding order issued by another state may be registered in this State for enforcement.

### **How do I go about registering a child support order from another state in Delaware?**

To register your out-of-state child support order in Delaware, you must complete an Affidavit and Request to Register a Foreign Support Order. You must file this form, along with two copies of the most recent foreign support order, one of which must be certified by the Court that issued it.

-a sample of this form may be found on page 12-13.

### **What happens after I file the Affidavit and Request to Register the Foreign Support Order?**

The Court will register the foreign support order and send a letter to the other party informing them that the order has been registered in Delaware. The other party may oppose the registration within 20 days. The Court will then hold a hearing. If the other party does not oppose the registration, the order can now be enforced in Delaware.

**It is strongly recommended that anyone seeking to enforce an out of state child support order enlist the services of the Division of Child Support Services.**

Fill in information about the Petitioner (person requesting that the support order be registered) and Respondent (the other party in the original order).

# The Family Court of the State of Delaware

In and For  Newcastle  Kent  Sussex County

Check the county in which you are filing.

## AFFIDAVIT AND REQUEST TO REGISTER A FOREIGN SUPPORT ORDER

*Petitioner*

*v. Respondent*

|   |   |                               |
|---|---|-------------------------------|
| Name<br><b>Sarah Smith</b>  | Name<br><b>Michael Jones</b>  | File Number<br>CK15-99999     |
| Street Address (including Apt)<br><b>111 South Oak Street</b>   | Street Address (including Apt)<br><b>555 Main Street</b>  | Petition Number<br>[Redacted] |
| P.O. Box Number<br>[Redacted]   | P.O. Box Number<br>[Redacted]   |                               |
| City/State/Zip Code<br><b>Dover, DE 19901</b>   | City/State/Zip Code<br><b>Dover, DE 19901</b>   |                               |
| Date of Birth<br><b>2/25/1989</b>   | Date of Birth<br><b>3/14/1987</b>   |                               |
| Attorney Name<br><b>n/a</b>   | Attorney Name<br><b>n/a</b>   |                               |
| Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br>Language: [Redacted] | Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No<br>Language: [Redacted] |                               |

BE IT REMEMBERED, that on this date, December 15, 2016,  
Sarah Smith ("Petitioner"), who, being duly sworn by me according to  
 The law personally appeared before me, a Notary Public for the State and County declared above,  
 did depose and say:

- I hereby request that the Family Court of the State of Delaware register the attached support order issued by a court of another state.
- I have attached two (2) copies of said Order, at least one (1) of which is a certified copy.
- To the best of my knowledge and belief, the arrearages owed are: \$2,400.
- I have provided below the name, address and social security number of the obligor, listed as Respondent, above.
- The name and address of the obligor's employer is:

Fill in the amount of arrears currently owed.

|   |
|---|
| Name<br><b>DEF Corporation</b>                            |
| Street Address (including Apt)<br><b>456 North Street</b> |
| P.O. Box Number<br>[Redacted]                             |
| City/State/Zip Code<br><b>Dover, DE 19901</b>             |

Fill in information about the Respondent's employer.

6. If the obligor owns property in Delaware that is not exempt from execution, that property is located at the following address:

|                                |                 |
|--------------------------------|-----------------|
| Street Address (including Apt) | 555 Main Street |
| P.O. Box Number                |                 |
| City/ State/ Zip Code          | Dover, DE 19901 |

Fill in information about any property that the Respondent owns.

7. I have simultaneously filed a petition or comparable pleading seeking enforcement of this Order.

In order to request that the Court register your foreign support order, you must also be asking that the Court enforce that order. Therefore, you must also file a separate pleading requesting enforcement.

Sign in the presence of a notary.

*Sarah Smith*

Affiant

SWORN TO AND SUBSCRIBED before me this date December 15, 2016

This portion will be completed by a notary/court staff.

*Denna King*

Clerk of Court/Notary Public



## Chapter 5: Genetic Testing

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### **I am not sure of the paternity of my child. What can be done?**

The Court may order genetic testing to establish paternity.

### **If the father denies paternity, what can be done?**

The Court may order genetic testing. An appointment will be made for the man, mother, and child at a laboratory. Samples of blood or other genetic matter will be taken and tested. The tests can prove that the man is not the father, or they can provide evidence that he is the father.

### **What is the process for genetic testing?**

Genetic testing is most commonly ordered in petitions for “New Support” and “Parentage Determination” but may also occur in other types of cases. If the petition was filed by the Division of Child Support Services (DCSS) or the child at issue receives Medicaid and parentage has not previously been established, then DCSS will deposit the cost for the testing subject to reimbursement by a party at a later time. In all other instances, the Court will require one party or the other to pay the cost before testing can be scheduled. The cost is \$97.50 per case. If more than 3 persons need to be tested, an additional \$32.50 per additional person will be required. Thereafter, each party will receive a notice to appear for testing at a nearby LabCorp facility. The child will attend with the party with whom the child lives. When the results are received and distributed, each party will have 14 days to request a hearing if they question the result. Absent such a request, a decree of parentage or non-parentage will issue. If a party is excluded as a parent of the child, this may result in the dismissal of any petition involving the child and that party. If matters other than parentage remain (child support, custody etc.), then a hearing or mediation will be scheduled. Otherwise, the case will be concluded.

### **How long does it take to get results?**

Results of genetic testing are usually received by the Court within 30 days of the date that ALL parties are tested.

### **How will I be notified of the results?**

The Court will notify you of the results of the genetic test by mail. Results will not be given over the telephone due to confidentiality.

### **What will happen after paternity is determined?**

After the genetic testing is completed, the parties will be scheduled for their next court proceeding, unless paternity was the only issue.

## Chapter 6: License Suspension & Restoration

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### **Who can suspend my license if I don't pay child support?**

Both the Division of Child Support Services (DCSS) and the Family Court can suspend your driver's license.

### **How does DCSS suspend my license?**

If you owe \$1,000 or more in past due child support and have not made a complete payment in the past 30 days, DCSS may send you a notice that it may suspend your driver's license. After you receive the letter, you may avoid suspension by:

- 1) paying your arrears in full **OR**
- 2) certified payment equal to 2 months child support obligation **OR**
- 3) requesting a DCSS administrative hearing in writing.

### **How can I get my license back if it is suspended by DCSS?**

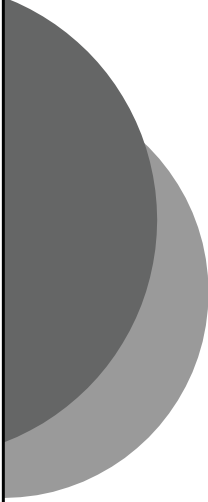
If DCSS suspended your license, you must either pay off your balance or make a certified payment equal to 2 months of your child support obligation.

-If those options are not available and it has been more than 2 ½ years since current support was established or modified, you can file a petition for child support modification. If it has been less than 2 ½ years, your child support modification petition must state a substantial change of circumstances not caused by your own voluntary or wrongful conduct and unrelated to license suspension. During the resulting mediation and hearings or in the context of any pending child support litigation, license restoration can be addressed.

### **When can Family Court suspend my license?**

License suspension occurs automatically when Family Court issues a capias for failure to appear at any paternity or child support proceeding. Upon resolution of the capias you must apply for reinstatement of your license at the Department of Motor Vehicle.

Family Court can suspend your license if it is found that you are in contempt in a child support arrears action. The Court can suspend a license but defer the suspension for six (6) months on condition of regular payments. At any time during the six-month period or within 30 days, DCSS can file a motion to



## Chapter 6: License Suspension & Restoration

### Cont'd

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suspend the license or extend the deferral. DCSS cannot suspend your license during the period of deferral.

#### **How can I get my license back if it is suspended by Family Court?**

If you disagree with the Court's decision to suspend your license, you can file either:

- 1) A Motion for Re-argument to be considered by the Commissioner who ordered the suspension **OR**
- 2) A Review of a Commissioner's Order to be reviewed by a Family Court Judge upon payment of a filing fee and the costs associated with preparation of the transcript of the Commissioner's hearing, if any, provided it is filed within 30 days of the Commissioner's Order.

