

STATE OF MICHIGAN
28th JUDICIAL CIRCUIT
COUNTY

MOTION REGARDING CUSTODY

(A) CASE NO.

Court address

401 N. Lake St., Cadillac, MI 49601

Telephone no.

(231) 779-9494

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

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

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. 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.

(J) _____
Date Moving party's signature

NOTICE OF HEARING

A hearing will be held on this motion before _____
Judge/Referee

(K) on _____ at _____ at _____
Date Time Location FOC Office- 401 N. Lake ST. Cadillac MI

If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements. When contacting the court, provide your case number(s).

NOTE: If you are the person receiving this motion, you may file a response. Contact the friend of the court office and request form FOC 88.

CERTIFICATE OF MAILING

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

(L) _____
Date Moving party's signature

Form FOC 87
MOTION REGARDING CUSTODY CHECKLIST

Use this form if: You have a pending case for custody, divorce, separate maintenance, family support or paternity; or you are a party who has a custody order through a judgment of custody, divorce, separate maintenance, or family support order, or an order of filiation

You cannot use this form: to start a custody case; or if you are a third party and want to intervene to get custody of the child(ren) in a pending case for custody, divorce, separate maintenance, family support or paternity

1. Completely fill out the requested information on the form. (See Instructions)
2. File the completed **original** Motion at the Friend of the Court or the County Clerk's office.

Filing at the Friend of the Court

You **MUST** complete the top section only. **DO NOT** complete the Notice of Hearing or Certificate of Mailing sections. Bring the original to the Friend of the Court office. The Friend of the Court office will provide copies to parties/attorneys; will schedule conferences/hearings; and provide notice to the parties. You may pay by check or money order made out to "Wexford County Clerk" or "Missaukee County Clerk". **We do not accept cash for filing fees.**

Filing at the Clerk's Office

You **MUST** complete the top section **AND** the Certificate of Mailing section. **DO NOT** complete the Notice of Hearing section. Take the original and 5 copies to the Clerk's office in the county the case is filed in. Provide a copy of the Motion to the Friend of the Court office, the other party/attorney and yourself. The Friend of the Court office will schedule conferences/hearings and provide notice to the parties. You may pay by cash, check or money order made out to "Wexford County Clerk" or "Missaukee County Clerk".

3. A filing fee of \$100 (\$20 motion fee and \$80 order fee) must accompany the Motion if it is filed after a Judgment of Divorce or Order of Filiation has entered. In a pending case, a motion fee of \$20 must accompany the Motion.
4. If you cannot afford to pay the filing fee, you may request and complete an Affidavit and Order Suspension of Fees/Costs MC 20.

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, THE ORDER YOU GET FROM THE COURT MAY NOT GIVE YOU THE RESULT YOU WANT.

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING CUSTODY"

Please print neatly. After filling in the form, you will need to make at least five copies of the form.

Items A through J must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Before you fill in the Case No., get your court papers for custody, divorce, separate maintenance, family support or paternity and copy the Case No. from those court papers onto this form.
- B** Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes, and if applicable, the "Third Party" box. Copy the names from these court papers onto this form. For example, if your name is in the box that says "plaintiff," then you should write your name in the "plaintiff" box on this motion form.
- You are the "moving party." Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.
- C** **Check only one box.** If you have a judgment or order for custody, divorce, separate maintenance, family support, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box a. If there is no information about custody, check box b.
- D** Check this box only if you checked box a. in **C** above. Read your court papers for custody, divorce, separate maintenance, family support, 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) are living, 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. **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 four copies of this sheet to attach to four copies of this form.
- G** State the causes that require a custody order or a change in custody. The judge or referee will review these causes using 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 four copies of this sheet to attach to four copies of this form.
- 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 support and parenting time. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.
- 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 support and parenting time as well. Print this information as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.
- J** Write in today's date and sign your name. Now contact the the friend of the court office in your county to find out how to get a hearing date. See page 3 of this booklet for details.
- K** Once you get a hearing scheduled, fill in the full name of the judge or referee who will be hearing this motion, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.
- Now go to the county clerk's office with the original and five copies of this form and the four copies of each separate sheet. The clerk will attach one copy of each separate sheet to four of the copies. The clerk will return four copies to you. Read page 3 of this booklet for details on mailing this form to the other party.
- L** On the date you mail one copy (and the separate sheets) to the other party, write in the date and sign your name on the remaining three copies.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
MCL 722.23. Best interests of the child; factors

Sec. 3. As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

- (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.
- (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.

TIPS FOR REPRESENTING YOURSELF IN COURT

There is the old adage that describes a person who represents him or herself in court as "having a fool for a client."

People who represent themselves in a court proceeding are Pro Se or In Pro Per parties. "Pro se" or "In Pro Per" is a Latin term meaning "for oneself."

Even for the best prepared pro se litigant, court proceedings can be intimidating. Whether it is due to lack of funds or choice, a self-represented person can do several things to minimize feeling foolish in court.

- Find out what type of court hearing will be held. Is it an informal pretrial discussion or a formal court hearing or trial?
- Observe a similar court proceeding before your court.
- Don't miss your court date. Double-check the date and time.
- Allow plenty of time to get to court. You will need to park, go through security and find your courtroom.
- Arrive at the courtroom 15 minutes early.
- Come prepared and organized.
- Bring an outline of what you plan to say.
- Prepare a short statement of what you want and why.
- Bring your witnesses with you to court. Letters hardly ever suffice.
- Witnesses cannot appear by telephone without advance approval of the court.
- Write out questions for your witnesses.
- Ask your witnesses the questions before your court date.
- Bring three copies of all documents or exhibits.

- Address the judge or referee as "Your Honor."
- Bring paper and pen so you can take notes of what other witnesses say.
- Take notes.
- Dress nicely.
- Do not bring children to court unless specifically required by the court.
- Leave the drama at home. Do not be hostile or rude, and do not interrupt.
- Before you leave court make sure you know what will happen next.
- Ask questions if you are unclear of who will prepare the court order.

Be aware that court procedures and the Rules of Evidence will be followed. Specific statutes will govern the outcome. Court staff cannot give you any legal advice. You will be best served if you meet with a lawyer to discuss your case in advance, even if the lawyer does not represent you in court.

There is also a Michigan Courts Self-Help Center website at:
<http://courts.michigan.gov/scao/selfhelp/selfhelphome.htm>

Don't be afraid to ask attorneys if they offer sliding scale fees or have payment plans. Most attorneys volunteer a number of hours each year in Pro Bono services, another Latin phrase meaning "for the public good."

— Prepared by Marian Kromkowski, Suttons Bay attorney with Kromkowski & Posner and part-time domestic relations referee in Wexford/Missaukee counties.

Record-Eagle <http://record-eagle.com/northernliving/x1270809519/Tips-for-representing-yourself-in-court/print>