

INSTRUCTIONS FOR COMPLETING THE SELF-REPRESENTED LITIGANT CHILD SUPPORT DECREASE PACKET

PLAINTIFF

The Plaintiff is the person who is trying to decrease the child support. The Plaintiff is the person who wants things to change and who has filed this case. The Defendant is the person who is being sued. **The instructions in this packet are for the Plaintiff.**

WARNING: You are strongly encouraged to seek the advice of an attorney before filing any legal matter. This packet is designed to provide information and forms to people who are representing themselves in court. If you proceed without an attorney, it may negatively affect your legal rights. If you are unsure whether to proceed, or have questions about these forms or your legal rights, consult an attorney. Please note that clerks of court, court staff, and judges cannot give you legal advice.

DISCLAIMER: The information in this packet is not legal advice and cannot replace the advice of competent legal counsel licensed in your state. Child support laws vary from state to state and the information contained in this packet is specific to South Carolina. Please note that the information contained in this packet is subject to change and make sure that you have the most current version of this packet before filing.

The following instructions will help you file for a child support reduction in South Carolina *pro se*, or without an attorney. *Pro se* is a Latin term meaning “in person” or “on one’s own behalf.” As the courts see more people representing themselves in court, you may also hear the term self-represented litigant instead of *pro se*. While the self-represented litigant may not incur the attorney expense, the self-represented litigant does not have the expert guidance that an attorney can provide.



You may want to consult an attorney if you have a large arrearage or a bench warrant.

If you do not know an attorney who can assist you, you may call the South Carolina Bar’s Lawyer Referral Service at 1-800-868-2284 and ask for a Family Law attorney in your county. Members of the South Carolina Bar’s Lawyer Referral Service have been in practice for more than 3 years, are in good standing, have provided proof of malpractice insurance, and have agreed to provide a 30 minute consultation for no more than \$50. If you believe you qualify for

South Carolina Legal Services, you may contact their Legal Aid Telephone Intake Service at 1-888-346-5592. Please note that to qualify for SCLS, your income must not be more than 125% of the Federal Poverty Guidelines.

BEFORE YOU FILE

Is your order from South Carolina?


Once South Carolina issues a child support order, South Carolina is the only state that can change the order as long as you, the custodial party, or the child still lives in South Carolina.


Is your order from another state?

If another state issued the order and you, the custodial party, or the child still lives in that state, the paperwork for a reduction must be filed in that other state. You may want to contact the administrative offices of the court in that state to determine if they have similar paperwork you can file. Information about other states may be available on <http://www.lawhelp.org>.

Have you checked the child support guidelines?

Child support is calculated by using the South Carolina Child Support Guidelines. Go to the South Carolina Department of Social Services website and complete the child support calculator. The DSS website is <http://www.state.sc.us/dss/csed/calculator.htm>.

 **Minimum wage for a full-time job is the lowest wage that is generally used to set the child support obligation. If your child support order was based on minimum wage, it is unlikely that the Family Court Judge will reduce your child support unless there is some other substantial change of circumstances.**

 **The results of the child support calculator do not guarantee that a Family Court Judge will lower your child support obligation.**

If you get a higher support obligation when using the calculator, you may decide not to file a reduction in your support obligation. If you file an action for a reduction, the custodial party can file a counterclaim and ask for an increase.

 **The judge may increase your support obligation if the results of the child support**

calculator show that there should be an increase instead of a decrease.

To get a reduction you must show a substantial change of circumstances. Some common examples are:

- you lost your job through no fault of your own
- you make substantially less than you did when you were placed under the child support order
- one or more of the children from the original order now live with you
- a medical condition or disability that prevents or limits your ability to work
- one or more of the children may be [emancipated](#). Normally, children are considered emancipated when they have married, joined the military, or are eighteen years old and are out of high school. See <http://www.scstatehouse.gov/code/t63c003.php>.



Many Family Court Judges will not consider having additional children with another partner to be a substantial change of circumstances for a reduction.

