

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	RESPONSE TO MOTION REGARDING CUSTODY	(A) CASE NO.
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Court address Court telephone no.

(B) Plaintiff's name, address, and telephone no. moving party

Third party name, address, and telephone no. moving party

v

Defendant's name, address, and telephone no. moving party

- (C)** 1. a. On _____ a judgment
Date
- or order was entered regarding custody.
- b. There is currently no order regarding custody.

- (D)** 2. The plaintiff defendant third party was ordered to have custody of the following child(ren):

- (E)** 3. The child(ren) have been living with _____ at
Name(s)
- _____ since _____ .
Complete address Date

- (F)** 4. I agree do not agree that circumstances have changed as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed and attach.

- (G)** 5. I agree do not agree that proper cause exists as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed and attach.

- (H)** 6. I agreed with the other party to custody, parenting time, and support
- a. exactly as stated in the motion.
- b. but not as stated in the motion.
- If b is checked, explain in detail what you did agree on. Include all necessary facts. Use a separate sheet of paper if needed and attach.

- (I)** 7. a. I agree with what is being asked for in the motion.
- b. I do not agree with what is being asked for in the motion and ask the court to order custody, parenting time, and support as follows: If b is checked, explain in detail why and what you want the court to order. Use a separate sheet of paper if needed and attach.

(J) _____
Date Responding party's signature

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this response on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

(K) _____
Date Responding party's signature

**MOTION REGARDING CUSTODY
SHIAWASSEE COUNTY FRIEND OF THE COURT
FORM FOC 87**

Use this Motion if:

- You have a Judgment of Divorce or Separate Maintenance or a Paternity Case but custody was not included; or
- You already have a custody order in your Judgment of Divorce or Separate Maintenance case and you want to motion the Court for a change in custody, parenting time, and support.

You cannot use this form:

- To start a custody case; or
- If you are a third party and want to intervene to obtain custody of the child(ren) in a pending case for custody, divorce, or separate maintenance case.

If both parties agree to a change in the Order, no motion is necessary. The forms are available at Friend of the Court or at our website www.shiawassee.net.

If there is no agreement, then you must file this motion with the Circuit Court Clerk's Office. You must appear for the hearing and the Judge will make a decision regarding referral of your motion to the Friend of the Court.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are included.

DID YOU...READ THE INSTRUCTIONS FIRST?

- | | |
|--|------------------------------|
| 1. Fill out all requested information on the Motion. | YES <input type="checkbox"/> |
| 2. Make all the necessary copies? | YES <input type="checkbox"/> |
| 3. Pay the Motion fee to the Circuit Court Clerk? | YES <input type="checkbox"/> |
| 4. Mail (serve) a copy of the Motion to the other party
(and Attorney if represented)? | YES <input type="checkbox"/> |
| 5. Return to the Circuit Court Clerk's office after you mailed the Motion
and completed the Certificate of Mailing? | YES <input type="checkbox"/> |
| 6. Keep one copy of the Motion for yourself? | YES <input type="checkbox"/> |
| 7. Give 1 copy of the completed Motion to the Circuit
Court Clerk with the completed Certificate of Mailing? | YES <input type="checkbox"/> |
| 8. Deliver 1 copy of the completed Motion to the
Friend of the Court with the completed Certificate of Mailing? | YES <input type="checkbox"/> |

By using this Motion packet, you are representing yourself in a Court action regarding custody, parenting time, and support. In order to receive the action, you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps your Motion may be dismissed or the Order you get from the Court may not give you the custody, parenting time, or support you want.

The Friend of the Court does NOT represent either party. In preparation for the hearing, each party is encouraged to review the **CHILD CUSTODY ACT**, which is listed below. The Friend of the Court is **NOT** authorized to give the parties legal advice or assist in filing of this Motion. Either party may hire an attorney during any point in the process.

In a custody or parenting time motion, the Court must make a decision based on the best interests of the minor children. The law (MCL 722.23) sets forth a number of factors that the Court must consider. You **MUST** be prepared to address these factors at your hearing:

- (a) The love, affection, and other emotional ties existing between the parties involved and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- (f) The moral fitness of the parties involved.
- (g) The mental and physical health of the parties involved.
- (h) The home, school, and community record of the child.
- (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.
- (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
- (l) Any other factor considered by the court to be relevant to a particular child custody dispute.

INSTRUCTIONS FOR FILING A MOTION

FILING A MOTION

1. Fill out the Motion and Notice of Hearing.

Make at least 4 copies of the Motion and all of the attachments after you have filled it out.

2. File the Motion with the Circuit Court Clerk (located on the second floor of the Courthouse).

Take the original and 4 copies of the Motion and all of the attachments to the Circuit Court Clerk.

You must pay \$100.00 to the Clerk of the Court.

