

# Changing Visitation or "Parenting Time"

**Important! This information applies if you have one or more child.**

## The Situation

If you're divorced from your child's other parent and/or a court has entered a custody (APR) order about your child and your circumstances have changed since that time, you may wish to ask the court to modify (change) parenting time for your child. For example, you or the other parent has moved, or the child has been put in a dangerous situation by the other parent.

Under Colorado law, the court that entered the original orders (decisions) about your child can decide whether to change visitation. In most cases, you will have to return to the original court to change the previous court order.

## How do I ask the Court to change parenting time?

If you and the other parent cannot agree on this issue, you can file a Motion to Modify Parenting Time (JDF 1406 - [click here](#)) with the court. When you file your motion with the court you can also file an Order Re: Modification or Restriction of Parenting Time (JDF 1424- [click here](#)).

Fill out these forms completely. The information on the top part of the form should be the same as in your original case (found on your divorce or custody papers).

You should also consider completing a proposed Parenting Plan (JDF 1113 - [click here](#)) that outlines relevant facts and information about your case. This document explains what you want the new parenting plan to be.

You can also to fill out a Notice to Set (JDF 1123 - [click here](#)). In some counties, this is needed to schedule the matter for hearing. The clerk of the district court where you originally filed your case can tell you what courtroom to set it in and what phone

number to use.

When you've completed these forms, you must mail a copy of the Motion, Order and proposed Parenting Plan to the other parent, or to his or her attorney if they have one. You must state in the "Certificate of Mailing" on the bottom half of each form that you have done so.

File an original and one copy of each form with the Clerk of the Court where your original case was heard. You will call the court on the date you have put in the Notice to Set to get a date for a hearing. You or the court must then mail a copy of the Notice of Hearing to the other parent. Find out from the clerk of the court whether s/he will mail the Notice of Hearing, or whether you are supposed to mail it.

Sometimes the district court in your county will have a Pro Se office (pro se means that you are trying to represent yourself), a family court facilitator, a Self Represented Litigant Coordinator, or a clerk of the court who might be able to assist you in filling out forms and filing your case with the court. Check to see if this help is available by going to Family and Children, Custody/Parenting Time, select your area, then go to "About Our Courts" - [click here](#) - on this website, click on the district court for your county and call the number provided for that court.

The Colorado Judicial Branch (state court website - [click here](#)) also has instructions for completing many of the forms. Also, the Colorado Bar Association website has information about Self Help Centers at the courts ([click here](#) for a list of Self-Help Centers in Colorado.)

## **Restricting the Other Parent's Parenting Time**

The court can only restrict the other parent's parenting time if it finds that the current parenting time endangers the child's physical health or significantly impairs the child's emotional development. If you ask the Court to restrict the other parent's parenting time, you must be prepared with evidence to prove to the court that the current parenting time is physically or emotionally dangerous to the child.

If you believe that the current parenting time is placing the child in danger, check the blank by question 6 on the Motion to Modify Parenting Time. This part of the form reads: "THE CHILD(REN) IS IN IMMINENT EMOTIONAL OR PHYSICAL DANGER DUE TO THE CURRENT PARENTING TIME". When this box is checked, if the Court

preliminarily grants your motion, a hearing where you (and the other side) present testimony and evidence regarding your request to restrict parenting time must be held within 14 days.

If you check this box, you should be prepared to go to court and present your evidence immediately. If you lose the hearing, and the court finds that your allegation (charge) was frivolous or groundless, meaning there was no basis for it, the court may order you to pay the other parent's attorney's fees. You should only check this box if you strongly believe that the current parenting time is dangerous to the child, and you have strong evidence that can prove this to the court.

If the other parent has been convicted of any of the crimes listed below (under the Colorado statute (law) C.R.S. 14-10-129 (3)(b)), for the other parent to continue to have parenting time, s/he would have to prove to the court that the parenting time would be in the child's best interest. Crimes include the following: murder in the first or second degree, enticement of a child, sexual assault, sexual assault in the first, second or third degree, unlawful sexual contact, sexual assault on a child, incest or aggravated incest, child abuse, human trafficking of a minor for sexual servitude, sexual exploitation of children, procurement of a child for sexual exploitation, soliciting for child prostitution, procurement of a child, keeping a place of child prostitution, pimping of a child, Inducement of child prostitution, and patronizing a prostituted child.

## **Other Changes to Parenting Time**

Other changes in your child's circumstances can allow you to ask the court to change your parenting plan. The relocation of one parent or the other can be one reason for the change. Additionally, if there are facts that were unknown at the time of the previous order and if these new facts change what is best for your child, it may be appropriate to change the older parenting plan.

It is important to remember, if there has already been a prior modification (or change) in your case that changed where your child lives most of the time, you will have to wait two (2) years before you file to change the child's primary residence unless the child is in danger in their present home.

## **If You and the Other Parent Agree**

You and your child's other parent can always agree to change the parenting plan together. The courts generally encourage parents to work together to solve parenting problems. You may also wish to hire a mediator to help you resolve parenting changes with the other parent.

If you are low-income, you may qualify for free or reduced fees for mediation from the Office of Dispute Resolution. Contact them by [clicking here](#).

## **Going to Court**

It is important that you go to the hearing at the time set. Take your witnesses and evidence supporting your motion. Generally, your witnesses must be present to testify and present evidence to the court. Sometimes, if you formally request this, the Court may allow your witnesses to appear "remotely" (i.e. via telephone or via Web-Ex). Letters from witnesses are not enough.

Even if the other side doesn't come to the hearing, you can usually go ahead on that date if the Court finds that the other party had proper notice of the hearing. For the court to decide to modify parenting time, it must decide that it would be in the child's best interest. Therefore, you should be prepared to present to the court any evidence that you have to show that changing the parenting time would be best for the child.

If you are trying to restrict the parenting time, you must be ready to prove that the current parenting time endangers the child, either physically or emotionally. Such evidence could include testimony of witnesses, medical or school records, photographs, and so forth.

The court will rule on your motion and let you know its decision, often the same day. The court may also issue a written order concerning this, which will then be the order (decision) in effect in your case.

The State of Colorado also offers instructions to filling out the forms. Links to these instructions as well as any forms you may need can be found by [clicking here](#).

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