

## **COMPLAINT TO MODIFY VISITATION PACKET**

Free to download; \$15.00 for paper copy

This forms packet is designed to guide you as you prepare your Complaint to Modify Visitation papers. You must fill in the required information as it applies to your situation. Your papers should remain in the same order as they appear in this packet. You may fill in the blanks by hand, in neat print, using BLACK ink.

You should fill in every blank line EXCEPT for the civil action file number blanks and the lines provided for signatures by the Notary Public and for blanks which should be filled out by the Judge.

Make sure that everything is signed. All signatures that require notarization must be signed in the presence of the notary public before your documents will be approved for filing.

**Neither the Clerk of the Superior Court, nor any Deputy Clerk, nor the Law Librarian, nor the Judges, or any other Court personnel, is allowed to help you fill out these forms. State Law O.C.G.A. §15-19-51 forbids court personnel to give legal advice.** Different situations may require special procedures and courthouse personnel cannot advise you on how to proceed or what forms may be necessary in specific situations. Divorce can be very complicated. The only person allowed to help you in the preparation of these forms is a licensed attorney. Please consult an attorney if you have questions about the procedure or what action is best for you to take.

### **YOU MAY NEED AN ATTORNEY IF:**

- The case is contested and the other parent has a lawyer.
- You cannot locate the other parent to serve him or her with your papers.
- You might lose custody of your children.
- You think you will have difficulty getting information and documents from the other parent regarding income, etc.

Even if it is a friendly modification action, you should talk to a lawyer before you sign any settlement papers or file anything in court.

Remember, you must fully complete the forms before the Judge will be able to grant you a decree of modification. Incomplete forms, as well as forms that are improperly filled out, may delay the grant of your modification. Make sure that you take time to read over all the forms, and understand what is being asked of you in each situation.

|                                                                                       |                                                                                  |                               |
|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------|
| <p>_____ , )</p> <p>Plaintiff, )</p> <p>v. )</p> <p>_____ , )</p> <p>Defendant. )</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> | <p>Civil Action No. _____</p> |
|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------|

COMES NOW \_\_\_\_\_ [Name], Plaintiff,  
files this ☐ his/ ☐ her Complaint to Modify Visitation against  
\_\_\_\_\_ [Name], Defendant, and shows as  
follows:

☐ a) Defendant is a resident of \_\_\_\_\_ County, Georgia, and has acknowledged service of the Complaint and Summons and has waived further service of process.

☐ b) Defendant is a resident of \_\_\_\_\_ County, Georgia and may be served at his/her residence/work address of:

\_\_\_\_\_

Plaintiff is the ☐ father/ ☐ mother of \_\_\_\_\_ [Name(s)],  
born \_\_\_\_\_ [dates].

☐ a. The ☐ Plaintiff / ☐ Defendant has had legal custody of said child(ren) by the Final Judgment and Decree of \_\_\_\_\_ [divorce/legitimation] entered by this Court on \_\_\_\_\_ [date], civil action file number \_\_\_\_\_ [write in number]. The current custody order also awarded to the

☐ Plaintiff / ☐ Defendant the right to visit said child(ren) with the following schedule:

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[list relevant portions of the visitation schedule which is currently in effect].

☐ b. The ☐ Plaintiff / ☐ Defendant Mother currently has legal and physical custody of the child(ren) because she and the father were never married. The father has signed a Voluntary Acknowledgement of Legitimation, but there is no court order of custody or visitation at this time.

4.

Since the date of the final decree, there has been a change in circumstances materially affecting the welfare of the minor child(ren) as follows:

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[Explain what circumstances have changed, attaching additional paper if necessary.]

5.

The non-custodial parent has developed a close relationship with the minor child(ren) and has engaged in numerous activities that the minor child(ren) enjoy(s) and wish(es) to continue. The non-custodial parent's visitation needs to be changed because

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\_\_\_\_\_ [explain],  
and it is in the best interest of the child to spend more time with Plaintiff.