If you have lost your job, you will need to show the judge you are looking for a job to request a support reduction. You will need evidence such as copies of job applications, information from One Stop, rejection letters, or any other proof that you may have.

If you have become disabled, you will need to show the judge that you have applied for or receive some type of disability benefits (SSA, SSI, VA, etc.). You may need medical evidence such as a statement from your doctor that shows that you are disabled and cannot work.

The South Carolina Department of Social Services Child Support Enforcement Division considers a change of circumstances substantial when the new child support amount is **20%** less than the old amount. This may be hard to know before you begin your action as the custodial party's income is also considered in the child support calculation. **Judges do not have to follow this 20% standard, but many use it as a reasonable guide.**

Is your case handled by the South Carolina Department of Social Services, Child Support Enforcement Division?

If your child support order is handled by DSS, you may request a review with that office instead of filing these papers with the court. You must send a written request to DSS by certified mail. You will need to include information showing how your circumstances have changed and financial information supporting the reduction. You need to keep a copy of your written request and the proof that you sent it by certified mail.

If DSS **does not** object to the reduction, they will file the action for reduction and schedule a hearing. If DSS **does** object to the reduction, DSS must advise you that you may file an action in Family Court to have the support amount reviewed.

Child support cases that are not handled by DSS are called “private cases.” You may use this packet to file a court action for modification of these cases.

PART 1: COMPLETING YOUR PAPERWORK

The next step is to study **all** of the forms listed below. The name of each form can be found in the upper right hand corner and the form number in the bottom left hand corner.

The following forms are included in this packet:

Section 1 - FILING

1. [Family Court Coversheet \(SCCA 467\)](#)
2. [Summons \(SCCA 401F\)](#)
3. Complaint – Decrease Child Support (SCCA 400.21 SRL-CSM)
4. Motion and Affidavit to Proceed In Forma Pauperis (SCCA 405F)
5. Financial Declaration (SCCA 430)
6. Case Party Information Sheet (SCCA 453)

Section 2 – SERVICE

7. Service of Process Forms
 - a. Acceptance of Service (SCCA 400.22 SRL-CSM)
 - b. Affidavit of Service by Mailing (SCCA 400.23 SRL-CSM)
 - c. Affidavit of Service (SCCA 402F)

Section 3 – REQUEST FOR HEARING

8. Request for Hearing (Child Support Modification) (SCCA 400.26 SRL-CSM)
9. Affidavit of Service by Mailing (Notice of Hearing) (SCCA 400.27 SRL-CSM)

Section 4 – HEARING

10. Order – Decrease Child Support (SCCA 400.29 SRL-CSM)
11. Support Information Sheet (SCCA 446)
12. Script for Plaintiff's Testimony (Decrease Child Support) (SCCA 400.28 SRL-CSM)

Some of the information on each form will be the same, such as your name and address, but each form has a different purpose and requires different information. It is important that you make copies of all paperwork. Keep the paperwork in a safe place and bring it to court with you. If any necessary information is missing, you risk your case being dismissed or delayed. If your case is dismissed, you will have to begin again by filing your information with the Clerk of Court a second time and paying the filing fee (\$150).

SECTION 1 - FILING

You will start with the first six forms:

- (1) Family Court Coversheet (SCCA 467);
- (2) Summons (SCCA 401F);
- (3) Complaint (Decrease Child Support) (SCCA 400.21 SRL-CSM)
- (4) Motion and Affidavit to Proceed in Forma Pauperis (SCCA 405F);
- (5) Financial Declaration Form (SCCA 430); and
- (6) Case Party Information Sheet (SCCA 453).

On the first five forms, fill in the name of the county where you are filing this case. The county is the county where you are ordered to pay child support. You also need to fill in the number of the judicial circuit. It is on your child support order. If you don't have it, be sure to get this number from the Clerk of Court and fill it in when you file. Then print your name in the space labeled "Plaintiff." You are the Plaintiff as you are the person asking for the reduction. Next, print the custodial party's name where it is labeled "Defendant." The other person, the one being sued, is the Defendant. This section of all legal forms is called the caption. This caption should be completed on all forms filed with the court.

