

INSTRUCTIONS

Motion to Modify Spousal Maintenance

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide 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 court administration or call the Minnesota State Law Library at 651-297-7651.

Forms You May Need

- *Motion to Modify Spousal Maintenance and Notice of Hearing* (DIV2002);
- *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003);
- *Instructions – Financial Affidavit* (FAM101);
- *Financial Affidavit* (FAM102);
- *Cover Sheet for Non-Public Documents (Form 11.2)* (CON112); and
- Proof of Service – for example, *Affidavit of Service by Mail* (SOP104) or *Affidavit of Personal Service* (SOP102).

Forms are available online at <https://mncourts.gov/GetForms.aspx?c=15> (look for the “Spousal Maintenance” section).

What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. Gather proof of your financial situation.
3. Contact court administration to schedule a hearing.

4. Make copies of your forms and all attachments.
5. Arrange for the other party to be served with a copy.
6. File your forms and attachments, and the proof of service (the *Affidavit of Service* form).
7. Appear at the hearing. Each “step” here is described in more detail below.

General Information

According to [Minn. Stat. § 518.552](https://revisor.mn.gov/statutes/cite/518.552) (revisor.mn.gov/statutes/cite/518.552), the court may grant a maintenance order for either spouse in a court proceeding for:

- Dissolution of marriage (divorce);
- Legal separation; and
- Spousal maintenance following a divorce by a court which lacked personal jurisdiction over the absent spouse, and which has since acquired jurisdiction.

The law sets out specific things the judicial officer has to consider and findings that the judicial officer has to make. The spousal maintenance order will either be *transitional* (temporary) or *indefinite* (permanent). The “obligor” is the person paying spousal maintenance and the “obligee” is the person that receives spousal maintenance.

If either party’s circumstances have substantially changed since the court issued the spousal maintenance order (for example, a judgment and decree from a dissolution case), a party can ask the court to **modify** (change) the spousal maintenance order by serving and filing a *motion* and a *supporting affidavit*.

- A *motion* is used to tell the court and the other party **what** you’re asking for.
- A *supporting affidavit* is used to give all the facts that support the motion. The supporting affidavit explains **why** you believe the motion should be granted.

What is meant by “modification” of spousal maintenance?

Modification means a *change* in the court order regarding spousal maintenance. Examples of ways spousal maintenance can be modified include:

- Changing the amount (increasing or decreasing);
- Changing the duration;
- Temporarily suspending (stopping) the obligation to pay spousal maintenance;
- Reserving spousal maintenance (if something is “reserved,” it means that the court does not decide that issue now, but the issue is reserved until some point in the future); or
- Terminating (ending) the obligation to pay spousal maintenance.

What are the legal grounds (reasons) for modification?

There are limited circumstances when a court can modify spousal maintenance. It is very important that your forms contain the details – the facts – that Minnesota law says the court needs to consider.

If you are not sure whether your situation would meet the legal standards required for spousal maintenance modification, you can get legal advice. Visit the [“Find a Lawyer” Help Topic](#) to see what legal resources are available in your area (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

In the first few paragraphs the *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003), you will explain the grounds for modifying spousal maintenance in your case. The options include the following:

Unreasonable and Unfair

[Minn. Stat. § 518.552, subd. 5b](#) (revisor.mn.gov/statutes/cite/518.552)

A court may modify the terms (amount and duration) of a spousal maintenance order if a party can show one or more of the following circumstances that make the terms of the existing order **unreasonable and unfair**:

1. Substantially increased or decreased **gross income** (before taxes and deductions) of the **obligor** (person paying spousal maintenance) or **obligee** (person receiving spousal maintenance);
2. Substantially increased or decreased **need** of an obligor or obligee; or
3. Substantial changes in the federal or state tax laws that affect spousal maintenance.

Remarriage of the Oblige, or Death of Either Party

[Minn. Stat. § 518.552, subd. 5a](#) (revisor.mn.gov/statutes/cite/518.552)

The obligation to pay future spousal maintenance is terminated (ends) upon the death of either party, or the remarriage of the obligee (person receiving spousal maintenance), **unless**:

1. Parties have a written agreement that says otherwise; or
2. There is something in the judgment and decree (J&D) granting the dissolution that expressly says otherwise.

