

1 Case No.

2 Dept. No. I

3 The undersigned hereby affirms this document
4 Does not contain a social security number.

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF CHURCHILL
8

9
10 _____
11 Plaintiff,
12 Vs.
13 _____
14 Defendant.

**OPPOSITION TO MOTION FOR
ORDERS TO MODIFY CHILD
CUSTODY, VISITATION, AND/OR
CHILD SUPPORT AND
COUNTERMOTION**

15 (*Your name*) _____, in Proper Person, files this
16 Opposition and Countermotion to the motion for an order modifying child custody, visitation,
17 and/or child support.

18 **POINTS AND AUTHORITIES**

19 **LEGAL ARGUMENT**

20 (*you must check and comply with the box below*)

21 I understand that I must file my Financial Disclosure Form to oppose /
22 support any request to modify child support, and that failure to file my
23 Financial Disclosure Form may result in my request being denied.

24 When considering whether to modify physical custody, the court must determine what type
25 of physical custody arrangement exists between the parties. The court must look at the actual
26 physical custody timeshare the parties are exercising to determine what custody arrangement is in
27 effect. Rivero v. Rivero, 125 Nev. 410, 430, 216 P.3d 213, 227 (2009).

28 Different tests apply to modify custody depending on the current custody arrangement.
Joint physical custody may be modified or terminated if it is in the best interest of the child. NRS

1 125.510; Truax v. Truax, 110 Nev. 473, 874 P.2d 10 (1994). Primary physical custody may be
2 modified only when “(1) there has been a substantial change in circumstances affecting the welfare
3 of the child, and (2) the modification would serve the child’s best interest.” Ellis v. Carucci, 123
4 Nev. 145, 153, 161 P.3d 239, 244 (2007).

5 Pursuant to NRS 125C.0035(4), in determining the best interest of the child, the court must
6 consider and set forth its specific findings concerning, among other things:

- 7 (a) The wishes of the child if the child is of sufficient age and capacity to form an
8 intelligent preference as to his or her physical custody.
- 9 (b) Any nomination of a guardian for the child by a parent.
- 10 (c) Which parent is more likely to allow the child to have frequent associations and
11 a continuing relationship with the noncustodial parent.
- 12 (d) The level of conflict between the parents.
- 13 (e) The ability of the parents to cooperate to meet the needs of the child.
- 14 (f) The mental and physical health of the parents.
- 15 (g) The physical, developmental and emotional needs of the child.
- 16 (h) The nature of the relationship of the child with each parent.
- 17 (i) The ability of the child to maintain a relationship with any sibling.
- 18 (j) Any history of parental abuse or neglect of the child or a sibling of the child.
- 19 (k) Whether either parent or any other person seeking physical custody has engaged
20 in an act of domestic violence against the child, a parent of the child or any
21 other person residing with the child.
- 22 (l) Whether either parent or any other person seeking physical custody has
23 committed any act of abduction against the child or any other child.

24 A child support order must be reviewed by the court every three years upon request of a
25 parent or guardian. A child support order may be reviewed at any time on the basis of changed
26 circumstances. A change in 20% or more in the gross monthly income of a person subject to a
27 child support order shall be deemed changed circumstances. NRS 125B.145. Any inaccuracy or
28 falsification of financial information which results in an inappropriate award of child support is
also grounds to modify child support. NRS 125B.080.

FACTS AND ARGUMENT

A. Opposition & Counter-motion to Modify Child Custody and/or Visitation

1. **Current Custody Order.** The current custody order was filed on *(date)* _____.

2. **Legal Custody** (*check one*).

The other parent did not ask to change legal custody. Legal custody should stay the same. (*STOP. Go to Section 3*).

I agree to the other parent's request to change legal custody. (*STOP. Go to Section 3*).

I do not agree with the other parent's request to change legal custody. I want legal custody to stay the same because (*explain*): _____

I would like legal custody changed. Listed below are the current legal custody order and the legal custody order I would like the Court to order:

Child's Name:	Date of Birth	I Have Now: <input checked="" type="checkbox"/> <i>check one:</i>	I Would Like: <input checked="" type="checkbox"/> <i>check one</i>
		<input type="checkbox"/> No legal custody <input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody	<input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody
		<input type="checkbox"/> No legal custody <input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody	<input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody
		<input type="checkbox"/> No legal custody <input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody	<input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody
		<input type="checkbox"/> No legal custody <input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody	<input type="checkbox"/> Joint legal custody <input type="checkbox"/> Sole legal custody

It is in the best interest of the child(ren) to order the above legal custody because (*explain*): _____

3. **Physical Custody.** (*check one*).

The other parent did not ask to change physical custody. Physical custody should stay the same. (*STOP. Go to Section 4*).

