

**Department of State
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For Department of State Use Only

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Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: Tennessee Department of Human Services

Division: Child Support Services

Contact Person: Barbara Broersma

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Citizens Plaza Building, 10th Floor
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Revision Type (check all that apply):

Amendment

New

Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1240-02-01	Forms for Establishing and Modifying Support Orders
Rule Number	Rule Title
1240-02-01-.01	Petition Form
1240-02-01-.02	Affidavit Form
1240-02-01-.03	Notice of Hearing Form

1240-02-01
Forms for Establishing and Modifying Support Orders

Amendments

Rule 1240-02-01-.01 Petition Form, is amended by deleting the rule in its entirety, renaming the catchline "Petition Forms", amending the Table of Contents accordingly, and inserting the following language so that, as amended, Rule 1240-02-01-.01 shall read as follows:

1240-02-01-.01 Petition Forms.

- (1) The following form, or another form containing all of the information herein, may be used to commence an action to establish a support order pursuant to T.C.A. § 36-5-401 et seq.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

STATE OF TENNESSEE ex. rel.,

Petitioner
v.

Respondent

Docket No. _____

IV-D No. _____

PETITION TO SET SUPPORT

Comes the Petitioner, and would respectfully request this Honorable Court to issue an order of support for the minor children:

_____, DOB _____
_____, DOB _____
_____, DOB _____
_____, DOB _____

Petitioner alleges he/she is the:

- (check one) mother
 father
 non-parent caretaker

of the above-named child(ren) who are in his/her physical custody. Petitioner alleges the child(ren) have been in his/her physical custody since:

(check one) birth
 date of physical custody _____

Petitioner alleges there is no other person or entity entitled to support for these child(ren) for the time petitioner has had physical custody.

Petitioner alleges Respondent(s) is/are the legal parent(s) of the child(ren) and have a duty to support the child(ren).

WHEREFORE, PETITIONER PRAYS:

1. That this petition be filed and proper process issue.
2. That this Court set current and retroactive child support for said child(ren) in accordance with the State guidelines, including medical support for said child(ren), to be paid by income assignment to Central Collections.
3. That the Respondent be ordered to pay the costs of this cause.

4. For such other and further relief as this cause may require.

Petitioner

Petitioner's Address and Phone

STATE OF TENNESSEE
COUNTY OF _____

_____, petitioner, being first duly sworn, affirms that the petitioner has read the foregoing petition, knows the contents of the petition, and that the petition is true and correct to the best of petitioner's knowledge, information and belief.

Petitioner

Sworn to and subscribed before me this ____ day of _____, 20__.

NOTARY PUBLIC / CLERK

My commission expires: _____

(2) The following form, or another form containing all of the information herein, may be used to commence an action to modify a support order pursuant to T.C.A. § 36-5-401 et seq. Where the petition language indicates a choice between Petitioner or Respondent, circle the appropriate choice.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

STATE OF TENNESSEE ex. rel.,

Petitioner
v.

Respondent

Docket No. _____

IV-D No. _____

PETITION FOR MODIFICATION

Comes the Petitioner / Respondent, and would respectfully show this Honorable Court that an order was entered herein whereby the Respondent was ordered to pay support for the minor children:

_____, DOB _____
_____, DOB _____
_____, DOB _____
_____, DOB _____

in the amount of \$_____ monthly. Petitioner / Respondent alleges that it is appropriate to modify child support for the following reason(s):

which results in a significant variance according to the child support guidelines.

WHEREFORE, PETITIONER / RESPONDENT PRAYS:

1. That this petition be filed and proper process issue.
2. That this Court modify the child support for said children in accordance with the State guidelines, including medical support, with support to be paid by income assignment to the state Central Collections unit for said children.
3. That the Petitioner / Respondent be ordered to pay the costs of this cause.
4. For such other and further relief as this cause may require.

Petitioner / Respondent

Petitioner's / Respondent's Address and Phone

STATE OF TENNESSEE
COUNTY OF _____

_____, being first duly sworn, affirms that he/she has read the foregoing petition, knows the contents of the petition, and that the petition is true and correct to the best of his/her knowledge, information and belief.

Petitioner / Respondent

Sworn to and subscribed before me this ____ day of _____, 20__.

