

Approved, SCAO

STATE OF MICHIGAN
28th JUDICIAL CIRCUIT
COUNTY

RESPONSE TO
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. 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 the 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

Form FOC 88
RESPONSE TO MOTION REGARDING CUSTODY CHECKLIST

Use this form if: You get a Motion Regarding Custody (FOC 87). By filling out this form, you are answering the statements made in the motion.

1. Completely fill out the requested information on the form. (See Instructions)
2. File the completed **original** Response to Motion Regarding Custody at the County Clerk's office.

You **MUST** complete the top section **AND** the Certificate of Mailing 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 Response 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.

3. Serve the Response by mailing it to the other party/attorney at least 5 days before the Status Conference/Hearing date.
4. Fill out the Certificate of Mailing on the remaining copies. Deliver the original to the County Clerk's office and keep one for your records.
5. You must attend the Status Conference and/or Hearing.

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 "RESPONSE TO MOTION REGARDING CUSTODY"

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

Items A through J must be completed before your response 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 copy of the Motion Regarding Custody (form FOC 87) and copy the Case No. from that paper onto this form.
- B** Also use the motion to fill in the "Plaintiff" and "Defendant" boxes, and if applicable, the "Third Party" box. Copy the names from the motion 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 response form.
- The other party is the "moving party." Once you have written the names where they belong, you must check the box "moving party" in the same box as the other party's name.
- C** **Check only one box.** If you have a judgment or order for custody, divorce, separate maintenance, 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, 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** Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree", **explain in as much detail** as possible what you do not agree with and why. Print this information as neatly as you can. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.
- G** Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree," **explain in as much detail** as possible what you do not agree with and why. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child. Print this information as neatly as you can. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.
- H** Check this box only if **H** is checked on the Motion form (FOC 87). Then check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree," **explain in as much detail** as possible what you did agree on. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.
- I** If you agree with the request in the Motion form (FOC 87), check box a. If you do not agree with the request, check box b. If you checked box b., **explain in as much detail** as possible why you do not agree with the request in the Motion form and what you want the court to order. If you need more space, use a separate sheet of paper. Print your explanation 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 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.
- K** 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. Return to the county clerk with two copies. Read page 4 of this booklet for details.

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>