

INSTRUCTIONS

Agreement and Order to Waive (or Partially Waive) Cost-of-Living Adjustment

Information you will need for this process:

- The name and address of each party;
- Your detailed agreement regarding the proposed Cost-of-Living adjustment;
- The dollar amount of each party's current monthly child support and/or spousal maintenance obligation;
- The dollar amount the court-ordered court-ordered child support and/or spousal maintenance obligation would increase to according to the cost-of-living adjustment; and
- The dollar amount of child support and/or spousal maintenance that the parties agree one party will pay the other party moving forward.

Important Notices and Resources

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. If you receive the notice of the cost-of-living adjustment from the child support enforcement agency, the cost-of-living adjustment is effective on May 1st.

Have a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self-Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

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.

General Information About

The information contained in this document is not intended as legal advice but as a general guide to you to explain the legal process. If you do not understand any of these procedures, talk to an attorney. Court staff cannot give legal advice.

Step 1

Fill out the *Agreement and Order to Waive (or Partially Waive) the Cost-of-Living Adjustment Form (CSX1105)*

The Caption

<p>State of Minnesota</p> <p>County A</p> <hr/> <p>Petitioner(s) C</p> <p>vs</p> <p>Respondent D</p>	<p style="text-align: right;">District Court</p> <p>Judicial District: _____</p> <p>Court File Number: _____ B</p> <p>Case Type: _____</p> <p style="text-align: center;">Agreement and Order to Waive (or Partially Waive) Cost-of-Living Adjustment</p>
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- A. List the county where you will be filing the *Agreement*.
- B. List the Judicial District the county is located in. Each county belongs in one of ten judicial districts. If you need help to figure out the judicial district, see <http://www.mncourts.gov/Find-Courts.aspx>. List your Court File Number.
- C. Include the full name of each Petitioner.
- D. Include the full name of the Respondent.

PART 1 – INFORMATION

In the first half of the *Agreement*, you will be giving the court information about the parties and the court-ordered support obligation for **basic child support** and/or **spousal maintenance**.

Obligor means the party who *owes* and *pays* child support and/or spousal maintenance to the other party.

Obligee means the party who *receives* child support from the other party.

<u>FINDINGS OF FACT</u>	
1	Information about the Obligor.
a.	The Obligor's name is _____ a
b.	The Obligor is the <input type="checkbox"/> <u>Petitioner</u> / <input type="checkbox"/> <u>Respondent</u> in this case. b
c.	The Obligor's address is: _____ c _____
d.	The Obligor's date of birth is: _____ d _____

1. In this section, you will include information about the **Obligor** (the person court-ordered to pay child support and/or spousal maintenance).
 - a. List the Obligor's name.
 - b. Check the box to let the court know whether the Obligor is the Petitioner or Respondent.
 - c. Include the Obligor's address. NOTE: if this is a *new* address, please give court administration the address. Minnesota law requires you to report any new addresses to the court.
 - d. Include the Obligor's date of birth (MM/DD/YYYY; for example: 08/18/1988).

2	Information about the Obligee (person who receives).
a.	The Obligee's name is _____.
b.	The Obligee is the <input type="checkbox"/> <u>Petitioner</u> / <input type="checkbox"/> <u>Respondent</u> in this case.
c.	The Obligee's address is: _____ _____
d.	The Obligee's date of birth is: _____.

2. Fill out #2 about the **Obligee**.

3 Current Obligation. The amount of the Obligor’s currently monthly support obligation is:

a. \$ a for basic support; and/or

b. \$ b for spousal maintenance.

3. Fill out the dollar amount of current court-ordered monthly obligation:
- For basic child support (if there is not a court order to pay basic child support, you can type or write “N/A” for “not applicable”); and/or
 - For spousal maintenance (if there is not a court order to pay spousal maintenance, you can type or write “N/A”)

4 Notice of the Cost-of-Living Adjustment. The Oblige was notified that the Obligor’s court-ordered obligation would increase by _____% on May 1, 20____. According to the *Notice*, the obligation would increase to the following amounts:

a. \$ a for basic support; and/or

b. \$ b for spousal maintenance.

