
Evidence to Support Variation of a Support Order

A person applying to change (vary) a support order is called the Applicant. This is true whether the applicant is the person receiving support (the recipient), or paying support (the payor).

You know the reasons why you want to change your support order. It may be because there have been changes in your life, or in the needs of your children, or something that is different in the respondent's circumstances. Form 13 gives you a way to organize that information, and to show it to the court. The court is in the reciprocating jurisdiction where the respondent lives.

You will have to fill out other forms to go along with your application. As you read this ISO Guide, make a note of which ones you will need in the worksheet section at the end. Make sure you have a working copy of each of the forms you need, and set aside your 'good' copy of each form.

Getting Started

You start by telling the court what you are asking for. You want to change the support order(s) or written agreement(s) between you and the respondent. The court needs any order that deals with parentage or support. On the lines at the top of Form 13, write the dates of any order or agreement. This is just a list of the dates. You will attach the order(s) or agreement(s) to Form 1.

Do you need to get certified copies of your orders/agreements? Do you have Form 1? Add anything you need to your worksheet.

Choices

The court needs to know your role in the application. If you are the person who is ordered to pay support, check off the first box. If you are the recipient, and you are or should be, receiving support, check the second box.

Now, read the next two headings carefully. These choices can be made by you whether you are *either* the recipient or payor. It just depends on your circumstances.

"I ask the court to vary the amount of support to be paid for":

- a child or children
- the recipient."

Example #1:

Jasmine and Tyler have a court order for child support. The court used the child support guidelines. The younger child now has a learning disability and speech problems, and needs special tutoring and speech therapy. Jasmine would like Tyler to share the expenses. She wants to add special expenses to the amount of support. She will fill out Forms 1, 2, 6, 8, and 12.

Example #2:

Louis is having a hard time making ends meet, and is behind on his support payments. He and his wife have just had a second baby so his wife is not working. He was laid off his job, and his new job doesn't pay as well, and he has a long and expensive commute to work. His widowed mother – who is ill – has now come to live with the family, and he is supporting her. Louis wants the court to make a new order, which takes into account his change in circumstances. He would fill out Forms 13, 1, 2, 6, 9 and 12.

Those are two examples. One is a support recipient who wants to **increase** the amount of support. The other is a payor who wants to **decrease** support. Both want to change support amounts in the orders they have now. If you want to change the amount, check off the box on the left side.

"I ask the court to end support to be paid for:"

- a child or children
- the recipient.

Example #3:

Tom has been paying support for years. Eight months ago his daughter turned 18, and he stopped paying. The "age of majority" where she lives is 18 (it's 19 in New Brunswick). The Family Support Orders Service (FSOS) said he has to keep paying because she is still in school. He doesn't agree. He believes a child should be independent after the

age of majority, and wants the court to end his duty to support his daughter. He will fill out Forms 13, 1, 2, 6, and 11.

Example #4:

Nguyen has an order to pay support for his former spouse, Kim. He also pays support for their children. Kim is in a new marriage, and Nguyen has heard that she's finished the training she was taking and is now working and living very well. He has no problem paying child support, but wants to end the support for Kim. Nguyen will fill out Forms 13, 1, 2, 6, and 11.

In both these examples, the applicant wants to **end** support. In one case, it's to end support for one child. In the other, it's to end support for the recipient. Both examples have the support payor making the application. A recipient can also apply to end support, but this is more likely to be done by consent or agreement between the people involved. If you want to end the support paid for one or more children, or the recipient, check off the box.

Note: If you receive income assistance from the Department of Family and Community Services (FCS) and have assigned your maintenance (support) rights to FCS, you may not have the right to apply to change your order, or agree to a change, unless FCS is involved. Talk to your caseworker.

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You have now listed your support order(s) or written agreements(s), identified yourself, and told the court what you are asking for. As you go through the rest of this ISO Guide and Form 13, look back at the four examples. Some of the information may apply to you.

You may want to see a lawyer to talk about the change you want to make, and the rules the court will use. If you do see a lawyer, it may help to fill out Form 13 first. It will help to organize your information and reasons.

The rest of Form 13 gives you places to write down the reasons why you want your order changed. Each numbered paragraph starts with a statement that you are making. After the statement, in brackets, is the kind of information you need to tell the court. The other forms you include with your application will give more detail.

1. Applicant's change in circumstances

You are the applicant. In this section you write about things that have changed in your life. You are saying those changes mean your order should be varied (changed). The applicant in Example #2 would use this section. If this part does not apply to you, write "N/A" or "Not Applicable" on the first line.

2. Child's change in circumstances

You use this section if the needs of a child have changed. Jasmine, from Example #1, would use this section to talk about her child's learning disability and speech problems, and the need for tutoring and speech therapy. She would mention the costs, and her Form 8 would give more details. And Tom, from Example #3 would probably use this section too. He would say that he believes his daughter should be on her own at age 18. (And, just so you know, the court would ask the child's mother for proof that the child was still in school, and still needed support.)

3. Respondent's change in circumstances

The respondent is the other person. The applicant in Example #4 is asking that support for his former spouse should end. It's not because something has changed in his life, or in the lives of the children, but that she no longer needs his support. And Tom, from Example #3, might try this one too, although his 18-year old daughter is not the respondent, his former wife is.

4. Applicant / Payor's application to reduce or cancel arrears

If you are a payor applying to change your order, fill out this section. You must tell the court if there is any unpaid support, and what efforts you have made to pay the amount. Just read through each of the statements, and check off any that apply to you.

If you have 'old' arrears (unpaid support) going back many months, or years, you need to tell the court why you are applying to reduce or cancel them now, rather than when they started to add up. What was the reason for the delay?

The court will also want to know about your finances and employment in times when you did not pay support. For each year when you did not pay all the support, attach a copy of that year's income tax return for Form 11.

Louis, from Example #2, will check off the first box and fill in the amount owing. He is hoping for a

