

PETITION TO MODIFY INCOME WITHHOLDING ORDER

1

**WHEN ALL PARTIES WILL NOT SIGN
AN AGREEMENT TO MODIFY THE
ORDER**

Part 1: Completing and Filing the Court Papers

FORMS AND INSTRUCTIONS

CHECKLIST

PETITION TO MODIFY (CHANGE) AN “INCOME WITHHOLDING ORDER”

An “***Income Withholding Order***” is a court order to an employer or other source of income to withhold money from the pay of a person ordered to pay child and/or spousal support.

You may use these forms if . . .

- ✓ An “***Income Withholding Order***” has been issued *by a court in Yuma County* against one of the parties to pay Child Support and/or Spousal Maintenance (alimony), **AND**
- ✓ You want to ***change*** the amount deducted from the pay of the person making payments, **AND**
- ✓ The parties are not willing to sign an **AGREEMENT** to the change, **AND**
- ✓ You want to change the “***Income Withholding Order***” because **one** or more of the following conditions applies:
 - ✓ The amount shown or the “stop date” for the “***Income Withholding Order***” is wrong or was changed by court order; **OR**
 - ✓ You have paid all amounts owed for back child support or and/or spousal maintenance), and only have to pay current child support and/or spousal maintenance; **OR**
 - ✓ You still owe money for back child support, but the current child support should stop; **OR**
The “***Child Support Order***” states a separate amount per child, per month, and one or more of the minor children have gotten married, reached age 18, or some other condition for stopping child support has occurred; **OR**
 - ✓ You still owe current or back spousal maintenance but one or more conditions for stopping or reducing child support have been met; **OR**
 - ✓ You still owe current spousal maintenance payments but have paid up all amounts owed for back spousal maintenance and / or current or back child support; **OR**
 - ✓ You still owe back spousal maintenance and / or current and / or back child support, but one of the conditions listed in the Order for ending current spousal maintenance payments has occurred; **OR**
 - ✓ You still owe current or back child support but have paid all amounts owed for spousal maintenance.

✗ DO NOT USE FORMS and instructions in this packet if . . .

- ✗ You want to change the support order.*
- ✗ No further payments are owed for either current or back child support or spousal maintenance.*

* If ***either*** of the above are true, review the Law Library Resource Center forms to ***Modify Support*** or the forms to “***Stop an Income Withholding Order***” to determine if appropriate for your situation.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

Petition to modify (change) an “income withholding order”

PART I – COMPLETING AND FILING THE COURT PAPERS

This packet contains court forms and instructions to file petition to modify “income withholding order”. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Instructions: How to fill out forms to modify an income withholding order (when parties will not sign an agreement to the change)

To complete these forms you will need the date the current "*Income Withholding Order*" was signed. You can find the date on the original "*Income Withholding Order*" in the court file.

Note: If no more payments are owed, STOP! You have the wrong form! If your "*Income Withholding Order*" was issued after January 1, 2005, there may be a *presumptive termination date* (an automatic stop date) on the Order. If there is and that date is correct, you do not need to file anything to stop the Order, though you may want to make sure the financial department of whomever has been making payments is aware of the termination date. If there is no stop date on the Order, review the Law Library Resource Center forms to "*Terminate an Income Withholding Order*" to determine if appropriate for your situation.

For all forms: use black ink, type or print in large clear letters.

PETITION TO MODIFY "*INCOME WITHHOLDING ORDER*"

Match each numbered item in the instructions with the same numbered item on the form.
Enter the following information:

- (1) (At top left) Print the name and other information requested for the person submitting this form. If you are representing yourself in this matter, check the box before "Self".
- (2) The names of the persons shown as the Petitioner/Party A and Respondent/Party B on the original "*Income Withholding Order*"
- (3) The case number that appears on the "*Income Withholding Order*"
- (4) The ATLAS number (if one has been assigned to your case).
- (5) The name of the person making this request, and (a) the name of the person ordered to pay, and (b) the name of the person receiving the support payments according to the Court Order.
- (6) The date the current "*Income Withholding Order*" the one you want to stop, was signed, along with the title/name and location of the Court that issued the Order.
- (7) Check this box if the amount on the "*Income Withholding Order*" is wrong. (Note: If the amount is correct but the Order contains an incorrect date when the Order will automatically end ("presumptive termination date"), skip (7), (7a), (7b) and (8), and go to (9)).
- (7a) Check this box if the amount is wrong because the amount of child support or spousal maintenance was changed by Court Order, *and* then enter the date of the Court Order making the change, and the name of the county where the change was made.