NOTARY PUBLIC / CLERK

My commission expires: _____

- (3) The following form, or another form containing all of the information herein, may be used to commence an action to enforce a support order pursuant to T.C.A. § 36-5-401 et seq.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

STATE OF TENNESSEE ex. rel.,

Petitioner
v.

Respondent

Docket No. _____

IV-D No. _____

PETITION TO ENFORCE CHILD SUPPORT

Comes the Petitioner, and would respectfully show this Honorable Court that an order was entered herein whereby the Respondent was ordered to pay support for the minor child(ren):

_____, DOB _____
_____, DOB _____

_____, DOB _____
_____, DOB _____

in the amount of \$_____ monthly. Petitioner alleges Respondent is not paying support according to the terms of the order.

WHEREFORE, PETITIONER PRAYS:

1. That this petition be filed and proper process issue.
2. That this Court enforce the child support for said child(ren) by any means the court finds appropriate, including but not limited to income assignment, issuance of liens on real and/or personal property of respondent, requiring a bond or security to assure payment.
3. That the Respondent be ordered to pay the costs of this cause.
4. For such other and further relief as this cause may require.

Petitioner

Petitioner's Address and Phone

STATE OF TENNESSEE
COUNTY OF _____

_____, petitioner, being first duly sworn, affirms that the petitioner has read the foregoing petition, knows the contents of the petition, and that the petition is true and correct to the best of petitioner's knowledge, information and belief.

Petitioner

Sworn to and subscribed before me this ____ day of _____, 20__.

NOTARY PUBLIC / CLERK

My commission expires: _____

Authority: T.C.A. § 36-5-406.

Rule 1240-02-01-.02 Affidavit Form, is amended by deleting the existing rule in its entirety and inserting the following language so that, as amended, Rule 1240-02-01-.02 shall read as follows:

1240-02-01-.02 Affidavit Form. The following form may be used with the Petition to Set Support and Petition for Modification found in Rule 1240-02-01-.01(1) and (2). Where the petition language indicates a choice between Petitioner or Respondent, circle the appropriate choice.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

STATE OF TENNESSEE ex. rel.,

Petitioner

v.

Respondent

Docket No. _____

IV-D No. _____

AFFIDAVIT

Comes the Petitioner / Respondent, and being first duly sworn, states (select all that apply and fill in the blanks):

1. The child(ren) named in the petition reside with me:
 - _____ less than 50% of the time
 - _____ exactly 50% of the time
 - _____ more than 50% of the time
2.
 - _____ I am married to the petitioner / respondent, but we are living separately.
 - _____ I have never been married to the petitioner/ respondent.
 - _____ I am divorced from the petitioner / respondent by order of the _____ Court of _____ County, _____ (state), Docket number _____, effective date _____.
3. The child(ren) spend _____ (number) days per month/year with the respondent, with each day being more than twelve (12) consecutive hours in a twenty-four (24) hour period.
4.
 - _____ There is not an order for the support of the child(ren).
 - _____ The most recent order for support of the child(ren) is from the _____ Court of _____ County, _____ (state), Docket number _____, effective date _____, in the amount of \$_____ per month.
5. I pay for the child(ren)'s medical insurance, at a cost of \$_____ monthly.
6. I pay for the child(ren)'s dental insurance, at a cost of \$_____ monthly.
7. I pay for work-related child care for the child(ren) at a cost of \$_____ monthly.
8. The deductible or co-pay for the child(ren)'s medical care is \$_____ per _____ (visit, month, annual).
9. I pay \$_____ per month for the child(ren)'s recurring medical expenses.
10. The child(ren) participate in the following enriching and/or extracurricular activities at a cost of \$_____ monthly: _____
11. The child(ren) incur the following educational expenses at an average monthly cost of \$_____ : _____
12. My average gross monthly income from all non-exempt sources is \$_____.
13. I am the legal parent of _____ (number) other qualified minor children who live in my home 50% of the time or more.
14. I am the legal parent of _____ (number) of minor children who live in my home less than 50% of the time. Over the last 12 months I have provided support for these children in the average amount of \$_____ monthly.

Petitioner / Respondent

Sworn to and subscribed before me this ____ day of _____, 20__.

NOTARY PUBLIC / CLERK

My commission expires: _____

Authority: T.C.A. §36-5-406.

