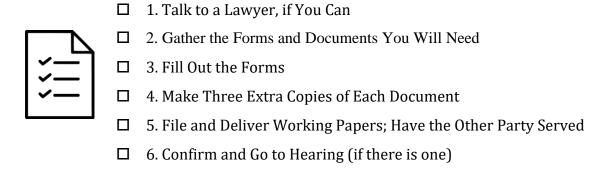
## File a Motion for Revision in a Family Law Case

## **Summary of Steps**



#### Should I use this?

Use the instructions and forms here to file a motion asking a judge to revise (change) an order or judgment **if** all these are true:



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

Do NOT use this packet if a **judge** entered an order you want changed.

**Talk with a lawyer** about whether you should file this Motion. If the judge thinks your Motion is a waste of time, she could order you to pay the other side's court costs.

#### What is a Motion for Revision?

It asks a judge to change a court commissioner's order. <u>RCW 2.24.050</u>. In many counties, family law commissioners decide motions in family law cases.

A commissioner is like a judge, but only makes decisions relating to a specific subject matter.

### 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 law

**Example**: You presented evidence, including drug tests and arrests, at hearing showing the other parent has a current drug abuse problem. Based on the other parent's drug abuse, you asked the commissioner to limit 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 must file the motion and other papers no more than **ten days** after the commissioner entered the order you want revised.

#### Where do I file the motion?

You must file it in the same Superior Court where the commissioner heard your case.

#### How do I make a Motion for Revision?

If your county does not have its own forms, use the forms here:

- **1.** Motion for Revision
- 2. Proof of Mailing or Hand Delivery
- 3. Order: on Motion for Revision
- **4.** Notice of Hearing (or local version of this form), if your county allows hearings on this motion
  - ❖ Before filling out our forms, ask your superior court clerk if they have special forms you must use for a Motion for Revision. If so, use those instead of ours.

## Will the judge automatically revise the commissioner's decision?

No. The judge must look at

- the case record
- the court commissioner's findings of fact and conclusions of law in the commissioner's order

The judge **may** (does not have to) revise the commissioner's decision if the judge believes

• the commissioner interpreted the law wrong

OR

- the court did not consider relevant facts presented at the hearing
  - ❖ Talk with a lawyer about whether you should file this Motion. If the judge thinks your Motion is a waste of time, she could order you to pay the other side's court costs.

## Can I use this Motion to bring in new evidence?

**No.** In a motion to revise, the judge only reviews the commissioner's decision based on the evidence that was in front of the commissioner. You may not bring new evidence in.

❖ If really want to try to get new evidence into the record at this stage of the case, talk to a lawyer.

If there was witness testimony at the hearing, you must file a declaration, and possibly a transcript or hearing record. Check local court rules (see "Will there be another hearing," below) to see if you must file a transcript. We do not have instructions for writing a declaration in this type of case. You can get the declaration form, **FL All Family 135**, at <a href="mailto:courts.wa.gov/forms.">courts.wa.gov/forms.</a>

## Will there be another hearing?

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



## STEP 1: 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. Even if you cannot afford to hire one to represent you, you may be able to pay a lawyer to advise you and review your paperwork. If you have a very low income, call CLEAR. (See end of publication for contact info.)



## STEP 2: Get the Forms and Documents You Need

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

	Court Form Number	Court Form Name
1.	FL All Family 181	Motion for Order for Revision of Commissioner's Order
2.	FL All Family 112	Proof of Mailing or Hand Delivery
3.	FL All Family 182 (Proposed)	Order: Granting Motion for Revision
4.	FL All Family 185	OPTIONAL Notice of Hearing - if you are having a hearing. If the court has its own Notice of Hearing form, use theirs instead of ours.

You might also need to attach a copy of the commissioner's decision to your Motion. Check your local court rules.



#### STEP 3: Fill Out the Forms

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

## 1. Motion for Order for Revision of Commissioner's Order, FL All Family 181

This motion asks the judge to change the court commissioner's decision.

Fill out the Caption.