#### **How can I get my license back when I've paid the arrears?**

If you do not appeal the decision but believe later that you have done all that the Court required in its order of suspension, then you can file a Motion to Lift the Suspension.

#### **If the Family Court or DCSS directs my license to be restored, can I start driving again?**

No. You must go to the Department of Motor Vehicles and pay a reinstatement fee. Additionally, your license may not be reinstated if you have other restrictions unrelated to child support (i.e. unpaid traffic fines, DUI, etc.)

## Chapter 7: Arrears & Contempt

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### **What is arrears?**

Arrears is the legal term for a type of debt that occurs after missed payments. In the case of child support, arrears refer to the accumulation of missed child support payments by the obligated parent.

### **If the obligated parent has accumulated arrears, what may the custodial parent file?**

The custodial parent (or DCSS on their behalf) may file a Petition for Child Support Arrears. Respondent will then have the opportunity to file an Answer and a hearing may be held to allow Respondent to explain to the Court why the payments have not been made and/or provide proof of an inability to pay.

-A sample form may be found on page 19.

### **If the obligated parent has accumulated arrears, what may the Court do?**

When an obligated parent owes accumulated arrears or back support the Court will usually add an arrears payment to the obligation. The amount of the arrears payment is determined on a case-by-case basis. A person who is found in contempt of court for not paying child support can also be incarcerated until a designated amount of support is paid. This is called a "civil commitment" and the amount required for release is called a "purge payment". Sometimes the parent is given a designated time to make the purge payment and sometimes civil commitment occurs immediately depending on the circumstances. Persons on civil commitments are either scheduled for review hearings or are released after a designated period of time.

### **When does the obligation for payment of arrears terminate?**

Obligation for payment of arrears or past due support shall terminate by operation of law when all arrears or past due support have been paid.

### **What are the penalties for accumulating and failing to pay arrears?**

Any person who owes \$1,000 or more in arrears or retroactive support and is 30 or more days delinquent in payment of a child support order from either Family Court or the Division of Child Support Services may have their license suspended as defined in Title 13 Delaware Code section 516. Additional penalties may include sanctions such as fines and, ultimately, jail.

## Chapter 7: Arrears & Contempt

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### **If incarceration is a possibility, will the Respondent be represented by an attorney?**

If the possibility for incarceration for failure to pay support exists, the Respondent will receive the paperwork to request the appointment of an attorney. This request may be granted if the Court determines that the Respondent is indigent.

### **If I do not think that the custodial parent is using the support payments properly, what may I file?**

You may file a Petition for Accounting of Support. In this Petition, you must establish good cause for the Court to order an accounting. If the Court finds good cause to believe that the support payments are not being used properly, they may order an accounting. This would require the custodial parent to demonstrate what they are using the support payments for. However, if you ask for an accounting and no good cause is shown, costs and fees will be assessed.



## Chapter 8: Calculating Child Support

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The instructions found on pages 25-28 for child support calculation are a very detailed explanation of the factors that the Court will consider when determining the appropriate amount of child support to be paid. The following 3 pages offer some key points to remember. For a comprehensive list of factors that can affect your child support calculation, please review section XVII of the Family Court Civil Rules which are available online at <http://courts.delaware.gov/forms/download.aspx?id=39308>

Page 24 is a blank child support calculation that you may use to estimate the amount of child support that may be owed. An automated version of this calculation is available online at <http://courts.delaware.gov/family/>.

The Family Court of the State of Delaware has established the Delaware Child Support Formula under Family Court Civil Rule 52(c). This formula outlines the procedure for determining a child support obligation in the State of Delaware. The formula is found in the Family Court Rules of Civil Procedure, Rule 500 et seq. The formula is based on the following principles pursuant to 13 Delaware Code §514:

- Each parent is entitled to keep a minimum amount of income for their basic needs.
- Each child's basic needs are taken care of before the parents may retain any additional income.
- If income is available after the primary needs of the parents and each child are met, the child(ren) is (are) entitled to share in any additional income of the parents.

## Chapter 8: Calculating Child Support cont'd

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### Things to keep in mind for child support calculations

The specific instructions for calculating child support are found on pages 25-28. The following are a few key points to remember:

#### **The Melson Formula is a Rebuttable Presumption**

-The Delaware Child Support Formula serves as a rebuttable presumption for establishing child support obligations in the State of Delaware. This means that the Court will use the Formula unless it finds that the results would not be in the best interest of the child(ren) or would be unfair to the parties involved.

#### **Income Attribution**

- Each party is attributed with their actual income, as shown on pay stubs, tax returns or other similar documents. The Court will attribute income to either party in the following situations:

- voluntary unemployment or unemployment due to misconduct
- underemployment (not working up to one's earning capacity based on training, education and experience)
- failure to provide sufficient evidence of income
- failure to appear at a mediation conference or court hearing

- The Court may use the Department of Labor wage surveys to estimate a party's earning capability.

- In most cases every parent will be presumed to have an earning capacity of at least minimum wage, or \$1,430 per month, unless medically disabled or incarcerated.

- If a party receives unemployment or disability compensation, they must present evidence of this income at the mediation conference or hearing.



## Chapter 8: Calculating Child Support cont'd

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### **Child Care Expenses**

The Melson Formula allows for the fair allocation of all expenses for child care required for the parent(s) to work. Child care expenses must be documented and presented at the mediation conference/hearing. Cancelled checks, childcare contracts and receipts are acceptable forms of documentation.

### **Private School**

Private school expenses will only be included as primary expenses where:

- 1) the parties have adequate financial resources
- 2) Consideration of the specific case, including whether:
  - the parents previously agreed to pay for private school
  - the child has special needs that cannot be accommodated in a public school setting
  - immediate family history indicates that the child would likely have attended private school but for the parties' separation.

### **Shared Equal Placement**

Shared equal placement of a child(ren) is determined by the number of annual overnights the child(ren) spends in each household. If the number of overnights is at least 164 per year, the parties are considered to have shared equal placement and each child(ren) will be counted at one-half in each household for purposes of the calculation. Be advised that failure to contribute to shared incidental expenses can lead to denial of shared placement status.

### **Parenting Time Adjustment**

If a child spends an average of more than 79, but less than 164 annual overnights in the household of the parent from whom support is sought, the calculation shall be adjusted to reflect the amount of extra time spent with the parent.

## Chapter 8: Calculating Child Support cont'd

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### **Adjustment for Support of Other Children**

The child support calculation takes into account whether there are other children not of this relationship supported by each parent.

### **Military Allowances**

The Formula currently exempts from income cost of living stipends paid to offset assignments to high income locations. Military Housing Allowances (BAH) vary depending upon both rank and location. BAH shall be limited to no more than the entitlement of a service member stationed at Dover Air Force Base. The BAH tables ("with dependents") for Dover AFB will need to be readily available to mediators and Commissioners and linked to the on-line calculation. Additionally, military allowances for clothing shall be excluded from income.

### **Incarcerated Parents**

Service of a term of incarceration that exceeds or is anticipated to exceed one year may be considered as evidence of a diminished earning capacity unless the individual:

- Has independent income, resources or assets with which to pay an obligation of support consistent with their pre-incarceration circumstances; or
- Is incarcerated for the nonpayment of child support or for any offense of which his or her dependent child or a child support recipient was a victim.
- However, incarceration is not a ground for modification of a current support obligation last calculated within the last two and one-half years.