On the Family Court Coversheet (SCCA 467), print your contact information in the appropriate spaces below the caption, which includes your name, address, and a reliable telephone number.

If you file in one of the counties listed at the top of Page 2 of the Family Court Coversheet, check the box next to “This case is subject to Mandatory Mediation pursuant to the Family Court Alternative Dispute Resolution Rules.”

If you do not file in one of the counties listed on Page 2 of the Family Court Coversheet, leave both boxes in the DOCKETING INFORMATION section blank.

Then, check the box next to “Modification of Child Support – Private” if this is a private case. Check the box next to “Modification of Child Support – DSS” if this is a case with DSS. This indicates the type of action you are filing. Sign and date the Coversheet at the bottom of the page, and set this page aside.

The Summons and Complaint will become the official court record that will establish your case once you file them. It is important to complete each form accurately and truthfully. Complete these forms to the best of your ability.

On the Summons, you will need to fill in the name of the city where you live, then date and sign. You also need to print your name and your address.

Complaint

The Complaint (Decrease Child Support) (400.21 SRL-DIV) asks questions about where you live and where the custodial party (Defendant) lives. In number 3, list the names and dates of birth of the children who are included in the order. In number 4, list the amount of your current court order for support. If you are paying extra to pay off an arrearage, do not include this extra amount. Number 5 there is space to state what has changed since the last child support order.



You must show a substantial change of circumstances before the judge can give you a reduction. You must put it on the form to be able to tell the judge about it at your hearing.

At the bottom of the Complaint, fill in the name of the city where you live. Date and sign the Complaint.

Attach a copy of your support order to the Complaint. If you do not have a copy of the support order, ask the Clerk of Court for a copy. There may be a small fee for the copies.

Motion to Proceed In Forma Pauperis

The filing fee is \$150. If you are unable to pay the filing fee, you may file the “Motion and Affidavit to Proceed *In Forma Pauperis*” with your signed and notarized Financial Declaration. By filling out and signing this form and having it notarized, you are swearing under oath that you do not have the funds available to pay the filing fee (\$150). Do not sign this form until you are in front of a notary. The notary must witness your signature on the form.

Do not fill in anything in the bottom section named **ORDER**. The judge will review your motion and complete the order section. If the motion is denied, you must pay the filing fee (\$150) and other fees by the date set by the court. If the fee is not paid on or before that date, your case will be dismissed, and you will have to begin the process again by re-filing your information.

Financial Declaration

The Financial Declaration (SCCA 430) asks questions about the finances of both the mother and the father. Only fill out the sections of the form that apply to you. Attach a copy of your most recent pay stub or benefits statement. Fill in your gross monthly income. This is the amount of money you earn before taxes, social security, or any deductions are taken out. When figuring your monthly income and expenses, multiply any **weekly** amounts by 4.33 to get the monthly amount. You must take the Financial Declaration to a notary public before you sign it. Do not sign this form until you are in front of a notary. The notary must witness your signature on the Financial Declaration.

Case Party Information Sheet

The Case Party Information Sheet (SCCA 453) will be used by the Sheriff’s Office to serve the papers. This information is about the custodial party (Defendant), the person who needs to be served with the papers. It is **not** information about you.

Completing the Filing Process

The next step, which officially begins the process, is to file the papers with the appropriate Clerk of Court, Family Court Division, and to pay the filing fee (\$150), if applicable. You will file

this in the county where you pay your child support. Physical locations of all South Carolina Family Courts can be found in the telephone book or online at <http://www.sccourts.org>.

