

**REPRESENTING YOURSELF IN YOUR MOTION TO MODIFY CUSTODY OR
SHARED PARENTING**

This Webpage is for informational purposes only. It does not constitute legal advice and should not be relied upon as legal advice. For specific legal advice, consult with an attorney.

*Every effort has been made to present accurate and up-to-date information on this page.
However, procedures, laws, and rules change over time.*

Please read the General Information on our Website. A link is provided for you [here](#).

If you are a parent seeking to Modify a prior Order of this Court awarding legal custody of your child, or a prior Order of this Court awarding Shared Parenting of your child to you and the other parent, you would file with this Court a Motion to Modify Custody or a Motion to Modify Shared Parenting. You will be notified of the date and time of an Initial Hearing in Court.

You must provide the Court with a current address for the other parent (or other party if the current party having legal custody of your child is not the other parent) so that he/she may be served with a copy of this Motion.

If your Complaint is not contested by the other parent, it is likely that, after you give some brief testimony in answer to the Court's questions, a Custody Order will be issued by the Court.

If you and the other parent have not reached an agreement on the custody issue, at the Initial Hearing the Court will offer to you the services of our Mediation Program. This is a no-cost program which allows you and the other parent/party to sit down with a Court Mediator in the hope of reaching an agreement. If Mediation is successful, a written Mediation Agreement will be prepared by the Mediator. You and the other parent/party will appear before the Judge or Magistrate and sign the Agreement. The Court will then put on an Order adopting the Mediation Agreement. This means that it is a valid Order of the Court. The Mediation Agreement is not binding and enforceable unless and until the Agreement is adopted by the Court; therefore, you must attend this hearing.

If Mediation was not successful, then your Motion to Modify Custody or Shared Parenting will be scheduled for trial. Please refer to the link above for helpful tips about preparing to represent yourself at trial.

This Motion is a two-step process. First, there will be a hearing to determine whether there has been a substantial change of circumstances in the minor child and/or the other parent/party. You have the burden of proving, by a preponderance of the evidence, that such a

change of circumstances has occurred. You must prove that, since the date of the last Order of Custody or Shared Parenting, there has been a substantial negative change of circumstances in the minor child and/or the other parent/party. You will not be permitted to use as evidence anything that occurred prior to the last Order of Custody/Shared Parenting. If, at the conclusion of the evidence, the Court finds that there has not been sufficient evidence of a change of circumstances, your Motion to Modify Custody/Shared Parenting will be dismissed.

However, if the Court does find that there has been sufficient proof of a substantial change of circumstances in the minor child and/or the other parent/party, a hearing will then be scheduled to determine the best interest of the minor child. The Court will then determine whether it is in the best interest of the minor child to remain under the current Order of Custody/Shared Parenting, or whether to modify the current Order, which likely would mean a significant change in the daily life of the minor child (e.g. a change of primary residence, a change of schools). In determining the best interest of your child, the Court is required by law to consider the following factors that are set out at Ohio Revised Code Section 3109.04(F):

3109.04(F)(1)(a) The wishes of the child's parents regarding the child's care....

3109.04(F)(1)(b) If the court has interviewed the child in chambers pursuant to division (B) of this section regarding the child's wishes and concerns as to the allocation of parental rights and responsibilities concerning the child, the wishes and concerns of the child, as expressed to the court....

3109.04(F)(1)(c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest....

3109.04(F)(1)(d) The child's adjustment to the child's home, school, and community....

3109.04(F)(1)(e) The mental and physical health of all persons involved in the situation....

3109.04(F)(1)(f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights....

3109.04(F)(1)(g) Whether either parent has failed to make all child support payments, including all arrearages, that are required of that parent pursuant to a child support order under which that parent is an obligor....

3109.04(F)(1)(h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the

time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child....

3109.04(F)(1)(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court....

3109.04(F)(1)(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state....

You must be prepared to offer evidence that is relevant to these factors.

You may ask the Court to interview your child privately (outside the presence of you and the other parent). To do so, you must file a Motion for *In Camera* Interview of the Child. While there is no minimum age requirement for a child to be interviewed, the child must be old enough, and mature enough, to effectively communicate with the Judge or Magistrate. Your child must be able to answer the questions that the Judge or Magistrate asks. The Court can only interview your child as a part of this hearing on best interest; the Court cannot interview your child during the change of circumstances proceedings.

You may ask the Court to appoint a Guardian Ad Litem. A Guardian Ad Litem is a person appointed by the Court to represent a child's best interests in the Court proceeding. If you make this request, you would be financially responsible for the expenses associated with the Guardian Ad Litem's services. The Court requires an initial deposit of \$500.00. The total expenses are usually more than the initial deposit. The Guardian Ad Litem will visit the homes of all parties involved, will talk with the child's teachers and other individuals (e.g. doctors, tutors, therapists) , and will interview the child if the child is old enough to communicate. The Guardian Ad Litem will then prepare a written Report and Recommendations and file it with the Court. You will have an opportunity to read and review the Report.