## 2017/2018 Delaware Child Support Formula

Name: \_\_\_\_\_

Calculation Date: \_\_\_\_\_

Pet. # \_\_\_\_\_

Period Covered: \_\_\_\_\_

|                             |                   |  |            |  |            | Father         |                | Mother |              |
|-----------------------------|-------------------|--|------------|--|------------|----------------|----------------|--------|--------------|
|                             |                   | wages  | self       | taxable  | nontax     |                |                |        |              |
| <b>NET INCOME AVAILABLE</b> | <b>1</b>          | Gross Income   |            |  |            |                |                |        |              |
|                             |                   | Father   |            |  |            |                |                |        |              |
|                             |                   | Mother   |            |  |            |                |                |        |              |
|                             | <b>2</b>          | Taxes  |            |  |            |                |                |        |              |
|                             |                   | Father   |            |  |            |                |                |        |              |
|                             |                   | Mother   |            |  |            |                |                |        |              |
|                             | <b>3</b>          | Deductions   |            |  |            |                |                |        |              |
|                             |                   | Mother   |            |  |            |                |                |        |              |
|                             | <b>4</b>          | Self Support Allowance   |            |  |            | <b>\$1,000</b> | <b>\$1,000</b> |        |              |
|                             | <b>5</b>          | Net Income after Self Support (Line 1 - Lines 2, 3, & 4)                           |            |  |            |                |                |        |              |
|                             | <b>6</b>          | Does the parent support other dependent children? (Yes or No)                      |            |  |            |                |                |        |              |
|                             | <b>7</b>          | Adjustment for other dependents (if "Yes", 70%; if "No", 100%)                     |            |  |            |                |                |        |              |
|                             | <b>8</b>          | Net Available for Primary Support (Line 5 x Line 7)                                |            |  |            |                |                |        | <b>TOTAL</b> |
| <b>PRIMARY</b>              | <b>9</b>          | Share of Net Available (Line 8 / Line 8 Total)                                     |            |  |            |                |                |        |              |
|                             | <b>10</b>         | Number of children of this union in each home                                      |            |  |            |                |                |        |              |
|                             | <b>11</b>         | Primary Support Allowance (Line 10 x \$300 + \$200)                                |            |  |            |                |                |        |              |
|                             | <b>12</b>         | Itemized Primary Needs   |            |  |            |                |                |        |              |
|                             |                   | Father   | Childcare  | Medical  | Tuition    |                |                |        |              |
|                             |                   | Mother   |            |  |            |                |                |        | <b>TOTAL</b> |
|                             | <b>13</b>         | Total Primary Need (Line 11 + Line 12)   |            |  |            |                |                |        |              |
|                             | <b>14</b>         | Primary Support Obligation (Line 9 x Line 13 Total)                                |            |  |            |                |                |        |              |
| <b>SOLA</b>                 | <b># Children</b> | <b>SOLA %</b>  | <b>15</b>  | Net Available for SOLA (Line 8 - Line 14)      | <b>15</b>  |                |                |        |              |
|                             | 1                 | 19%  | <b>16</b>  | Standard of Living Adjustment %                | <b>16</b>  |                |                |        | <b>TOTAL</b> |
|                             | 2                 | 27%  | <b>17A</b> | A - SOLA (Line 15 x Line 16)                   | <b>17A</b> |                |                |        |              |
|                             | 3                 | 33%  | <b>B</b>   | B - Per child (Line 17A Total / Line 10 Total) | <b>B</b>   |                |                |        |              |
|                             | each add'l        | 4%   | <b>18</b>  | Gross Obligation (Line 14 + Line 17A)          | <b>18</b>  |                |                |        |              |
| <b>CREDITS</b>              | <b>19</b>         | Primary/SOLA retained (Line 10 x Line 17B + Line 11)                               | <b>19</b>  |  |            |                |                |        |              |
|                             | <b>20</b>         | Child Care/Tuition/Health Ins paid (Line 12)                                       | <b>20</b>  |  |            |                |                |        |              |
|                             | <b>21A</b>        | A - Parenting Time % (80-124 overnights, 10%; 125-163, 30%)                        | <b>21A</b> |  |            |                |                |        |              |
|                             | <b>B</b>          | B - PT Adjustment (Line 21A x other parent's Line 19)                              | <b>B</b>   |  |            |                |                |        |              |
|                             | <b>22</b>         | Self Support Protection (60% of Line 8)  | <b>22</b>  |  |            |                |                |        |              |
|                             | <b>23</b>         | <b>Net Obligation</b> (Line 18 minus Lines 19, 20 & 21B but not more than Line 22) | <b>23</b>  |  |            |                |                |        |              |

Calculation notes:

# The Family Court of the State of Delaware

## INSTRUCTIONS FOR CHILD SUPPORT CALCULATIONS (2017-2018)

Effective January 1, 2015 the Family Court revised the Delaware Child Support Formula as stated within Family Court Civil Rules 500 through 508. The revised formula applies to both prospective and retroactive calculations. All monetary allowances will be adjusted in January of 2017 in accordance with any changes in the United States Department of Health and Human Services (HHS) poverty guidelines. The entire formula will be reviewed again in 2018. These instructions are intended to assist in determining child support obligations but are not a substitute for the Rules or any applicable law.

The Delaware Child Support Formula serves as a rebuttable presumption for establishing child support obligations in the State of Delaware. The Court will use the Formula unless it finds that the results would not be in the best interest of the child(ren) or would be inequitable to the parties involved. Dalton v. Clanton, Del. Supr., 55 A.2d 1197 (1989). Every child support order issued by the Court, including consent orders negotiated outside of Court, must have one or more support calculations attached even if the parties agree to another amount. An automated version of the Child Support calculation is available online at <http://courts.delaware.gov/family/>.

### INCOME ATTRIBUTION

The Court will use each parent's actual income if the parent is fully employed in a manner commensurate with their training and experience. A **Rule 16A Financial Report Form** must be submitted with supporting documentation at mediation and before trial. Adequate documentation often is the parent's most recent tax returns, W-2 Forms, and three most recent pay stubs but may also include documentation of Social Security, unemployment compensation, workers' compensation, medical disability, child care and medical insurance. Self employed individuals and persons employed through a closely held corporation should be prepared with recent tax returns with all schedules, 1099 forms, documentation of significant expenses categories, and recent bank statements.

Parents who are unemployed or underemployed either voluntarily or due to their own misconduct and parents who fail to provide adequate documentation or to appear for the hearing or mediation may be "attributed" income. The Court will examine earnings history, employment qualifications and the current job market. Wage surveys for individual occupations compiled by the Department of Labor can be used to estimate earning capacity (<http://www.delawareworks.com>). Parents who qualify for unemployment compensation will be presumed to have lost their employment by no fault of their own. Qualification for Social Security disability-type benefits is proof that a person has a disability which may impede their ability to work. A parent receiving Supplemental Security Income (SSI) will not be assessed a child support obligation unless the Court finds the person has additional income or income capacity with which to pay support. Absent adequate information, a parent may be attributed as much income as the other party and every parent is presumed to have an earning capacity of no less than \$1,430 per month. Parents who suffer a loss of income due to their own misconduct may have their support obligation calculated upon actual current earnings if over a reasonable period of time they have earnestly sought to achieve maximum income capacity. Incarceration of one year or more may be evidence of diminished income capacity.

Whether second job income will be considered is determined case by case. Second job income is more likely to be included if it has been historically earned, raises the standard of living of the parent, or is necessary to meet the minimum needs of the child. It is more likely to be excluded if it merely allows the parent to make ends meet, is used to pay extraordinary medical or educational expenses, is necessitated by the nonpayment of support, or substantially conflicts with visitation. Fluctuations in income or that wage income may exceed 40 hours per week is not a basis for exclusion. The Court must determine average monthly income likely to prospectively recur. Previously earned second job income and overtime will not be considered if it is no longer earned, has been over 2½ years since the last determination of current support, and income from primary employment is consistent with reasonable earning capacity.

### NET AVAILABLE INCOME

Net available income is determined by taking gross income and subtracting taxes, other important payroll deductions and a self support allowance. If the party seeking support is not a parent, then support is calculated using only the income of the parent who is a party to the case before the Court. All amounts must be monthly. To convert from weekly, multiply by 52 and divide by 12. For biweekly, multiply by 26 and divide by 12. All numbers are rounded.

**Line 1--Monthly Gross Income** is the combination of the following:

**Wages:** This includes salaries, wages, commissions, bonuses and any other income (other than self-employment income) that is subject to Federal Retirement and/or Medicare taxes including pre-tax benefits.