**Relief Requested:** In the first blank, put your name.

In the second, longer blank, put the date the commissioner entered the order you want revised.

**Statement of Issues:** List each part of the commissioner's order you think is 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.

**Example:** You presented evidence at hearing showing the other parent's current drug abuse problem. Your evidence included drug tests and arrests. You asked the commissioner to limit the other parent's time with the children based on the other parent's drug abuse. The commissioner did not. You believe the commissioner got the law about limiting parental time wrong.

**Statement of Facts/Grounds:** List the facts supporting the order you want the judge to make. The case record must support your facts. (See next section.) Give each fact its own number.

**Evidence Relied Upon:** List the evidence in the case record and/or presented at the hearing before the commissioner that you believe supports changing the commissioner's ruling.

❖ If there is a hearing, you can tell the judge your side of the case. You can only mention facts in the documents filed.

**Legal Authority:** The form in this packet lists the legal authority for this motion.

Attach a copy of your Proposed Order and check the box showing you are doing so.

**Person making this motion fills out below**: In the first blank, put where you are signing this form. In the second blank, put the date you are signing. Sign where it says. Print or type your name in the blank next to that.

### 2. Proof of Mailing or Hand Delivery, FL All Family 112

You are responsible for serving the other party with these motion papers:

- the Motion for Revision
- Notice of Hearing

In most counties, you must serve the other party within ten days of entry of the commissioner's order. As proof of service, you should fill out a "Proof of Mailing or Hand Delivery" and file it with the clerk.

We recommend you have someone age 18 or over hand-deliver the documents to the opposing party or lawyer, or mail the papers, instead of you doing it yourself.

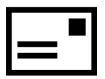
How to fill this form out:

Make some blank copies of this form. You may need to fill it out and file it several times if there is more than one other party in this case. Use a separate form for each party to whom you had papers mailed or delivered.

#### **Caption.** Fill out the caption.

- 1. Have your server check the third box and put their name.
- **2.** In the first blank, the server should put the date they served the papers. In the second blank, the server puts who they served. They should check the boxes and fill out any blanks as needed to show how they served the other party.
- **3. List all documents you served**: Your server must check the box for **every form** they sent or gave to the other party. If they leave one out, you will have no proof it was served.

**I declare under penalty of perjury:** Your server should sign and date the form, state the place signed (city and state), and print their name where it says.



**Delivery by Mail**: You must have it sent postage prepaid, from a post office. The law considers delivery complete on the third day after placed in the mail *unless* the third day falls on a weekend or legal holiday. In that case, the law says delivery is complete on the first non-weekend day or legal holiday. Civil Rule 2 (b)(2)(A). If you have your Motion served by mail, you usually

must have it mailed at least seven days before the hearing.

## 3. Order Granting Motion for Revision of Court Commissioner's Order (Proposed), FL All Family 182

**Caption.** Fill out the caption.

In the first sentence, check the box showing which party you are. Put the date of the Commissioner's order. Put the date of the hearing on your Motion for Revision.

**Other findings:** Put "This Court specifically Orders these portions of the Order revised." Then put how you want the judge to change the commissioner's order.

*Example:* In this example, you are the Petitioner. You presented evidence at hearing or trial showing the other parent has a current drug abuse problem. Your evidence included drug tests and arrests. You asked the commissioner to limit the other parent's time with the children based on the other parent's drug abuse. The commissioner did not. You want the judge to use that evidence to limit the other parent's time.

In your proposed Order, you could put after "This Court specifically Orders these portions of the Order revised" something like:

"The Court finds that limiting factors do exist to justify restricting Respondent's time with the children. The evidence supports a finding that Respondent has a long-term impairment resulting from drug, alcohol, or other substance abuse under RCW 26.09.191(3). The court orders that Respondent's time with the children be restricted as follows: Respondent shall not take non-prescribed drugs or alcohol and shall not expose the children to third parties who are taking drugs or alcohol. Respondent shall establish a clean and sober lifestyle before any overnight residential time. Respondent 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 Respondent."