Make two copies of the entire packet. Take the copies and the originals to the Clerk of Court in the county where you pay support. If you are paying the fee, the Clerk of Court will: (1) assign your case a docket number; (2) record the docket number on the upper right hand corner of all of the forms; (3) keep the originals; and (4) return two copies of the forms to you. The clerk will keep the original and return two clocked copies to you. One copy is for you to keep. The other copy is to serve on the Defendant.

It is important that you print the docket number that has been issued for your case on all future forms you file with the court. Only bring cash, a cashier's check, or money order for the filing fee (\$150). Do not bring a personal check.

If you are filing the Motion and Affidavit to Proceed *In Forma Pauperis*, you do not have to pay to file but may have to pay the fee after the Judge reviews your information and signs the order. You should take a large brown envelope with enough postage to mail everything back to you. The envelope should be addressed to you. You will receive the envelope in the mail in about two weeks. Look at the Motion and Affidavit to Proceed in Forma Pauperis. If the box at the bottom marked "granted" is checked, your documents should have a date stamp and a docket number on them. Now you can serve the papers on the Defendant.

If the motion is denied, you must pay the filing fee (\$150) and other fees by the date set by the court. If the fee is not paid on or before that date, your case will be dismissed, and you will have to begin the process again by re-filing your information.

SECTION 2: SERVICE OF PROCESS

After you receive copies of the documents from the Clerk of Court, you will need to serve one copy of the Family Court Coversheet, Summons, Complaint (Decrease Child Support), and the Financial Declaration on the custodial party or the custodial party's attorney. If this is a case handled by DSS, you must serve the papers on [DSS Child Support Enforcement Division](http://www.state.sc.us/dss/csed/region.htm) (<http://www.state.sc.us/dss/csed/region.htm>). This is called Service of Process and can be done in one of four ways:

1) ACCEPTANCE OF SERVICE

If the custodial party or DSS Child Support Enforcement Division is willing to accept service, have the custodial party or DSS complete the Acceptance of Service (SCCA 400.22 SRL-CSM). Handing the papers to the Defendant yourself is not good service of process unless the Defendant is willing and completes the acceptance form. Take the completed form to the Clerk of Court's office for filing. Ask the Clerk of Court to make a copy of the form for you at the time of filing.

2) U.S. MAIL

You **must** send these documents Certified Mail, **Restricted Delivery**, Return Receipt Requested. When you get the return receipt card (green card) back from the U.S. Post Office, check it to make sure the custodial party signed the card. **If someone other than the custodial party signed the return receipt card (green card), you do not have good service and must try again.**

If you receive the return receipt card (green card) and it was signed by the custodial party or DSS, record the docket number you received from the Clerk of Court and the words "Summons and Complaint" across the top of the return receipt (green card) and then make a copy of the card for your file. Next, complete and sign the Affidavit of Service by Mailing form (SCCA 400.23 SRL-CSM) before a notary. **Do not sign this form until you are in front of a notary. The notary must witness your signature on the Affidavit of Service by Mailing.** Attach the return receipt card (green card) to the notarized Affidavit of Service by Mailing and take it to the Clerk of Court's office for filing.

If you do not get the return receipt card (green card) back, you may try to re-send all the documents again by Certified Mail, **Restricted Delivery**, Return Receipt Requested. If you do not believe this would be successful, you may have to call your local Sheriff's office to serve the papers on the custodial party or DSS. There may be a fee for this

service by the Sheriff's office. If your Motion to Proceed *In Forma Pauperis* was granted, provide a copy to the Sheriff's office.

U.S. Postal Service[™]
CERTIFIED MAIL[™] RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com[®]

UNITED STATES POSTAL SERVICE

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on this card so that we can return the card to you.
- Attach this card to the back of the envelope or on the front if space permits.