Cohabitation of Oblige with another Adult

[Minn. Stat. § 518.552, subd. 6](#) (revisor.mn.gov/statutes/cite/518.552)

If the obligee cohabitates (lives with) another adult after the divorce, the court may modify (reduce, suspend, reserve, or terminate/end) spousal maintenance.

When asked to modify spousal maintenance based on **cohabitation**, the court must consider the following factors:

1. Whether the obligee would marry the person they are living with but for the spousal maintenance;
2. The economic benefit the obligee gets from living with the other adult;
3. The length of time the obligee has lived with the other adult, and how long in the future they are likely to live together; and
4. The economic impact on the obligee if spousal maintenance is modified and the cohabitation ends (they stop living with the other person).

A person asking the court to modify spousal maintenance based on **cohabitation** needs to give detailed information about each of the factors.



Note about timing: According to Minn. Stat. § 518.552, subd. 6(c), a motion to modify spousal maintenance based on the obligee living with another adult **may not be brought within one year** of the date of entry of the decree of dissolution or legal separation that orders spousal maintenance, unless the parties have agreed in writing that the parties may ask the court to modify spousal maintenance, or the court finds that failing to allow the motion to proceed would create an extreme hardship for one of the parties.

Retirement

[Minn. Stat. § 518.552, subd. 7](https://revisor.mn.gov/statutes/cite/518.552) (revisor.mn.gov/statutes/cite/518.552)

When asked to modify spousal maintenance based on **a party's retirement**, the court must consider the following factors:

1. Whether the party is retiring in good faith or is unjustifiably limiting their income;
2. Whether the party has reached the age where they will receive their full retirement benefits under section 216 of the Social Security Act, or the customary age for retirement in their occupation;
3. Whether a party has reasonably and prudently managed their assets since the dissolution of the marriage; and
4. What financial resources are available to both parties.

According to Minn. Stat. § 518.552, subd. 7(c) and (d):

- It is presumed that when a party is old enough to reach their full retirement benefits under section 216 of the Social Security Act, or the customary age for retirement in their occupation, the party will use both income and assets to meet their needs.
- A party must not be presumed to have retired in bad faith or to have unjustifiably limited their income when the party's retirement happens on or after the date they

reach the age to receive full retirement benefits under section 216 of the Social Security Act, or the customary age for retirement in their occupation.

A person asking the court to modify spousal maintenance based on a **party's retirement** needs to give detailed information about each of the factors.



Note about timing: According to Minn. Stat. § 518.552, subd. 7(e), a motion to modify spousal maintenance based on a party's retirement may be brought before a party actually retires as long as the person requesting modification specifies the date by which the party's retirement will happen. If the court grants the motion, the court may make the modification of spousal maintenance effective as of the actual date of retirement.

Fill out the forms completely and accurately.

- If something does not apply to you, you may answer "N/A" (meaning "not applicable").
- If the answer to a question is "none," you can state "none."
- If you do not know the answer to a question, you can state "unknown." **But try not to leave blanks in your forms.**

Step 1

Fill Out *Motion to Modify Spousal Maintenance and Notice of Hearing* (DIV2002)

The *motion* form (DIV2002) is divided into the following sections:

- The [Caption](#) is at the top of the first page.
- The [Hearing Information](#) section is the other party's notice that you have scheduled a hearing for your motion.
- The [Motion](#) section is where you state how you want the spousal maintenance to be modified.
- The [Notice to the Other Party](#) tells the other party about the right to respond to your motion and affidavit forms, what deadlines apply, and where to find forms for responding.
- The [Acknowledgment](#) section is required on many "pleadings" (forms used to request something from the court). This is where you acknowledge certain important things, such as that the information you include is factual and truthful.
- The [Signature Block](#) at the end of the motion is where you sign the form and give your contact information.

The Caption

The caption is found at the top of the first page.

See Instructions (DIV2001) for help in filling out this form.

