

1 (Your Name) \_\_\_\_\_  
2 (Address) \_\_\_\_\_

3 (Telephone) \_\_\_\_\_  
4 (Email Address) \_\_\_\_\_  
5 Self-Represented

6 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE**  
7 **STATE OF NEVADA, IN AND FOR THE COUNTY OF \_\_\_\_\_**

9 \_\_\_\_\_  
10 (Plaintiff's Name),  
11 v.  
12 \_\_\_\_\_  
13 (Defendant's Name)

CASE NO.: \_\_\_\_\_  
DEPT NO.: \_\_\_\_\_

14  
15 **OPPOSITION AND COUNTERMOTION TO MOTION TO MODIFY CUSTODY,**  
16 **VISITATION, AND/OR CHILD SUPPORT**

17 COMES NOW ( *check one*)  Plaintiff/ Defendant (*your name*) \_\_\_\_\_

18 \_\_\_\_\_, in Proper Person and files this Opposition and  
19 Counter-motion hereby moving this Honorable Court for an Order denying the opposing party's  
20 request for modification of the existing custody, visitation, and/or child support order. This  
21 Opposition and Counter-motion is brought in good faith and is based upon the papers and  
22 pleadings on file herein, and such further evidence and argument that may be requested at the  
23 hearing.

24 DATED this (*day*) \_\_\_\_\_ day of (*month*) \_\_\_\_\_, (*year*) \_\_\_\_\_.

25  
26 \_\_\_\_\_  
27 (*Your Signature*)  
28

**POINTS AND AUTHORITIES**

**I. LEGAL ARGUMENT**

Pursuant to NRS chapters 125 and 125B, an order for custody, visitation and/or child support of the parties' minor child(ren) may be modified by the court.

NRS 125.510 states in pertinent part:

1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section and chapter 130 of NRS:

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest.

(b) At any time modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

...

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination.

3. Any order for custody of a minor child of a marriage entered by a court of another state may, subject to the jurisdiction requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

Additionally, NRS 125.480 states in pertinent part:

1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent... When awarding custody to either parent, the court shall consider, among other factors, which parent

1 is more likely to allow the child to have frequent associations and a continuing  
2 relationship with the noncustodial parent.

3 (b) To a person or persons in whose home the child has been living and where the  
4 child has had a wholesome and stable environment.

5 ...

6 4. In determining the best interest of the child, the court shall consider, among  
7 other things:

8 (a) The wishes of the child if the child is of sufficient age and capacity to form an  
9 intelligent preference as to his custody;

10 (b) Any nomination by a parent or a guardian for the child; and

11 (c) Whether either parent or any other person seeking custody has engaged in an  
12 act of domestic violence against the child, a parent of the child or any other person  
13 residing with the child.

14 ...

15 Regarding child support for the parties minor child(ren), NRS 125B.140 provides  
16 that:

17 1. Except as otherwise provided in chapter 130 of NRS and NRS 125.012:

18 ...

19 (b) Payments for the support of a child pursuant to an order of a court which have  
20 not accrued at the time either party gives notice that he has filed a motion for  
21 modification or adjustment may be modified or adjusted by the court upon a showing of  
22 changed circumstances, whether or not the court has expressly retained jurisdiction of the  
23 modification or adjustment.

24 Furthermore, NRS 125B.145 states, in pertinent part:

25 1. An order for the support of a child must, upon the filing of a request for review  
26 by:

27 ...

28 (b) A parent or legal guardian of the child, be reviewed by the court at least every  
3 years pursuant to this section to determine whether the order should be modified or  
adjusted...

...

2. If the court:

...

(b) Has jurisdiction to modify the order and, taking into account the best interests  
of the child, determines that modification or adjustment of the order is appropriate, the  
court shall enter an order modifying or adjusting the previous order for support in  
accordance with the requirements of NRS 125B.070 and 125B.080.

...

3. The court shall ensure that:

(a) Each person who is subject to an order for the support of a child is notified, not less  
than once every 3 years, that he may request a review of the order pursuant to this  
section;

...