6.

The parties ☐ have / ☐ have not both consented to a Parenting Plan that specifies the visitation schedule.

WHEREFORE, Plaintiff requests:

- (a) that process issue and Defendant be served according to law;
- (b) that this Court modify visitation as requested in the Complaint.
- (c) that Plaintiff be awarded such other and further relief as the Court may deem appropriate under the circumstances.

\_\_\_\_\_  
/S/ Plaintiff *pro se*

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

|                                                                         |   |                        |
|-------------------------------------------------------------------------|---|------------------------|
| <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> | ) |                        |
|                                                                         | ) |                        |
| Plaintiff,                                                              | ) |                        |
|                                                                         | ) |                        |
| v.                                                                      | ) | Civil Action No. _____ |
|                                                                         | ) |                        |
|                                                                         | ) |                        |
| <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> | ) |                        |
| Defendant.                                                              | ) |                        |

## 5

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA

\_\_\_\_\_,  
Plaintiff,  
v.  
\_\_\_\_\_,  
Defendant  
)  
)  
)  
)  
) Civil Action File No. \_\_\_\_\_  
)  
)  
)  
)

**ACKNOWLEDGEMENT OF SERVICE AND SUMMONS**

The undersigned Defendant hereby acknowledges service of the above Summons and Complaint for Modification of Visitation and states that (s)he has received a copy of said Complaint, and Defendant hereby waives any further service of process.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_,  
/S/ Defendant *pro se*  
Sign in the presence of a Notary Public

Sworn to and subscribed before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_,  
Notary Public, State of Georgia  
My Commission Expires \_\_\_\_\_.

\_\_\_\_\_, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. \_\_\_\_\_  
 )  
 )  
 \_\_\_\_\_, )  
 )  
 Defendant. )

I hereby certify that I have this day served the foregoing **Complaint to Modify Visitation** upon the following ☐ counsel for party OR ☐ party by delivering or causing to be delivered by hand a copy of same as follows:

and upon the following ☐ counsel for party OR ☐ party by depositing or causing to be deposited a copy of same in the United States mail in an envelope with sufficient postage thereon addressed as follows:

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Telephone number(s): \_\_\_\_\_

\_\_\_\_\_, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. \_\_\_\_\_  
 )  
 \_\_\_\_\_, )  
 )  
 Defendant. )

Judge, \_\_\_\_\_ County Superior Court

\_\_\_\_\_, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. \_\_\_\_\_  
 )  
 )  
 \_\_\_\_\_, )  
 )  
 Defendant. )

4.

For the past five years, the children lived at the following addresses with the following persons:

| Address | Dates | Lived With |
|---------|-------|------------|
|         |       |            |
|         |       |            |
|         |       |            |
|         |       |            |
|         |       |            |

5.

The child(ren) presently live/lives with \_\_\_\_\_, who is the child's \_\_\_\_\_ (mother, grandmother, aunt, etc.).

6.

**Other Cases Concerning the Child(ren) (Choose a or b)**

*(The court wants to know about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.)*

☐ a) Plaintiff asserts that ☐ he/ ☐ she has not participated as a party or a witness or in any other capacity in any other litigation concerning the children named above, and knows of no other proceeding concerning the minor children in this or any other state.

No person other than the parties to this action has physical custody of the minor children or any claim to custody or visitation with the minor children.

☐ b) The minor children have been involved in the following actions:

| <u>County/State/Court</u> | <u>Type of Custody Action</u> | <u>Date Filed</u> | <u>Status</u> |
|---------------------------|-------------------------------|-------------------|---------------|
| _____                     | _____                         | _____             | _____         |

| <u>County/State/Court</u> | <u>Type of Custody Action</u> | <u>Date Filed</u> | <u>Status</u> |
|---------------------------|-------------------------------|-------------------|---------------|
| _____                     | _____                         | _____             | _____         |
| _____                     | _____                         | _____             | _____         |
| _____                     | _____                         | _____             | _____         |

7.

