

Modification of Child Support Orders

Discussion Questions

1. Obligor is required to pay \$1000 per month for three children based on order entered 4 years ago. She files motion seeking modification, alleging she was laid off from a local company due to the company's financial difficulties. She has been looking for a job but has not been able to find one. (you know jobs are hard to come by in your area at the present time) She no longer receives unemployment compensation and she is living with a friend until she gets back on her feet. She tells you she will be happy to pay when she finds work but asks that you "suspend" the support order for now.
 - a. Do you modify the order? Why or why not?
 - b. If you modify, how much support would you order?
2. In exchange for father assuming responsibility for all of the marital debt (which was substantial) and conveying title of marital residence and one car to mom, mom agreed in separation agreement that husband would pay only \$200 per month as child support for the three children born of the marriage. Agreement was incorporated into consent judgment. At time of incorporation, application of guidelines would have resulted in support of \$2000 per month.
 - a. Mom files motion to modify support within one month of incorporation. She argues she is entitled to guideline support. Do you modify the support order? Why or why not?
 - b. Mom waits three years and two months following incorporation to file motion to modify. By this time, application of guidelines would result in an award of \$2500. Do you modify? Why or why not?

- c. Assume the agreement was not incorporated. Three years and two months following execution of the agreement, she files action seeking child support. She argues she is entitled to a child support order in accordance with guidelines because \$200 per month does not even begin to meet the needs of the children. Do you set support? Why or why not?

- 3. Dad is car salesman. At time original support order entered for two kids, his annual salary averaged \$50,000 and the dealership supplied him with a car to drive. The original order (correctly) included the value of the car in his income. Now – six months later – the dealership has stopped supplying the car and dad has car payment in amount of \$300 each month. In addition, mom has moved to Virginia and gas prices are increasing daily, increasing the amount he spends to visit the kids. He files motion to modify, asking for reduction to account for these new expenses. Do you modify? Why or why not?

- 4. Obligor mom was a paralegal at time support order was entered four years ago. Dad has custody of two kids. He recently became partner in his law firm, and received significant increase in pay. Mom was accepted to law school recently. She quit her job as paralegal and is now a full time student. She works a part-time job in the evenings but she makes much less than she did as a paralegal. She filed motion to modify. She tells you she started law school years ago (at the same time dad started) but quit during her first year when their first child was born. She asks that you set support in accordance with guidelines. Do you modify? Why or why not?

5. Child support order entered. One year later, obligor takes a new job where he is earning 40% more than when order was entered. Custodial mom has long been worried about the quality of her child's education in the local public school. In addition, the child has been the victim of bullying by older classmates during the last year. The bullying was severe enough to cause the school counselor to advise mom to seek psychological counseling for the child, which she did. When she learns of dad's new job, mom decides to enroll child in private school. Because she cannot afford the tuition, she files motion to modify the order to cover the cost of the school.
 - a. Do you modify child support? Why or why not?
 - b. Can you order dad to reimburse mom for a portion of the private school expenses she paid before filing the motion to modify? If so, do you order reimbursement?
6. Support order sets support obligation for three children. The oldest child graduated from high school and turned 18 one month later. Six months following the oldest child's birthday, obligor files a motion to modify support. Due to the heavy child support docket in the district, the case is heard six months after the motion was filed. You find a substantial change based on age of oldest child. Assuming you decide to modify the amount:
 - a. Do you modify the amount due between time child turned 18 and day motion to modify was filed? Why or why not?
 - b. Do you modify amount due between date of filing of the motion to modify and the date of your order allowing modification? Why or why not? Would your answer be different if obligor had paid all support required under the order until the date of hearing (meaning you will have to order custodial parent to reimburse amounts paid or give obligor credit on future support payments)?