- (7b) Check this box if the amount is wrong because some portion of the amount listed on the *"Income Withholding Order"* is no longer owed, and then check the appropriate box(es) below that explain which items are no longer owed. In the lines below 7b, explain *why* money is no longer owed for any items checked (in 7b).

For example: If *current* child support is no longer owed because all children named in the child support order have turned 19 or gotten married, or other reason for stopping current support payments has occurred, but *back* child support ("arrearages and interest") are still owed, you would check the box beside (7) and the box to indicate that "Current Child Support" is no longer owed. Then, on the lines below, explain why current support is no longer owed, for example: "all children have emancipated" (turned 19, gotten married), or other condition that has occurred that requires or allows the amount of the Withholding Order to be changed. List and attach any supporting documents such as, if a child married, a copy of the marriage license or a newspaper announcement that states the wedding has already taken place.

- (8) If you indicated that the amount listed on the current *"Income Withholding Order"* is wrong, write the amount listed on the *current "Income Withholding Order"* in the space provided for (8a), and then write the correct amount, the amount that *should be* listed on the *"Income Withholding Order"* in the space provided for (8b).
- (9) Check this box if the *"Income Withholding Order"* *contains* a presumptive termination date (a date when the Order will automatically end), and that date is wrong.
- (9a) Write the date that appears on the *current "Income Withholding Order"*
- (9b) Write the correct date that *should be* listed on the new *"Income Withholding Order"*
- (10) Signature. Sign where indicated. Print your name on the line below and enter the date of your signature (Month/Date/Year). Signing this Petition is a statement to the Court that the information you have provided is true and correct, under penalty of perjury.

NEW "Income Withholding Order"

If the Court grants your request, you will need a *new "Income Withholding Order"* with the new/correct information. Judges or staff will complete the new document. Proceed to next form.

CURRENT EMPLOYER OR OTHER PAYOR INFORMATION SHEET

Fill in the following information:

- Case Number
- ATLAS Number (if one has been assigned to this case)
- Name of the "payor", the person ordered to make payments
- Name and payroll or financial department address, fax and phone numbers for the payor's *current* employer or other payor, (the one(s) named in the *"Income Withholding Order"*)
- Name and payroll or financial department address, fax and phone numbers for the payor's *previous* employer or other payor

ORDER MODIFYING INCOME WITHHOLDING ORDER

Fill in the following information ONLY:

- (At top left) Print the name and other information requested for the person submitting this form. If you are representing yourself in this matter, check the box before "Self."
- The names of the persons shown as the Petitioner/Party A and Respondent/Party B on the original *"Income Withholding Order"*
- The case number that appears on the *"Income Withholding Order"*
- The ATLAS number (if one has been assigned to your case).

Leave the rest of the form blank!

The rest of the form is to be filled out by the judicial officer assigned to your case.

When you have completed these forms, go to the "Procedures" page and follow the steps listed there.

Do not copy
or file this page

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

(2) _____
Petitioner (in original case)

(3) Case No. _____

(2) _____
Respondent (in original case)

(4) ATLAS No. _____

PETITION TO MODIFY INCOME WITHHOLDING ORDER A.R.S. § 25-504

An **Income Withholding Order** is a court order that requires an employer to withhold money from the funds of a person ordered to pay child support and/or spousal maintenance (alimony).
**THIS FORM WILL NOT AFFECT THE AMOUNT OF SUPPORT ORDERED TO BE PAID;
IT ONLY AFFECTS THE AMOUNT OF SUPPORT DEDUCTED FROM FUNDS.**

I, (5) _____, ask the court to modify the **Income Withholding Order**
(Order requiring an employer or other payor to withhold funds for child support or spousal maintenance) in which:

(a)

_____ is the person ordered to make payments, and

(b)

_____ is the person entitled to receive payments.

Issued this date: (6) _____ (Month/Day/Year)

Issued by this Court: _____ (Name of Court)

Located in this County: _____ (Name of County)

Located in this State: _____ (Name of State)

because: (Check the appropriate box(es))

(7) ☐ The **amount** shown on the **Income Withholding Order** is wrong because:

(7a) The amount was changed by Court Order issued on this date: _____
(Month/Day/Year) in this county: _____, OR

(7b) The person making payments no longer owes (Check all that apply)

- ☐ Current Child Support
☐ Child Support arrearages (back child support) and interest
☐ Current Spousal Support
☐ Spousal Support arrearages (back alimony) and interest

Reason(s) why money is no longer owed for any items checked in item **(7b)**:
 (List and attach any supporting documents.)

