

## Completing Form M 8-2: Stipulated Modification Order (Revised 4/2006)

[You will remove these instruction pages before filing.]

Use this form only if you and the other parent have filed a Stipulation for entry of this Order (CMP 6-9X or M 6-1).

### **Talk to an Attorney, if Possible**

**Warning:** When you represent yourself in a court case you are held to the same standard as an attorney. This applies to your preparation of paperwork and your conduct at all hearings and/or trial. Your lack of legal knowledge may cause you to make serious errors in handling your case. These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee that your rights are protected or that you will be satisfied with the result. You should always talk to a lawyer about your legal problems before filing any legal paperwork. Even if you do not hire a lawyer to appear in your case, a lawyer can give you more information about your rights. Call the Idaho State Bar (208-334-4500) to provide you with the name of an attorney who handles this type of case.

### **Instructions**

Fill in the forms by typing or by printing neatly and legibly in **black ink**. Always keep a copy of the completed form for your records.

**At the top left-hand corner of page 1**, fill in each of your names, addresses, and telephone numbers, followed by “Plaintiff”, “Defendant”, “Petitioner”, or “Respondent”, as each of you were identified in the original divorce or custody case. Fill in the county and judicial district in the heading (for example, “In the District Court of the Fourth Judicial District in and for the county of Ada”). Fill in your names in the caption (for example, “John Doe Plaintiff vs. Mary Doe, Defendant”) as they appeared in the caption in the original case. Fill in the case number from the original case. Check the box for “child support” or “child custody/visitation” or both in the area below the case number.

Leave the date in the introductory sentence **blank** (the judge will fill it in later). Fill in the names and date of birth for each child.

#### **1. Custody.**

- Check the box if the custody arrangement is being changed **and**
- Fill in the date of the latest Custody Order.

##### **A. Legal Custody.**

- If there will be no change in legal custody of the child/ren, check the first box **or**
- If there will be a change:
  - Check the second box if both parents are fit persons to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**

- Check the third box if one parent is to have sole legal custody of the child/ren, **and**
- Fill in the blank to indicate which parent will be given sole legal custody.

**B. Physical Custody.**

- Check the first box if both parents are to be given physical custody of the child/ren **and**
  - Attach a copy of the same Parenting Plan you attached to your Motion for Modification. **IMPORTANT:** The Parenting Plan must be attached to make it a part of the Modification Order.
- or**
- Check the second box if physical custody of the child/ren will be given to only one parent, **and**
- Fill in the blank to indicate which parent will have sole physical custody.
  - If the other parent will have time with the child/ren, write in the parent’s name, **and**
  - Write in the terms and conditions of the other parent’s time with the child/ren.

**2. Child Support.**

- Check the first box if there will be no change. If the Child Support Order is in another case, attach a copy of the Order, labeled **“Exhibit B”**. **or**
- Check the second box if child support will be changed in this case **and**
  - Fill in the name of the parent paying child support and the total amount of each monthly payment.
  - Fill in the base amount of child support.
  - If your child support calculation includes a pro rata sharing of medical insurance premiums and/or tax benefits, check the appropriate boxes and fill in the amount(s).
  - If you have more than one minor child, fill in the total amount of child support that will be due as each child is no longer eligible for support under Idaho law, as calculated according to the Idaho Child Support Guidelines.

**NOTICES**

According to Chapter 12, Title 32, Idaho Code, a Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent’s employer without additional notice to the paying parent.

The Support Order can also be enforced by license suspension or the filing of a lien upon all real and personal property of the paying parent.

**Extended Visits:**

If the child/ren will be living in the home of one parent at least 75% of the time, you can adopt either or both of the next two paragraphs of the form. If the child/ren spends more than 25% of the overnights in a year with each parent (shared physical custody), ignore the next two paragraphs of the form. **NOTE:** Section 10(e) of the Idaho Child Support Guidelines, Rule 6(c)(6) of the Idaho Rules of Civil Procedure, describe “Shared Physical Custody” and the computation of child support with that parenting arrangement. You can get a copy of the

Child Support Guidelines from a Court Assistance Office or the Internet at

<http://www.isc.idaho.gov/rules/icsg06.pdf>. If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filing in your own percentage as you did on the Motion for Modification.

