

## CONTESTED CHANGE OF CUSTODY

A change of custody is allowed when the parent(s) can prove that there are substantial changes affecting the welfare and best interests of the child(ren).

When a parent sues the other parent to change custody, the Court has the power to award sole custody, joint custody, joint legal custody, and joint physical custody. Additionally, the Court may award custody to a third person when both parents are proved to be unfit. The Judge has the power to Order a psychological evaluation of the family, an independent medical evaluation, or an investigation by the local family and children services agency.

A complaint for change of custody brought by the non-custodial parent must be brought in the county in which the legal custodian of the child or children. A complaint for change of custody brought by the legal custodian must be brought in the county in which the Defendant resides. **If the custodial parent and the children live in another state, the rules of jurisdiction and venue are governed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), which is quite complicated.** The UCCJEA has been adopted by forty-four states. You may read Georgia's version of this law at O.C.G.A. § 19-9-40 through § 19-9-104.

In a multi-state case, you are **strongly encouraged** to get an attorney.

A Judge may consider the desire of a child who is at least eleven years of age, but not yet fourteen. However, the child's desire by itself is not a material change of conditions or circumstances. The wishes of a child aged fourteen or older is controlling unless the parent whom the child chooses is unfit. During a custody hearing, the Court may Order the parents to leave the courtroom when a child testifies.

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

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

COMPLAINT FOR CHANGE OF CUSTODY

Now comes the Plaintiff, \_\_\_\_\_, and states his/her claim against the Defendant, \_\_\_\_\_, for a change of custody as follows:

1.

Jurisdiction and Venue (choose a or b)

a) The Defendant, a Georgia resident, is the custodial parent and may be served at his or her address: \_\_\_\_\_

b) The Defendant, a Georgia resident, is the non-custodial parent and may be served at his or her address: \_\_\_\_\_

2.

Current Custody Arrangement (choose a or b)

a) The Defendant presently has legal custody of the minor child(ren), \_\_\_\_\_, age(s) \_\_\_\_\_, by virtue of a Final Order and decree of divorce in Civil Action No. \_\_\_\_\_, entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, in the Superior Court of \_\_\_\_\_ County, Georgia.

b) The Defendant presently has legal custody of the minor child(ren), \_\_\_\_\_, age(s) \_\_\_\_\_, by virtue of an Order of Legitimation in Civil Action No. \_\_\_\_\_, entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

3.

**Change in Circumstances**

There has been a change in circumstances materially affecting the welfare of the minor child(ren) as follows: \_\_\_\_\_

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4.

**Proposed New Custody Arrangement**

As a result of such change of circumstances, the Plaintiff asks that custody be changed as follows: \_\_\_\_\_

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5.

**Plaintiff's Ability to be Custodial Parent**

The Plaintiff is a fit and capable parent and is otherwise qualified to assume full custody of the minor child(ren).

6.

**Visitation**

a) Plaintiff requests that the Defendant be awarded visitation with the minor child(ren) as follows (or attach a schedule): \_\_\_\_\_

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b) The proposed visitation schedule is attached as Exhibit “\_\_\_\_\_.”

7.

### **Child Support Amount**

Please go to <https://csconlinecalc.georgiacourts.gov/frontend/web/index.php> and complete the Child Support Worksheet.

The Plaintiff asks that Defendant be required to pay to the Plaintiff, as support of the minor child(ren), the sum of \$ \_\_\_\_\_ \* per week/bi-weekly/ month, starting on \_\_\_\_\_, and continuing per week/bi-weekly/month thereafter until each respective child reaches the age of eighteen (18), or so long as the child is enrolled in and attending secondary school (not to exceed age twenty (20)), marries, dies, or becomes otherwise emancipated. The Plaintiff asks that the child support obligation be reduced as follows as each child becomes emancipated: \_\_\_\_\_

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\*This amount was derived from line 13 of the Child Support Worksheet, which is attached hereto as Exhibit 1.

8.

### **Child Support Method of Payment (Check a or b)**

a) The Plaintiff asks that all payments of child support shall be paid directly to the Plaintiff at the following address: \_\_\_\_\_

b) The Plaintiff ask that all child support payments shall be paid to Georgia Child Support Enforcement pursuant to an Income Deduction Order.

9.

### **Health Insurance**

The Plaintiff asks that \_\_\_\_\_ shall be required to maintain a policy of medical, dental, and hospitalization insurance for the benefit of the minor child(ren) for so long as the child support obligation set forth herein exists. The Plaintiff asks that costs not covered under the insurance policy shall be divided between the parties as follows:

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The Plaintiff further asks that \_\_\_\_\_ shall provide him/her with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the Plaintiff in submitting claims under the policy.

