

Filing a Motion for Revision in a Family Law Case

Should I use this packet?

This packet has the instructions and forms you will need to ask the court to revise (change) an order or judgment. This is called a Motion for Revision.

Use this packet if:

- You are party to a family case in a Washington Superior Court and
- A court commissioner entered an order in the case that you disagree with and
- You believe the court commissioner got the facts or the law in your case wrong and
- It has been ten days or less since the order was entered.

◆ Do NOT use this packet if a judge entered an order in your case.

What is a Motion for Revision?

It asks a judge to change an order that a court commissioner made. [RCW 2.24.050](#). A court commissioner is like a judge, but only makes decisions relating to a specific subject matter. Many counties have family law commissioners who decide motions in family law cases.

Where do I file the motion?

You must file a Motion for Revision in the same Superior Court where the commissioner heard your case.

Why would I file a Motion for Revision?

Either:

- you disagree with the commissioner's decision **or**
- you think the commissioner made the wrong decision based on the facts and the law.

Example: You presented evidence at hearing showing the other parent has a current drug abuse problem. Your evidence included drug tests and arrests. Based on the other parent's drug abuse, you asked the commissioner to restrict the other parent's time with the children. The commissioner did not do so.

Do I need to file a Motion for Revision right away?

You have to file the motion and other papers no more than ten days after the order you want revised was signed by the judge and filed with the clerk.

How Do I make a Motion for Revision?

This packet has the forms you need, including:

- Motion for Revision
- Certificate of Mailing or Personal Delivery
- Order on Revision
- Note for Hearing Docket, if your county allows a hearing on this motion

In some counties, you have to use forms that are specific to that county. Call your superior court clerk to ask whether they require certain forms for a Motion for Revision before filling out the forms in this packet.

Will the judge automatically revise the commissioner's decision?

No. The judge must look at the records of the case, and the findings of fact and conclusions of law entered by the court commissioner. The judge may revise the commissioner's decision if the judge believes the commissioner interpreted the law wrong. Or the judge might decide that the court did not consider relevant facts that were presented the hearing.

◆ **Talk with a lawyer** for help deciding whether to file a Motion to Revise. If you file a motion that the court thinks wastes its time, you could face paying the other side's court costs.

Can I use a Motion to Revise to bring in new evidence?

No. A motion to revise only asks a judge to review a commissioner's decision based on the evidence the commissioner had in front of him/her. You may not bring new evidence in through a Motion for Revision.

◆ If what you really want to do is try to get new evidence into the record at this stage of the case, read [Superior Court rule 59](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr59) (online at http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=sup&set=CR&ruleid=supcr59) and talk to a lawyer. We have no packet or publication to help you do this.

If evidence was introduced at the hearing by witness testimony, you will need to file a declaration and possibly a transcript or hearing record. Check your local court rules (see below) to find out if you need to file a transcript. We do not have instructions for writing a declaration in this type of case.

Will I need to go to a hearing?

It depends on the county. Check your county's local rules. They may be online here: http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=local. Or ask the court clerk, family law facilitator (if your county has one) or the assistant to the judge your motion is assigned to.

Summary of Steps

- 1: Gather the Forms and Documents You Need
- 2: Fill Out the Forms
- 3: Talk to a Lawyer, if You Can
- 4: Make Three Extra Copies of Each Document
- 5: File / Deliver Working Papers / Have the Other Party Served
- 6: Confirm Hearing / Go to Hearing (if there is one)

STEP 1: Get the Forms and Documents You Need

(FORMS # 1, 2, 3, and 4 are Part of This Packet)

FORM #1: Motion for Revision

FORM #2: Certificate of Mailing or Personal Delivery

FORM #3: Order on Revision (Proposed)

FORM #4: Note for Hearing Docket, if you are having a hearing. If a special Note for Hearing Docket form is used in the court where you are filing your motion, get the court's special form. Use it instead of ours.

◆ Check your local court rules to see if you also need to attach a copy of the commissioner's decision to your Motion.

STEP 2: Fill out the Forms

On all of the forms, fill out the caption (the top portion of each form naming the county, the parties involved, and the case number) by copying the caption from the Petition that started the case.

FORM #1: *Motion for Revision*

You file a motion to ask the court to grant you something. In this motion, you are asking the judge to change the court commissioner's decision.

To fill out the Caption, look at the top of the first page of the Petition that started this case. Copy its caption, including the case number.

