

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 20-07

(Temporarily adding Super. Ct. P&S R. 5-I)

WHEREAS, pursuant to D.C. Code § 11-946, the Board of Judges of the Superior Court approved the temporary addition of Superior Court Rule Governing Parentage and Support Proceedings 5-I; and

WHEREAS, the new rule does not modify a federal criminal or civil rule; it is

ORDERED, that Superior Court Rule Governing Parentage and Support Proceedings 5-I is hereby temporarily enacted as set forth below; and it is further

ORDERED, that the new rule shall take effect immediately, shall govern all proceedings hereafter commenced and insofar as is just and practicable all pending proceedings, and shall remain in effect until no later than December 31, 2020.

Rule 5-I. Motions to Modify Child Support Orders During COVID-19 Emergency

(a) APPLICABILITY AND DURATION OF PROVISIONS. The following provisions apply to motions to modify child support orders based on a change in circumstances if the motion is filed after the Chief Judge, with the consent of the Joint Committee on Judicial Administration, has issued an order under D.C. Code § 11-947 (2020 Supp.) to delay, toll, or otherwise grant relief from deadlines imposed by law or rules, based on the Coronavirus Disease 2019 (COVID-19). The provisions terminate on the earlier of:

(1) 30 days after the Chief Judge's order expires without issuance of a further order;
or

(2) the date on which the Chief Judge issues an order terminating the provisions.

(b) MOTION CONTENT. A motion to modify a child support order filed during the period specified in Rule 5-I(a) need not comply with Domestic Relations Rule 7(b) or caption requirements in Rule 5(b), but the motion must state:

(1) the moving party's name and date of birth;

(2) the name of the other parent or party to the case;

(3) the case number, if known;

(4) the change in circumstances;

(5) the date of the change in circumstances;

(6) that the change in circumstances warrants a decrease or increase in support; and

(7) if applicable, the date and manner in which the moving party provided notice under Rule 5-I(c).

(c) NOTICE TO THE NON-MOVING PARTY.

(1) *In General.* Before serving the non-moving party in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4, the moving party may provide the non-moving party with notice that a motion to modify has been filed, by:

(A) transmitting a copy of the motion to the non-moving party, including the District of Columbia, by email or other electronic means; or

(B) if the non-moving party is the District of Columbia, phoning the IV-D agency and providing the information required by Rule 5-I(b).

(2) *Proving Notice.* The moving party must prove to the court that notice was provided in accordance with Rule 5-I(c)(1). The proof may be provided by filing a declaration under penalty of perjury or by any other method acceptable to the court.

(d) SERVICE. Before the hearing on the motion, the moving party must serve the motion in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4.

COMMENT TO 2020 TEMPORARY AMENDMENTS

This temporary rule applies to motions to modify child support that are filed during the period described in section (a). Section (b) temporarily relaxes during this period the requirements for motions to modify, particularly the requirements imposed by Domestic Relations Rule 7. Section (c) provides a rule-based means of giving the non-moving party notice of the motion before the motion is served in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4. As explained in D.C. Code § 46-204(c) (2012 Repl.), retroactive modification may be "permitted from the date on which the opposing party was given notice of the petition for modification according to statute or court rule."

Rule 5-l. Motions to Modify Child Support Orders During COVID-19 Emergency

(a) **APPLICABILITY AND DURATION OF PROVISIONS.** The following provisions apply to motions to modify child support orders based on a change in circumstances if the motion is filed after the Chief Judge, with the consent of the Joint Committee on Judicial Administration, has issued an order under D.C. Code § 11-947 (2020 Supp.) to delay, toll, or otherwise grant relief from deadlines imposed by law or rules, based on the Coronavirus Disease 2019 (COVID-19). The provisions terminate on the earlier of:

(1) 30 days after the Chief Judge's order expires without issuance of a further order; or

(2) the date on which the Chief Judge issues an order terminating the provisions.

(b) **MOTION CONTENT.** A motion to modify a child support order filed during the period specified in Rule 5-l(a) need not comply with Domestic Relations Rule 7(b) or caption requirements in Rule 5(b), but the motion must state:

(1) the moving party's name and date of birth;

(2) the name of the other parent or party to the case;

(3) the case number, if known;

(4) the change in circumstances;

(5) the date of the change in circumstances;

(6) that the change in circumstances warrants a decrease or increase in support; and

(7) if applicable, the date and manner in which the moving party provided notice under Rule 5-l(c).

(c) **NOTICE TO THE NON-MOVING PARTY.**

(1) *In General.* Before serving the non-moving party in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4, the moving party may provide the non-moving party with notice that a motion to modify has been filed, by:

(A) transmitting a copy of the motion to the non-moving party, including the District of Columbia, by email or other electronic means; or

(B) if the non-moving party is the District of Columbia, phoning the IV-D agency and providing the information required by Rule 5-l(b).

(2) *Proving Notice.* The moving party must prove to the court that notice was provided in accordance with Rule 5-l(c)(1). The proof may be provided by filing a declaration under penalty of perjury or by any other method acceptable to the court.

(d) **SERVICE.** Before the hearing on the motion, the moving party must serve the motion in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4.

COMMENT TO 2020 TEMPORARY AMENDMENTS

This temporary rule applies to motions to modify child support that are filed during the period described in section (a). Section (b) temporarily relaxes during this period the requirements for motions to modify, particularly the requirements imposed by Domestic Relations Rule 7. Section (c) provides a rule-based means of giving the non-moving party notice of the motion before the motion is served in accordance with D.C. Code § 46-206 (2012 Repl.) and Rule 4. As explained in D.C. Code § 46-204(c) (2012 Repl.), retroactive modification may be "permitted from the date on which the opposing party was given notice of the petition for modification according to statute or court rule."

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By the Court:



Date: July 16, 2020

Robert E. Morin
Chief Judge

Copies to:

All Judges
All Magistrate Judges
All Senior Judges
Avrom Sickel, Director, Family Court
Library
Daily Washington Law Reporter
Laura Wait, Associate General Counsel