

Form FOC 116

RESPONSE TO MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE

Use this form if:

- The other party files a motion regarding Change of Domicile/Legal Residence (usually on Form FOC 115).

Please read the instructions carefully before completing your response.

INSTRUCTION PAGE

Do not submit this page with your motion

INSTRUCTIONS FOR FILING THIS RESPONSE TO MOTION

FEES: There are no filing or judgment fees associated with filing a response to the other party's motion.

1). COMPLETE THE RESPONSE TO MOTION FORM: The form (FOC 116) 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 and responses 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). Enter the date of the most recent custody order.
- D). Check the appropriate box of whether or not you agree to allow the change of domicile or legal residence. If you do not agree to the change, you should explain in detail why you disagree. If you have joint legal custody of the child(ren) and you do not agree to allow the change, you should address each of the factors in MCL 722.31- *Legal Residence Change of Child Whose Parental Custody Governed by Court Order* and how they apply to your situation. A copy of MCL 722.31 is included in these instructions. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.
- E). Indicate whether or not you want the Court to allow the change of domicile or legal residence. If you do not want the Court to allow the change, explain what you would like the Court to order. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.
- F). If a party or the child(ren) are permitted to move, you should indicate what, if any, changes should be made to the parenting time arrangement.
- G). Be sure to date and sign your motion.
- H). Do not complete the Certificate of Mailing until instructed to do so in

step 4). SERVE THE RESPONSE ON THE OTHER PARTY

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

3). FILE THE RESPONSE WITH THE COUNTY CLERK: Take the original and five copies to the Delta County Clerk's Office. The Clerk's Office will keep the original response and attachments for the Circuit Court file and one copy of the response 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.

4). SERVE THE RESPONSE ON THE OTHER PARTY: Michigan Court Rule 2.119 requires that the other party be served with a copy of the response at least 5 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 response and the copy of the response with any attachments that you have kept for yourself. Return to the Delta County Clerk's Office with the two remaining copies of the response 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 response that are to be submitted with completed Certificate of Mailing. Do not complete the Certificate of Mailing section. Take the envelope, the two copies of your response for the Delta County Clerk's Office and the copy of your response 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 response 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 response with completed Certificate of Mailing. Return to the Delta County Clerk's Office with the two remaining copies of the response 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

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RESPONSE TO 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, your response to the motion regarding custody may not be read by the Court.

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

ATTEND THE HEARING

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CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.31 Legal residence change of child whose parental custody governed by court order.

Sec. 11. (1) A child whose parental custody is governed by court order has, for the purposes of this section, a legal residence with each parent. Except as otherwise provided in this section, a parent of a child whose custody is governed by court order shall not change a legal residence of the child to a location that is more than 100 miles from the child's legal residence at the time of the commencement of the action in which the order is issued.

(2) A parent's change of a child's legal residence is not restricted by subsection (1) if the other parent consents to, or if the court, after complying with subsection (4), permits, the residence change. This section does not apply if the order governing the child's custody grants sole legal custody to 1 of the child's parents.

(3) This section does not apply if, at the time of the commencement of the action in which the custody order is issued, the child's 2 residences were more than 100 miles apart. This section does not apply if the legal residence change results in the child's 2 legal residences being closer to each other than before the change.

(4) Before permitting a legal residence change otherwise restricted by subsection (1), the court shall consider each of the following factors, with the child as the primary focus in the court's deliberations:

(a) Whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent.

(b) The degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

(c) The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

(d) The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

(e) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

(5) Each order determining or modifying custody or parenting time of a child shall include a provision stating the parent's agreement as to how a change in either of the child's legal residences will be handled. If such a provision is included in the order and a child's legal residence change is done in compliance with that provision, this section does not apply. If the parents do not agree on such a provision, the court shall include in the order the following provision: "A parent whose custody or parenting time of a child is governed by this order shall not change the legal residence of the child except in compliance with section 11 of the "Child Custody Act of 1970", 1970 PA 91, MCL 722.31."

(6) If this section applies to a change of a child's legal residence and the parent seeking to change that legal residence needs to seek a safe location from the threat of domestic violence, the parent may move to such a location with the child until the court makes a determination under this section.

History: Add. 2000, Act 422, Imd. Eff. Jan. 9, 2001.

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Approved, SCAO

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY

RESPONSE TO MOTION REGARDING CHANGE
OF DOMICILE/LEGAL RESIDENCE

A

CASE NO.

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. On _____ a judgment
Date
or order was entered regarding custody.

D 2. I agree do not agree to allow change of domicile or legal residence as requested in the motion.
Explain in detail what you do not agree with in item 2. of the motion and why. Include all necessary facts. Use a separate sheet of paper if needed.

E 3. I ask the court to enter an order to allow not allow the change of domicile or legal residence as requested in the motion.
If you do not agree with the request in the motion, explain in detail what you want the court to order. Use a separate sheet of paper if needed.

F 4. I ask the court to enter an order continuing the current parenting-time order. modifying the parenting-time order as stated in the motion. modifying the parenting-time order as follows:
If you do not agree with the request in the motion, explain in detail what you want the court to order. Use a separate sheet of paper if needed.

G _____
Date

Recording 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.

H _____
Date

Recording party's signature