

# **INSTRUCTIONS FOR COMPLETING THE SELF-REPRESENTED LITIGANT CHILD SUPPORT INCREASE PACKET**

## **DEFENDANT**

The Plaintiff is the person who is trying to increase 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 Defendant.**

**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.

### **PART 1: YOUR ROLE AS A DEFENDANT**

The following instructions will help you file an Answer for a child support increase 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.

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 (LATIS) 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.

The custodial party who is the Plaintiff in this case has filed for an increase in child support payments. You will be served these documents in one of three ways:

- By Certified U.S. Mail, Return Receipt Requested, Restricted Delivery; or
- By receiving the Summons and Complaint from the custodial party and voluntarily signing an Acceptance of Service; or
- By a law enforcement officer or private process server.



**You must file an Answer within 30 days after you receive a Summons and Complaint. You may want to talk to an attorney about your options. 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.**

## **PART 2: 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:

1. Defendant's Answer (SCCA 400.32 SRL-CSM)
2. Financial Declaration Form (SCCA 430)
3. Affidavit of Service by Mailing (Answer) (SCCA 400.25 SRL-CSM)

Read all the documents carefully. If you are willing to accept service, complete the Acceptance of Service form and return it to the Plaintiff. Next, read the Complaint carefully and complete the Answer to the best of your abilities. At the end of the Answer there is a space where you can ask the Court for additional relief. You may leave this blank. If you want to ask for a decrease instead of an increase, you can use these lines to ask this. You will have to prove that there should be a decrease and not an increase. Before you ask for a decrease, you should check 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>.



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

If you get a higher support amount when using the calculator, you may decide not to file for a decrease in your support amount.



**The judge may increase the child support amount if the results of the child support calculator show that there should be an increase instead of a decrease.**

Please pay special attention to the Financial Declaration Form. This form asks questions about the finances of both you and the Plaintiff. Fill out the sections of the form that apply to you. You must take the Financial Declaration Form to a notary public before you sign it. After the Answer and Financial Declaration Form are completed, make two copies of each form.

File the Answer and Financial Declaration Form with the same Clerk of Court's office where the Complaint was filed. Take the original and the copies to that Clerk of Court's office. Ask the Clerk to stamp both the originals and copies of the forms. The Clerk will keep the original forms and will return two stamped copies of each form to you.

Mail a stamped copy of both the Answer and Financial Declaration Form along with the Affidavit of Mailing (Answer) to the Plaintiff or to the Plaintiff's attorney by first class mail. Keep the other stamped copies for your files.

### **PART 3: THE HEARING**

The Plaintiff or the Plaintiff's attorney will mail you a Notice of Hearing, which will give you the date and time of your hearing. On the day of your hearing, you should arrive at the courthouse at least thirty (30) minutes prior to your scheduled time and bring a copy of your paperwork. **Dress appropriately and turn off your cell phone.** Appropriate dress includes suits, jackets, dresses, or dress slacks. Males should tuck their shirts into their pants. Casual clothing such as sweat

clothes, tank tops, shorts, and similar summer beach wear 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.

The Plaintiff will present his/her case first. You will have the opportunity to ask the Plaintiff and any witnesses questions. After the Plaintiff and witnesses have testified, you will be given an opportunity to testify and present witnesses for your case. If you completed the Counterclaim section of the Answer and asked for something else, you must prove that your request should be granted. The judge may interrupt you from time to time to ask you a question. Listen carefully, and answer the questions the judge asks you. 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 Plaintiff. After the hearing, the judge will sign the order. The Clerk of Court will provide you and the Plaintiff or the Plaintiff's attorney with a copy of the order.

### **Defendant Child Support Increase Checklist**

- Once you are served with a Summons and Complaint for Child Support Increase, complete the Answer. Also, complete the section of the Financial Declaration Form that applies to you and have the form notarized.
- File the completed Answer and Financial Declaration Form with the Clerk of Court's office **within 30 days after service**.
- Mail a stamped copy of the Answer and Financial Declaration Form along with the Affidavit of Mailing (Answer) to Plaintiff or Plaintiff's attorney **within 30 days after service**.
- The Plaintiff or Plaintiff's attorney will then mail you a Notice of Hearing, which will give you the date and time of your divorce hearing.
- Arrive on the day of your hearing at least 30 minutes early and be sure to dress appropriately, turn off your cell phone, remove your hat, and make sure you have appropriate childcare.
- At the hearing the Plaintiff will testify first. The judge will give you the opportunity to ask the Plaintiff questions and to present your case.
- At the end of the hearing the judge should sign the order and you will receive a copy.