

Form FOC 87

MOTION REGARDING CUSTODY

Use this form if:

- You have an existing case and docket number.
- You are seeking to add or change the custody arrangement of a child(ren).
- This form cannot be used to initiate a custody case.
- This form cannot be used if you are a third party and want to intervene to add or change the custody arrangement of a child(ren).

Please read the instructions carefully before completing your motion.

INSTRUCTION PAGE

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INSTRUCTIONS FOR FILING THIS MOTION

FEES: All filings of motions on an existing case require the payment of a \$20.00 filing fee. In addition, if the Court grants the relief you are seeking, there is a judgment fee that has to be paid before the Court will enter the new order. Judgment fees are \$40.00 for a support order and \$80.00 for a custody or parenting time order. If you file more than one motion on the same case at the same time, you will only have to pay one filing fee of \$20.00 and one judgment fee. Fees are paid at the Delta County Clerk's Office and any checks should be made payable to the Delta County Clerk.

WAIVER OF FEES: If you are indigent (without financial resources) or are receiving public assistance, you can apply to the Court to have your fees waived. You should obtain the form: Affidavit Suspending Fees and Costs (Form MC 20) from the Friend of the Court Office or the Delta County Clerk's Office. Complete the form, have your signature notarized, and submit it to the Clerk's Office before you submit your motion.

1). COMPLETE THE MOTION FORM: The form (FOC 87) should be completed in a legible manner by either neatly printing or typing the requested information. Keep in mind that the Court processes hundreds of motions a year. Time spent trying to decipher what a party intended to write down is less time that the Court will have to devote to the legal issues that are presented by the motion. You should first obtain a copy of the most recent Court order in your case before you begin.

- A). Carefully complete the case number section (box A in the upper right hand corner) by referring to your copy of the most recent order.
- B). Correctly identify the Plaintiff, Defendant and/or Third Party by also referring to your copy of the most recent order. You are the "moving party". Be certain to check the box "moving party" where your name appears.
- C). Check your prior orders and see if custody of the child(ren) was ordered. If yes, check box 'a'. If not, check box 'b'.
- D). If you checked box 'a' in section C, check the box referring to the party who was ordered to have custody of the child(ren). Also write in the name(s) of the child(ren). If you checked box 'b' in section C, do not answer this section.
- E). State the name of the person with whom the child(ren) are actually living with now, the address or location where the child(ren) are living,

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and the date the children started living there, even if these answers are different than what was stated in the previous custody order.

- F). You must demonstrate a change in circumstance, or proper cause (section G) that warrant reconsideration of a prior custody determination. MCL 722.27(1); *Vodvarka v Grasmeyer*, 259 Mich App 499, 508-509; 675 NW2d 847 (2003) State briefly and concisely why the Court should consider making or modifying a custody determination. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.
- G). You must demonstrate proper cause, or a change in circumstance (section F) that warrant reconsideration of a prior custody determination. MCL 722.27(1); *Vodvarka v Grasmeyer*, 259 Mich App 499, 508-509; 675 NW2d 847 (2003) State briefly and concisely why the Court should consider making or modifying a custody determination. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.
- H). Check this box if you and the other party agree as to what custody, parenting time and support should be. State with as much specificity what you and the other party have agreed to. If you are in agreement as to what the order should be, then you may want to contact the Friend of the Court Office to ascertain if a stipulated order can be prepared in place of having a hearing.
- I). State briefly and concisely what it is that you want the Court to do. You should also address what the Court should do regarding parenting time and support. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.
- J). Be sure to date and sign your motion.

2). HEARING DATE AND TIME: Contact the Friend of the Court Office (for support motions: Caseworker Specialist Debra Barton at (906) 789-5134 and for custody/parenting time motions: Legal Assistant Micki Heribacka at (906) 789-5135), state the type of motion you are filing and that you are requesting a hearing date and time. You will be given the name of either a Judge or Referee. You will also be given a date and time for your hearing. Finally, you should also be notified of the location of your hearing.

Fill out the Notice of Hearing section (section K) on the motion form. Do not complete the Certificate of Mailing section at this point. Your motion should now be ready to be photocopied.

3). COPY THE MOTION: You must make at least three copies of your completed motion and any attachments. Plus you will need two copies without attachments for proof of service. This is a total of five copies of your motion. You will need a sixth copy if there is a third party (custodian or guardian who is not a parent) who also must receive notice of the hearing.

4). FILE THE MOTION WITH THE COUNTY CLERK: Take the original and five copies to the Delta County Clerk's Office. Pay the \$20.00 motion fee or submit the Affidavit Suspending Fees and Costs (Form MC 20) signed by the Judge. The Clerk's Office will keep the original motion and attachments for the Circuit Court file and one copy of the motion and attachments to give to the Friend of the Court Office. Retain one copy and any attachments for your records. You should still have one copy with any attachments for the other party and two copies for proof of service.

5). SERVE THE MOTION AND NOTICE OF HEARING ON THE OTHER PARTY: Michigan Court Rule 2.119 requires that the other party be served with a copy of the motion at least 9 days before the hearing if notified by mail. Service in Delta County is usually accomplished by mailing via the United States Postal Service.

Mail one complete copy with any attachments to the other party. If there is a custodian or guardian, mail one copy with any attachments to that person as well. Fill out the Certificate of Mailing on the two remaining copies of the motion and the copy of the motion with any attachments that you have kept for yourself. Return to the Delta County Clerk's Office with the two remaining copies of the motion with completed Certificate of Mailing. The Clerk's Office will keep one copy for the Circuit Court file and forward one copy to the Friend of the Court Office

CONFIDENTIAL ADDRESSES: If the other party has a confidential address, you will need to prepare a stamped, self-addressed envelope for the two copies of your motion that are to be submitted with completed Certificate of Mailing. Take the envelope, the two copies of your motion for the Delta County Clerk's Office and the copy of your motion with any attachments for the other party to the Friend of the Court Office. Within one business day, the Friend of the Court Office will mail the copy of your motion with any attachments to the other party. The Friend of the Court will then mail to you, in the envelope you have provided, the two copies of your motion with completed Certificate of Mailing. Return to the Delta County Clerk's Office with the two remaining copies of the motion with completed Certificate of Mailing. The Clerk's Office will keep one copy for the Circuit Court file and forward one copy to the Friend of the Court Office

MOTION CHECKLIST

Read the preceding instructions carefully and follow all of the steps in the order in which they are set forth. Even though you are proceeding without an attorney, you are still required to follow all of the court rules and procedures. If you do not follow all of the instructions, you might not obtain a hearing or the relief you seek in your motion may be denied.

- Step One:** Complete the motion form Yes
- Step Two:** Obtain a hearing date and time..... Yes
- Step Three:** Make the required number of copies Yes
- Step Four:** File the motion with the Clerk's Office Yes
- Step Five:** Serve the motion on the other party Yes
- Step Six:** File the Certificate of Mailing with the Clerk's Office..... Yes
- Step Seven:** Keep a complete copy of the motion for yourself..... Yes

**AS THE MOVING PARTY,
YOU MUST
ATTEND THE HEARING**

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