**Self:** All income earned as an independent contractor and subject to federal self-employment tax.

**Unearned:** All other taxable income including but not limited to dividends, severance pay, pensions, interest, trust income, annuities, capital gains, workers' compensation, unemployment compensation, disability insurance benefits, prizes, and alimony or maintenance received.

**Nontax:** All income not subject to income tax including most Social Security Disability (SSD) or retirement benefits and some private plans. Benefits paid to a child due to a parent's disability are included in that parent's income but offset the Net Monthly Obligation dollar for dollar. Benefits paid due to a child's own disability are income to the household in which it is received. All military allowances (except clothing) are included as nontaxable income. However, no servicemember shall be attributed a housing allowance (BAH) that exceeds BAH w/dependents at Dover AFB.

| <u>2017 Dover Air Force Base BAH with dependents (BAS is \$368 for enlisted and \$254 for officers)</u> |      |     |      |     |      |     |      |    |      |
|---|------|-----|------|-----|------|-----|------|----|------|
| Rank  | \$   | E05 | 1581 | W01 | 1677 | O1E | 1758 | O3 | 1863 |
| E01   | 1428 | E06 | 1674 | W02 | 1776 | O2E | 1854 | O4 | 2022 |
| E02   | 1428 | E07 | 1743 | W03 | 1869 | O3E | 1938 | O5 | 2133 |
| E03   | 1428 | E08 | 1821 | W04 | 1926 | O1  | 1590 | O6 | 2154 |
| E04   | 1428 | E09 | 1911 | W05 | 1995 | O2  | 1671 | O7 | 2175 |

**Exceptions to income:** Expense reimbursements or in-kind payments received in the course of employment, self-employment, or operation of a business should be counted as income only if they are significant and reduce personal living expenses. A cost of living stipend given to an employee as compensation due to relocation to a high cost location will not be included as income as long as it is clearly identified on pay documents. Adoption subsidies disbursed pursuant to 42 U.S.C. § 673 or a subsequent or similar statute shall not be counted as income.

**Line 2--Taxes:** Utilizing IRS and Delaware Department of Revenue income tax withholding tables or the Family Court tax estimation worksheets, record each parent's income tax liability based upon a single tax status with one (1) exemption. Delaware State income tax shall be utilized for all persons regardless of State of residence.

**Line 3--Allowable Deductions** (add the following across the line and enter the result in the appropriate column):

**Medical Insurance--**Medical insurance (including COBRA) paid by either parent regardless of who is covered by the policy. Insurance is unaffordable if the cost to cover the parent and the child(ren) exceeds 10% of gross income. However, if acquired it must be maintained until further order of the Court or written agreement of the parties.

**Medical insurance premiums allocable to children** can be included as an element of primary support at Line 12 rather than as a deduction from income. The amount allocable to children is the difference between the cost for the parent alone and the parent with minor dependents. If the parent has children in multiple households, multiply the amount allocable to children by the number of children on Line 6 and then divide by the sum of Lines 6 and 10. Documentation is **REQUIRED**.

**Pension--**All mandatory pension contributions are deductible. Voluntary contributions to an IRS approved retirement plan are deductible to the extent combined mandatory and voluntary contributions do not exceed 3% of gross income.

**Union Dues--**Enter the average monthly union dues.

**Disability Insurance --** Enter Disability insurance premiums withheld from pay or purchased privately for purposes of income replacement (but not to cover credit card or mortgage obligations).

**Other--**Enter the monthly amount of any court ordered alimony payments to the other parent, or other allowable business expenses (such as supplies required by the employer to be purchased). Alimony paid must also be subtracted from taxable income when calculating Federal and State income tax liability (but not "FICA").

**Line 4--Self Support Allowance:** The self-support allowance is the minimum amount of income necessary for a parent to remain productive in a workplace. Each parent is given a self support allowance of **\$1000**.

**Line 5--Net Income after Self Support:** Subtract taxes, deductions & self support from gross income.

**Line 6 -- Does the parent support other dependent children?** Enter "Yes" or "No". This refers only to natural or adopted children who reside in the parent's household, or for whom there is a court order for support or proof of a pattern of support. It also includes adult dependents for which there is a court order of support or written agreement between the parties before the Court. This does not include step children.

**Line 7-- Adjustment for Support of Other Dependents:** If Line 6 is "Yes", enter 70%; if "No", enter 100%.

**Line 8--Net Available for Primary Support:** Multiply each parent's Net Income after Self Support (Line 5) by the Line 7 percentage. Add the figures for Father and Mother to get the total available income.

**Line 9--Share of Total Net Available:** Divide the Net Available for Primary Support for each parent (Line 8) by the Total Net Available (Line 8 Total). Enter the results on Line 9. If the party seeking support is a not a parent, then enter **50%**.

**Medical Expenses** — Each parent is responsible for a percentage of all medical expenses not paid for by insurance in accordance with the Share of Total Net Available (Line 9). Parents should attempt to manage medical reimbursement issues privately. A petition for reimbursement should be filed no later than December 31 in the 2nd year after the expense is incurred. Later applications may be considered for good cause shown.

### PRIMARY SUPPORT

Primary support consists of a Primary Support Allowance based upon the number of children of this union in each household, work related child care expenses, medical insurance allocable to the children, private school expenses (under some circumstances), and other ongoing special needs of a child.

**Line 10--Number of Children of this Union in each Household:** Enter the number of children of this union who reside in each parent's household. If a child resides equally (more than 163 overnights) in both households, assign ½ child or ".5" to each household. Do not include children from other relationships.

**Shared Placement:** If a child resides in shared placement, the parents are expected to equally share in all incidental expenses that would otherwise be borne by a primary residential parent. Failure to do so can result in sanctions including, possibly, calculating support as if the child resides primarily with the other parent.

**Line 11--Primary Support Allowance:** Enter the Primary Support Allowance that matches the number of children in Line 10 for each household (see tables below). Add the columns and enter the result in the Total column.

| <u>Number of Children</u> | <u>Primary Support Allowance</u> |
|---------------------------|----------------------------------|
| 1                         | \$500                            |
| each additional           | +300                             |

| <u>Number of Children</u> | <u>Primary Support Allowance</u> |
|---------------------------|----------------------------------|
| .5                        | \$350                            |
| each additional ½         | +150                             |

**Line 12—Itemized Primary Need** – Enter the following for each parent and put the total on Line 12.

**Child Care Expenses:** Enter actual Monthly Child Care Expenses for the children of this support action required for the parent to work. Hypothetical or attributed childcare costs are not permitted.

**Medical Insurance Allocable to Children:** As described at Line 3, medical insurance premiums allocable to the children of this union can be included on Line 12 as an element of primary support. This includes medical insurance acquired through a step-parent's employment if the step-parent has no other dependent children covered by the policy.

**Allowable Tuition or Other Primary Expenses:** Private or parochial school expenses may be included if the parents have adequate financial resources and upon consideration by the Court of all of the equities especially:

- a. Previous agreement to pay for child(ren)s' attendance in private; or
- b. The child has special needs that cannot be accommodated in a public school setting; or
- c. Immediate family history indicates that the child likely would have attended private or parochial school..

**Line 13--Total Primary Need:** Add the totals from Lines 11 and Line 12.

**Line 14--Primary Support Obligation:** Multiply Line 9 (Share of Net Available) by Line 13 Total (Total Primary Need)

### STANDARD OF LIVING ADJUSTMENT (SOLA)

If there is income available after the parents have met their own and their child(ren)'s primary support needs SOLA is designed to give the child(ren) a share in each parent's economic well being.

**Line 15--Net Available for SOLA:** Subtract the Primary Support Obligation (Line 14) from the Net Income Available for Primary Support (Line 8) for each parent. Enter the result for each parent (but not less than "0").

