

Rule 372. Motions to Modify, Motions to Set Support, and Other Matters**Rule 372.01 Commencement**

Subdivision 1. Motions to Modify and Motions to Set Support. A proceeding to modify an existing support order shall be commenced in the expedited process by service of a notice of motion, motion, and supporting affidavit pursuant to Rule 372.03. A proceeding to set support where a prior order reserved support may be commenced in the expedited process by service of a notice of motion and motion and supporting affidavit pursuant to Rule 372.03. If the notice of motion does not contain a hearing date, a request for hearing form shall be attached to the notice of motion. In addition to service of the notice of motion and motion, an order to show cause may be issued pursuant to Minn. Gen. R. Prac. 303.05. Service shall be made at least 21 days before any scheduled hearing.

Subd. 2. Other Motions. Except as otherwise provided in these rules, all proceedings shall be commenced in the expedited process by service of a notice of motion, motion, and supporting affidavit. Service shall be made at least 14 days before the scheduled hearing.

(Amended effective June 1, 2009; amended effective January 1, 2020.)

Rule 372.02 Content of Notice of Motion, Motion, Supporting Affidavit, and Request for Hearing Form

Subdivision 1. Content of Notice. A notice of motion shall:

- (a) state the name of the court;
- (b) state the names of the parties as set forth in the summons and complaint, or summons and petition, unless amended by order of the court;
- (c) state an address where the initiating party may be served;
- (d) state the purpose of the action;
- (e) for motions brought pursuant to Rule 372.01, subd. 2, state the date, time, and location of the hearing;
- (f) for motions brought pursuant to Rule 372.01, subd. 1, either state the date, time, and location of the hearing if one is scheduled or, if no hearing is scheduled, state that any party has a right to a hearing and attach a request for hearing form;
- (g) provide information about serving and filing a written response pursuant to Rule 372.04 and Rule 372.05;
- (h) state that all parties shall appear at the hearing if one is scheduled, and if any party fails to appear at the hearing, the child support magistrate shall proceed pursuant to Rule 365.01;
- (i) state that a party has a right to representation pursuant to Rule 357;
- (j) state that the case may be settled informally by contacting the initiating party and include the name, address, and telephone number of the person to contact to discuss settlement; and
- (k) be signed by the initiating party or that party's attorney.

If there is reason to believe that domestic violence exists or if an order for protection has been issued, the party may provide an alternative address and telephone number. Pursuant to Minnesota Statutes, section 518.005, subdivision 5, in all actions in which public assistance is assigned or the county agency is providing services to a party or parties to the action, information

regarding the location of one party may not be released by the county agency to the other party if the county agency has knowledge that one party is currently subject to a protective order with respect to the other party or the joint child, and disclosure has not been authorized, or has reason to believe that the release of the information may result in physical or emotional harm to a party or joint child.

Subd. 2. Content of Motion. A motion shall:

- (a) state the relief the initiating party wants the child support magistrate to order;
- (b) state the specific support that the initiating party wants the child support magistrate to order if the notice of motion does not contain a hearing date;
- (c) state the facts and grounds supporting the request for relief;
- (d) set forth the acknowledgement under Rule 379.04; and
- (e) be signed by the initiating party or that party's attorney.

Subd. 3. Content of Supporting Affidavit. A supporting affidavit shall:

- (a) state detailed facts supporting the request for relief;
- (b) for motions to modify support and motions to set support, provide all information required by Minnesota Statutes 2006, section 518A.46, subdivision 3, paragraph (a), if known; and
- (c) be either:
 - (1) signed and sworn to under oath; or
 - (2) signed under penalty of perjury pursuant to Minnesota Statutes, section 358.116, provided that the signature is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document.

Subd. 4. Content of Request for Hearing Form. A request for hearing form shall contain the name and address of the initiating party, and a short and concise statement that a noninitiating party requests a hearing.

(Amended effective June 1, 2009; amended effective July 1, 2015; amended effective November 22, 2023.)

Advisory Committee Comment - 2023 Amendments

Rule 372.02 is modified in 2023 to recognize the statutory limits on the public authority's disclosure of address information pursuant to Minnesota Statutes, sections 518.005, subdivision 5, and 257.70, paragraph (b).

Rule 372.03 Service of Notice of Motion and Motion

Subdivision 1. Who is Served. All parties, and the county agency even if not a party, shall be served pursuant to subdivision 2.

Subd. 2. How Served. The notice of motion, motion, supporting affidavit, and if required, the request for hearing form, may be served by electronic means upon parties who have agreed to or

are required to accept service by electronic means under Rule 14 of these rules, by U.S. mail, or by personal service pursuant to Rule 355.02.

(Amended effective July 1, 2015.)

Rule 372.04 Filing Requirements

Subdivision 1. Initiating Party. No later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 14 days after the last party was served, the initiating party shall file the following with the court:

- (a) the original notice of motion;
- (b) the original motion;
- (c) the original supporting affidavit;
- (d) the request for hearing form, if returned to the initiating party; and
- (e) proof of service upon each party pursuant to Rule 355.04.

