

INSTRUCTIONS FOR FILING A MOTION REGARDING CUSTODY

By using this form packet you are representing yourself in a court action regarding custody. 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 delayed or dismissed.

1. Fill out the Motion form. (FOC 87)

Make copies of Motion and any attachments you may have.
Make one for you, the other party, any attorneys, and the FOC.

2. Fill out the Referral Order

Make a copy for yourself.

3. File the Motion form with the Circuit Court Clerk's Office.

Take the original Motion, the copies of the Motion and any attachments to the Circuit Court Clerk's Office along with the original Referral Order.

Make sure you sign the certificate of mailing on the Motion.

Pay the \$100.00 filing fee to the Circuit Court Clerk's Office.

They will keep the original Motion. Both a copy of the Motion and the original Referral Order need to be turned in to the Friend of the Court office.

4. Serve the Motion on the other party.

The other parent, or other party (if there is a custodian or guardian other than a parent), and any attorneys must be served with a copy of the motion and any attachments by first-class mail.

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	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 following child(ren) have been living with _____ at
Name (s)
_____ since _____
Complete Address Date

(F) 4. Circumstances have changed as follows that require custody or a change in custody:
Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.

(G) 5. Proper cause exists as follows that require custody or a change in custody: Use a separate sheet to explain in detail which factors of the Child Custody Act for determining best interests of the child(ren) are affected by the circumstances in 4. above. Include all necessary facts.

(H) 6. _____ and I agree to custody, support, and parenting time as follows:
Name
Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.

(I) 7. **I ask the court to order that custody, parenting time, and support be as follows:**
Use a separate sheet to explain in detail what you want the court to order and attach.

I declare that the above statements are true to the best of my information, knowledge, and belief.

(J) _____
Date

Moving party's signature

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this motion on the parties or their attorneys by first-class mail addressed to their last-known addresses.

Date

Name

Eaton County Friend of the Court Referral Order

 [This section to be completed by the Plaintiff, the Defendant, or an Attorney]

Case No.: _____

Hon. _____
(name of Judge)

Name of Plaintiff
Address of Plaintiff

Name of Defendant
Address of Defendant

I _____ have attached a copy of the motion that I have
(Name of Party making the request)
filed with the Court and request referral to the Friend of the Court for the following:

- _____ Custody Evaluation
- _____ Parenting Time Evaluation
- _____ Child Support Evaluation
- _____ Change of Domicile Evaluation
- _____ Conciliation
- _____ Other: _____

Dated: _____
Name of Party making request

 This section to be completed ONLY by the Court.

In determining or modifying custody, a trial court may only conduct a child custody hearing to modify or amend a previous order or judgment upon a showing of a proper cause or change in circumstances. MCL 722.27(1)(c). To show a change in circumstances, a moving party must show that, since the entry of the last custody order, the conditions surrounding custody of the child, which have or could have a significant effect on the child's well-being, have materially changed. "Proper cause" is defined as "one or more appropriate grounds that have or could have a significant effect on the child's life to the extent that a reevaluation of the child's custodial situation should be undertaken." *Vodvarka v Grasmeyer*, 259 Mich App 499, 508-509; 675 NW2d 847 (2003).

In determining or modifying parenting time, the court shall use terms that are in accordance with the best interests of the child. MCL 722. 21a(1). *Thames v Thames*, 191 Mich App 299 (1991). MCL 722.27a(6) also provides specific parenting time factors that the court may consider when determining the frequency, duration, and type of parenting time

to be granted. If the proposed parenting time modification changes the child's established custodial environment, the court should apply the "proper cause and change of circumstances" analysis (*Vodvarka v Grasmeyer*, 259 Mich App 499; 675 NW2d 847 (2003)).

If the proposed modification would not change the established custodial environment, and amounts to "a change in the duration or frequency of parenting time," than a lesser standard shall be followed. (*Shade v Wright*, 291 Mich App 17; 805 NW2d 1 (2010)). *Shade* provides "a more expansive definition of "proper cause" or "change in circumstances" than what was stated in *Vodvarka*. *Shade* provides that a lesser, more flexible understanding of "proper cause" or "change in circumstances" applies. Therefore, normal life changes, which do not constitute proper cause or a change of circumstances sufficient to justify a change of custody, are the types of considerations a court should review in determining requests for parenting time modifications.

Upon request, a child support review shall be done three years after the date of the last child support order. MCL 552.517(1), To have your child support obligation reviewed less than three years after the last child support order, you must demonstrate that there has been a substantial change in circumstances from the date of the last child support order, MCL 552.517(1); 2013 MCSF-S.

2013 MCSF-S, lists the factors to be considered to determine if a child support review is warranted:

3.01(B) A substantial change in circumstances to warrant a review of the support amount occurs when any of the following situations arise:

- (1) The payer begins or stops receiving social security benefits.**
- (2) A child receives social security benefits based on the support payer's earnings record, or a reduction occurs in those benefits by \$50 per month or more.**
- (3) A health issue affects a party's ability to earn income for a substantial period (a permanent or long-term disability or injury, a lengthy hospital stay and recuperation, etc.).**
- (4) A parent's income changes by 75 percent or more.**
- (5) A parent receives a call to active military duty likely to last at least six months and result in a significant income reduction.**
- (6) Significant changes in the medical expenses of a party.**
- (7) Changes in the physical, mental, or educational needs of a child.**

(8) A significant change in financial circumstances because of a modification of the payer's other support obligations.

The Friend of the Court review of this matter supports that the moving party has appeared to establish the appropriate legal threshold for the matter to be referred to the Friend of the Court for an investigation and recommendation, and therefore submits the proposed order for the Court's review and decision. After the Court has reviewed this matter, it orders as follows:

Order

**At a session of said Court
held in the city of Charlotte, on the**

_____ day of _____, 20_____

The Court has reviewed the motion regarding this matter and finds the moving party has demonstrated the requisite proper cause, change of circumstances, threshold burden regarding a review of child support, and or other requisite legal threshold to warrant referral of this matter to the Friend of the Court for an investigation and recommendation.

Accordingly, it is ordered this matter is referred to the Friend of the Court for the following:

- _____ Custody Evaluation
- _____ Parenting Time Evaluation
- _____ Child Support Evaluation
- _____ Change of Domicile Evaluation
- _____ Conciliation/Mediation
- _____ Other: _____

Circuit/Probate Court Judge

Approved by the Friend of the Court