(8) For the reasons listed in **above**, the amount ordered assigned should be changed from the current

Amount of **(8a)** \$ _____ to the **new** amount of **(8b)** \$ _____

(9) ☐ The current **Income Withholding Order** should be modified because the **presumptive termination date** (the day the order will end) **is wrong**. The termination date should be changed from the date listed on the current **Income Withholding Order**: **(9a)** _____ (Month/Day/Year)

To the **new** date of **(9b)** _____ (Month/Day/Year)

Explain why the presumptive termination date is wrong (list and attach any supporting documents).

(10)

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Signature

Date

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
 (Date)

(notary seal)

Deputy Clerk or Notary Public

NOTICE TO THE PARTY SERVED WITH THIS PETITION: If you do not agree with this Petition, you have twenty (20) days, or thirty (30) days if service is made outside the state of Arizona, in which to respond by completing a petition for hearing. If requested, a hearing will be set. The forms necessary to request a hearing are available from the Clerk of Superior Court, for purchase from the Law Library Resource Center, or they may be downloaded for free from the internet.

If you do not request a hearing in writing within the time allowed, the Court will review the **Petition to Modify** (Change) **Income Withholding Order** and grant the request, if appropriate.

CURRENT EMPLOYER* INFORMATION

You may also fill out this form online at the Family Support Center Website.

For Clerk's Use Only

THIS FORM MUST BE COMPLETED FOR:

- ☐ **AN INCOME WITHHOLDING ORDER**
- ☐ **ORDER TO STOP AN INCOME WITHHOLDING ORDER**
- ☐ **NOTIFICATION OF A CHANGE OF EMPLOYER (*or OTHER PAYOR*)**

CASE NUMBER: _____ **ATLAS NUMBER:** _____

NAME OF PERSON ORDERED TO MAKE PAYMENTS:

LIST THE NAME OF THE EMPLOYER* AND THE ADDRESS OF THE PAYROLL OR FINANCIAL DEPARTMENT (for the person named above) **WHERE THE INCOME WITHHOLDING ORDER OR STOP ORDER SHOULD BE MAILED.**

EMPLOYER* NAME: _____

PAYROLL ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

EMPLOYER* TELEPHONE: _____

EMPLOYER* FAX: _____

****or other payor or source of funds***

FOR COURT USE ONLY. DO NOT WRITE BELOW THIS LINE.

WA/FSC

WA/LOG ID:	_____
TYPE OF W/A	_____
DATE	_____
AMOUNT OF ORDER	_____
EMPLOYER STATUS	_____
ENTERED BY	_____
NEW W/A	_____
AG	_____
SUB	_____
DCSE	_____

Person Filing:_____

Address (if not protected):_____

City, State, Zip Code:_____

Telephone:_____

Email Address:_____

Lawyer's Bar Number:_____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

Name of Petitioner/Party A

Case Number: _____

Atlas Number: _____

ORDER MODIFYING INCOME WITHHOLDING ORDER

A.R.S. § 25-504

Name of Respondent/Party B

The Court having received and reviewed the Petition to Modify Income Withholding Order, any response and/or objection to the same, and good cause appearing,

IT IS HEREBY ORDERED:

☐ **DENYING** the "*Petition to Modify Income Withholding Order*" due to:

☐ **GRANTING** the "*Petition to Modify Income Withholding Order*" and:

IT IS ORDERED that ☐ **Party A** OR ☐ **Party B** shall pay:

Current Child Support _____

Spousal Maintenance _____

Cash Medical Support _____

Payment on Support Arrears _____

Other _____

SUB-TOTAL _____

Clearinghouse handling fee _____

TOTAL PER MONTH _____

IT IS FURTHER ORDERED that a modified Income Withholding Order shall be transmitted to the obligor/payor's employer.

IT IS FURTHER ORDERED that the Clerk of the Superior Court shall:

☐ release any monies currently in the Clearinghouse's possession based on an Order directing the Clerk of the Court to hold monies pending the direction of the Court:

☐ to the obligee/payee in total and any future payments, **OR**

☐ to the obligor/payor in total and any future payments, **OR**

☐ to the obligee/payee in the amount of \$_____. The remainder and any future payment shall be sent to the obligor/payor, **OR**

☐ release current support in the amount of \$_____ per month to the obligee/payee and the remainder, if any, to the obligor/payor, **OR**

☐ Other.

OR

☐ disburse any monies received by the Clerk/Clearinghouse, from the date of this Order, from the obligor/payor/employer in the amount of \$_____ to the obligee/payee and return the remainder to the obligor/payor.

