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Verbal Agreements to Modify A Child Support Order

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Informally modifying a child support order is a mistake often made by the payor (the person paying child support) of a child support order. The associated costs of modifying a child support order through the courts are often a deterrent to seeking a formal modification for those who are not familiar with the pitfalls of such an endeavor.

Every person obligated to pay child support must be aware that a child support order remains in full force and effect until it is modified by a new child support order. A court will modify a child support order upon a finding of a material change in circumstances that warrant a change in support. If the parties agree to a change in the child support amount the Court is likely to affirm the agreement but, without a finding of a material change in circumstances, is not obligated to.

Verbal agreements are especially dangerous in this regard. Parties to a child support order are not encouraged to verbally agree on modifications of child support. Even in the face of a verbal agreement, the payee (the person receiving the child support payments) has the right to enforce the existing court order and can do so by way of a petition requesting that the payor be held in contempt of court and pay interest for any underpayment. A written agreement can provide some additional protection, however, unless and until the payor petitions the court for a modification of the child support order itself, the child support obligation continues.

The advisable method for affirming an agreement to modify a child support order is to petition the court that entered the previous child support order for a modification based on the new agreement. The court has the authority to order the modification be retroactive to the date of filing. If the payee is unwilling to memorialize the agreement with a new child support order it presents a risk to the payor of being hauled into court in the future for non-payment of the existing child support order.

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