State of Minnesota **A** District Court **C**

County of: _____ Court File Number: _____

Judicial District: **B** Case Type: _____ **D**

_____ **E**

Petitioner

AND

_____ **F**

Respondent

Motion to Modify Spousal Maintenance and Notice of Hearing (DIV2002)
Minn. Stat. § 518.522

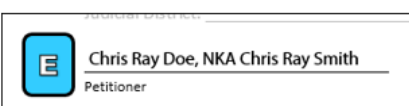
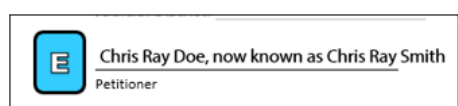
You can find information that goes in the caption on an existing form. You may also be able to find the information the section of the Minnesota Judicial Branch website called ["Minnesota Court Records Online" \(MCRO\)](http://mncourts.gov/Access-Case-Records/MCRO.aspx) (mncourts.gov/Access-Case-Records/MCRO.aspx).

- A. List the county where the case is located.
- B. List the judicial district the county is in. Each county belongs in one of ten [judicial districts](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).
- C. List the court file number. A court file number usually starts with two numbers followed by letters and more numbers (for example, 88-FA-22-1234).
- D. Fill in the case type (for example, "Dissolution with Child," "Dissolution without Child," or "Legal Separation").

Parties' Names

- E. List the Petitioner's name *as it appears in the case record*. Whichever party was the petitioner at the beginning of the case is still the petitioner.

If the petitioner's name has changed since the case started, you can add "NKA" (which stands for "now known as") and then include the petitioner's current name. It might look like this:

| | | |
|---|----|--|
|  | OR |  |
|---|----|--|

- F. List the Respondent's name *as it appears in the case record*. If the respondent's name has changed since the case started, you can add "NKA" and then include the respondent's current name.

Hearing Information

Leave this section blank for now. You will fill this in when you get to [Step 4 below](#).

Motion to Modify Spousal Maintenance

Motion to Modify Spousal Maintenance

My name is Your current name goes here.

At the top of this section, fill in your current name in the space provided.

The numbered paragraphs below correspond to the numbered paragraphs in the *Motion* form (DIV2002).

I ask the Court for the following relief:

1 1. To modify the **spousal maintenance** order dated Date of the current order (date of the existing order) as follows: (check all that apply)

Increase spousal maintenance.

Decrease spousal maintenance.

Change the duration of spousal maintenance as follows: _____

Temporarily suspend the spousal maintenance obligation as follows: _____

Terminate (end) the obligation to pay spousal maintenance as of the following date:

Other: _____

2 2. For any other relief the Court feels is fair and equitable.

I include the facts that support my request in an *Affidavit in Support of Motion to Modify Spousal Maintenance*.

1. There are two parts to paragraph #1:

- First, add the date of the existing spousal maintenance order that you are asking the court to modify.
- Then, check the box or boxes that describe what you want the court to order. For some of the options, there are blank lines to give more information. For example, if you check the box for “change the duration of spousal maintenance,” be sure to explain how you want the duration changed.

2. You do not have to fill out anything in paragraph #2.

Notice to the Other Party

You do not have to do anything in this section.

Acknowledgment

Read the statements in the Acknowledgment section very carefully. You do not have to fill out anything in this section, but each statement in the Acknowledgment section should be true. If something is not true, you are strongly encouraged to [talk to an attorney](#) before serving and filing your spousal maintenance modification forms (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx).

Signature Block

Sign the *Motion to Modify Spousal Maintenance and Notice of Hearing* form (DIV2002) and include your name and contact information in the blanks under the signature line.

Set this *motion* form aside for now. You will come back to it when you get to **Step 4** (scheduling a hearing).

Step 2

Fill Out the *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003), and the *Financial Affidavit* (FAM102)

The *affidavit* form (DIV2003), signed under penalty of perjury, is where you give the facts that support your *motion*. It is where you explain why you believe the court should grant the things you asked for in your *motion*.



What has changed? A person asking the court to modify spousal maintenance has to show that there has been a substantial change in one or both parties' circumstances since the existing order was issued.

The *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003) has the following sections:

- The [Caption](#).
- [Grounds \(Reasons\) for Modification](#).
- [Private Agreement](#).
- [Information from the Existing Order](#).
- [Current Information about You](#).
- [Signature Block](#).