Write the commissioner's name in "[Name] _____." In the next blank, write the date the commissioner's order was filed with the clerk (entered).

List each of the findings or parts of the commissioner's order that you think are wrong. Explain why the findings are wrong based on the evidence presented at the hearing. If you think the commissioner got the law wrong, say so. Make the statements short and factual, not argumentative and opinionated. Give each fact its own number.

After you fill out the motion, sign and date it at the end.

Everything you will want to say must be in the motion form. At the hearing, you can tell the judge your side of the case.

◆ You cannot present any new facts not in the documents filed.

FORM #2: *Certificate of Mailing or Personal Delivery*

You are responsible for serving the other party with your motion papers. You must deliver to the other party:

- the Motion for Revision
- Declaration, if you are using one
- Note for Motion Docket

You must serve the other party within ten days of entry of the commissioner's order in most counties. As proof that you have done this, you should fill out a "Certificate of Mailing or Personal Delivery" and file it with the clerk's office. Delivery can be done either by delivering the documents to the opposing party or lawyer yourself, or by having someone do this for you. Fill out the caption, as in Form #1.

In the next section of the pleading, write out the name of the other party. In the next blank, after "with the following documents," list every document that you are delivering to the other party. List every form.

If the papers were served by regular mail, check the first box. Then write the name and address where the papers were sent.

If the papers were personally delivered, check the second box. Then fill in who the papers were delivered to (the other party or their lawyer.) Write in the date, time, and address of service in the second blank.

The person who mailed or delivered the papers should sign the end of the form under “*I declare under penalty of perjury . . .*” Fill in the date and the place (city, state) where the form is signed. Print the name of the person signing the form under the signature.

****Note on Mailing Your Motion to the Other Party:** Delivery by mail must be sent postage prepaid, from a post office. Delivery will be considered complete on the third day after placed in the mail *unless* the third day falls on a weekend or legal holiday. In that case, delivery will be considered complete on the first non-weekend day or legal holiday.¹ **If you serve your Motion by mail, you will usually need to mail it at least seven days before the hearing.**

FORM 3: Order on Revision (Proposed)

Fill out the caption.

Fill in the rest of the document by writing out how you believe the court commissioner should have ruled in the first place, and why.

Example:

You presented evidence at hearing or trial showing the other parent has current drug abuse problem. Your evidence included drug tests and arrests. Based on the other parent’s drug abuse, you asked the commissioner to restrict the other parent’s time with the children. The commissioner did not do so. You want the judge to use that evidence to restrict the other parent’s time.

In your proposed Order on Revision, you could write in after “Specifically, the portion(s) of the Order to be revised are as follows” something like: “The Court finds that limiting factors do exist to justify restricting the (name of other parent)’s time with the children. The evidence supports a finding that (name of other parent) has a long-term impairment resulting from drug, alcohol, or other substance abuse under RCW 26.09.191(3). The court orders that (name of other parent)’s time with the children be restricted as follows: [] *Petitioner* [] *Respondent (check restricted parent)* shall not take non-prescribed drugs or alcohol and shall not allow the children to be exposed to third parties who are taking drugs or alcohol. [] *Petitioner* [] *Respondent (check restricted parent)* shall establish a clean and sober lifestyle before any overnight residential time. The [] *petitioner* [] *respondent (check restricted parent)* shall provide proof of a permanent residence with appropriate accommodations for the children and shall keep a safe, stable environment for the children when they spend residential time with him/her.”

¹ [Civil Rule 2 \(b\)\(2\)\(A\)](#).

◆ If you are filing a motion to revise because you want a judge to restrict the other parent’s time with the child, call CLEAR to ask for help coming up with restrictions. See the end of this publication for contact info.

At the bottom of this form, sign your name under “Presented by.” Then print your name on the following line. Do not write in the date in the space above “Presented by” and to the left of the line where the judge signs. The judge will do that.

FORM 4: *Note for Hearing Docket* – if needed

◆ If there will be no hearing on your motion, skip to step 3.

If your county lets you have a hearing on a Motion to Revise, set the hearing (with the clerk or the judge’s assistant). Then fill out the “Note for Hearing Docket” or “Note for Motion Docket” form.” Use this form to let the court and the other parties know the date, time, location, and reason for the hearing.

Many counties require you to use their own special form. Check with the Family Law Facilitator or court clerk’s office to find out if the court in the county where your case was filed uses a special Note for Hearing form. If it does not, use ours.