**Line 16--SOLA Percentage:** Enter the SOLA percentage that corresponds to the Number of Children Due Support in this Support Action (Line 10 Total).

| <u>Number of Children</u> | <u>SOLA Percentage</u> | <u>Number of Children</u> | <u>SOLA Percentage</u> |
|---------------------------|------------------------|---------------------------|------------------------|
| 1                         | 19%                    | 3                         | 33%                    |
| 2                         | 27%                    | each additional           | +4%                    |

**Line 17A--SOLA Obligation:** Multiply the Net Available for SOLA (Line 15) by the SOLA Percentage (Line 16). Enter the result for each parent, and then combine the parents' individual SOLA obligations for the total.

**Line 17B—SOLA per child:** Take total SOLA obligation (Line 17A total) and Divide by the Total Number of Children of this Union in each Household (Line 10 Total). Enter the result in the third column as the "per child" SOLA.

**Line 18--Gross Monthly Obligation:** Line 14 (Primary Support Obligation) plus Line 17A (SOLA Obligation).

### CREDITS AND THE NET MONTHLY OBLIGATION

The Net Monthly Obligation is the Primary Support obligation plus the SOLA obligation minus applicable credits and subject to certain limitations. In simple cases, the "custodial" parent merely keeps their own obligation and the obligated parent pays the amount on Line 18. However if the parent from whom support is sought has the children more than 79 overnights per year, has limited income, or incurs daycare or tuition expenses, further adjustments may be necessary.

**Line 19--Retained Primary and SOLA:** Multiply the number of children in each household (Line 10) by the "per child" SOLA on Line 17. Then add that to the Primary Support Allowance claimed by each party on Line 11.

**Line 20--Child Care / tuition paid by each parent:** Enter the total of Line 12 for each parent.

**Line 21--Parenting Time Adjustment:** If a court order or written agreement entitles a parent with 80 to 163 average overnights per year, that parent retains a percentage of the primary support allowance and the parents' combined SOLA. If actual practice differs from the order or agreement or there is no order or agreement, then the number of overnights can be established by clear and convincing evidence. Enter on Line 21A the percentage for the number of overnights from the below table, multiply it by the OTHER PARENT's Line 19, and enter the result on Line 21B.

| <u>Annual Overnights</u> | <u>Percentage</u> | <u>Annual Overnights</u> | <u>Percentage</u> |
|--------------------------|-------------------|--------------------------|-------------------|
| 79 or less               | 0%                | 125 to 163               | 30%               |
| 80 to 124                | 10%               | 164 or more              | shared            |

**Line 22—Self Support Protection:** Multiply Net Available for Primary Support on Line 8 by 60% and enter the result on Line 22. This is the maximum support obligation that can be ordered.

**Line 23--Net Monthly Obligation:** For each parent, subtract Primary/SOLA retained (Line 19), Childcare/tuition retained (Line 20) and the Parenting Time adjustment (Line 21B) from Gross Monthly Obligation (Line 18). Enter the result but not more than the amount on Line 22. In cases involving shared or split placement, no obligation will be assessed if the calculation suggests an obligation of less than \$50 per month. An obligation may be imposed against either parent and without regard to who filed the petition.

**Minimum Orders:** Unless the children reside in shared or split placement or the obligated parent is disabled, the Court will not impose an obligation of not less than **\$100** for one child and **\$160** for more than one child. The obligation, if any, of a disabled person with limited resources will be determined on a case by case basis.

**Modification:** Petitions for modification filed within 2½ years of the last determination of current support must allege "with particularity" a substantial change of circumstances not caused by the Petitioner's voluntary or wrongful conduct. No modification will be ordered unless the new calculation produces a change of more than 10%. Beyond 2½ years, neither the "particularity" nor the "10%" requirement applies. A change in result caused solely by a revision of the child support formula itself does not constitute a substantial change of circumstance. Support orders may increase, decrease, or even reverse the payer and payee regardless of who filed the petition.

**Incarceration:** The support obligation of an incarcerated parent will be calculated based upon that parent's pre-incarceration circumstances and incarceration is NOT a ground for modification if the parent:

- Has sufficient independent wealth or other resources with which to pay support;
- Is incarcerated for crimes against a dependent child or a support recipient;
- Is incarcerated for nonpayment of child support, or
- Is anticipated to be incarcerated for less than one year.

In all other cases, incarcerated parents will be assessed an obligation based upon pre-incarceration circumstances for the first 12 months of continuous confinement, and a minimum order for the 13<sup>th</sup> through 36<sup>th</sup> month to be reduced by one-half starting the 37<sup>th</sup> month. Such support orders will direct the specific dates and amounts of future adjustments.

## Chapter 9: Medical Support

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### **What is a medical support order?**

A medical support order requires one or both parents to provide health insurance and requires both parents to pay a portion of medical expenses that is not covered by health insurance for their children.

### **Which parent will be ordered to provide medical support?**

If both parents have affordable health insurance available through employment, the parents will usually agree if one, the other or both should maintain the insurance for the child. If they can't agree a Commissioner will decide after a hearing. Whenever insurance is not in place, both parents have a continuing duty to acquire it if it becomes available at a reasonable cost.

### **What about expenses not covered by insurance?**

Under the child support formula, all unreimbursed medical expenses in each calendar year are divided by percentages found in the child support calculation. Unless reimbursement is requested by December 31 of the second year following the year in which the expense was incurred, reimbursement is presumed to have been waived.

### **If the children are on Medicaid will the parents be ordered to provide medical support?**

Yes. Federal law requires that child support orders include medical support if the children are receiving cash public assistance or Medicaid. When children are receiving Medicaid, the insurer reimburses the Medicaid agency for the cost of medical services provided to the children.

### **Will wages be attached for medical insurance?**

Yes, if the parent is employed. Federal and state laws require a medical support attachment, known as a National Medical Support Notice, unless the Court determines the insurance available through the employer is either inaccessible to the child or unreasonable in cost.

### **When is insurance accessible and reasonable in cost?**

Insurance is accessible to a child if primary medical services are available within a reasonable distance from the child's residence. Generally, cost is reasonable if the premium to cover both the parent and parent's dependant children is less



## Chapter 9: Medical Support cont'd

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than 10% of a parent's gross income. Cost may also be found "not reasonable" if the Court determines the parents have insufficient net income to cover insurance, day care and the child's primary needs.

### **Will the wage attachment tell the employer what insurance plan to select?**

No. The parent(s) may select an insurance plan if the employer offers more than one. The employer will receive a notice telling him/her to deduct the amount of the insurance premium and send it to the insurance company.

### **Once the wage attachment for medical support is in place, may the parent/employee terminate medical insurance coverage?**

No. State law prohibits an employer from terminating coverage unless the Court order is no longer in effect, or the child is enrolled in comparable coverage that will take effect no later than the date of termination.

### **Can an employer refuse to deduct health insurance premiums or wait for an open enrollment period?**

No. An employer must obey the wage attachment for health insurance premiums and may not wait for open enrollment. He/she may be ordered to pay a fine for refusing to honor the wage attachment.

### **If the parents are not working will they be ordered to provide health insurance?**

If the parents are not employed, they may be ordered to provide health insurance if and when it becomes available at a reasonable cost.

## Chapter 10: WAGE ATTACHMENTS

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### **What is a wage attachment?**

A wage attachment is an order for an employer to deduct child support payments directly from the wages of an employee and send the payment to the Division of Child Support Services. Wage attachments are sometimes called income withholding orders.

### **Why are wages attached?**

Wage attachments are required by Federal and State law because they are the best way to be sure that child support payments are made in full and on time.

### **Are wage attachments only for parents who are delinquent in their child support payments?**

No. Wage attachments are issued for almost all new child support orders. Wage attachments are also issued when existing child support orders are modified.

### **If I am ordered to pay child support, will my wages be attached?**

Yes, most likely. Both Federal and State law require that a wage attachment must be issued for every child support order. The only exception is when the Court finds that there is good reason not to require immediate wage withholding. For example, a wage attachment may not be issued if there is an alternative payment arrangement outside the control of the obligated parent.