Subd. 2. Responding Party. If a noninitiating party responds with a responsive motion or counter motion pursuant to Rule 372.05, the following shall be filed with the court no later than 7 days before any scheduled hearing or, if no hearing is scheduled, within 21 days after the last party was served:

- (a) the original responsive motion or counter motion; and
- (b) proof of service upon each party pursuant to Rule 355.04.

Subd. 3. Electronic Filing. Where authorized or required by Rule 14 of these rules, documents may, and where required shall, be filed by electronic means by following the procedures of Rule 14.

Subd. 4. Treatment of Confidential Information. To retain privacy, restricted identifiers as defined in Rule 11 (such as Social Security numbers, employer identification numbers, financial account numbers) must be removed from any documents provided under this rule and may only be submitted on a separate Confidential Information Form as required in Rule 11. In addition, financial source documents as defined in Rule 11 (such as tax returns, wage stubs, credit card statements) must be submitted under a cover sheet entitled "Confidential Financial Source Documents" as required in Rule 11.

(Amended effective January 1, 2006; amended effective July 1, 2015; amended effective May 23, 2016; amended effective January 1, 2020.)

Rule 372.05 Response

Subdivision 1. Hearing Date Included in the Notice of Motions to Modify and Motions to Set Support. Inclusion of a hearing date does not preclude a noninitiating party from serving and filing a responsive motion or counter motion. A noninitiating party may serve upon all parties a responsive motion or counter motion along with a supporting affidavit at least 14 days before the hearing. The service and filing of a responsive motion or counter motion does not preclude the hearing from going forward and the child support magistrate may issue an order based upon the information in the file or evidence presented at the hearing if a noninitiating party fails to appear at the hearing.

Subd. 2. Hearing Date Not Included in the Notice of Motions to Modify and Motions to Set Support. If the notice of motion does not contain a hearing date, within 21 days from service of the motion, a noninitiating party shall either:

- (a) request a hearing by returning the request for hearing form to the initiating party; or
- (b) serve upon all other parties a responsive motion or counter motion.

The initiating party shall schedule a hearing upon receipt of a request for hearing form, a responsive motion, or counter motion. Failure of the noninitiating party to request a hearing, to serve a responsive motion, or to appear at a scheduled hearing shall not preclude the matter from going forward, and the child support magistrate may issue an order based upon the information in the file or the evidence presented at the hearing.

Subd. 3. Other Motions. Except as otherwise provided in these rules, all responsive motions shall be served upon all parties at least 7 days before the hearing. A responsive motion raising new issues shall be served upon all parties at least 14 days before the hearing.

(Amended effective June 1, 2009; amended effective July 1, 2019.)

Advisory Committee Comment - 2008 Amendment

Rule 372.05, subdivision 2, is amended to apply the 14-day deadline for responding to a motion to either of the permitted responses; to request a hearing or to file a responsive motion or counter-motion. Rule 372.05, subdivision 3, is added to clarify the deadlines for submitting responsive motions.

Advisory Committee Comment - 2019 Amendment

Rules 372.05 and 363.02 and .03 are amended in 2019 to harmonize the rules and create a uniform 21-day period for responding to motions for child support.

Rule 372.06 Amended Motions

Subdivision 1. Service. At any time up to 14 days before a scheduled hearing, the initiating party may serve and file an amended motion. If no hearing date has been scheduled, the initiating party may serve and file an amended motion within the time remaining for response.

Subd. 2. Response. If the noninitiating party chooses to respond to an amended motion, the response must be made within the time remaining for response to the original motion or within 14 days after service of the amended motion, whichever period is longer, unless the court otherwise orders.

(Amended effective January 1, 2020.)

Rule 372.07 Fees

Subdivision 1. Filing Fee. A filing fee shall be paid pursuant to Rule 356 upon the filing of:

- (a) the notice of motion and motion; and
- (b) the responsive motion or counter motion.

Subd. 2. Modification Fee. Pursuant to Minnesota Statutes, section 357.021, subdivision 2, paragraph (13), a separate fee shall also be collected upon the filing of the motion to modify and a responsive motion or counter motion.

(Amended effective January 1, 2006.)

Advisory Committee Comment - 2006 Amendment

Rule 372.07, subd. 2, is amended to correct the statutory reference. In 2005, the legislature set the modification fee to be collected under Rule 372.07 at \$55.00. Act of June 3, 2005, chapter 164, section 2, 2005 Minnesota Laws 1878, 1879-80 (to be codified at Minnesota Statutes, section 357.021). Litigants are advised to review the statute or contact the court administrator for current fee amounts.

Rule 372.08 Settlement Procedure

The parties may settle the case at any time pursuant to Rule 362.

Rule 372.09 Default Procedure

An action to modify or set support may proceed by default pursuant to Rule 363.

Rule 372.10 Hearing Procedure

Any hearing shall proceed pursuant to Rule 364. If the notice of motion contains a hearing date, all parties shall appear at the hearing. If a party fails to appear at a hearing for which notice was properly served, the child support magistrate shall proceed pursuant to Rule 365.01.

Rule 372.11 Decision and Order

The decision and order of the court shall be issued pursuant to Rule 365.

Rule 372.12 Review and Appeal

Motions to correct clerical mistakes, if any, shall proceed pursuant to Rule 375. Review, if any, shall proceed pursuant to Rule 376. Appeal, if any, shall proceed pursuant to Rule 378.