

INSTRUCTIONS FOR MOTION IN TITLE IV-D CASE

I. When should this form be used?

A. You are under an order to pay child support (e.g. dissolution of marriage final judgment, child support order, dependency order, foster care order, domestic violence injunction) **and** the order is being enforced by the Department of Revenue, Child Support Enforcement Office (Title IV-D agency). If you have a question about whether your case is a Title IV-D case, the clerk can check this for you. This form can be used only in Escambia County.

B. The Department of Revenue has notified you that it intends to suspend your driver's license and vehicle registration privileges. You are entitled to contest the suspension action within 20 days of the date the notice is sent to you by the Department of Revenue. Your timely filed motion will stop the department from suspending your license until the court enters an order on your motion.

II. When should this form not be used?

If you are seeking a change or suspension of your child support obligation, you should use the form entitled "Supplemental Petition for Modification of Child Support (Title IV-D Case)."

If your driver's license has already been suspended by the Department of Revenue and you are seeking reinstatement of your driver's license, you should use the form entitled "Defendant's Motion for Reinstatement of Driver's License."

Note that there are time limits on certain motions. A motion for rehearing or a motion to vacate must be filed within 10 days of the date the order is signed by the circuit judge. You may be able to count a couple of additional days because of mailing. If you are close to the deadline, ask the deputy clerk to help you calculate the days.

A motion to set aside generally must be filed within one year of the date the order is signed. There are some limited exceptions. You may need to contact an attorney if you have a complicated situation.

III. What should you do next?

Along with the completed motion, you have to pay a \$50 case re-opening fee. However, there is no fee for a motion for rehearing, if filed within 10 days of entry of the order, or for a motion for credit for direct payments. You pay this fee to the Clerk. **You will need to provide an original and two copies of this motion when filing with the Clerk of the Circuit Court.** The Clerk will deposit a copy of your motion in the Department of Revenue, Child Support Enforcement Office's and the Legal Service Provider's drop box located in the Clerk's office. So long as the case is an open Title IV-D case, you will not be required to serve the custodian with a copy of the motion. If you are also seeking relief other than regarding child support (for example, custody or visitation), you will need to file a separate petition and have the custodian/respondent served with the summons and a copy of that petition.

The legal services provider for the Department of Revenue, Child Support Enforcement Office, will contact you by mail with (a) any requests for information (called discovery) concerning the claims contained in your motion; (b) a notice of the hearing—usually within 90 days of service. **If you change your address you should immediately notify the Clerk (595-3780) and the Legal Services Provider (595-5005).**

You have the burden of proving by the greater weight of the evidence that you are entitled to the relief you request in your motion. If the custodian agrees with you, make sure the custodian (or former custodian) comes to the hearing.

If you are unable to be present on the day and time you are noticed for a hearing, you should *immediately* contact the legal services provider and request a different hearing date. If the legal services provider will not agree to a change in the hearing date, you should file a Motion to Continue Hearing, file it with the clerk, and request that the clerk forward a copy of it to the Support Enforcement Hearing Officer and the legal services provider. Please include in your motion the days during the following 30 days when you will be available to attend a hearing.

If you live out of state, or in state but more than 100 miles from Pensacola, or if your work will require you to be out of state or in state but more than 100 miles from Pensacola on the date of the hearing, you may appear by telephone. You should contact the legal services provider (850-595-5005) at least five days before the date of the hearing to arrange to appear by telephone and to obtain the information you will need to make the call. Please note that the call is at your expense, that you may have to wait on hold until your hearing is ready to start, and that the length of the hearing cannot be predicted beforehand.

The Support Enforcement Hearing Officer conducts all hearings in Title IV-D child support cases and makes recommended orders, which are reviewed and signed by the circuit judge. If you disagree with the hearing officer's legal conclusions or if you don't believe his recommendations are supported by the evidence presented at the hearing, you can file a Motion to Vacate within 10 days of the date the order is signed by the circuit judge. That motion will be heard by the circuit judge, but the decision will be based on a transcript of the hearing before the hearing officer. You will have to furnish the transcript at your expense. The hearing before the hearing officer is recorded. Only a court reporter is authorized to transcribe the recording of the hearing. You can also file a Notice of Appeal to the First District Court of Appeal within 30 days of the date the circuit judge signs the order. If you wish to file an appeal, contact the Clerk of the Circuit Court concerning the procedure and filing fees.