Rule 1240-02-01-.03, Notice of Hearing Form, is amended by deleting the existing rule in its entirety and inserting the following language so that, as amended, Rule 1240-02-01-.03 shall read as follows:

1240-02-01-.03 Notice of Hearing Form. The following form may be used to notify respondent that a Petition to establish, modify or enforce support has been filed against him/her, pursuant to T.C.A. §36-5-401 et seq., and to notify the respondent of the time, date and location of the hearing thereon:

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

STATE OF TENNESSEE ex. rel.,

Petitioner

v.

Respondent

Docket No. _____

IV-D No. _____

NOTICE OF HEARING

TO THE PETITIONER / RESPONDENT, _____

Notice is hereby given to you, _____ that the Petitioner / Respondent will appear before the Honorable _____, Referee / Judge of the _____ Court for _____ County, Tennessee, on the ____ day of _____, 20__ at _____ o'clock __.m. You may be represented by a lawyer if you chose. This hearing will be held at the following place:

The Petitioner / Respondent will be requesting the Court: (check appropriate section)
____ Order support for the child(ren) listed in the attached Petition to Set Support.
____ Enforce the order of support as set out in the attached Petition to Enforce Support.
____ Modify support as set out in the attached Petition to Modify Support.

IF YOU WANT TO TELL YOUR SIDE TO THE COURT, YOU MUST BE AT THE HEARING. BRING PROOF OF YOUR GROSS MONTHLY INCOME TO THE HEARING. IF YOU DO NOT COME TO THE HEARING, THE COURT WILL DECIDE BASED ONLY ON THE PETITIONER'S / RESPONDENT'S TESTIMONY AND MAY ISSUE AN ORDER GRANTING THE RELIEF SOUGHT IN THE PETITION.

CLERK

Certificate of Service

I certify that a copy of this Notice and Petition with any attachments was given to Petitioner / Respondent and was served on Petitioner / Respondent by mailing, return receipt requested, on the ____ day of _____ 20 ____.

CLERK

Authority: T.C.A. § 36-5-406.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services (board/commission/ other authority) on 03/03/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/21/08

Notice published in the Tennessee Administrative Register on: 12/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 01/20/09 and 01/22/09

Date: 3-3-09

Signature: Barbara Broersma

Name of Officer: Barbara Broersma

Assistant General Counsel

Title of Officer: Tennessee Department of Human Service



Subscribed and sworn to before me on: March 3, 2009

Notary Public Signature: Regina D. Mitchell

My commission expires on: May 8, 2012

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper
Robert E. Cooper, Jr.
Attorney General and Reporter
3-20-09

Date

Department of State Use Only

Filed with the Department of State on: 3/24/09

Effective on: 6/7/09

Tre Hargett
Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Date(s), Time(s) and Place(s) of Public Hearing(s): January 20, 2009, 6:30 p.m. CST, Department of Human Services, 2nd Floor Board Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37243; January 20, 2009, 6:30 p.m. EST, Conference Room A, 7th Floor, 531 Henley Street, Knoxville, Tennessee 37902; January 22, 2009, 6:30 p.m. CST, 2nd Floor Auditorium, Donnelly J. Hill State Office Building, 170 North Main Street, Memphis, Tennessee 38103.

A public hearing was held on the dates, times and places noted above by the Department of Human Services to receive comments regarding amendments to the above referenced rules. No comments were received.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Child Support Enforcement Program is governed by Title IV-D of the Social Security Act, 42 U.S.C.A. §§601 et seq. For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules comply with existing federal law, such that, pursuant to Section 6 of the Regulatory Flexibility Act, the Regulatory Flexibility Act's provisions do not apply to these rules. In addition, these rulemaking hearing rules do not appear to affect small businesses as defined in the Act because these rules are related to the determination of the appropriate amount of child support for minor children who do not reside with both parents. These rules do not regulate or attempt to regulate businesses.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amended rules proposed by the Department of Human Services in Chapter 1240-02-01 pertain to forms for establishing, enforcing and modifying support orders. The forms had not been updated since 1986 and were out of date due to changes in statutory laws and court rules. The updated forms are: in compliance with current law; easier for pro se litigants to use; in a format that is easy to understand; and; can be used for multiple purposes in child support by individuals and attorneys.