❖ If you have a low income and filing a motion to revise because you want a judge to restrict the other parent's time with the child, call CLEAR at 1-888-201-1014 for help coming up with limitations.

**Ordered.** Leave this for the judge.

**Petitioner and Respondent or their lawyers fill out below**: Check any boxes in the left-hand column that apply if you are Petitioner, or in the right-hand column if you are Respondent. (You should at least check **is presented by me**.) Sign and print your name where it says.

#### 4. Notice of Hearing, FL All Family 185 (if needed)

❖ If there will not be a hearing, skip to step 3.



You must set (schedule) the hearing with the clerk or the judge's assistant before filling out the Notice of Hearing form. **Many counties require you to use their own special form.** Ask the family law facilitator or court clerk if the court uses a special Notice of Hearing form. If not, use ours.

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

**How Do I Set a Hearing Date?** You may choose a hearing date. Check for local court rules about how much advance notice to give the other party, and what days and times you can schedule your hearing. Ask the family law facilitator or court clerk:

- How many days before the hearing date must you file your papers and serve the other party?
- Are there certain days or times 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 <u>Civil Rule 6(d)</u>, <u>or</u> the Local Rules for your county: <u>courts.wa.gov/court rules/?fa=court rules.local&group=superior</u>. You must add more days if you serve your motion by mail. (See directions for Form 3.)

#### How to fill out this form:

Fill in the caption.

#### 1. To the Clerk of the Court and to all parties: Put

- Your hearing date and time.
- The courthouse address and room number where your hearing is scheduled.
- The docket or judge's name.

#### 2. Put "Motion for Revision."

**This hearing was requested by**: Sign and print your name and put the date where it says.

**I agree to accept legal papers for this case at**: Read the box to the right. Put an address where you can get papers quickly.



## 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
- Step 5 has more on working papers.



# STEP 5: File and Deliver Working Papers; Have Other Party Served

File the <u>originals</u> 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 this section **only** if there will be a hearing. Otherwise, now you wait for the judge's order. The judge will probably mail it to you. Check with the judge's assistant to be sure.

**Working Papers/Copies:** Some counties require "working papers." They are an extra copy of your motion packet (the papers you filed plus the order marked "Proposed") for the judge. Ask the clerk or family law facilitator if you must file working papers. If you do, read <a href="What are Working Copies">What are Working Copies</a>.

**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. All counties have rules on how much advance notice of the hearing a party must get. **Ask the family law facilitator or court clerk how many days' advance notice to give the other party. Then have the motion packet delivered or served appropriately**. Bring the last copy of your motion packet is your copy. Bring it to the hearing.



## STEP 6: Confirm and Go to the Hearing

#### **Confirmation:**

Ask the family law facilitator or court clerk if you must confirm your hearing and, if so, how to do it. You may have to confirm your hearing several days

before the actual hearing. IF YOU DO NOT, THE COURT MIGHT AUTOMATICALLY CANCEL YOUR HEARING!

#### Other party's response:

If the other party files a response to your motion, they must do so by the deadline in the local rules. Ask the family law facilitator or court clerk for the deadline. (Your local rules may be online <a href="here">here</a>: <a href="mailto:courts.wa.gov/court rules/?fa=court rules.local&group=local">courts.wa.gov/court rules/?fa=court rules.local&group=local</a>.) If the other party does not file a response in time, you have the right to object to the response.

#### **At Your Hearing:**

You must go to the hearing. If you cannot for some very good reason, you can ask for a "continuance" (postponement). Read Family Law: How to Get a Continuance of Your Hearing.

At the hearing, you 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. If the court allows you to speak at all, you will only have a few minutes.

❖ YOU MIGHT WAIT AS LONG AS THREE HOURS FOR YOUR HEARING. DO NOT BRING CHILDREN. 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 the Hearing:

Make yourself a copy of whatever the judge signed. If the other party was not there, make another copy to mail to them. All original signed orders 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 for help.

❖ 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?

