

## ABATEMENT - INSTRUCTIONS

PLEASE CAREFULLY READ THE INSTRUCTIONS AND THE FORMS CONTAINED IN THIS PACKET. IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY. You must fill out all forms as completely as possible. If you have sections where you have left blanks, the judge may reject your form as not complete.

**USE ONLY FOR THOSE SUPPORT ORDERS IN EFFECT PRIOR TO JULY 1, 2018 THAT PERMIT ABATEMENT.**

**Step 1. Qualifying for an Abatement.** Wyoming law (W.S. § 20-2-305) allows for a temporary reduction in child support when a non-custodial parent has custody of the child(ren) for more than fifteen (15) consecutive days. Overnight and weekend visitation with the custodial parent during the period for which an abatement is claimed does not count to disrupt the 15 consecutive day requirement. Unless otherwise ordered by the court, child support shall abate by one-half (1/2) of the daily support obligation for each day the non-custodial parent has physical custody of the child(ren) for at least 15 consecutive days.

**Step 2. Claim for Child Support Abatement.** To claim an abatement for child support, the non-custodial parent must fill out and file the *Claim for Child Support Abatement* with the Clerk of District Court **within thirty (30) days after the child(ren) is/are returned to the custodial parent**, and must also pay the **\$10.00 filing fee (cash, certified check, or money order)**. The Clerk will mail a copy of the *Claim* to the custodial parent. The non-custodial parent should also submit to the Clerk an ***Order on Abatement*** form on which the caption has been filled in. The Judge will complete the *Order* after the time for filing objections and responses has expired.

**\*\*\*Failure to file the *Claim for Child Support Abatement* with the filing fee within the 30-day time period will result in a rejection of the claim.**

**Step 3. The Custodial Parent May Approve or Object to the Claim Within 30 Days.** Once a claim is filed with the Clerk of District Court, the Clerk will mail a copy of the *Claim* to the custodial parent at the address on file. The custodial parent may either approve or object to the abatement claim.

- A. If the claim is correct, the custodial parent should file a *Notice of Immediate Approval* with the Clerk of District Court. There is no filing fee for the *Notice*. The Clerk will mail a copy of the *Notice* to the non-custodial parent. Move on to **Step 5** below.

- B. If the custodial parent objects to the claim (for example, if the dates and/or amount of claim are incorrect), the custodial parent must file an *Objection to Claim for Child Support Abatement* with the Clerk of Court **within thirty (30) days of the date the Clerk mailed a copy of the Claim and Notice for Child Support Abatement to the custodial parent.** The *Objection* must be accompanied by a **\$10.00 fee (cash, certified check, or money order).** The Clerk will mail a copy of the *Objection* to the non-custodial parent. Move on to **Step 4** below.

**\*\*\*Failure to file an *Objection to Claim for Child Support Abatement* with the filing fee within the 30-day time period may result in the Court approving the *Claim for Child Support Abatement*.**

**Step 4. Response to the Objection.** If an *Objection* is timely filed, the non-custodial parent MAY respond to the issues raised in the *Objection* by filing a *Response to Objection to Claim for Child Support Abatement* **within fifteen (15) days of the date the Clerk mailed a copy of the *Objection to Claim for Child Support Abatement* to the non-custodial parent.** There is no fee associated with a *Response*. The Clerk will mail a copy of the *Response* to the custodial parent. Move on to **Step 5** below.

**\*\*\*CLAIMS, OBJECTIONS AND RESPONSES THAT ARE NOT TIMELY FILED, INCOMPLETE OR NOT ACCOMPANIED BY THE FILING FEE ARE BARRED WITHOUT FURTHER ORDER OF THE COURT.**

**\*\*\*Remember, complete all portions of the forms and include the address of both parties, dates of visitation and calculations for the claimed abatement. Forms lacking the required information may be returned to the party who submitted them. If the 30-day time period has not expired, you may submit a corrected form to the Clerk of District Court.**

**Step 5. Judge will Approve or Reject the Claim.** The Clerk of District Court will notify the Judge of all *Claims*, *Objections* and *Responses* and the Judge will resolve the differences with or without a hearing. The Judge will complete the *Order on Abatement* form that the non-custodial parent provided when he/she filed the claim. Once complete, the *Order on Abatement* will be mailed to the parties. If an abatement is allowed, it will be applied first to current child support due and then to any arrearage balance owed for past-due child support. **The non-custodial parent should note the following:**

- A. **Child Support Withheld from Paycheck:** If child support is withheld from your paycheck and you are current on your child support obligation, you will

receive a refund check from the Clerk of the District Court or the State Disbursement Unit for the abatement credit amount. If you are in arrears, your abatement credit will be applied to your arrearage balance by the Clerk of District Court or the State Disbursement Unit.

- B. Child Support Paid Directly by Non-Custodial Parent:** If you pay child support on your own (i.e., it is not automatically withheld from your paycheck), and you are current in your support obligation, you **MUST** subtract the abated amount from your next scheduled payment if you want to receive the abatement credit. **If you do not subtract the abatement credit and instead pay the full amount on your next scheduled payment, this may be considered a gift to the custodial parent and you may lose the right to the abatement credit.** If you are in arrears, your abatement credit will be applied to your arrearage balance by the Clerk of District Court or the State Disbursement Unit.

**Summary of Instructions:**

**Non-custodial Parent:** If you have had custody of the child(ren) for 15 or more consecutive days, file the following with the Clerk of District Court **within 30 days** after the children are returned to the custodial parent:

- A. *Claim for Child Support Abatement*; AND
- B. Pay the \$10.00 Filing Fee (cash, certified check, or money order); AND
- C. Submit the proposed *Order on Abatement*.

The custodial parent will have 30 days to file an *Objection*, if desired. If the custodial parent files an *Objection*, you may file a *Response* within **15 days**.

**Custodial Parent:** After you have been notified of the *Claim for Child Support Abatement*, you may file either:

- A. A *Notice of Immediate Approval*. Use this form if you agree with the information contained in the *Claim*. No filing fee is required; OR
- B. An *Objection to Claim for Child Support Abatement* if you disagree with dates the non-custodial parent had the child(ren) or if you disagree with the amount of the abatement claimed. This form must be filed within 30 days and you must pay a \$10.00 filing fee (cash, certified check, or money order).

**Both Parties:** After the time period for objections and responses has expired, the Judge will make a decision on the *Claim*, with or without a hearing. If a hearing is needed, you will be notified of the date and time to appear before the Court. If an abatement is allowed, it will be applied first to past due child support owed, if any, and then to the next child support payment due.

**Non-Custodial Parent please note:** If you pay child support on your own (it is not withheld from your paycheck) and you are current on your child support obligation, you **MUST** subtract the abatement credit amount from your next child support payment in order to receive the credit. **Otherwise, if you pay the full amount of your next child support payment, it may be considered a gift to the custodial parent and you may lose the right to the abatement credit.** If you are in arrears or if your child support payments are withheld from your paycheck, the Clerk of District Court or the State Disbursement Unit will either credit the abatement amount towards any arrearage you may have or issue a refund check to you if you are current in your child support obligation, whichever the case may be.