THEREFORE, Plaintiff prays:

(a) That custody of the minor child(ren) be changed as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;

(b) That the Plaintiff have such additional relief as the Court may consider equitable and appropriate.

\_\_\_\_\_  
Plaintiff *pro se*

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

_____	§	
Plaintiff,		
v.	§	Civil Action
	§	File No. _____
_____	§	
Defendant.		

VERIFICATION

Personally appeared before me the undersigned who on oath states that the facts set forth in this Complaint are true and correct to the best of his/her knowledge and belief.

\_\_\_\_\_  
Plaintiff *pro se*

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

\_\_\_\_\_  
Notary Public, State of Georgia

My Commission Expires: \_\_\_\_\_

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

_____	§	
Plaintiff,		
	§	
v.		Civil Action
	§	File No. _____
_____		
Defendant.	§	

**CERTIFICATE OF SERVICE**

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

\_\_\_\_\_  
[Name and address of counsel of record, or of parties if no counsel of record.]

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: \_\_\_\_\_

\_\_\_\_\_  
[Name and address of counsel of record, or of parties if no counsel of record.]

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

\_\_\_\_\_  
Plaintiff pro se

Address: \_\_\_\_\_  
\_\_\_\_\_

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

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

_____ ,	§	
Plaintiff,		
	§	
v.		Civil Action
	§	File No. _____
_____ ,		
Defendant.	§	

PLAINTIFF’S AFFIDAVIT REQUIRED BY O.C.G.A. § 19-9-69

State of Georgia  
County of \_\_\_\_\_

Personally before the undersigned officer authorized to administer oaths appeared \_\_\_\_\_, who, being duly sworn, does state on oath the following:

1.

That Affiant, \_\_\_\_\_, is the plaintiff named in the above- styled action.

2.

The above-styled action concerns the custody of:

Name: _____	DOB: _____	Sex: _____
Name: _____	DOB: _____	Sex: _____
Name: _____	DOB: _____	Sex: _____
Name: _____	DOB: _____	Sex: _____
Name: _____	DOB: _____	Sex: _____

3.

The present address of the child(ren) is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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 \_\_\_\_\_.

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:

Court	Type of Action	Date Filed	Status

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

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

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

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

_____ ,	§	
Plaintiff,		
	§	
v.		Civil Action
	§	File No. _____
_____ ,		
Defendant.	§	

ELECTION OF \_\_\_\_\_.

This Affidavit is given by \_\_\_\_\_ who, after being duly sworn before an officer authorized in the State of Georgia to administer oaths, states the following:

1.

My name is \_\_\_\_\_, and I am the son or daughter of \_\_\_\_\_ and \_\_\_\_\_. I was born on \_\_\_\_\_ and am currently \_\_\_\_\_ years old.

2.

I sign this Affidavit to inform the Court that I wish to live and elect to live with my mother/father/other \_\_\_\_\_ on a permanent and full-time basis. I understand that my mother/father/other \_\_\_\_\_ may ask the Court to be made my custodial parent and desire that he be designated as my custodial parent.

3.

I wish my \_\_\_\_\_ [non-custodial parent] to have reasonable visitation rights.

4.

I hereby affirm that I have given this Affidavit under oath and that the statements contained herein are true and accurate.

5.

I have made this election voluntarily and not because of any pressure or duress or because of any problems made known to me by either of my parents or any other person.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me this \_\_\_\_\_ day

of \_\_\_\_\_, 20 \_\_\_\_\_.

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

My Commission Expires: \_\_\_\_\_

**VISITATION SCHEDULE**

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 (2008, 2010, 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 (2009, 2011, 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 4th
  - 4. Halloween
  - 5. First Week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- (d) During even numbered years (2008, 2010, 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 4th
  - 4. Halloween
  - 5. First week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- (e) During odd numbered years (2009, 2011, 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 (1st) 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.

IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

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

**DOMESTIC RELATIONS FINANCIAL AFFIDAVIT OF PLAINTIFF**

1. AFFIANT'S NAME: \_\_\_\_\_ Age \_\_\_\_\_  
Spouse's Name: \_\_\_\_\_ Age \_\_\_\_\_  
Date of Marriage: \_\_\_\_\_ Date of Separation \_\_\_\_\_

Names and birth dates of children for whom support is to be determined in this action:

Name	Date of Birth	Resides with
_____	_____	_____
_____	_____	_____
_____	_____	_____

Names and birth dates of affiant's other children:

Name	Date of Birth	Resides with
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. SUMMARY OF AFFIANT'S INCOME AND NEEDS

(a) Gross monthly income (from item 3A) \$ \_\_\_\_\_  
(b) Net monthly income (from item 3C) \$ \_\_\_\_\_  
(c) Average monthly expenses (item 5A) \$ \_\_\_\_\_

Monthly payments to creditors + \_\_\_\_\_  
Total monthly expenses and payments to credits (item 5C) \$ \_\_\_\_\_  
(subsections (d) & (e) deleted)

3. A AFFIANT'S GROSS MONTHLY INCOME  
(complete this section or attach Child Support Schedule A)  
(All income must be entered based on monthly average regardless of date of receipt.)

Salary or Wage \$ \_\_\_\_\_  
ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS

Commissions, Fees, Tips \$ \_\_\_\_\_

Income from self-employment, partnership, close corporations,  
and independent contracts (gross receipts minus ordinary and  
necessary expenses required to produce income)  
ATTACH SHEET ITEMIZING YOUR CALCULATIONS \$ \_\_\_\_\_

Rental Income (gross receipts minus ordinary and  
necessary expenses required to produce income)  
ATTACH SHEET ITEMIZING YOUR CALCULATIONS \$ \_\_\_\_\_

Bonuses \$ \_\_\_\_\_

Overtime Payments \$ \_\_\_\_\_

Severance Pay \$ \_\_\_\_\_

Recurring Income from Pensions or Retirement Plans \$ \_\_\_\_\_

Interest and Dividends \$ \_\_\_\_\_

Trust Income \$ \_\_\_\_\_

Income from Annuities \$ \_\_\_\_\_

Capital Gains \$ \_\_\_\_\_

Social Security Disability or Retirement Benefits \$ \_\_\_\_\_

Workers' Compensation Benefits \$ \_\_\_\_\_

Unemployment Benefits \$ \_\_\_\_\_

Judgments from Personal Injury or Other Civil Cases \$ \_\_\_\_\_

Gifts (cash or other gifts that can be converted to cash) \$ \_\_\_\_\_  
 Prizes/Lottery Winnings \$ \_\_\_\_\_  
 Alimony and maintenance from persons not in this case \$ \_\_\_\_\_  
 Assets which are used for support of family \$ \_\_\_\_\_  
 Fringe Benefits (if significantly reduce living expenses) \$ \_\_\_\_\_  
 Any other income (do NOT include means-tested  
 Public assistance, such as TANF or food stamps) \$ \_\_\_\_\_  
**GROSS MONTHLY INCOME** \$ \_\_\_\_\_  
 (prior section B deleted)

3. B Affiant's Net Monthly Income from employment  
 (deducting only state and federal taxes and FICA) \$ \_\_\_\_\_  
 Affiant's pay period (i.e., weekly, monthly, etc.) \_\_\_\_\_  
 Number of exemptions claimed \_\_\_\_\_

4. ASSETS

(If you claim or agree that all or part of an asset is non-marital, indicate the non-marital portion under the appropriate spouse's column and state the amount and the basis: premarital, gift, inheritance, source of funds, etc.)

Description	Value	Separate Asset of the Husband	Separate Asset of the Wife	Basis of the Claim
Cash	\$ _____	_____	_____	_____
Stocks, bonds	\$ _____	_____	_____	_____
CD's/Money Market Accounts	\$ _____	_____	_____	_____
Bank Accounts (list each account):				
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____

Retirement Pensions,

401K, IRA, or Profit Sharing \$ \_\_\_\_\_

Money owed you: \$ \_\_\_\_\_

Tax Refund owed you: \$ \_\_\_\_\_

Real Estate:

home: \$ \_\_\_\_\_

debt owed: \$ \_\_\_\_\_

other: \$ \_\_\_\_\_

debt owed: \$ \_\_\_\_\_

Automobiles/Vehicles:

Vehicle 1: \$ \_\_\_\_\_

debt owed: \$ \_\_\_\_\_

Vehicle 2: \$ \_\_\_\_\_

debt owed: \$ \_\_\_\_\_

Life Insurance (net cash value): \$ \_\_\_\_\_

Furniture/furnishings: \$ \_\_\_\_\_

Jewelry: \$ \_\_\_\_\_

Collectibles: \$ \_\_\_\_\_

Other Assets: \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Total Assets:** \$ \_\_\_\_\_

5. A AVERAGE MONTHLY EXPENSES

HOUSEHOLD

Mortgage or rent payments \$ \_\_\_\_\_

Cable TV \$ \_\_\_\_\_

Property taxes \$ \_\_\_\_\_

Misc. household and grocery items \$ \_\_\_\_\_

Homeowner/Renter Insurance \$ \_\_\_\_\_

Meals outside the home \$ \_\_\_\_\_

Electricity \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

Water \$ \_\_\_\_\_

**AUTOMOBILE**

Gasoline and Oil \$ \_\_\_\_\_

Garbage and Sewer \$ \_\_\_\_\_

Repairs \$ \_\_\_\_\_

Telephone: \$ \_\_\_\_\_

Auto Tags and license \$ \_\_\_\_\_

residential line: \$ \_\_\_\_\_

Insurance \$ \_\_\_\_\_

cellular telephone: \$ \_\_\_\_\_

Gas \$ \_\_\_\_\_

**OTHER VEHICLES**

**(boats, trailers, RVs, etc.)**

Repairs and maintenance: \$ \_\_\_\_\_

Gasoline and oil \$ \_\_\_\_\_

Lawn Care \$ \_\_\_\_\_

Repairs \$ \_\_\_\_\_

Pest Control \$ \_\_\_\_\_

Tags and license \$ \_\_\_\_\_

Insurance \$ \_\_\_\_\_

CHILDREN'S EXPENSES

AFFIANT'S OTHER EXPENSES

Child care (total monthly cost) \$ \_\_\_\_\_

Dry cleaning/laundry \$ \_\_\_\_\_

School tuition \$ \_\_\_\_\_

Clothing \$ \_\_\_\_\_

Tutoring \$ \_\_\_\_\_

Medical, dental, prescription  
(out of pocket/uncovered expenses)  
\$ \_\_\_\_\_

Private lessons (e.g., music, dance) \$ \_\_\_\_\_

Affiant's gifts \$ \_\_\_\_\_

School supplies/expenses \$ \_\_\_\_\_

(special holidays)  
Entertainment \$ \_\_\_\_\_

Lunch Money \$ \_\_\_\_\_

Recreational Expen. \$ \_\_\_\_\_

Other Educational Expenses (list)

(e.g., fitness)  
Vacations \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Travel Expenses Visitation \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Publications \$ \_\_\_\_\_

Allowance \$ \_\_\_\_\_

Dues, clubs \$ \_\_\_\_\_

Clothing \$ \_\_\_\_\_

Religious and charities \$ \_\_\_\_\_

Diapers \$ \_\_\_\_\_

Pet expenses \$ \_\_\_\_\_

Medical, dental, prescription  
(out of pocket/uncovered expenses) \$ \_\_\_\_\_

Alimony paid to  
former spouse \$ \_\_\_\_\_

Grooming, hygiene \$ \_\_\_\_\_

Child support paid for other  
children \$ \_\_\_\_\_

Gifts from children to others \$ \_\_\_\_\_

Date of initial Order: \_\_\_\_\_

Entertainment \$ \_\_\_\_\_

Other (attach sheet) \$ \_\_\_\_\_

Activities (including extra-curricular,  
school, religious, cultural, etc.) \$ \_\_\_\_\_

Summer Camps \$ \_\_\_\_\_

**OTHER INSURANCE**

Health \$ \_\_\_\_\_

Child(ren)'s portion: \$ \_\_\_\_\_

Dental \$ \_\_\_\_\_

Child(ren)'s portion: \$ \_\_\_\_\_

Vision \$ \_\_\_\_\_

Child(ren)'s portion: \$ \_\_\_\_\_

Life \$ \_\_\_\_\_

Relationship of Beneficiary: \_\_\_\_\_

Disability \$ \_\_\_\_\_

Other(specify): \$ \_\_\_\_\_

**TOTAL ABOVE EXPENSES** \$ \_\_\_\_\_

**B. PAYMENTS TO CREDITORS**  
(please check one)

To Whom:	Balance Due	Monthly Payment	Joint	(please check one)	
				Plaintiff	Defendant
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

\_\_\_\_\_  
\_\_\_\_\_

TOTAL MONTHLY PAYMENTS TO CREDITORS:        \$ \_\_\_\_\_

C.    TOTAL MONTHLY EXPENSE:    \$ \_\_\_\_\_

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

\_\_\_\_\_  
Affiant

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

My Commission expires: \_\_\_\_\_