1. Article Addressed to:

Reggie Redbird
123 State St
Normal IL 61761

* Sender: Please print your name, address, and ZIP+4 in this box *

Your Name
Your Department
Illinois State University
Campus Box _____
Normal IL 61790-____

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Restricted Mail Signature Required
 Restricted Delivery Yes

2. Article Number
(Transfer from service label) # from certified mail slip

PS Form 3811, February 2004 Domestic Return Receipt M-1540

3) SHERIFF'S OFFICE

Contact the Sheriff's office in the county where the Defendant lives or works to serve the papers. When the Sheriff serves the papers, ask the office to complete the bottom half of the Affidavit of Service (SCCA 402F) form before a notary, have the form notarized, and return the form to you. The Sheriff's Office may have its own Affidavit of Service Form and their form may be used. File the notarized Affidavit of Service with the Clerk of Court.

4) PRIVATE PROCESS SERVER

Private process servers are listed in the telephone book. There will be a fee for this service. It is usually more expensive than the Sheriff's Office. When they have served the papers, they will give you the completed Affidavit of Service you gave them or their own form. File the notarized Affidavit of Service with the Clerk of Court.

5) SERVICE BY COMMERCIAL DELIVERY SERVICE

You may use a commercial delivery company like UPS or FedEx to serve the summons and complaint. The company must be one approved by the Internal Revenue Service.

You may check to be sure the company is approved at the IRS website:

[http://www.irs.gov/uac/Private-Delivery-Services-\(PDS\)](http://www.irs.gov/uac/Private-Delivery-Services-(PDS)).

The delivery company will give you a delivery record showing the date, time and place of delivery, the name of the person served and an original signature or electronic image of the signature of the person served. If someone other than the defendant signs for the documents, you will not be able to proceed if the defendant does not appear. If delivery is refused or returned undelivered, you must try another method.

You must provide an affidavit showing the documents served with the delivery record attached. This affidavit and delivery record must be filed with the clerk of court.



If the Defendant is not served properly, you will not be able to proceed and cannot get a hearing scheduled.

SECTION 3 – REQUEST FOR HEARING

Complete the Request for Hearing for Child Support Modification (SCCA 400.26 SRL-CSM). Print your name in the space marked “Plaintiff.” Print your address, telephone number, and email address where requested. Complete the information for the Defendant or Attorney for Defendant. Print any comments or issues that you would like to bring to the Court’s attention and sign your name at the bottom of the form where it says “Plaintiff.”

Take the original and a copy of the Request for Hearing to file with the Clerk of Court. The Clerk will date stamp your copy and give it back to you for your records.

The Clerk of Court will inform you of your hearing date by mailing you a Notice of Hearing. The hearing date may be several months away. After you receive the Notice of Hearing from the Court, you must send a copy of the notice of hearing to the custodial party or custodial party’s

attorney. They must receive the notice of hearing at least 10 days before the hearing. The Notice of Hearing needs to be sent by certified mail, return receipt requested.

You will then need to complete the Affidavit of Service by Mailing (Notice of Hearing) (SCCA 400.27 SRL-CSM) before a notary. This form indicates when you mailed the Notice of Hearing. Do not sign this form until you are in front of a notary. The notary must witness your signature on the Affidavit of Service by Mailing (Notice of Hearing).

If the envelope used to mail the Notice of Hearing to the custodial party or custodial party's attorney is returned from the U.S. Post Office, take the returned envelope to the hearing. It is only necessary to show that the Notice of Hearing was mailed. You do not have to show that the custodial party or custodial party's attorney actually received the notice.

SECTION 4 – HEARING

To prepare for the hearing, complete the Order (Decrease Child Support) (SCCA 400.29 SRL-CSM). On the Order, print the date assigned for your hearing and the names and dates of birth of the children.

On the day of your hearing, you should arrive at the courthouse at least thirty (30) minutes prior to your scheduled time. Make sure to take copies of your documents with you to court. **Dress appropriately and turn off your cell phone.** Appropriate dress includes suits, jackets, dresses, dress slacks, and neatly tucked shirts. Casual clothing such as sweat clothes, tank tops, shorts, and similar summer beachwear is not appropriate for the courtroom. Remove hats when entering the courtroom, unless they are required for a medical condition. Most courts do not allow children into the courtroom so make arrangements for a responsible adult to watch your children while you are in court.