I agree to the other parent's request to change physical custody. (*STOP. Go to Section 4*).

I do not agree with the other parent's request to change physical custody. I want physical custody to stay the same because (*explain*): _____

I would like physical custody changed. Listed below are the current physical custody order and the physical custody order I would like the Court to order:

Child's Name:	Date of Birth	I Have Now: <input checked="" type="checkbox"/> <i>check one:</i>	I Would Like: <input checked="" type="checkbox"/> <i>check one</i>
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody
		<input type="checkbox"/> No visitation <input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody	<input type="checkbox"/> Visitation only <input type="checkbox"/> Joint physical custody <input type="checkbox"/> Primary physical custody <input type="checkbox"/> Sole physical custody

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a. It is in the best interest of the child(ren) to order the above physical custody because *(explain, referencing any applicable NRS 125C.0035(4) best interest factors listed in the Legal Argument section above)*: _____

b. ***You MUST complete this section if the other parent currently has primary physical custody and you want to change the custody order.***

Since the last order, there has been a substantial change in circumstances affecting the welfare of the child(ren). *(Explain the substantial changes affecting the children that have happened since the last custody order)*:

1 **4. Visitation.** (*check all that apply*).

2 The other parent did not ask to change visitation. Visitation should not be changed.
3 (*STOP. Go to Section B*).

4 I agree to the other parent’s request to change visitation.

5 I do not agree to the other parent’s request to change visitation. I would like to:

6 Keep visitation the same.

7 Change the regular visitation/timeshare. My proposed new schedule is
8 attached as Exhibit 1.

9 Change the holiday schedule. My proposed new schedule is attached as
10 Exhibit 1.

11 It is in the best interest of the children to change visitation because (*explain,*
12 *referencing any applicable NRS 125C.0035(4) best interest factors listed in*
13 *the Legal Argument section above*): _____

14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____

21 **B. Opposition & Countermotion to Modify Child Support**

22 Not Applicable (*check if not applicable, and go to Section C*)

23
24 **5. Current Child Support Order.**

25 (*Name of parent*) _____ is currently ordered to pay (*amount*)
26 \$_____ per month in child support for (*number*) _____ minor children.

1 **6. Modification** (*check one*).

2 I agree to the other parent's request to change child support. (*STOP. Go to Section*

3 *C*).

4 I disagree with the other parent's requested changes. Child support should not be

5 changed because (*explain*): _____

6 _____

7 I would like child support changed. My reasons are listed below.

8 **7. Public Assistance** (*check one*).

9 I have never received Temporary Assistance for Needy Families (TANF).

10 I am now or have received Temporary Assistance for Needy Families (TANF) in

11 the past.

12 **8. Parties' Income.**

13 My gross monthly income is (*insert amount*): \$_____ / OR unknown.

14 The other parent's gross monthly income is (*insert amount*): \$_____ / OR

15 unknown.

16 **9. Reason for Modification.** I want child support modified because (*check all that*

17 *apply*):

18 Not applicable.

19 Child support should be reset based on the change in custody I am requesting.

20 The gross monthly income of the person paying child support has changed by

21 more than 20% since the last child support order was entered.

22 It has been more than three years since child support was last reviewed.

23 The following child(ren) has/have emancipated (*write name(s)*): _____

24 _____

25 The current child support order was set based on inaccurate or false information

26 (*give the reason you believe child support was set inaccurately*): _____

27 _____

28 The parties are not following the custodial schedule on which child support was

 based: (*explain the custodial schedule you have been following*): _____

1 It is in the children's best interest to modify child support because (*tell the Judge why*
2 *it is in the children's best interest to change child support*): _____

3 _____
4 _____
5 _____

6 **10. Amount Requested.** Child support should be changed so that (*name of parent who*
7 *should pay child support*) _____ pays (*check one*):

8 \$_____ per month in child support.

9 The statutory minimum of \$100 per month, per child.

10 I'm not sure how much child support should be paid. The Judge should set child
11 support.

12 Other (*explain how much child support should be ordered and how you came up*
13 *with the amount of child support*): _____

14 _____
15 _____

16 **C. Other Relief**

17 **11.** In addition to the relief requested above, I would like the Court to also order the
18 following (*explain anything else that you would like the Judge to order, or enter*
19 *"N/A" if you do not want anything else; be specific*): _____

20 _____
21 _____
22 _____
23 _____

24 I respectfully ask the Court to deny the opposing party's motion and grant me the relief requested
25 above, including an award of attorney's fees if I am able to retain an attorney for this matter, and
26 any other relief the Court finds appropriate.

27 DATED _____, 20_____.

28 Submitted By: (*your signature*) _____

(*print your name*) _____

Mailing Address:

City State Zip Code: