

<b>STATE OF MICHIGAN</b> <b>28th JUDICIAL CIRCUIT</b> <b>COUNTY</b>	<b>RESPONSE TO MOTION REGARDING CHANGE</b> <b>OF DOMICILE/LEGAL RESIDENCE</b>	<b>(A) CASE NO.</b>
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**Court address** **Court telephone no.**  
 401 N. Lake St., Cadillac, MI 49601 (231) 779-9494

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

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

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 a 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 in 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 \_\_\_\_\_ 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.

**(H)** \_\_\_\_\_ Date \_\_\_\_\_ Responding party's signature

**Form FOC 116**  
**RESPONSE TO MOTION REGARDING**  
**CHANGE OF DOMICILE/LEGAL RESIDENCE**

**Use this form if:** You get a Motion Regarding Change of Domicile/Legal Residence (FOC 115). 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 Change of Domicile/Legal Residence 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 CHANGE OF DOMICILE/ LEGAL RESIDENCE"

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

Items A through H must be completed before your response can be filed with the court. Please read the instructions 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 Change of Domicile/Legal Residence (Form FOC 115) and copy the Case No. from that paper onto this form.

**B** Also use the motion form 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 both names where they belong, you must check the box "moving party" in the same box as the other party's name.

**C** Enter the date of the most recent order regarding custody.

**D** Check whether you "agree" or "do not agree" to allow the change of domicile or legal residence. If you checked the box "do not agree," you must **explain in as much detail** as possible why you disagree. If you have joint legal custody, you must explain why the moving party cannot meet the factors in MCL 722.31. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to copies of this form.

**E** If you agree with the request in the Motion form (FOC 115), check the box "allow." If you do not agree with the request, check the box "not allow." If you checked the box "not allow," you must **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 copies of this form.

**F** Check the appropriate box.

**G** 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.

**H** 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.

**You must read this booklet for directions on the legal process.**

## **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.

## 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>