### **Can payments from wage attachments be paid directly to the custodial parent?**

No. According to Delaware law, all wage attachments must be paid through the Division of Child Support Services. The Division keeps an official accounting of the payments. After the amount is recorded, a check is sent to the parent or deposited in the payee's account. This helps avoid misunderstandings about amounts owed and protects both parents by ensuring that all payments are recorded.

### **Is there a limit to how much of an employee's pay may be deducted for a child support wage attachment?**

Yes. The Federal Consumer Credit Protection Act applies to wage attachments for child support. Instructions on the wage attachment tell the employer the maximum that may be deducted for that employee. The amount deducted may not be more than: 50% if the employee is supporting a second family or 60% if the employee does not support a second family. If the employee owes child support arrears that are 12 weeks or more past due, an additional 5% is added to the limit.

## Chapter 10: WAGE ATTACHMENTS cont'd

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### **Can an employer fire an employee because his/her wages are attached?**

No. It is against the law for an employer to fire an employee because his/her wages have been attached. In addition, an employer may not refuse to hire an individual because of a wage attachment.

### **Can an employer refuse to deduct child support payments from an employee's wages?**

No. An employer may be fined for refusing to obey an order to attach the wages of an employee.

### **If I leave my job, do I have to make payments while I am unemployed?**

Yes. You are still responsible for paying child support, even though you are unemployed. You may file a petition asking the Court to modify your child support order while you are unemployed. You should make your payments to the Division of Child Support Services. Do not make payments directly to the custodial parent, or you may not get credit for them. As soon as you find another job, you must report the name and address of the new employer to Family Court so that a new wage attachment can be issued.

## Chapter 11: Modification

### **Can the child support payment amount ever be changed?**

Yes, either parent can ask the Court to review an order after 2 1/2 years. A parent can ask for a review within 2 years if there is a substantial change in either parent's income or a change in expenses such as day care or medical expenses. The Melson Formula will be used again to determine the amount.

### **I would like to modify an existing child support order, what do I need to do?**

You must file a Petition for Modification (form #342). A sample Petition for Modification may be found on page 34. There is NO FILING FEE for a modification petition if the person receiving the support is a DCSS client.

### **When is it appropriate to file a Petition for Modification?**

- 1) More than 2 ½ years have passed since the current support amount was last determined or calculated.
- 2) Less than 2 ½ years have passed since the last support determination and a substantial change in circumstances, through no fault of the Petitioner, has occurred regarding:
  - income
  - health insurance cost or availability
  - daycare or private school tuition
  - number of minor children ordered to support
  - number of other minor children to support
- 3) Loss of license and incarceration for nonpayment of child support or incarceration for a crime against the support recipient are not grounds for modification of child support.

### **Will a modification be granted?**

If the order is less than 2 ½ years old, a child support calculation must show a 10% increase or decrease to warrant modification. If the order is greater than 2 ½ years old, the Court will modify the order if warranted.

-If back support or arrears are owed, the modified order may include a reasonable repayment schedule.

### **Will a modification be retroactive?**

The effective date of a new order may be agreed to by the parties or determined by the Court after a hearing. However, the effective date can be no earlier than 3 days after the petition and summons is mailed to the responding party at their last address provided by them to the Court or established by personal service or certified mail signed for by the party.

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex

Mark the county in which you are filing.

## PETITION FOR CHILD SUPPORT MODIFICATION

Increase  Decrease

DCSS # \_\_\_\_\_

Complete information about yourself (Petitioner) and the Respondent.

### Petitioner

### Respondent

|   |                  |   |                  |                                  |
|---|------------------|---|------------------|----------------------------------|
| Name<br><b>Sarah Smith</b>  |                  | Name<br><b>Michael Jones</b>  |                  | File Number<br><b>CK15-99999</b> |
| Street Address (including Apt)<br><b>111 South Oak Street</b>                           |                  | Street Address (including Apt)<br><b>555 Main Street</b>                                |                  | Petition Number<br>_____         |
| P.O. Box Number<br>_____  |                  | P.O. Box Number<br>_____  |                  |                                  |
| City/State/Zip Code<br><b>Dover, DE 19901</b>   |                  | City/State/Zip Code<br><b>Dover, DE 19901</b>   |                  |                                  |
| Date of Birth<br><b>2/25/1989</b>   |                  | Date of Birth<br><b>3/14/1987</b>   |                  |                                  |
| Attorney Name and Phone Number<br><b>n/a</b> <b>n/a</b>                                 |                  | Attorney Name and Phone Number<br><b>n/a</b> <b>n/a</b>                                 |                  |                                  |
| Driver's License #: <b>345678</b>   | State: <b>DE</b> | Driver's License #: <b>987654</b>   | State: <b>DE</b> |                                  |
| Employer: <b>ABC Corporation</b>  |                  | Employer: <b>DEF Corporation</b>  |                  |                                  |
| Employer Address: <b>123 South Street</b><br><b>Dover, DE 19901</b>                     |                  | Employer Address: <b>456 North Street</b><br><b>Dover, DE 19901</b>                     |                  |                                  |
| Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                  | Interpreter needed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |                  |                                  |
| Language<br>_____   |                  | Language<br>_____   |                  |                                  |

IN THE INTEREST OF: (Include last name.)

|                    |                  |       |       |       |       |
|--------------------|------------------|-------|-------|-------|-------|
| <b>Shawn Jones</b> | <b>5/25/2012</b> | _____ | _____ | _____ | _____ |
| Name               | DOB              | Name  | DOB   | Name  | DOB   |
| _____              | _____            | _____ | _____ | _____ | _____ |
| Name               | DOB              | Name  | DOB   | Name  | DOB   |

Information for each child.

The Petitioner seeks a modification of the Child Support Order dated 2/12/2016 and alleges the following:

- More than 2 ½ years of the order in which current support was last determined.
- Less than 2 ½ years of the order in which current support was last determined and a **substantial change of circumstance**, through no wrongful conduct of the Petitioner, has occurred regarding.
  - Income or deductions
  - Health insurance cost or availability
  - Daycare or private school tuition
  - Number of minor children on this Order to support
  - Number of other minor children to support
  - Other \_\_\_\_\_

**Required for #2 – Describe exactly what changed since the above order:**

Shawn has been enrolled in a private school with tuition costs of \$10,000 per year.

Indicate the grounds for your request to modify child support.

Therefore, the Petitioner requests modification of the current child support Order in accordance with the Delaware Child Support Formula and acknowledges:

- If the petition was filed within 2 ½ years of the entry of the order in which current support was last determined, only modifications of greater than 10% will be imposed.
- Whenever a modification petition is filed, the ordered obligation may increase or decrease regardless of which party filed the petition.
- Loss of license and incarceration for nonpayment of child support are not grounds for child support modification.
- Summonses for modification petitions are sent by the Court by regular mail. Therefore, any modification order entered on this petition may be made effective as of three (3) days after the posting of the summons.
- If I have not properly completed paragraph one(1) or two (2), my petition may be dismissed.

12/15/2016  
Date

Sarah Smith  
Petitioner/Attorney

## Chapter 12: Administrative Adjustments & Decisions

### **What is an administrative adjustment?**

An administrative adjustment is a change in child support that is done by the Division of Child Support Services, rather than the Court. Administrative adjustments occur when the change can be made “by operation of law”. This means that the change occurs because the law says that it must.

-For example, if a parent under a current child support order misses their payments for one calendar month, DCSS may administratively add an arrears payment to the order. That payment will be equal to 20% of current support or \$20, whichever is greater. If there already is an arrears payment, DCSS can increase the payment up to this amount.

### **What are some things that occur by administrative adjustment?**

- Termination of support
- Repayment of past due support (arrears)
- Change of payee
- Date of change of payee

### **How will I know if the Division of Child Support Services has entered an administrative adjustment?**

Within 120 days prior to or 30 days after adjusting its accounts, the Division of Child Support Services files a Notice of Administrative Adjustment with the Court, explaining the action taken. This Notice is also sent to both parties.

