

NOTICE OF MOTION AND MOTION TO STOP
COST-OF-LIVING ADJUSTMENT
INSTRUCTIONS

People who pay child support and/or spousal maintenance obligations may ask the court to stop the cost-of-living adjustment to a child support and/or spousal maintenance order. The Notice of Motion and Motion to Stop Cost-of-living Adjustment **must be filed before the effective date of the adjustment**. The effective date should be stated in your court order.

STEP 1
FILL OUT THE “NOTICE OF MOTION AND MOTION TO STOP
COST-OF-LIVING ADJUSTMENT” FORM (CSD402)

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order, or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.
- The court file number.
- The name of the Petitioner.
- The name of the Respondent.

If you are the Petitioner in the current order or decree you will be the Petitioner in this motion. If you are the Respondent in the current order or decree you will be the Respondent in this motion.

Fill in the name and last known address of the other party. **DO NOT** fill in the date, time, and location of the hearing. You will fill in this information as part of Step 4 below.

STEP 2
FILL OUT THE “AFFIDAVIT IN SUPPORT OF MOTION TO STOP
COST-OF-LIVING ADJUSTMENT” FORM (CSD403)

Fill in the top of the form the same way you did on your “Notice of Motion and Motion to Stop Cost-of-living Adjustment” form. Fill in all the appropriate lines.

Signing the Affidavit under penalty of perjury means you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

STEP 3
FILL OUT THE “COVER SHEET FOR NON-PUBLIC DOCUMENTS” FORM 11.2.
FILL OUT “CONFIDENTIAL INFORMATION” FORM 11.1 WHEN NECESSARY.

NOTE! Most documents filed with the court are considered public documents and available to the public. Certain information that is filed with the court may be considered confidential based on court rule and not available to the public. To keep this information confidential and not available to the public, you must take certain steps described below.

The steps listed below are for filers who are filing paper documents. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.03 and 14.06.

Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called “restricted identifiers”) must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account numbers on statements) you must remove the number on the document before filing the document with the court.

Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You **must** identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.1 and Form 11.2 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

STEP 4
OBTAIN A HEARING DATE, TIME, AND LOCATION
FROM COURT ADMINISTRATION

- Contact the court administrator's office in the county where your case is located.
- Ask for a hearing date, time, location of the hearing, and the name of the judicial officer who will hear the matter. The hearing date must be at least 24 days away from the date the documents *are mailed* to the other party. Count the day before the hearing as Day 1, and continue to count backwards. **Remember, all documents must be served upon all parties and filed with the court before the cost-of-living adjustment effective date!**

Completing these forms does *not* guarantee that the court will stay the cost-of-living adjustment. The other party has the right to ask the court to grant the cost-of-living adjustment. A Child Support Magistrate or District Court Judicial officer will make the final decision.

STEP 5
MAKE COPIES OF FORMS

After the forms are completely filled out, make two copies of the motion form and two copies of your affidavit and two copies of all documents that support your motion (for example, tax returns, employer statements, tax schedules, W-2 forms, and paycheck stubs). **Do not** make copies of Forms 11.1 or 11.2, unless you want copies for your own records.

Keep one copy of each form and one copy of all supporting documents for yourself (remember to bring your copies with you to court on the day of your hearing).

STEP 6
HAVE COPIES OF THE FORMS SERVED ON THE OTHER PARTY

Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. If papers are served by mail, Court Rules require adding three days.

If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.

Papers cannot be served on a legal holiday as defined in Minn. Stat. § 645.44, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You (only if your hearing is in front of a district court judicial officer or referee; if your hearing is in front of a child support magistrate, then court rules require service by an adult who is not a party to the case).

Personal Service

At least 21 days before the hearing date, one copy of your forms and supporting documents are hand-delivered to the other party personally, or are left at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence.

Service by Mail

At least 24 days before the hearing date, one copy of your forms and supporting documents are mailed by first class U.S. mail to the other party.

Note: if your hearing is in front of a child support magistrate, different deadlines might apply. See court form number CSX1101 (<http://mncourts.gov/GetForms.aspx?c=6&f=120>). If you are not sure which deadlines apply to your case, you may need to get legal advice. See <http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>.

Warning! If your documents are not timely served, your motion may not be heard by the court.

STEP 7 COMPLETE THE "AFFIDAVIT OF SERVICE" FORM

The person who hand delivers or mails the envelopes must fill out an "Affidavit of Service" form for each party served.

The server must sign the "Affidavit of Service" under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 8 FILE THE FORMS WITH COURT ADMINISTRATION AND PAY ANY REQUIRED COURT FEE

The following documents must be filed with the court in the county where your case is located as soon as practical but no later than **21 days** before the scheduled hearing **and before May 1st if the county agency is a party**.

- The “Notice of Motion and Motion to Stop Cost-of-living Adjustment”
- The “Affidavit in Support of Motion to Stop Cost-of-living Adjustment”
- The “Affidavit of Service”

Form 11.2

You must file copies of all supporting documents (such pay stubs, employer statements, tax returns, verification of medical/dental insurance costs or expenses, child care expenses, disability payments) and attach Form 11.2 to copies of all supporting documents. Be certain to blacken out all social security numbers that appear on any other document not under cover of Form 11.2. Check your documents to make sure all blanks are filled in, especially on the Affidavit of Service and the motion. All papers served must be identical copies of the forms and supporting documents filed with the court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

Court Fees

You must be prepared to pay any court fee, if applicable, at the time of filing. If you did not pay an initial filing fee when this case first began, you will now need to pay the filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee waived by the court. You will need to fill out the *Request for Fee Waiver* forms (available from court administration or online at <https://mncourts.gov/GetForms.aspx?c=19&p=69>) and file it with court administration. Your application will be reviewed by a judicial officer who will decide whether you must pay the fee. If the judicial officer does not sign an order that waives the fee, you must be prepared to pay the fee.

STEP 9 APPEAR AT THE HEARING

Go to court on the date and time scheduled for the hearing. Be sure to bring with you your copy of the “Notice of Motion and Motion to Stop Cost-of-living Adjustment” and “Affidavit in Support of Motion to Stop Cost-of-living Adjustment” and all of your supporting papers.