4. The information for #4 is found on the *Notice of the Cost-of-Living Adjustment*. First, include the percentage of increase, then list the **current** year (note that the first two numbers are already printed – “20__” – so you only need to fill in the last two numbers).

If the cost-of-living adjustment goes into effect, tell what the new amounts would be for:

- Basic child support (or, if no court order, list “N/A”); and/or
- Spousal maintenance obligation (or, if no court order, list “N/A”).

PART 2 – AGREEMENT AND REQUEST FOR COURT ORDER

The second half of the *Agreement* describes what you and the other party have agreed to about the cost-of-living adjustment.

5 Parties’ Agreement. The parties agree to the following (check only 1 of the boxes):

There will NOT be a Cost-of-Living Adjustment effective May 1, 20____ (the current year).

OR

There will be a *partial* Cost-of-Living Adjustment effective May 1, 20____ (the current year). The obligation will be as follows:

a. \$ a for basic support; and/or

b. \$ b for spousal maintenance.

If you choose the first option, fill in the last 2 digits of the current year.

5. There are two options in #5. You may choose **only one option**. You and the other party can agree:

- Option 1 – There will be NO cost-of-living increase in court-ordered support;

OR

- Option 2 – There will be a *partial* cost-of-living adjustment, which means there will be a change to the current support obligation, but not in the percentage and amount listed in the *Notice of Cost-of-Living Adjustment*. If you choose this option, fill in the last 2 digits of the **current** year. Then show the amount you have agreed on:
 - a. For basic support; and/or
 - b. For spousal maintenance.

6

Basis for the Parties' Agreement. The parties believe this agreement is in the best interests of the joint children. The agreement is based on the following facts:

The obligor's income has not sufficiently increased in the past two years to enable the Obligor to pay the increased amount of support listed on the *Notice of Cost-of-Living Adjustment*.

Other: _____

6. This section tells the court the basis for your agreement (**why** you and the other party are agreeing to waive, or partially waive, the cost-of-living increase).

If the reason is that the Obligor's income has not increased by the same percentage as the cost-of-living increase that was proposed in the *Notice*, check the first box under #6.

If there are other reasons you and the other party agree to waive or partially waive the cost-of-living adjustment, check the second box and include d on the lines provided. Some examples might be that the cost of providing insurance has increased, or that the Obligor is paying for things that were not ordered by the court, such as car insurance, a cell phone bill, athletic fees, or other needs of the children.

PART 3 – COURT ORDER

In the order section of the document, you will be describing what you have agreed the court order will be about the cost-of-living adjustment and child support and/or spousal maintenance.

1 ORDER

1. Effective May 1, 20_____, Obligor's court-ordered support obligation shall be as follows:

a. **Basic support** of \$ _____ **a** per month. This amount is the current amount / partially increased amount.

b. **Spousal maintenance** of \$ _____ **b** per month. This amount is the current amount / partially increased amount.

2. This Order applies to the current year only. The application of the Cost-of-Living Adjustment for any future year is not affected by this Order.

1. List the **current year**.

- a. Check this box if your agreement is about the **basic support obligation**. Then state 2 things:
- i. The **amount** of basic support you and the other party have agreed on, and
 - ii. Whether this amount is the *current amount* (which means you have agreed to waive the cost-of-living adjustment), or the *partially increased amount* (which means you have agreed to a partial waiver of the cost-of-living adjustment).
- b. Check this box if your agreement is about the **spousal maintenance obligation**. Then state 2 things:
- i. The **amount** of spousal maintenance you and the other party have agreed on, and
 - ii. Whether this amount is the *current amount* (which means you have agreed to waive the cost-of-living adjustment), or the *partially increased amount* (which means you have agreed to a partial waiver of the cost-of-living adjustment).

2. You do not have to do anything for #2; this statement is meant for you to agree and understand that the Order will not apply to future cost-of-living adjustments.

Signature Block

Each party should **read through the Agreement and Order** at least one more time to make sure it contains the parties' full agreement. Details of an agreement that are not included in this *Agreement and Order* may not be enforceable later.