### **What do I file if I disagree with an administrative adjustment?**

You may file a Motion to Contest an Administrative Adjustment. In this Motion, you must explain to the Court why you disagree with the administrative adjustment. You must send the other party a copy of this Motion. The other party then has 10 days in which to respond before the Court will make its decision.

-A sample Motion to Contest Administrative Adjustment may be found on page 37.

### **What is an administrative decision and order?**

An administrative decision and order is one entered by the Division of Child Support Services due to lack of child support payment and resulting arrears. The administrative decision and order imposes sanctions on the payor for failure to pay child support.

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex

Check the county in which you are filing.

## MOTION TO CONTEST ADMINISTRATIVE ADJUSTMENT

|  |   |                                    |
|--|---|------------------------------------|
| Name<br><b>Sarah Smith</b>                                       | Name<br><b>Michael Jones</b>                                | File Number<br><b>CK15-99999</b>   |
| Street Address (including Apt. #)<br><b>111 South Oak Street</b> | Street Address (including Apt. #)<br><b>555 Main Street</b> | Petition Number<br><b>16-99999</b> |
| P.O. Box Number<br>  | P.O. Box Number<br>   | DCSS Number<br><b>55562</b>        |
| City/State/Zip Code<br><b>Dover, DE 19901</b>                    | City/State/Zip Code<br><b>Dover, DE 19901</b>               |                                    |
| Phone Number<br><b>(302) 123-4567</b>                            | Phone Number<br><b>(302) 987-6543</b>                       |                                    |
| D.O.B.<br><b>2/25/1989</b>                                       | D.O.B.<br><b>3/14/1987</b>                                  |                                    |
| Attorney Name<br><b>n/a</b>                                      | Attorney Name<br><b>n/a</b>                                 |                                    |

Fill in the child support **recipient's** information here.

Fill in the child support **payor's** information here.

**Michael Jones** (the "Movant") has received a Notice of Administrative Adjustment filed with the Family Court by the Division of Child Support Services (DCSS). The Movant **DISAGREES** with the:

- Date of Termination of Support
- Balance (amount) of past due child support (back support/arrears).
- Monthly amount ordered to be paid
- Change of Payee (The person alleged does not have placement of the child(ren)).
- Date of Change of Payee (Movant disagrees with the date alleged for the change in placement).

The movant is the person who believes the Administrative Adjustment is incorrect.

Explain to the Court here why you believe the Administrative Adjustment is incorrect.

Because: The balance of back due support does not include the amount that Payor sent to Payee. Money was not sent through DCSS, however, Payor has copies of all of the cleared checks. This amount should be deducted from the amount of arrears owed.

MOVANT AFFIRMS that the above information is true and correct and that a copy of this Motion to Contest Administrative Adjustment shall be mailed on **12/20/2016** with sufficient postage and addressed to:

- the Division of Child Support Services (appropriate county address on reverse)
- the opposing party at **111 South Oak Street, Dover, DE 19901**

You must mail a copy of this Motion to the opposing party **and** DCSS.

Sign in the presence of a notary or court staff.

Michael Jones 12/20/2016  
Movant/Attorney Date

Sworn to subscribed before me.

Donna King 12/20/2016  
Clerk of Court/ Notary Public Date

**NOTICE: RESPONDENT HAS THE RIGHT TO FILE A RESPONSE WITHIN TEN (10) DAYS OF THE SERVICE OF THIS MOTION. IF NO RESPONSE IS TIMELY FILED, THE MOTION MAY BE DECIDED WITHOUT OTHER OPPORTUNITY TO BE HEARD.**

Upon consideration of the Motion, the Notice of Administrative Adjustment and  the response (or)  no response, the Court **ORDERS** the following:

- The motion is DENIED. The Administrative Adjustment was correct and authorized by Family Court Civil Rule 302.
- The motion is GRANTED and:
  - Current Support terminated (or shall presumptively terminate) on \_\_\_\_\_
  - The correct arrears balance is \$ \_\_\_\_\_ as of \_\_\_\_\_
  - Arrears shall be repaid at the rate of \$ \_\_\_\_\_ per month
  - The correct payee is \_\_\_\_\_ effective \_\_\_\_\_
  - A hearing will occur on \_\_\_\_\_ at \_\_\_\_\_  AM  PM to consider this motion ( date/time TBD).
  - Other: \_\_\_\_\_

So Ordered this Date: \_\_\_\_\_  
Judge/Commissioner

CC:  FILE  PARTIES  DCSS Counsel  DCSS Accounting  DCSS Operations  Reciprocal Agency  \_\_\_\_\_

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

## APPEAL OF CHILD SUPPORT ADMINISTRATIVE DECISION AND ORDER

DCSS # 7559 FILE # CK15-99999 PETITION # 16-99999 Other state #           

### Appellant

The Appellant is the person filing the appeal.

|  |   |                          |  |
|--|---|--------------------------|--|
| Name<br><b>Michael Jones</b>                             |   |                          |  |
| Street Address (including Apt)<br><b>555 Main Street</b> |   |                          |  |
| P.O. Box Number<br><b>                  </b>             |   |                          |  |
| City<br><b>Dover</b>                                     | State<br><b>DE</b>                                | Zip Code<br><b>19901</b> |  |
| Home Phone #   | <b>(302) 123-4567</b>                             |                          |  |
| Work Phone #   | <b>(302) 999-9999</b>                             |                          |  |
| Cell Phone #   | <b>(302) 777-7777</b>                             |                          |  |
| Attorney Name and Phone Number<br><b>n/a</b> <b>n/a</b>  |   |                          |  |
| Employer:  | <b>DEF Corporation</b>                            |                          |  |
| Employer Address:  | <b>456 North Street</b><br><b>Dover, DE 19901</b> |                          |  |

### v. Appellee

|   |   |                          |                         |
|---|---|--------------------------|-------------------------|
| Name<br><b>Sarah Smith</b>                                    |   |                          | DOB<br><b>2/25/1989</b> |
| Street Address (including Apt)<br><b>111 South Oak Street</b> |   |                          |                         |
| P.O. Box Number<br><b>                  </b>                  |   |                          |                         |
| City<br><b>Dover</b>  | State<br><b>DE</b>                                | Zip Code<br><b>19901</b> |                         |
| Home Phone #  | <b>(302) 987-6543</b>                             |                          |                         |
| Work Phone #  | <b>(302) 111-1111</b>                             |                          |                         |
| Cell Phone #  | <b>(302) 555-5555</b>                             |                          |                         |
| Attorney Name and Phone Number<br><b>n/a</b> <b>n/a</b>       |   |                          |                         |
| Employer:   | <b>ABC Corporation</b>                            |                          |                         |
| Employer Address:   | <b>123 South Street</b><br><b>Dover, DE 19901</b> |                          |                         |

Nature of Proceeding:  License Suspension/Denial  Income Tax Offset  
 Administrative Lien  Other:                   

Check which type of proceeding you are appealing.

PLEASE TAKE NOTICE THAT Michael Jones does appeal to the Family Court of the State of Delaware from an administrative decision entered by Commissioner X dated 12/22/2016 which affirmed the above noted sanction(s). Reasons for the appeal are:

- The appellant is not the person named in the underlying child support order.
- The appellant does not owe the amount of child support arrears required for the order.
- Other:

Check why you believe the Administrative Decision and Order is incorrect.

### A COPY OF THE ADMINISTRATIVE DECISION MUST BE ATTACHED TO THE APPEAL

APPELLANT AFFIRMS that the above statements are true and that a copy of this appeal was deposited in the U.S. mail on 12/23/2016 with sufficient postage and addressed to  The Division of Child Support Services P.O. Box 12831, Wilmington, DE 19850 and/or  Sarah Smith at 111 South Oak Street,  
Dover, DE 19901.

**BY COPY OF THIS APPEAL, APPELLEE IS NOTIFIED OF THE RIGHT TO FILE A RESPONSE WITHIN TEN (10) DAYS OF THE FILING OF THIS APPEAL.**

12/23/2016

Date

Sign in the presence of a notary.