**3. Medical Insurance.**

- Check the first box if there will be no change. **or**
- Check the appropriate box and fill in the blank to designate how health insurance coverage is now being provided for the child/ren.
  - Write in the percentage to be paid by each parent.
- In the fourth paragraph, if health insurance premiums are NOT included in the calculation of child support and you completed this section in the Motion for Modification, check the box and write in the percentage to be paid by each parent, based on each of your Guidelines income percentage. (These percentages are determined when calculating the child support. Refer to the Child Support Worksheet).

**4. Health Costs.**

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Write in the percentage to be paid by each parent.

**5. Work-related Child Care Costs.**

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Fill in the percentages each parent will pay.
  - Check the box if both parents will pay the care provider directly.

**6. Income Tax Exemption.**

- Check the first box if there will be no change. **or**
- Check the second box if there will be a change **and**
  - Write in the blank which parent will claim each child as a dependent on their income tax return(s).

**Leave the date blank.** The judge will fill in the date when s/he signs the Modification Order.

**Approval signatures:** Date and sign the Order.

**Clerk's certificate of service:**

- Fill in name, mailing address, city, state and zip code for yourself and the other parent.
- Leave the date blank. The clerk will fill it in when s/he signs the certificate.

**Exhibits:**

- Attach to the Decree (with a staple): any Exhibits you have checked in the Decree. These may include the Parenting Plan (“**Exhibit A**”), and the other court’s Support Order, if any (“**Exhibit B**”).

Make copies of the Modification Order with all the Exhibits attached. Note: The original will be filed with the court. You need a copy for each parent and, if Child Support is being modified, you will need another copy that will be sent to the Department of Health & Welfare Child Support Services. Prepare stamped envelopes addressed to yourself and other party(s) for the Clerk to mail a copy of the Modification Order with all attachments.

**Continue to follow D Instruction 6 to finalize your modification.**

**REMEMBER TO REMOVE THESE INSTRUCTIONS BEFORE FILING**

\_\_\_\_\_  
(Plaintiff's name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State and Zip Code)

\_\_\_\_\_  
(Telephone)

\_\_\_\_\_  
(Defendant's name)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City, State and Zip Code)

\_\_\_\_\_  
(Telephone)

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,  
vs.  
\_\_\_\_\_  
Defendant.  
\_\_\_\_\_

Case No.: \_\_\_\_\_  
MODIFICATION ORDER

This matter came on before the Court on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, on the stipulation of the parties to modify child support and/or custody and visitation.  
The court has jurisdiction to determine custody of the minor child/ren pursuant to the Uniform  
Child Custody Jurisdiction and Enforcement Act, Idaho Code Section 32-11-101, et seq.  
because Idaho was the home state of the minor child/ren on the date of filing the Petition.

The court has jurisdiction to set child support as set forth in Title 32, Chapter 7, Idaho  
Code. The parties are the parents of:

<u>NAME</u>	<u>DATE OF BIRTH</u>
_____	_____
_____	_____
_____	_____

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Based on the stipulation of the parties and the records and files herein:

IT IS HEREBY ORDERED AND DECREED:

1. **Child Custody.**  No change. **or**  The custody order entered on \_\_\_\_\_ is modified as follows.

**A. Legal Custody.**

No change. **or**

Both parents given joint legal custody of their minor child/ren. **or**

\_\_\_\_\_ is given sole legal custody of their child/ren.

**B. Physical Custody.**  No change. **or**

Both parents are given joint physical custody of their child/ren on the terms and according to the Parenting Plan which is attached as "Exhibit A". **or**

\_\_\_\_\_ is given sole physical custody of their minor child/ren.

\_\_\_\_\_ shall have time with the child/ren as follows: \_\_\_\_\_

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2. **Child Support.**

Child support has already been ordered in a case filed by the State of Idaho, Department of Health and Welfare, as shown by the attached Order, **Exhibit B** **or**

Child support should be paid by \_\_\_\_\_ in the total amount of \$ \_\_\_\_\_ per month based on the Idaho Child Support Guidelines, according to the

Affidavit Verifying Income and child support worksheet(s) attached as **Exhibit B**, The total

amount includes: Base child support in the amount of \$ \_\_\_\_\_

Work-related childcare expenses in the amount of \$ \_\_\_\_\_

medical, dental, and/or optical insurance premiums allocated in the amount of \$ \_\_\_\_\_

tax benefits allocated in the amount of \$ \_\_\_\_\_.