When it is time for your hearing, the Bailiff or Deputy will call your name. At that time, enter the courtroom, sit, and wait for the judge to ask you if you are ready. When the judge asks if you are ready, please stand if you are able to and say: "Your honor, may I begin." The judge will tell you to proceed or wait. Before you begin, you will be sworn in. If the Judge indicates you

should come forward, take your paperwork with you and sit in the witness chair. If the Judge allows you to stay at the table in front of the Judge, you should stand if you are able.



You are required to present your case for child support decrease.

This packet has a Script for Plaintiff's Testimony (SCCA 400.28 SRL-CSM) that you should use at the hearing. Review and complete the script before your hearing. At the hearing, you will read the script as your testimony. Make sure you tell the judge everything that shows that you have had a substantial change of circumstances and why you should be given a reduction. Your testimony should be specific to the child(ren) under the support order. If you have any papers that you want the Judge to see, hand the original and a copy to the Deputy Sheriff who will give the original to the Judge and a copy to the Defendant. Be sure to keep another copy for yourself in case the Judge or the Defendant asks you questions about it.

The judge may interrupt you from time to time to ask a question. Listen carefully and answer the questions the judge asks you. When you are finished testifying, the judge will indicate that you may leave the witness stand or sit down at the table. The custodial party will have a chance to testify as well. At the end of the hearing, the judge will tell you the decision. You may ask the Deputy to hand the judge the order to finish completing.

The judge will sign the Order (Decrease Child Support). Make sure the Order (Decrease Child Support) is filed with the Clerk of Court. You will also give the Clerk of Court the Support Information Sheet (SCCA 446). If support is modified, you will check the second box. Then you will fill in the amount of the support order and the collections costs which are 5%. The next section is for how often you are to make payments. Check only one box in the Payment Frequency section. Then fill in the Total Arrearage. If you do not have this information, ask the Clerk for the amount. If the Judge orders wage withholding, check the second box in the wage withholding section.

You should sign and date the bottom of page one. You should complete as much of page 2 as you can prior to the hearing. If you are given new or different information such as a change of

address during the hearing, correct page 2 before giving it to the Clerk. You should sign and date page 2. You may put Plaintiff in the space for Title or leave it blank. The Clerk of Court will provide you and the custodial party or the custodial party's attorney with a copy of the Order (Decrease Child Support).



The reduction is not final until the Order has been signed by the judge and filed with the Clerk of Court.

Plaintiff Child Support Reduction Checklist

- Complete the forms in Section 1 of this packet -- Family Court Coversheet, Summons, Complaint, Motion and Affidavit to Proceed *In Forma Pauperis* (if using), Financial Declaration Form, and Case Party Information Sheet.
- File the forms with the Clerk of Court in the appropriate county and pay the \$150 filing fee unless the *In Forma Pauperis* has been granted.
- Serve copies of the five forms on the custodial party in one of four ways: (1) Acceptance of Service; (2) U. S. Mail; (3) Sheriff's office; or (4) Private process server.
- Complete the Request for Hearing and file it with the Proof of Service with the Clerk of Court.
- Once you receive the Notice of Hearing from the Clerk of Court, mail a copy of this Notice to the custodial party or the custodial party's attorney (at least ten days before the hearing date). File the Affidavit of Mailing with the Clerk of Court.
- To prepare for your hearing, complete the Order (Decrease Child Support).
- On the day of your hearing, you should arrive at least 30 minutes early and be sure to dress appropriately, turn off your cell phone, and remove your hat. Do not bring your children.
- At the hearing you will testify using the Script for Plaintiff's Testimony.
- The judge will allow the custodial party to present his/her case, and you will have an opportunity to ask questions.
- At the end of the hearing the judge should sign the Order (Decrease Child Support).
- Be sure that the signed Order (Decrease Child Support) is filed with the Clerk of Court's office and you receive a clocked copy for your files.