Michael Jones

Appellant/ Attorney

SWORN TO AND SUBSCRIBED before me this date

12/23/2016

Date

Donna King

Clerk of Court/Notary Public

AFTER HEARING  UPON CONSIDERATION OF THE APPEAL AND:  
 THE RECORD OF THE ADMINISTRATIVE HEARING  NO RECORD OF ADMINISTRATIVE HEARING  
filed by DCSS, the administrative decision is  affirmed  reversed. **IT IS SO ORDERED.**  
( See discussion attached)

Judge/Commissioner

Date

Cc:  File  Parties  DCSS Counsel  DCSS  Reciprocal Agency



## Chapter 13: Termination of Support

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### **When does child support terminate?**

An order of current child support entered by the Court or a court of competent jurisdiction in Delaware shall terminate by operation of law when all minor children subject to said order have reached 18 years of age and graduated from high school.

If the child is over 18 and is still enrolled in high school, then support shall terminate when the child receives a high school diploma or turns 19, whichever event first occurs.

Support can also terminate if custody of all the child(ren) on the support order is transferred to the obligated parent pursuant to an order of a court of competent jurisdiction or the written voluntary agreement of the parents.

### **Do I need to file something to terminate child support?**

Usually, if you fall into any of the three above categories, your child support obligation terminates by operation of law and you do not need to file anything. When this occurs, the parties may receive a Notice of Administrative Adjustment. If you do not receive a Notice of Administrative Adjustment and you believe that your child support obligation should have terminated, you may file a Notice and Motion to revoke Child Support. By filing this Motion, you are explaining the change in circumstances to the Court.

-a Motion to Revoke may only be filed where current support has terminated by operation of law for all children included on the support order or where arrears have been paid in full. Any other modification of a support order must be addressed with a Petition to Modify a Child Support Order.

-a sample Notice and Motion to Revoke Child Support may be found on page 40.

### **What if custody of the child(ren) changes?**

If the Court orders a change of primary residential placement, the parent must provide a copy of the Court Order to DCSS in order for an administrative adjustment to be performed.

# The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

Check the county in which you are filing.

## NOTICE AND MOTION TO REVOK

Movant

Respondent

|  |   |                            |   |
|--|---|----------------------------|---|
| Name<br><u>Michael Jones</u>                             | Name<br><u>Sarah Smith</u>                                    | D.O.B.<br><u>2/25/1989</u> | File Number<br><u>55527</u><br><u>CK15-99999</u>  |
| Street Address (including Apt)<br><u>555 Main Street</u> | Street Address (including Apt)<br><u>111 South Oak Street</u> |                            | Petition Number(s)<br><u>16-99999</u>   |
| P.O. Box Number<br><u></u>                               | P.O. Box Number<br><u></u>                                    |                            | Other State Number<br><u></u>   |
| City/State/Zip Code<br><u>Dover, DE 19901</u>            | City/State/Zip Code<br><u>Dover, DE 19901</u>                 |                            | IV-D Status<br><input checked="" type="checkbox"/> IV-D <input type="checkbox"/> Non IV-D |
| Attorney Name and Phone Number<br><u>n/a</u> <u>n/a</u>  | Attorney Name and Phone Number<br><u>n/a</u> <u>n/a</u>       |                            |   |

Fill in information about the person requesting the termination of support.

Fill in information about the party currently receiving support.

MOVANT ASSERTS that Michael Jones is under a support obligation in the amount of \$500 per month and/or arrears/back support/fees in the amount of  and that:

- all arrears/back support/fees are paid
- the youngest child on the Order is  19 or  18 and:  was graduated
- all the children on the Order moved from the home of  on  to the home of  (DOCUMENTATION REQUIRED)
- See custody order of  Or  See Documentation Attached

Check the box that explains to the Court why your support obligation should be terminated.

WHEREFORE, MOVANT SEEKS an Order terminating the  current support  arrears/back support obligation and modifying any Income

Withholding Order accordingly. Employer: DEF Corporation  
Address 456 North Street, Dover, DE 19901

Obligor also wishes payment on arrears/back support to be increased to \$  per   
 Other: (Attach add'l pages if necessary)

MOVANT AFFIRMS that the above statements are true and that this motion was filed with Family Court and a copy was deposited in the U.S. Mail on 12/22/2016 with sufficient postage, addressed to  the Division of Child Support Services (appropriate county address on reverse of form) AND:

Sarah Smith 111 South Oak Street, Dover, DE 19901

12/22/2016

Date

Sign in the presence of a notary.

Michael Jones

Movant/Attorney

Sworn to subscribed before me:

Donna King

12/22/2016

Clerk of Court/Notary Public

Date

**NOTICE: RESPONDENT HAS THE RIGHT TO FILE A RESPONSE WITHIN TEN (10) DAYS OF THE SERVICE OF THIS MOTION. IF NO RESPONSE IS TIMELY FILED, THE MOTION MAY BE DECIDED WITHOUT OTHER OPPORTUNITY TO BE HEARD.**

PURSUANT TO 13 Del. Code §517, UPON CONSIDERATION OF THE MOTION AND  DCSS account statement  Response  No Response

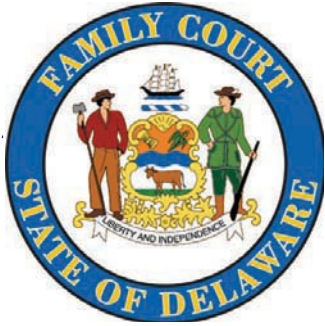
### IT IS SO ORDERED THAT:

- Current Support Order is REVOKED effective   Back Support/Arrears Order is REVOKED
- Income Attachment is:  Cancelled  Modified \$  /mo.
- Continued at \$  /mo. all on arrears..  Medical Support Order and any attachment are REVOKED
- RESPONDENT  DCSS REFUND ANY OVERPAYMENT IN ITS POSSESSION  DCSS apply any later payments to arrears
- The Motion is DENIED
- Other:

So Ordered this Date:

Judge/Commissioner

CC:  FILE  PARTIES  DCSS ATTY  DCSS ACCOUNTING  DCSS OPERATIONS  OS AGENCY  Other:



# Service on Non-Delaware Residents

## In Support and Paternity Proceedings

FAMILY COURT OF THE STATE OF DELAWARE

<http://courts.state.de.us/family>

**When a Respondent in a Support or Paternity Proceeding lives out of state, it is the responsibility of the Petitioner to make sure the Respondent is served with the petition. The law relating to service of a non-Delaware resident can be found at Title 10 of the Delaware Code, Section 3104(d).**

### **What do I file?**

**Along with your Petition, you must file an Affidavit in Support of Jurisdiction Over a Non-Delaware Resident (form #391). On this form, you are explaining to the Court why it is that the Respondent has enough contact with Delaware that the Delaware Family Court would have the right to hear the petition.**

### **How do I serve the Respondent?**

**The Court will contact you when your “service packet” is ready. This will include the paperwork that you need to serve on the Respondent. You may serve these documents by the following methods:**

- 1) By personal delivery in the manner prescribed for service in Delaware**
- 2) In the manner provided by law in the state where the Respondent shall be served.**
- 3) By any form of mail addressed to the person to be served and requiring a receipt (certified mail, registered mail, FedEx, DHL, etc.)**

### **What happens after I serve the Respondent?**

**After successful service, you must complete and file an Affidavit of Service (form #277). If you served the Respondent by mail, you must attached the receipt showing proof of service. You must also file an Amended Petition (form #—)**

## **When will my case be scheduled?**

**Your case will not be scheduled until you successfully serve the Respondent and file the Affidavit of Service along with the Amended Petition.**

## **How long do I have to serve the Respondent?**

**You have 90 days from the date that you receive the service packet to serve the Respondent. If you do not complete service within 90 days, the Court may dismiss your Petition. After return of receipt of service, you have 10 days in which to file the affidavit of service. If you do not file within 10 days of receipt, the Court may dismiss your Petition.**

## **What if the Respondent will not accept service?**

**If using a mail service, a receipt marked received or refused will constitute service. A receipt marked unclaimed is not valid service.**