

Form FOC 88

**RESPONSE TO
MOTION REGARDING CUSTODY**

Use this form if:

- The other party files a motion regarding custody (usually on Form FOC 87).

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 88) 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. The other party is the "moving party". Be certain to check the box "moving party" where the other party's 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, and the date the children started living there, even if these answers are different than what was stated in the previous custody order.
- F). A party must demonstrate a change in circumstance, or proper cause (section G) that warrants 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 you agree or disagree with the Court making or modifying a custody determination. Attachments should be on 8 ½ by 11 inch paper and, if typed, double spaced.

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- G). A party must demonstrate proper cause, or a change in circumstance (section F) that warrants 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 you agree or disagree with the Court 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. If you do not agree with exactly the changes as stated in the motion, state with as much specificity what you would agree 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). If you do not agree with what is being asked for in the motion, 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 response.
- K). 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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STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	RESPONSE TO MOTION REGARDING CUSTODY	A CASE NO.
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Court address

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.

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.

H 6. I agreed with the other party to custody, parenting time, and support:
 a. exactly as stated in 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.

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.

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