Rule 1240-2-01-.01 Petition Form, is amended by deleting the rule in its entirety, renaming the catchline "Petition Forms", amending the Table of Contents accordingly and inserting amended language. The amended form separates the three (3) purposes of the form under individual headings that are clearly distinguishable. The form sections are under headings "PETITION TO SET SUPPORT", "PETITION FOR MODIFICATION", and "PETITION TO ENFORCE CHILD SUPPORT". The information needed for each section's purpose, whether to set support, modify support or enforce support are clearly stated and easy to understand under the individual headings. The petition heading for each type of petition has been changed to include the "Docket No." and IV-D No." Before amendment, the form commingled the purposes of the petition form, whether to set support, modify support or enforce support which could be confusing.

"PETITION TO SET SUPPORT" language has been organized to easily identify the minor children and dates of birth; the relationship of the Petitioner to the minor children; that the Petitioner has physical custody and for how long; that the Petitioner is entitled to support for the minor children while in the Petitioner's custody; that the Respondent is the legal parent and has a duty to support the children; and, clearly states what is asked of the court. The Petition to Set Support must be notarized.

"PETITION FOR MODIFICATION" language provides the minor children's names and their birthdates clearly as well as the current amount of support paid and the reasons sought to modify the amount of support. The petition clearly states what is asked of the court. The petition must be notarized.

"PETITION TO ENFORCE CHILD SUPPORT" clearly designates the minor children pertaining to the action; the current monthly amount of support to be paid; and the petition format clearly states what is being asked of the court. The petition must be notarized.

Rule 1240-2-1-.02 Affidavit Form, is amended by deleting the existing form in its entirety and inserting amended language. The amended language clearly states that the Affidavit Form may be used with the Petition to Set Support and Petition for Modification found in Rule 1240-02-01-.01(1) and (2). The amended language instructs that where the petition language indicates a choice between Petitioner or Respondent, the appropriate choice should be circled. The construction of the language to acquire the needed information is easier for the person responding to understand and to respond. The language has been amended to comply with current guidelines to set or modify child support obligations.

The "Affidavit Form" as amended, designates the Docket No. and the IV-D No. The Affidavit Form as amended, clearly specifies the percentage of time the child spends with the Petitioner/Respondent; marital state of the parents; the number of days per month spent with the respondent; what constitutes a "day" is defined; the status of any current support order and the court, county, docket number and amount of support pertaining to the support order; extracurricular and education expenses; average gross annual salary; and, the easy identification all children that live with the parent more or less than 50% of the time. The affidavit must be notarized.

Rule 1240-2-1-.03 Notice of Hearing Form, is amended by deleting the existing rule in its entirety and inserting amended language. The form is amended for clarity of purpose and simplification. The form may be used to notify respondent that a Petition to establish, modify or enforce support has been filed against him/her, pursuant to T.C.A. Section 36-5-401 et seq., and to notify the Respondent /Petitioner of the time, date and location of the hearing.

"NOTICE OF HEARING" form, as amended clearly shows the court's "whereabouts", court date and time, the

person who will preside and the right to be represented by an attorney. The notice is arranged to easily identify the hearings purpose: set support – Petition to Set Support would be attached; enforce support – Petition to Enforce Child Support would be attached; modify support –Petition for Modification would be attached. The notice clarifies that the Respondent / Petitioner can tell his or her side to the court by being present at the hearing and that failure to appear in court could result in a finding based upon the testimony of the Respondent/Petitioner.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated section 36-5-406 authorizes the Department to promulgate forms for use in cases under Part 5 of Title 36.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Three (3) public hearings were held across the state. No written comments were received regarding the proposed rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenses resulting from the promulgation of this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Barbara Broersma, Assistant General Counsel
10th Floor, Citizens Plaza State Office Building
400 Deaderick Street
Nashville, Tennessee 37243
(615) 313-2258

Bill Duffey, Program Director
Child Support Policy
12th Floor, Citizens Plaza State Office Building,
400 Deaderick Street,
Nashville, Tennessee 37243
(615) 313-4880

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Bill Duffey, Program Director
Child Support Policy
12th Floor, Citizens Plaza State Office Building,
400 Deaderick Street,
Nashville, Tennessee 37243

(615) 313-4880

(H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Bill Duffey, Program Director
Child Support Policy
12th Floor, Citizens Plaza State Office Building,
400 Deaderick Street,
Nashville, Tennessee 37243
(615) 313-4880

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A