Approved, SCAO

Original - Court
1st copy - Other party
2nd copy - Moving party

3rd copy - Friend of the court
4th copy - Proof of service
5th copy - Proof of service

STATE OF MICHIGAN 28th JUDICIAL CIRCUIT COUNTY	MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE	(A) CASE NO.

Court address: 401 N. Lake St., Cadillac, MI 49601

Court telephone no.: (231) 779-9494

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

v

Defendant's name, address, and telephone no. ☐ moving party

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

(C) 1. On _____ (Date) a judgment or order was entered regarding custody.

2. Legal custody is ☐ joint. ☐ sole with the ☐ plaintiff. ☐ defendant.

(D) 3. It is in the best interests of the child(ren) to permit a change in the legal residence or the domicile of the following child(ren) because: Use a separate sheet to explain in detail why it is in the best interests of the child(ren) and attach. Include all necessary facts. Name each child for whom you want this change.

(E) 4. **I ask** the court to enter an order allowing a change of domicile or legal residence.
Use a separate sheet to explain in detail what you want the court to order and attach.

(F) 5. **I ask** the court to enter an order ☐ continuing the current parenting-time order. ☐ modifying the parenting-time order as follows: Use a separate sheet to explain in detail what you want the court to order and attach.

_____ Date

_____ Moving party's signature

NOTICE OF HEARING

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

on _____ (Date) at _____ (Time) at FOC - 401 N Lake ST. Cadillac MI 49601 (Location).

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 116.

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 attorney by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

(H) _____ Date

_____ Moving party's signature

MCL 552.505, MCL 722.31, MCR 2.119, MCR 3.211(E)

Form FOC 115
MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE

Instructions:

1. Completely fill out the requested information on the form.
   A. Get your case number from your prior court papers
   B. Fill in Plaintiff and Defendant boxes using your prior court designations but with current addresses and phone numbers – Check the "moving party" box by your name
   C. Enter the date of the most recent custody order
   D. Explain your response to 3. In detail. If you checked the box in item 1 that you have sole legal custody, you must explain why it is in the best interests to move. If you have joint legal custody, you must explain how each of the factors applies to your family situation. See MCL 722.31 for the factors allowing you to move.
   E. Explain your response to 4.
   F. Explain your response to 5 and date and sign.
   G. The Friend of the Court will complete the Notice of Hearing section.
   H. The Friend of the Court will complete the Certificate of Mailing section.

2. File the completed original Motion at the Friend of the Court office.

3. A filing fee of $100 ($20 motion fee and $80 order fee) must accompany the Motion when it is filed after a Judgment of Divorce, Order of Filiation or Order for Custody has entered. In a pending case, a motion fee of $20 must accompany the Motion when it is filed. You may pay in check or money order made out to "Wexford County Clerk" or "Missaukee County Clerk". **We do not accept cash for filing fees.**

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.

NOTE: Under the Michigan Child Support Formula, a change in domicile or legal residence may affect parenting time and the amount of child support that is ordered.

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.

MCL 722.31. Legal residence of children; 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.

Updated October 2012

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. Specifics 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