1 4. An order for the support of a child may be reviewed at any time on the basis of  
2 changed circumstances. For the purposes of this subsection, a change of 20 percent or  
3 more in the gross monthly income of a person who is subject to an order for the support  
4 of a child shall be deemed to constitute changed circumstances requiring a review for  
5 modification of the order for the support of a child.

6 5. As used in this section:

7 (a) "Gross monthly income" has the meaning ascribed to it in NRS 125B.070.

8 (b) "Order for the support of a child" means such an order that was issued or is  
9 being enforced by a court of this state.

10 Lastly, NRS 125C.010 states, in pertinent part:

11 1. Any order awarding a party a right of visitation of a minor child must:

12 (a) Define that right with sufficient particularity to ensure that the rights of the  
13 parties can be properly enforced and that the best interest of the child is achieved; and

14 (b) Specify that the State of Nevada or the state where the child resides within the  
15 United States of America is the habitual residence of the child.

16 The order must include all specific times and other terms of the right of visitation.

17 2. As used in this section, "sufficient particularity" means a statement of the rights  
18 in absolute terms and not by the use of the term "reasonable" or other similar term which  
19 is susceptible to different interpretations by the parties.

20 The statutory guidelines for child support are set forth in NRS 125B.070 and NRS  
21 125B.080. Child support should be set at the following levels of the non-custodial  
22 parent's gross monthly income: 1) For one minor child – 18%; 2) For two minor children  
23 – 25%; 3) For three minor children – 29%; 4) For four minor children – 31%; and 5) For  
24 each additional minor child – an additional 2%. The non-custodial parent is obligated to  
25 pay a minimum of \$100.00 per month per child. The maximum amount per month per  
26 child varies according to that parent's gross monthly income. However, the court can  
27 deviate from these sums based upon the factors listed in NRS 125B.080.

28 The Nevada Supreme Court has held that a joint physical custody arrangement may be  
modified upon a showing that the modification is in the best interests of the child. *Truax v.*  
*Truax*, 110 Nev. 473, 874 P.2d (1994). In *Rivero v. Rivero*, 216 P.3d 213 (2009), the Nevada  
Supreme Court held that when considering whether to modify a physical custody arrangement,  
the district court must first determine what type of physical custody arrangement exists. The  
*Rivero* Court held that the parties have a joint physical custody arrangement when each parent  
has physical custody of the minor child at least 40 percent of the time (146 days), calculated over  
one calendar year. A modification of a joint physical custody arrangement is appropriate if it is  
in the child's best interest. *Id.* In *Ellis v. Carucci*, 123 Nev. 145 at 147 (2007), the Nevada

1 Supreme Court concluded “that a modification of primary physical custody is warranted only  
2 when (1) there has been a substantial change in circumstances affecting the welfare of the child,  
3 and (2) the modification serves the best interest of the child.”

4 The *Rivero Court* also held that “although a party need not show changed circumstances  
5 for the district court to review a support order after three years, *changed circumstances are still*  
6 *required for the district court to modify the order.*” (Emphasis Added). *Id.* at 229. In *Fernandez*  
7 *v. Fernandez*, 222 P.3d 1030 (2010), the Nevada Supreme Court again held that a parent is  
8 required to show a change in circumstances if he or she is seeking a modification of child  
9 support. The Court further held that parents cannot enter into agreements that limit or prohibit  
10 child support modification because it violates public policy.

11 **II. FACTS AND ARGUMENT**

12 **A. Information About the Current Order for Custody, Visitation, and Child Support**