You should fill out this form with help from the court clerk or facilitator, if possible.

How Do I Set a Date for My Hearing? You may choose a date for your hearing. Note important rules about how much advance notice you must give the other party, and what days and times you can schedule your hearing.

If possible, call the family law facilitator or court clerk’s office where you are filing your motion. Ask:

- How many days before the hearing date do you need to file your papers and serve the other party?
- Are there certain days or times when you are allowed to schedule a Motion for Revision in a family law case?
- Do you need to send working papers or confirm the hearing? If so, how/where?
- Is there a deadline for setting a hearing for a Motion for Revision?

If you cannot contact a clerk or facilitator, check Superior Court [Civil Rule 6\(d\)](#), or the Local Rules for that county: http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=superior. You must add more days if you serve your motion by mail. (See directions for Form 3.)

STEP 3: Talk to a lawyer, if possible.

These instructions are not legal advice. Try to talk to a lawyer about your problem before filing your motion. If you cannot afford to hire a lawyer to represent you, you may be able to pay one to advise you and review your paperwork. If you are very low-income, call CLEAR. (See end of publication for contact info.)

STEP 4: Make Three Extra Copies of Each Document

Make at least three copies of each document (more if there is more than one other party in the case):

- One copy for you
- one for the other party's lawyer(or the other party if s/he does not have a lawyer)
- one for the judge (working papers), if there will be a hearing on your Motion

See Step 5 for more information on working papers.

STEP 5: File / Deliver Working Papers / Have Other Party Served

File the originals of forms # 1- 3 with the Clerk's office, and a copy of Form #4.

Stamp your copies of the forms with the Clerk's date stamp to prove that you filed the originals of Forms #1, #2 and #3 with the Clerk.

◆ Keep reading only if there will be a hearing on your motion. Otherwise, now you wait to get the judge's order. The judge will probably mail it to you. Check with the judge's assistant to be sure.

Working Papers: Some counties require "working papers." Working papers are an extra copy of your motion packet (the papers you filed plus the order marked "Proposed") that goes to the

judge. Ask the clerk or family law facilitator if you will need to file working papers. If so, write the following in the top right hand corner of the first page of this set:

WORKING PAPERS: MOVING PARTY
JUDGE'S CIVIL LAW MOTIONS

DATE: _____ TIME: _____ AM/PM

NAME: _____
(Your Name)

***Fill in the date and time of your hearing.**

Serving the Other party:

You must have the other party served with a copy of your "motion packet" the proper amount of time before the hearing. Each county has its own local rule on how much time in advance a party must be given notice of the hearing. **Ask the family law facilitator or court clerk how many days' advance notice to the other party you have to give. Then deliver or serve the motion packet appropriately.** Bring the remaining copy of your motion packet to your hearing. It is your copy.

STEP 6: Confirm Your Hearing. Go to the Hearing.

Confirmation:

Check with the family law facilitator or court clerk to determine whether you have to confirm your hearing and if so, how you must confirm your hearing. In some counties, you will have to confirm your hearing several days before the actual hearing. **IF YOU DO NOT DO SO, YOUR HEARING MIGHT BE AUTOMATICALLY CANCELLED!**

Other party's response:

If the other party files a written response to your motion, s/he must do so by the time period stated in your county's Local Rules. Check with the family law facilitator or court clerk in your county to learn what that period of time is. (Or your local rules may be online here: http://www.courts.wa.gov/court_rules/?fa=court_rules.local&group=local.) If the other party does not file a written response in time, you have the right to object to the response being considered by the judge/commissioner.

At Your Hearing:

You must go to the hearing. At the hearing, you can tell the judge your side of the case. You cannot present any new facts that are not already in the documents you filed.

Everything you will want to say regarding the motion for revision must be in the motion and declaration forms. If the court allows you to speak at all, it will only give you a few minutes to do so.

◆ YOU MAY HAVE TO WAIT AS LONG AS THREE HOURS FOR YOUR HEARING. DO NOT BRING CHILDREN WITH YOU. Arrive a half-hour early for your hearing to check in.

Bring a copy of your motion packet with you, including the original of Form #4 (Order on Revision).

After Your Hearing:

Make yourself a copy of whatever the judge signed. If the other party was not there, make a copy for the other party. Mail it to the other party. All original orders signed by the judge must be filed in the clerk's office.

Do not leave the courthouse with or destroy original orders signed by the judge.