Signature of the Parties

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

<p>Signature (Petitioner) _____</p> <p style="text-align: right;">Date _____</p> <p><input type="checkbox"/> Obligor <input type="checkbox"/> Obligee</p> <p>Printed Name: _____</p> <p>County and State where signed: _____</p>	<p>Signature (Respondent) _____</p> <p style="text-align: right;">Date _____</p> <p><input type="checkbox"/> Obligor <input type="checkbox"/> Obligee</p> <p>Printed Name: _____</p> <p>County and State where signed: _____</p>
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Once both parties are sure the form is complete:

1. The **Petitioner** should sign the line on the left side of the page, and check the box telling whether the Petitioner is the Obligor or the Obligee.
2. List the date Petitioner signed the form.
3. Print Petitioner’s name.
4. List the county and state Petitioner is in when they sign the *Agreement and Order*.
5. Repeat Steps 1-4 on the right side for the **Respondent**.

You each will sign this document under *penalty of perjury*. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/cite/609.48>).

Waiver of Counsel

Waiver of Counsel

I know I have the right to be represented by an attorney of my choice. I expressly waive that right, and I freely and voluntarily sign this *Agreement*.

Signature (Petitioner)	Date	Signature (Respondent)	Date
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Both parties should sign and date the “Waiver of Counsel” section (the Petitioner on the left side; the Respondent on the right).

Step 2
County Attorney

If you, the other party, or any of the children receive public assistance, then contact the public authority in your county to ask them to review the completed *Agreement*. The county child support office (public authority) in the county where the children live can put you in touch with the county attorney’s office. See <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-support/contact-us/county-offices.jsp> .

Signature of County Attorney or Assistant County Attorney

Approved as to content on behalf of the Public Authority:

Date County Attorney/Assistant County Attorney

If the public authority agrees to the terms you included in the *Agreement*, then a representative of the public authority or county attorney’s office will date and sign the *Agreement*.

If the public authority DOES NOT AGREE, you can talk to the public authority to see what their concerns are. Maybe you can reach an agreement with the public authority. If you cannot reach an agreement with the public authority, and a parent or child receives public assistance, then the *Agreement* form is not the right form for your situation. You may need to get legal advice to see what your options are.

Step 3
File with Court Administration and Pay Any Required Court Fee

If you want copies of the forms you have filled out, make copies *before* you file them with the court.

You will need to file the following form with Court Administration:

- *Agreement and Order to Waiver (or Partially Waive) Cost-of-Living Adjustment.*

You can file the form in person at the courthouse, by mail, or electronically through the *eFile and eServe* (“eFS”) tool (<http://mncourts.gov/File-a-Case/File-in-A-District-Trial-Court.aspx>).

If you need to find the address of a courthouse, look online at <http://www.mncourts.gov/Find-Courts.aspx> (choose the county from the drop-down menu and click “Go”).

Filing Deadline

The *Agreement* must be filed **before the effective date of the cost-of-living adjustment**. If you received the notice about the cost-of-living adjustment from the county child support agency, then you must file your *Agreement* by April 30th.

Court Fee

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 fee waived by the court. You will need to fill out an In Forma Pauperis application (available from court administration or online at <http://mncourts.gov/GetForms.aspx?c=19&p=69>) and file it with court administration. Your fee waiver application will be reviewed by a child support magistrate or judge who will decide whether you must pay the fee. If the magistrate or judge does not sign an order that waives the fee, you must be prepared to pay the fee.

What to Expect Next

The court will review the form and any attachments you have filed.

You will hear from court administration soon after you file. You might receive one or more of the following:

- ***Deficiency Notice*** (a notice that tells the parties there is a deficiency in their filing; for example, that something is missing or that a filing fee needs to be paid)
- ***Notice of Hearing*** (a notice that tells the parties that a hearing has been scheduled and gives details such as the date, time, and location of the hearing). There may be a hearing if the court has questions or concerns about your agreement.

If the court approves your agreement, the judicial officer will sign the “Order” section of your *Agreement*. Once court administration enters the signed *Agreement*, which becomes a court order if a judicial officer signs it, you will receive a copy in the mail.