**Others with a Custody/Visitation Claim (Choose a or b)**

☐ a) I know of no other person, not a party to this proceeding, who has physical custody of the children or claims to have custody or visitation rights with respect to the minor children.

☐ b) The following persons who are not a party to this proceeding have custody or visitation rights with the minor children:

| <u>Name</u> | <u>Claim</u> |
|-------------|--------------|
| _____       | _____        |
| _____       | _____        |
| _____       | _____        |

\_\_\_\_\_  
Affiant/Plaintiff  
[Sign in the presence of a Notary Public]

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

Exhibit “\_\_”

**VISITATION SCHEDULE SUMMARY (See Parenting Plan for details).**

The non-custodial parent is \_\_\_\_\_.

The custodial parent is \_\_\_\_\_.

The non-custodial parent shall be entitled to exercise reasonable visitation with the minor child with the following minimum provisions:

- A. On every 1<sup>st</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> Friday at 6:00 p.m. until the following Sunday at 6:00 p.m.;
- B. During even numbered years (2002, 2004, etc.), the non-custodial parent shall have the right of visitation on the holidays delineated below:
  - 1. Martin Luther King’s Birthday
  - 2. Memorial Day
  - 3. Labor Day
  - 4. Thanksgiving
  - 5. Second week of Christmas Vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- C. During odd numbered years (2003, 2005, etc.) the non-custodial parent shall have the right of visitation on the holidays delineated below:
  - 1. New Year’s Day
  - 2. Easter or Spring Break
  - 3. July 4<sup>th</sup>
  - 4. Halloween
  - 5. First Week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- D. During even numbered years (2002, 2004, etc.), the custodial parent shall have the minor child on the holidays delineated below:
  - 1. New Year’s Day
  - 2. Easter or Spring Break
  - 3. July 4<sup>th</sup>
  - 4. Halloween
  - 5. First week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- E. During odd numbered years (2003, 2005, etc.), the custodial parent shall have the right of visitation on the holidays delineated below:
  - 1. Martin Luther King’s Birthday
  - 2. Memorial Day
  - 3. Labor Day
  - 4. Thanksgiving
  - 5. Second week of Christmas vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- F. The Mother shall have the minor child on Mother’s Day.
- G. The Father shall have the minor child on Father’s Day.
- H. The non-custodial parent shall have the right to visit with the minor child for two consecutive weeks in the summer between June 15 and August 15. During this period, the custodial parent shall have the minor child on the first (1<sup>st</sup>) weekend from 6:00 p.m. Friday until 6:00 p.m. Sunday. The non-custodial parent shall give the custodial parent a minimum of thirty (30) days written notice of the intent to exercise this visitation.
- I. Holiday visitation shall take precedence over week-end visitation.

|                                                                                   |                                                                                  |                               |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------|
| <p>_____ ,</p> <p>Plaintiff,</p> <p>v. _____</p> <p>_____ ,</p> <p>Defendant.</p> | <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> | <p>Civil Action No. _____</p> |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------|

Upon the foregoing Complaint to Specify Visitation Rights, the parties having appeared with counsel and the Court having heard testimony, received exhibits, and heard argument of counsel, it is hereby ORDERED as follows:

Plaintiff, \_\_\_\_\_, shall continue to have the right to visit the minor children of the parties, \_\_\_\_\_, and to have the child(ren) with ☐him/ ☐her at all reasonable times and places.

The non-custodial parent shall have the right to visit and take the minor child(ren) with ☐him/ ☐ her as specified by the Parenting Plan, which is hereby incorporated by reference.

No later than April 15 of each year, the non-custodial parent shall give to the custodial parent Notice of the two-week period during which ☐ he/ ☐ she intends to have the children visit with him/her during the summer.

JUDGE, \_\_\_\_\_ COUNTY SUPERIOR COURT