Child support payments should begin on the twentieth (20th) day of the month after the Modification Order is signed and continue to be paid on the 20th day of each following month until the child/ren for whom support is being paid reach/es the age of eighteen. If a child for whom support is being paid continues his/her high school education after reaching the age of eighteen (18) years, child support payments should continue until the child discontinues his/her high school education or reaches the age of nineteen (19) years, whichever is sooner. Payment should be made payable to the Department of Health and Welfare and sent to **Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.**

The parents have more than one minor child. If this child support order has not been modified, when one child is no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$\_\_\_\_\_ per month; when two children are no longer entitled to support, child support for the remaining child/ren should continue in the total amount of \$\_\_\_\_\_ per month; when three children are no longer entitled to support, child support for the remaining child should continue in the total amount of \$\_\_\_\_\_ per month.

**Extended Visits:** Our child/ren live/s in the home of one parent at least 75% of the time.

When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of base child support should be reduced for that period of time; however, visitation of two overnights or less with the other parent should not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody should be  50% **or**  \_\_\_\_\_% of the base child support obligation. The reduction should be subtracted from the child support payment due the next month.

If the parent paying child support has physical custody of some but not all of the children for a period of 14 overnights in a row, before a reduction is made, the base child support obligation should first be divided by the number of children under 18 years of age. The reduction for the paying parent should only apply to the base child support thus allocated to the children in that parent's custody.

*(Example: Parent has 3 of 4 children for 14 overnights. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)*

## NOTICES

The court shall order income withholding in all child support orders. Income withholding shall be enforced by a withholding order issued to the paying parent's employer without additional notice to the paying parent, according to Idaho Code Section 32-1204.

The support order can also be enforced by license suspension or the filing of a lien upon all real and personal property of the paying parent.

3. **Medical Insurance.**  No change. **or**  \_\_\_\_\_

is currently providing medical, dental, or optical insurance ("health insurance") for the minor child/ren and should continue to do so, so long as it is reasonably available through that parent's employment. The cost of such premiums has been prorated between the Plaintiff and Defendant with the parties paying corresponding percentage of such expenses in proportion to the Child Support Guidelines income, and is reflected in the child support amount ordered above. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain health insurance through employment or otherwise should do so; **or**

Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain health insurance through employment or otherwise should do so; **or**

the minor children have insurance through the Idaho Department of Health and Welfare Children's Health Insurance Program;

Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

4. **Health Care Costs Not Paid by Insurance.**  No change. **Or**  That the actual cost paid by either party for health care expenses not covered or paid in full by health insurance coverage for the child/ren should be prorated between the Plaintiff and Defendant as follows: \_\_\_\_\_;

5. **Work-related Child Care Costs.**  No change. **Or**  The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care should be paid \_\_\_\_\_% by Father and \_\_\_\_\_% by Mother.

Payment should be made directly to the child care provider by both parents

according to arrangements made with the care provider. If one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent should reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

6. **Income Tax Exemption.**  No change. **or**

the federal and state child tax dependency exemptions shall be claimed as follows:

\_\_\_\_\_

The parent not receiving the exemption(s) should sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

7. All terms of the Court's prior Order(s) not modified by this Order remain in full force and effect.

DATE \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Magistrate

#### CLERK'S CERTIFICATE OF SERVICE

I certify that a copy of the Modification Order was served::

Plaintiff:  Mail  Hand-delivery

Defendant:  Mail  Hand-delivery

[name]\_\_\_\_\_

[name]\_\_\_\_\_

[address]\_\_\_\_\_

address]\_\_\_\_\_

[city, state, zip]\_\_\_\_\_

[city, state, zip]\_\_\_\_\_

DATE \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Deputy Clerk of the District Court

REMOVE THIS PAGE  
AND

Attach "EXHIBIT A"  
PARENTING PLAN, IF ANY

Attach "EXHIBIT B"  
CHILD SUPPORT ORDER IN ANOTHER CASE, IF ANY