- 13 1. I am the ( *check one*)  Mom /  Dad of the minor child(ren).
- 14 2. Pursuant to an Order or Decree filed on (*date*) \_\_\_\_\_, a copy of which  
15 is attached as Exhibit 1, ( *check one*)  Mom /  Dad is ordered to pay (*amount*)  
16 \$\_\_\_\_\_ dollars per month for the support of the parties’ (*number of children*)  
17 \_\_\_\_\_ minor child(ren).
- 18 3. Under the current order: (*fill out one section for each minor child*)
- 19 a. I have ( *check one*)  joint physical custody  primary physical custody/   
20 visitation only of (*child’s name*) \_\_\_\_\_ who is \_\_\_\_\_ years  
21 old. I also have ( *check one*)  sole/  joint legal custody of this child.
- 22 b. I have ( *check one*)  joint physical custody / primary physical  
23 custody/visitation of (*child’s name*) \_\_\_\_\_ who is  
24 \_\_\_\_\_ years old. I also have ( *check one*)  sole/  joint legal custody of this  
25 child.  
26  
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- 1 c. I have ( *check one*)  joint physical custody / primary physical custody  
 2 /visitation of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years  
 3 old. I also have ( *check one*)  sole/  joint legal custody of this child.
- 4 d. I have ( *check one*)  joint physical custody / primary physical custody  
 5 /visitation of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years  
 6 old. I also have ( *check one*)  sole/  joint legal custody of this child.
- 7 e. I have ( *check one*)  joint physical custody / primary physical custody  
 8 /visitation of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_  
 9 years old. I also have ( *check one*)  sole/  joint legal custody of this child.

10 **B. Requested Modification(s) of the Current Order for Custody, Visitation and Child Support**

11 **1. Legal Custody:**

- 12  The other party did not request a change of the current legal custody order.
- 13  I agree to the other party's request to change the current legal custody order.
- 14  I do not agree to the other party's request to change the current legal custody  
 15 order. I want the order to stay the same and believe that the order should not be  
 16 changed because (*explain*) \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_

20  I do not agree with the other party's request to change the current legal custody  
 21 order and instead I ask that the current order be changed as follows: (*fill out one*  
 22 *section for each minor child*)

23 a.  Mom/  Dad should be awarded (*check one*)  sole/  joint legal custody of  
 24 (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

25 b.  Mom/  Dad should be awarded (*check one*)  sole/  joint legal custody of  
 26 (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.  
 27  
 28

1 c.  Mom/  Dad should be awarded (*check one*)  sole/  joint legal custody of  
2 (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

3 d.  Mom/  Dad should be awarded (*check one*)  sole/  joint legal custody of  
4 (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

5 e. A change of the current order for legal custody is in the best interest of the  
6 child(ren) because (*Explain*) \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 f. The following change in circumstances has occurred since the order for legal  
11 custody was entered. (*Explain*) \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15  
16 **2. Physical Custody:**

17  The other party did not request a change of the current physical custody order.

18  I agree to the other party's request to change the current physical custody order.

19  I do not agree to the other party's request to change the current physical custody

20 order. I want the order to stay the same and believe that the order should not be

21 changed because (*explain*) \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 \_\_\_\_\_

25  I do not agree with the other party's request to change the current physical

26 custody order and instead I ask that the current order be changed as follows: (*fill out*

27 *one section for each minor child*)

28 \_\_\_\_\_

1 a.  Mom/  Dad should be awarded (*check one*)  sole/  joint physical custody  
2 of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

3 b.  Mom/  Dad should be awarded (*check one*)  sole/  joint physical custody  
4 of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

5 c.  Mom/  Dad should be awarded (*check one*)  sole/  joint physical custody  
6 of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

7 d.  Mom/  Dad should be awarded (*check one*)  sole/  joint physical custody  
8 of (*child's name*) \_\_\_\_\_ who is \_\_\_\_\_ years old.

9 e. A change of the current order for physical custody is in the best interest of the  
10 child(ren) because (*Explain*) \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_

14 f. The following change in circumstances has occurred since the order for  
15 physical custody was entered. (*Explain*) \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 **3. Visitation:**

- 21 a. The regular visitation schedule (*check one*)
- 22  The other party did not request a change of the regular visitation schedule.
  - 23  I agree to the other party's request to change the regular visitation schedule.
  - 24  I do not agree to the other party's request to change the regular visitation  
25 schedule. I want the order to stay the same and believe that the order should not be  
26 changed because (*explain*) \_\_\_\_\_  
27 \_\_\_\_\_  
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I do not agree to the other party’s request to change the regular visitation schedule. Instead, I ask that the regular visitation schedule be changed as described in the attached proposed regular visitation schedule.

b. The holiday visitation schedule (*check one*)

- The other party did not request a change of the holiday visitation schedule.
- I agree to the other party’s request to change the holiday visitation schedule.
- I do not agree to the other party’s request to change the holiday visitation schedule. I want the order to stay the same and believe that the order should not be changed because (*explain*) \_\_\_\_\_

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I do not agree to the other party’s request to change the holiday visitation schedule. Instead, I ask that the holiday visitation schedule be changed as described in the attached proposed holiday visitation schedule.