OR

☐ To return any monies received by the Clerk/Clearinghouse, from the date of this Order, from the obligor/payor/employer to the obligor/payor.

OR

☐ Other.

DATED: _____

Judicial Officer

Procedures: What to do after you have completed the petition and forms to modify an “Income withholding order”

(When the other party will not sign an agreement to the change)

STEP 1: Make two copies* (or 3, if the State (DES/DCSE) is involved) of the:

- “Petition to Modify Income Withholding Order” (*“Petition to Modify”*)
- “Order to Modify Income Withholding Order”

STEP 2: Separate your papers into three sets* (4, if DES/DCSE is involved)

Set 1 – ORIGINALS to file with the Clerk of Superior Court <i>“Petition to Modify”</i> (1 original) <i>“Order to Modify Income Withholding Order”</i> <i>“Current Employer Information Sheet”</i> (1 original) +2 self-addressed, stamped envelopes: One addressed to you; One addressed to the other party (will need 3 envelopes if the State is a party)	Set 2 – COPY for the other party (1) <i>“Petition to Modify”</i>
	Set 3 – COPY for you (1) <i>“Petition to Modify”</i>
	Set 4*– COPY for the State (*if required) (1) <i>“Petition to Modify”</i>

* If DES or DCSE is involved, you will also need an *extra copy* of the *Petition*, to serve on the State, as instructed in STEP 5 on the next page.

STEP 3. Go to the Clerk of Superior Court filing counter to file your papers. You may file your papers from 8 a.m. to 5 p.m., Monday through Friday, at the following Superior Court locations:

**Yuma County Justice Center
Clerk of Superior Court
250 W. 2nd Street
Yuma, Arizona 85364**

Hand the originals and all sets of copies to the Clerk at the filing counter *and pay the filing fee*. The Clerk will keep the originals, stamp the extra copies to show that these are copies of papers you have filed with the Court, and return the stamped copies to you. The stamped sets of copies are now called "conformed" copies.

FEES: A list of current fees is available from the Law Library Resource Center and from the Clerk of Superior Court's website. If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Law Library Resource Center.

STEP 4: Make sure you get back the following from the Clerk

- Your copy
- The other party's copy
- The copy for DES/DCSE (if required*)

STEP 5: Serve the papers on the other party(ies). The papers may be delivered by the Sheriff's Department, a licensed process server, commercial delivery service or mail by which you can obtain an original or copy of the other party's signature confirming delivery, or by *Acceptance of Service* as described in the "SERVICE" packet available from the Law Library Resource Center or the Internet.

The State of Arizona may be involved if any party received public assistance for the children or used the services of the State in establishing or collecting child support. If either party already has a case with the State (DCSE or DES) involving the same children as in this case, notice of this action must also be given to the Attorney General's Office.

SERVING PAPERS ON THE STATE: (*if required*). The Office of the Attorney General (the "AG") will accept service by signing an "*Acceptance of Service*" form and returning the form *for you to file with the Court*. There are no court fees for serving the State with an *Acceptance*, as described below:

a) You may mail or personally deliver to the Office of the Attorney General (the "AG") assigned to your case*:

- a copy of the "*Petition to Modify Income Withholding Order*" along with an
- "*Acceptance of Service*" AND
- a self-addressed, stamped envelope (*addressed back to you*).

b) There may also be a "drop-box" in the Clerk of Court's filing counter area at which you may leave the above listed documents and the envelope for the AG. Ask the clerk at the filing counter, *OR*

c) You may mail all listed documents and the self-addressed stamped envelope to:

Office of the Attorney General
Child Support Services Section
1800 E. Palo Verde Street
Yuma, Arizona 85365

Note: The State is not considered served until the AG's signed *Acceptance of Service* is filed with the Court!

Note: A party who is served with the papers *in Arizona*, whether a person or the State of Arizona (the AG / DCSE), has 20 days from the date of service to file a request for a hearing. A party who is served with the papers outside Arizona has 30 days from the date of service to file a request for hearing.

STEP 6: WAIT for the Court to let you know whether the Order was signed or the matter was set for a hearing. If a hearing is requested, a hearing or a conference will be scheduled. If no party requests a hearing, the Judge may grant or deny your request or may still schedule a hearing to obtain further information. If a hearing is scheduled, you will receive written notice of the date, time, and location.

If a hearing or a conference is scheduled:

- Write down the date, time and location
- Attend
- Be On Time
- Dress Neatly
- Do NOT Bring Children to Court