CHANGING A JUDGMENT OR TEMPORARY ORDER BY AGREEMENT

SEE RULE 412 OF THE SUPPLEMENTAL RULES OF THE PROBATE AND FAMILY COURT:
http://www.lawlib.state.ma.us/source/mass/rules/probate/index.html

GENERAL INFORMATION

If you have a case with the Probate and Family Court and you and the other party want to change a judgment or temporary order of the court by agreement, you may be able to jointly request that the court change the judgment or temporary order by using the expedited procedure outlined in Rule 412. Rule 412 is an administrative process that may not require you to appear in court. Please refer to Rule 412 for more information. If you DO NOT AGREE either party may file a Complaint for Modification (CJD 104) along with the required filing fee. The other party will have to be served and a hearing will be scheduled.

Are specific forms required?

Yes. Rule 412 requires specific forms depending on the nature of your case. Please refer to the ***Checklist of Required Forms*** for specific form requirements.
http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/forms.html#modifications

Where do we file the forms?

You must file all required forms in the same Probate and Family Court that issued the judgment or temporary order that you want to change. To expedite processing , all forms required by Rule 412 should be filed with the court as a "complete packet". Missing forms will delay the processing of your case and may result in the court requiring an in-person hearing.

You may file your complete packet in person at the Registry of Probate or you may mail your complete packet to the Probate and Family Court. The addresses for each county Probate and Family Court can be found at:
http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/courthousesbycounty.html

What is the filing fee?

The filing fee depends on what it is you are asking the court to change. For example:

(1) The filing fee is **$0** if you are asking the court to change any temporary order;

(2) The filing fee is **$50** if you are asking the court to change a judgment relative to child support, custody or visitation;

(3) The filing fee is **$150** if you are asking the court to change a judgment relative to all non-child related issues.

(Please Note: A state statute provides that if you cannot pay for court fees or costs, you may be able to have the state pay for them. A filing fee waiver may be available if BOTH parties qualify as indigent. For more information, please see:
http://www.mass.gov/courts/courtsandjudges/courts/probateandfamilycourt/forms.html#financial)

What happens after we file the complete packet?

Once all forms required by Rule 412 have been filed with the court they will be submitted to the Judge assigned to your case for review.

If your Agreement is approved by the Judge, no hearing is necessary, and both parties will receive a copy of the decision in the mail within 30 days of filing the complete packet.

If there are missing forms or documents or the documents are deficient in any way (ex: not signed by both parties or not notarized when necessary, etc..), then the court will notify you within 21 days of filing that a hearing has been scheduled and both parties will be required to appear in person.

If the Judge has questions about the Agreement or the Judge needs additional information, then the court will notify you within 21 days of filing that a hearing has been scheduled and **BOTH** parties will be required to appear in person.

Court staff cannot provide legal advice. If you need legal advice, please consult an attorney.