The Caption

Fill out the caption at the top of the first page of the *Affidavit* the same way you did for the *Motion* in [Step 1](#).

| See Instructions (DIV2001) for help in filling out this form. | |
|---|--------------------------|
| State of Minnesota | District Court |
| County of: _____ | Court File Number: _____ |
| Judicial District: _____ | Case Type: _____ |
| _____ Petitioner | |
| AND | |
| _____ Respondent | |
| Affidavit in Support of Motion to Modify Spousal Maintenance (DIV2003) <small>Minn. Stat. § 518.552</small> | |

Grounds (Reasons) for Modification

In this section, you will give the grounds, or legal reasons, for changing the spousal maintenance order.

Before you finish filling out these forms, it will be very important to see what factors the statute (law) says the court must consider. The factors are found in the different subdivisions in [Minn. Stat. § 518.552](#) (revisor.mn.gov/statutes/cite/518.552), and [they are mentioned briefly](#) earlier in these instructions.

The numbered paragraphs below correspond to the numbered paragraphs in the *Affidavit* form (DIV2003).

Paragraphs #1 through #4 are possible reasons for asking the court to modify spousal maintenance. For whichever box or boxes you check, be sure to give details about the [required factors](#).

| | |
|-----------------------------|---|
| <input type="checkbox"/> 1. | <p>I ask the Court to modify spousal maintenance pursuant to Minn. Stat. § 518.552, subd. 5b, because the terms of the existing spousal maintenance order are unreasonable and unfair based on the following circumstances: (check all that apply)</p> <p><input type="checkbox"/> There has been a substantial change in the gross income (before taxes and deductions) of one or both parties: (describe) _____</p> <p>_____</p> <p><input type="checkbox"/> There has been a substantial change in one or both parties' needs: (describe) _____</p> <p>_____</p> <p><input type="checkbox"/> There have been substantial changes in the federal or state tax laws that affect spousal maintenance: (explain) _____</p> <p>_____</p> |
|-----------------------------|---|

- 1. Unreasonable or Unfair Terms of the Existing Spousal Maintenance Order** (Minn. Stat. § 518.552, subd. 5b). You can check the box at paragraph #1 if one or more of the three reasons listed apply to your situation. Those three reasons are:
 - A substantial increase or decrease in one or both parties' **gross income** (before taxes and deductions), since the existing spousal maintenance order was issued.
 - A substantial increase or decrease in the **needs** of one or both parties, since the existing spousal maintenance order was issued.
 - Substantial changes, since the existing spousal maintenance order was issued, in the federal or state tax laws that affect spousal maintenance.
- 2. Remarriage of Obligee, or Death of a Party** (Minn. Stat. § 518.552, subd. 5a). Paragraph #2 might apply to your situation if, since the existing spousal maintenance order was issued:
 - The **obligee** (the person receiving spousal maintenance) has remarried; or
 - One of the parties has died.

3. **Cohabitation (Obligee Lives with Another Adult)** (Minn. Stat. § 518.552, subd. 6). If you are asking for modification based on a claim that the obligee is cohabitating (living with) another adult, be sure to include details about the factors mentioned in the statute.

| | |
|-----------------------------|--|
| 4. <input type="checkbox"/> | I ask the Court to modify spousal maintenance pursuant to Minn. Stat. § 518.552, subd. 7, because of retirement . |
| | a. Name of party who retired or is retiring: _____ |
| | b. Date of retirement: _____ |
| | c. Party's age at time of retirement: _____. |
| | d. Spousal maintenance should be modified due to a party's retirement because: _____ _____ |

4. **Retirement** (Minn. Stat. § 518.552, subd. 7). Check the box at paragraph #4 if you are asking the court to modify spousal maintenance because of a party's retirement. See the statute to know what details to include in #4a through #4d.

Private Agreement

5. Check the box to show whether you and the other party have a **private agreement** between you about spousal maintenance.



Include a copy of any **written private agreement** between you and the other party that could affect spousal maintenance.

Information from the Existing Spousal Maintenance Order

To fill out this section, it may help you to look at a copy of the existing order. Because a person has to show that there has been a **change in circumstances** since the existing order was issued, it is helpful to give the court details about each party's circumstances *at the time of the order*.

6. Tell what county the spousal maintenance order was issued in and list the date of the order.
7. Check the box to tell whether you are the **obligor** (paying spousal maintenance) or the **obligee** (receiving spousal maintenance payments).