**4. Child Support:**

- The other party did not request a change of the current order for child support.
- I agree to the other party’s request to change the current order for child support.
- I do not agree to the other party’s request to change the current order for child support. I want the order to stay the same and believe that the order should not be changed because (*explain*) \_\_\_\_\_

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I do not agree to the other party’s request to change the current order for child support. Instead, I ask that the order for child support be changed because: (*check all that apply*)

The gross monthly income of ( *check one*)  Mom/ Dad has changed by at least 20% since the last child support order was entered.

The current order for child support should be changed as a result of my request to change the physical custody arrangement.

The following change in circumstance has occurred since the last order was issued, which justifies a modification of the previous order: (*explain*)

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**a. Parties’ Income:**

- 1. Mom’s gross monthly income is (*amount*) \$\_\_\_\_\_.
- 2. Dad’s gross monthly income is (*amount*) \$\_\_\_\_\_.

**b. Amount of Child Support Requested:**

1. Based upon the ( *check one*)  primary physical custody arrangement/  joint physical custody arrangement I am requesting, ( *check one*)  Mom/ Dad should be ordered to pay \$\_\_\_\_\_ dollars per month for the support of the parties’ (*number*) \_\_\_\_\_ minor children.

2. This amount was calculated based on the following: ( *check one*)

- The statutory minimum of \$100 per month, per child;
- The calculation for a primary physical custody arrangement as shown on the attached Worksheet A;
- The calculation for a joint physical custody arrangement as shown on the attached Worksheet B; or
- Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. CONCLUSION**

Based on the law set forth and the pleadings on file herein, this party should be granted his/her requests for modification and an order denying the opposing party's request for a modification in custody, visitation, and/or child support.

WHEREFORE, Movant respectfully requests that this Court grant this motion and for such other relief as the Court deems appropriate.

DATED this \_\_\_\_\_ day of (*month*) \_\_\_\_\_, (*year*) \_\_\_\_\_.

Submitted By:

(*Print your name*) \_\_\_\_\_

(*Your signature*)  \_\_\_\_\_

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1 **USE only if you are requesting a modification of the holiday visitation schedule** (If you use  
 2 the Odd or Even column you **cannot** use the Every Year column. You also **cannot** circle **both**  
 3 Mom and Dad in the same column)

4 The following is the new proposed holiday visitation schedule.

Check box if this holiday applies:	Holiday:	Time (circle a.m. or p.m.):	Every Year	Even Years	Odd Years
<input type="checkbox"/>	New Year's Eve	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	New Year's Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Martin Luther King, Jr. Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Presidents' Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Passover	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Easter	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Memorial Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Mother's Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Father's Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	4th of July	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Labor Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Rosh Hashanah	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Yom Kippur	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Nevada Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Halloween	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad

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<input type="checkbox"/>	Veterans Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Thanksgiving Day	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Chanukkah (Days): _____	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Chanukkah (Days): _____	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Christmas Eve	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Christmas	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Father's Birthday	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Mother's Birthday	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>	Child's Birthday	From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>		From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom Dad
<input type="checkbox"/>		From: _____ a.m./p.m. To: _____ a.m./p.m.	Mom Dad	Mom Dad	Mom

**USE only if you are requesting a modification of the regular visitation schedule**

The following is the new proposed visitation schedule.

Week	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
<i>Sample</i>	Mom	Mom	Dad Pick up at 3 pm	Dad	Dad	Mom Pick up at 3 pm	Mom
<b>Week #1</b>							
<b>Week #2</b>							
<b>Week #3</b>							
<b>Week #4</b>							

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**EXHIBIT 1 –  
Current Custody Order or Decree**

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**EXHIBIT 2**