The Circuit Court Clerk will keep the original Motion and any attachments for the Court file and stamp “True Copy” on all other copies. You **MUST** provide the Friend of the Court with a true copy of your Motion and all attachments. Do not lose your remaining true copies of your Motion and the attachments.

What you should have when you leave the Circuit Court Clerk’s office:

- 1 Copy of the Motion (with any attachments)- for you
- 1 Copy of the Motion (with any attachments)- for the other party (and Attorney if represented)
- 1 Copy of the Motion (with any attachments)- for the Judge
- 1 Copy of the Motion (with any attachments)- for the Friend of the Court

3. You must ensure that the address for both parties is the last known address on file with the Friend of the Court. If you fail to provide the correct address for either party your Motion may be dismissed for lack of service.

INSTRUCTIONS FOR SERVING A MOTION

SERVING THE MOTION ON THE OTHER PARTY

1. Serve the Motion and Notice of Hearing on the other party.

YOU MUST SERVE (NOTIFY BY ORDINARY MAIL) the other party prior to the Friend of the Court reviewing the Motion. You may hand deliver the papers to the other party.

What you need for service:

- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for you
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the other party (and Attorney if represented)
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the Judge
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the Friend of the Court

Fill out the Certificate of Mailing (date and sign) on all copies of the Motion (with any attachments). Mail one copy to the other party (and Attorney if represented).

NOTE: Serve the papers by mailing them to the other party by regular, first class mail. **THE DATE ON THE CERTIFICATE OF MAILING MUST BE THE DATE YOU MAILED THE MOTION AND ATTACHMENTS TO THE OTHER PARTY (AND ATTORNEY IF REPRESENTED).**

2. Return to the Circuit Court Clerk

Once you have mailed the Motion (with any attachments) to the other party (and Attorney if represented) return to the Circuit Court Clerk's office. You will have three copies with the completed Certificate of Mailing. Give the Circuit Court Clerk one copy for the Judge. Keep 1 copy for your own records. Deliver 1 copy to the Friend of the Court. You **MUST** deliver a copy directly to the Friend of the Court office.

3. Response from the other party.

If you receive a response to your Motion from the other party make sure you read it.

INSTRUCTION FOR COMPLETING “MOTION REGARDING CUSTODY”

Please print neatly. After filling in the Motion, you will need to make at least 4 copies.

Items A through J must be completed before your Motion can be filed with the Court. Please read the instructions then fill in the correct information for that item on the Motion.

- A. Before you fill in the Case No., get your Court papers for divorce, separate maintenance, or paternity and copy the Case No. from those Court papers onto this Motion form.
- B. Also use your Court paper to fill in the “Plaintiff” and the “Defendant” boxes. Copy the names from these court papers onto this Motion. For example, if your name is in the box that says “Plaintiff” on the original court document, then you should write your name in the “Plaintiff” box on this Motion form.

You are the person filing the Motion therefore the task of proving why you should be granted the requested relief lies with you.

You must ensure that the address for both parties is the address on file with the Friend of the Court and if you do not know the address you must verify the address with the Friend of the Court.

- C. **Check only one box.** If you have a judgment or order for custody, separate maintenance, or paternity, read it carefully to find out if there is any information in it about custody.
- D. Check this box only if you checked box a. in **C.** above. Read your Court papers for custody, divorce, separate maintenance, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).
- E. State who the child(ren) are living with now, the address or location where the child(ren), and the date the child(ren) started living there even if it is different than what was ordered.
- F. State the circumstances that require a custody order or a change in custody and parenting time. **Explain** in as much **detail** as possible what has happened. **If you need more space, use a separate sheet of paper. Print this information as neatly as you can.** You will need 4 copies of these sheets to attach to 4 copies of the Motion.
- G. State the causes that require a custody order or a change in custody and parenting time. The Friend of the Court will review these causes using the factors from the Child Custody Act to determine the best interests of the child. **Explain** in as much **detail** as possible what the causes are. **If you need more space, use a separate sheet of paper. Print this information as neatly as you can.** You will need 4 copies of this sheet to attach to 4 copies of this Motion.
- H. Check this box if you and the other party agree about custody. Explain in as much detail as possible what you agreed to including parenting time. **If you need more space, use a separate sheet of paper. Print this information as neatly as you can.** You will need 4 copies of this sheet to attach to the copies of this Motion.
- I. You need to explain in as much detail as possible what you want the Court to order. If you checked **H.** above, you only need to write: “Same as 4 above”. If you need more space, use a separate sheet of paper. **You need to include information about parenting time and child support as well. Print this information as neatly as you can.** You will need 4 copies of this sheet to attach to copies of this Motion.
- J. Write in today’s date and sign your name.

GO TO PAGE 3 & 4 FOR FILING AND SERVICE INSTRUCTIONS.