8 At the time of the existing order, I was:

Unemployed.

Employed. I had _____ (number) jobs as follows:
(list the employers) _____

9 At the time of the existing order, my occupation was: _____

10 At the time of the existing order, my gross income (before taxes and deductions) was:

a. Total from **employment**: \$ _____ per month

b. Total from **all other sources** (list the amount and the sources) \$ _____
per month from: _____

8 through 10. In these paragraphs, list your employment, occupation, and gross income information from the time of the existing order. **Gross income** means your income before any taxes or deductions are taken.

11 through 13. In these paragraphs, list the other party’s employment, occupation, and gross income information from the time of the existing order (to the best of your knowledge).

Your Current Information

14. Financial Affidavit. Fill out the *Financial Affidavit* form (FAM102) according to the *Instructions* (FAM101). You will also need to give proof of your financial situation (such as pay stubs, tax returns, etc.).

If you plan to file your papers at the courthouse, you will also need the *Cover Sheet for Non-Public Documents (Form 11.2)* (CON112) for your financial-related attachments.

These forms are available on the [Minnesota Judicial Branch website](http://mncourts.gov/GetForms.aspx?c=18&p=68) (mncourts.gov/GetForms.aspx?c=18&p=68).

15. Monthly Household Expenses. Since the spousal maintenance order was issued:

My monthly household expenses **have not substantially changed.** (If no substantial changes to your monthly household expenses, skip to #16.)

or

My monthly household expenses **have substantially changed.** My *current* expenses are as follows:

a. House payment or Rent\$ _____

b. Real estate taxes (if not included in "a").....\$ _____

c. Association dues or lot rent (for property)\$ _____

d. Insurance:
Homeowners (if not included in "a")

15. Monthly Household Expenses. There are two options for #15:

- Check the first box if your monthly household expenses **have not substantially changed** since the existing order was issued. Then you can skip to #16.
- Check the second box if there has been a substantial change in your monthly household expenses since the existing order was issued. Then:
 - Tell what your *current* monthly household expenses are by filling out the rest of #15 (15a through 15r), and
 - List the **total amount** you currently pay each month in household expenses.

16. **Help with Monthly Expenses.** Check the box or boxes that tell whether anyone helps you pay your monthly expenses.

17. **Property.** In #17, list the value of property that you currently own or co-own. Some items ask for more details.

For example, if you own a home, be sure to list the current value, the purchase price, and the balance owed. If you own automobiles or recreational vehicles, list the value of those vehicles as well as the year, make, and model (such as “2022 Honda Civic”).

18. **Other Facts.** You can use this space if there are any other facts that you believe would support your request to modify spousal maintenance. If you run out of space, you can add more paper.

Signature Block

When you sign the *Affidavit*, you are signing under the penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then fill in the name of the county and state you are in when you sign it and include your personal contact information below your signature.

Step 3

**Fill out the *Cover Sheet for Non-Public Documents (Form 11.2) (CON112)*
Fill out the *Confidential Information Form (Form 11.1) (CON111) When Necessary***

Note! Most documents filed with the court are considered public documents and are 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 that are 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 “Confidential Information.” Look for court form numbers CON111 and CON112, and for the **instructions** (CON110).

Step 4

Contact Court Administration to Schedule a Hearing and Add the Hearing Information to the *Motion and Notice of Hearing Form (DIV2002)*

1. Contact court administration in the county where your case is located. You can find the phone number on the [Minnesota Judicial Branch website](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).
2. Let them know that you want to file *motion forms* to ask the court to **modify spousal maintenance**. Ask for the following information noted below in a through d, and add the information to the “Hearing Information” section of the *Motion to Modify Spousal Maintenance and Notice of Hearing (DIV2002)* that you filled out in **Step 1**.

To the Other Parties:

| Hearing Information | |
|---|---|
| The hearing in this case is scheduled as follows: | |
| Date: <u>Month DD, 20YY</u> A | Time: <u>Time</u> <input type="checkbox"/> a.m. / <input type="checkbox"/> p.m. |
| Judicial Officer: B | <u>Name of Judicial Officer (judge or referee)</u> |
| C | NOTE: Please contact the court at <u>Court's Area Code + Phone Number</u> (telephone number) with your current phone number and mailing address in case they need to notify you of any location, date, or time change. |

- a. Hearing date and time;
- b. The name of the judicial officer;
- c. The best phone number to include on the motion form; and
- d. Whether the hearing will be a [remote hearing \(virtual\)](#) or held in person at the courthouse (mncourts.gov/Remote-Hearings.aspx).
 - If the hearing will be in person, ask for the address of the courthouse, or find the address online.