If you do not know what to do with the originals, ask the clerk's office or family law facilitator to help you.

◆ **The laws and court rules are complex.** Following these instructions will not guarantee a good result. Try to talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem, but not represent you in court.)

What if I need legal help?

- Apply online with **CLEAR*Online** - <http://nwjustice.org/get-legal-help>
or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays from 9:10 a.m. until 12:25 p.m. CLEAR works with a language line to provide interpreters as needed at no cost to callers. If you are deaf or hard of hearing, please call 1-888-201-1014 using your preferred TTY or Video relay service.
- **King County:** Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-

3200, or the toll-free number, which may be useful when calling from a pay phone, 1-877-211-WASH (9274). 211 works with a language line to provide interpreters as needed at no cost to callers. Deaf and hearing-impaired callers can call 1-800-833-6384 or 711 to be connected to a relay operator at no cost, who will then connect them with 211. Information on legal service providers in King County may also be accessed through 211's website at www.resourcehouse.com/win211/.

- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

This information is current as of the date of its printing, February 2013.

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APPENDIX A: Terms and Words You May Need to Know

Calendar - The court's schedule of cases to be heard. Also called a Docket.

Caption - The heading of each legal document. It has the name of the court, the names of the parties, the case number, and the name of the document itself.

Certificate of Mailing or Personal Delivery: This form tells the court that service to the other party took place.

Clerk of the Court - An officer of the court who handles clerical matters like keeping records, entering judgments and providing certified copies.

Commissioner (Court Commissioner) - like a judge. Only makes decisions relating to a particular subject matter. Many counties have family law commissioners who decide only family law cases.

Court - Often, "the court" means the judge or commissioner who represents the court.

Family Law Facilitator - A facilitator can provide helpful information, but not legal advice, for parties without a lawyer. The program is available at some county courthouses. Facilitators can help you get the form to guide you through the courthouse process, answer limited procedural questions, and review family law documents for completeness. Services are usually available by appointment only.

Filing - Giving court papers to the court clerk to place in the case file.

Hearing - Going before a judge or court commissioner in person to ask for a court order.

Motion - A request made to the court for a court order.

Motion Docket - The court's schedule of motions to be heard.

Note/Notice of Hearing - A written request to the clerk to schedule your case for a hearing.

Order - A court document signed by a judge or commissioner that requires someone to do or not do something.

Ruling - A decision made by the court. Needs to be made into an Order (See above) to be effective.

Service - Giving court papers to the other party by having them hand-delivered, sending it by certified mail or publishing in a newspaper.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF _____**

In re: _____

And
Petitioner,

Respondent.

NO. _____

**MOTION TO REVISE
COMMISSIONER'S RULING**

The Petitioner moves the Court for revision of the *[type of Order; example: Parenting Plan; Temporary Order; Order of Support]* _____ entered by Commissioner *[name]* _____ on *[date]* _____.

This motion is made in compliance with RCW 2.24.050 which provides:

Revision by court.

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

The Petitioner requests a review of the record of the case and any Findings of Fact and Conclusions of Law that have been entered in writing. Specifically, the portion(s) of the Order to

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF _____**

In re:

_____ ,

Petitioner,

and

_____ ,

Respondent.

No. _____

**CERTIFICATE OF MAILING OR
PERSONAL DELIVERY**

(No Mandatory Form Available)

I hereby certify and declare under penalty of perjury that I have this day provided the Petitioner, _____ with copies of the following documents, _____

_____, in the following manner:

Via first class U.S. Mail, postage prepaid:

Name & Address of Party Being Served

By handing to and leaving with said Petitioner or another adult member of his household, or his attorney, namely _____, a true and correct copy of said pleadings at the following location: _____.

Dated: _____

Signature

Print or Type Name

Place signed

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF _____**

In re:

_____,

Petitioner,

and

_____,

Respondent.

No. _____

NOTE FOR HEARING DOCKET

(No Mandatory Form Available)

TO THE CLERK OF COURT AND TO: _____

Please take notice that this case will be heard on the date below and the clerk is requested to note this issue on the docket for that day.

HEARING DATE: _____

HEARING TIME: _____

LOCATION: _____

COURTHOUSE ROOM: _____

ADDRESS: _____

NATURE OF MOTION: _____

Dated: _____

Signature of Lawyer or Party

Print or Type Name

Notice to party: you may list an address that is not your residential address where you agree to accept legal documents.

Address