Call CLEAR at 1-888-201-1014

• Apply online with <u>CLEAR\*Online</u> - <u>nwjustice.org/get-legal-help</u>

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, 9:15 a.m. 12:15 p.m.
- <u>King County</u>: Call 211 for info and referral to an appropriate legal services provider weekdays, 8:00 am 6:00 pm. You may also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on King County legal service providers at <a href="https://www.resourcehouse.com/win211/">www.resourcehouse.com/win211/</a>.
- Persons 60 and Over: Seniors age 60 or over may call CLEAR\*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. King County Seniors may call 2-1-1.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of your choice.

CLEAR and 211 will conference in free interpreters when needed.

Free legal education publications, videos and self-help packets covering many legal issues are available at <u>WashingtonLawHelp.org</u>.

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 March 2019.

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Superior Court of Washington, County of		
In re:		
Petitioner/s (person/s who started this case):	No	
·	Motion for Order for:	
And Respondent/s (other party/parties):	Revision (MT)	

## **Motion for Order for: Revision**

#### To both parties:

**Deadline!** Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at <a href="https://www.courts.wa.gov">www.courts.wa.gov</a>.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any.

Bring proposed orders to the hearing.

#### To the person filing this motion:

You must schedule a hearing on this motion. You may use the *Notice of Hearing* (form FL All Family 185) unless your county's Local Court Rules require a different form. Contact the court for scheduling information.

#### To the person receiving this motion:

If you do not agree with the requests in this motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side.

Relief Requested	
My name is:	. I ask the court to approve the
Motion revising Court Commissioner's order in this case of date!	entered [insert
Statement of Issues	
I ask the court to decide the following issues (specify):	
Statement of Facts/Grounds	
These facts support my request (list supporting facts):	
Evidence Relied Upon	
I ask the court to consider this evidence (list all declaration support this request):	ns and other documents that

#### **Legal Authority**

I have the right to ask for these orders according to the law (describe the legal authority that supports your request):

RCW 2.24.050: 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.

A Proposed Order <i>(check one):</i> is is <b>not</b> attached to this <i>Motion</i> .				
Person making this motion fills out below				
I declare under penalty of perjury under the laws of the state of Washington that the facts I haprovided on this form are true.   I have attached (number of): pages.				
Signed at (city and state):	D	Date:		
<b>&gt;</b>				
Person making this motion signs here	Print name here			
I agree to accept legal papers for thi  my lawyer's address, listed below the following address (this does	,	·):		
street address or PO box	city	state zip		
(Optional) email:				
,	e ends, you <b>must</b> notify all parties and the (FL All Family 120). You must also updat olves parentage or child support.)	,		
Lawyer (if any) fills out below				
<b>&gt;</b>				
Lawyer signs here	Print name and WSBA No.	Date		
Lawyer's address	city	state zip		
Email (if applicable):				
medical, and confidential reports, as desc the court, the other party, and the lawyers	rt are available for anyone to see unless ribed in General Rule 22, <b>must</b> be sealed in your case. Seal those documents by fi 1, 012, or 013). You may ask for an order	so they can only be seen by ling them separately, using a		