According to court administration, the hearing will be:

Remote using Zoom. Court administration will send parties the meeting ID and passcode in a hearing notice. See the "Remote Hearing Information" Help Topic online at www.mncourts.gov/Remote-Hearings.aspx.

D **OR**

In Person.

Courthouse address: _____ **Courthouse address**

City/State/Zip: _____ **City, MN 55111**

Step 5

Make Copies of Forms and Attachments

Make two copies of the completed forms:

- *Motion to Modify Spousal Maintenance and Notice of Hearing* (DIV2002);
- *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003);
- *Financial Affidavit* (FAM102); and
- All other documents that support your motion and affidavits (for example, pay stubs, tax returns, proof of expenses, etc.).

Do not make copies of *Form 11.2* (CON112) or *Form 11.1* (CON111), 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 have your copies with you at your hearing).

The next step is serving the other party. See **Step 6** below.

Step 6

Serve Copies of the Forms and Supporting Documents 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](http://mncourts.gov/Help-Topics/Service-of-Process.aspx)." (mncourts.gov/Help-Topics/Service-of-Process.aspx)

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. Papers cannot be served on a legal holiday as defined in [Minn. Stat. § 645.44, subd. 5](http://revisor.mn.gov/statutes/cite/645.44) (revisor.mn.gov/statutes/cite/645.44).

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

Who Can Serve

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

- The sheriff;
- Another adult; or
- You.

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.



Warning: If your forms and supporting documents are not timely served upon the other party (or their attorney), your motion may not be heard by the court.

Step 7

Fill Out the *Affidavit of Service* Form

The person who hand-delivered or mailed the forms and supporting documents 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 their knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

There are *Affidavit of Service* forms on the Minnesota Judicial Branch website in the ["Service of Process" category](https://mncourts.gov/GetForms.aspx?c=33) (mncourts.gov/GetForms.aspx?c=33).

Step 8

File the Forms and Supporting Documents with Court Administration and Pay Any Required Court Fee

File the forms and supporting documents with court administration in the county where your case is located as soon as practical but no later than 21 days before the scheduled hearing:

- *Motion to Modify Spousal Maintenance and Notice of Hearing* (DIV2002);
- *Affidavit in Support of Motion to Modify Spousal Maintenance* (DIV2003);
- *Financial Affidavit* (FAM102);
- All other documents that support your motion and affidavits (for example, pay stubs, tax returns, proof of expenses, etc.); and

- *Affidavit of Service* (for example, SOP105).

Form 11.2

You must file copies of all supporting documents (such as pay stubs, employer statements, tax returns, disability payments, etc.) and complete and file with the court one *Form 11.2* for supporting documents that contain confidential information (see [Step 3](#)). 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.

Court Fees

Pay the [motion filing fee](#) at the time you file these papers (mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx). If you did not pay an [initial filing fee](#) (mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx) when this case first began, you will be asked by court administration to pay the initial filing fee as well as the motion fee before your motion can be heard by the court. Court administration will be able to tell you if you have paid the initial filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee and motion fee waived by the court. You can read more about [fee waivers on the Minnesota Judicial Branch website](#) (mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx).

You can use Minnesota Guide & File to create the forms you need to ask for a fee waiver, or you can download and print fee waiver court forms:

- [Minnesota Guide & File](http://minnesota.tylertech.cloud/SRL/SRL) (minnesota.tylertech.cloud/SRL/SRL); and
- [Fee Waiver Forms](http://mncourts.gov/GetForms.aspx?c=19&p=69) (mncourts.gov/GetForms.aspx?c=19&p=69).

A judicial officer (judge or referee) will review your fee waiver application along with the forms you want to file. The judicial officer 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 Attend the Hearing

Attend the hearing on the scheduled date and time.

Have with you your copy of the forms and supporting documents.