	Superior Court of Washingto	n, County of		_
In	re:			
Pe	etitioner/s (person/s who started this case):	No		
Ar	nd Respondent/s (other party/parties):		Proof of Mailing or Hand Delivery (for documents after Summons an (AFSR)	
	Proof of Mailing	g or Hand Del	ivery	
	(for documents afte	r Summons and Pe	etition)	
kind cour	<b>ning!</b> Do <b>not</b> use this form to prove you mailed or of Restraining Order. For those documents, use F t permission to serve by mail, use Proof of Service eclare:	Proof of Personal Service (FL		
1.	I am <i>(check one):</i> the Petitioner and am competent to be a witness in the	•	me):	
2.	On (date):, I s	served copies of the doc	uments listed in	3 below to
	(name of party or lawyer served):			by:
	☐ mail (check all that apply): ☐ first c			
	mailing address	city	state	zip
	only if allowed by agreement, order, or you	r county's Local Court Rule)		
	fax to (number):(only if allowed by agreement, order, or you	r county's Local Court Rule)		
	☐ Hand delivery at (time):	☐ a.m. ☐ p.m. to this	address:	
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	street address	city	state	zip	
	I left the documents (check one):				
	☐ with the party or lawyer named above	e.			
	at his/her office with the clerk or other person in charge.				
	at his/her office in a conspicuous pla	ice because n	no one was in charg	je.	
	☐ with (name):				
	at the address listed in court docum legal papers for this case.	ents where the	e party agreed to re	eceive	
	(For a party or lawyer who has no of home with (name):		•	his/her , a	
	person of suitable age and discretion	n who lives in	the same home.		
3.	List all documents you served (check all (The most common documents are listed below. Check o "Other" boxes to write in the title of each document you se	nly those docume		Use the	
	☐ Notice of Hearing	☐ Notice F	Re Military Depend	ent	
	☐ Motion for Temporary Family Law Order ☐ and Restraining Order		Financial Documer		
	☐ Proposed Temporary Family Law Order	☐ Financi	al Declaration		
	☐ Proposed Parenting Plan		ition of:		
	☐ Proposed Child Support Order		ition of:		
	☐ Proposed Child Support Worksheets	☐ Declara	ition of:		
	Other:	Other:_			
	Other:	Other:_			
	Other:	Other:_			
4.	Other:				
	are under penalty of perjury under the laws of the storm are true.	ne state of Wa	ashington that the s	tatements	
			_		
Signe	ed at (city and state):		_ Date:		
			_		
Signa	ture of server Print	or type name o	of server		
- OD 5	/h)	15 "			

	Superior Court of Washington	, County of
	re: etitioner/s (person/s who started this case):	No
And Respondent/s (other party/parties):		Order: <u>Granting Motion for Revision</u> (OR)
	_	Motion for Revision
1.	The <i>(check one):</i> Petitioner Res	spondent made a <i>Motion for Order for</i>
	A nearing on ti	The Motion was field of (date).
2.		d any supporting documents, response from the purt record identified by the court, if any, and any
3.	The court finds good cause to approve the	
	Other findings (if any):	

ı	The Court Orders:			
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5. (	Ordered.			
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Date	Juage	e or C	Commissioner	
Petiti	oner and Respondent or their la	awye	ers fill out below.	
☐ is a ☐ is p	rder (check any that apply): n agreement of the parties resented by me y be signed by the court without notice to	o me	This order (check any that apply):  is an agreement of the parties is presented by me may be signed by the court without notice.	ce to me
Petition	er signs here <b>or</b> lawyer signs here + WSBA ‡	#	Respondent signs here <b>or</b> lawyer signs here + \text{1}	NSBA #
Print Na	ame Date	<del></del>	Print Name	Date

Superior Court of Washingt	on, County of	
In re:		
Petitioner/s (person/s who started this case):	No	
And Respondent/s (other party/parties):	<ul><li>Notice of Hearing (NTHG)</li><li>✓ Clerk's action required: 1</li></ul>	
Notice To the Court Clerk and all parties:	e of Hearing	
•		
<b>1.</b> A court hearing has been scheduled:		
for: date	at: □ a.m. □ p.m. time	
at:	in	
court's address	in room or department	
docket / calendar or judge / commis	esionoris namo	
<b>2.</b> The purpose of this hearing is (specify	,	
	he court may sign orders without hearing your side.	
This hearing was requested by:	er or his/her lawyer   Respondent or his/her lawyer	
Person asking for this hearing signs here	Print name (if lawyer, also list WSBA #)  Date	
I agree to accept legal papers for this case at:	This does <b>not</b> have to be your home address. If this address changes before the case ends, you <b>must</b> notify all parties and	
address	the court clerk in writing. You may use the <i>Notice of Address Change</i> form (FL All Family 120). A party must also update his/her <i>Confidential Information</i> form (FL All Family 001) if this	
city state zip	case involves parentage or child support.	
( <b>Optional</b> ) email:		