

## **FREQUENTLY ASKED QUESTIONS ABOUT CUSTODY & PARENTING TIME**

### ***Can a custody order be changed if both parents agree?***

Yes. But the judge must approve and sign the new order before it takes effect.

### ***Do I need an attorney to file a motion to change custody?***

No. You may file the motion on your own, and the FOC will provide the forms and instructions that you will need. The court will expect you to follow the same rules that an attorney must follow. There are many complex issues in a custody case and most people prefer to have an attorney represent them. The FOC cannot file a motion for you, nor can that office provide you with an attorney or tell you what to say in the motion.

### ***If a motion for custody has been filed, and the parents cannot reach an agreement on their own, what will the FOC do?***

The FOC must:

- Offer ADR services to the parties, depending on which types of services are available in that FOC office.
- If there has been a change in circumstances and the judge directs, investigate the custody issues and file a written report and recommendation based upon the [“best interests of the child” factors](#) listed in the Michigan Child Custody Act. Parties should work to resolve their issues before filing a motion.

### ***May I receive a copy of the FOC’s custody report and recommendation?***

Yes. Before the court acts on the recommendation, the FOC must give each party or that party’s attorney a copy of the report, including the custody recommendation and a summary of the information used in making the recommendation.

### ***Is there a cost for the custody investigation?***

The Friend of the Court Act permits the FOC office to charge parties in a dispute an amount for the expense of conducting an investigation and making a report if the party requests the investigation.

### ***What happens if the other parent does not return the child to me as required by the custody order?***

- You may contact the FOC office and request that it initiate enforcement.
- You may file a motion, with or without an attorney, and ask the court to enforce the order.
- If you believe the other parent will refuse to return the child, you may contact the police or the prosecuting attorney and ask either to file a parental kidnapping charge.

### ***How do I get the court's approval to change the children's residence?***

If a party who has joint custody with the other parent and does not already live 100 miles from the other parent wishes to relocate over 100 miles away, the parties may agree to change of residence by signing an agreement. This agreement must be put in the form of an order. When signed and filed with the court clerk, it becomes an order of the court. If you and the other parent cannot agree on the proposed change of domicile, you may:

- Utilize the FOC's ADR services; or
- File a motion that asks the court to enter an order approving the change

Providing notification to the FOC that you intend to move the children (or filing a motion requesting the court's approval) does not automatically allow you to move your children. You must obtain a court order approving the move.

Out-of-state cases are governed by the Uniform Interstate Family Support Act (UIFSA). UIFSA allows states to work together in their collection of court-ordered child support, and can best be described as one order, at one time, in one place for each combination of payer and child. This means that only a single state at a time may issue an order. All states and territories in the United States have adopted the UIFSA.

The state that issues the original order holds what UIFSA calls "Continuing, Exclusive Jurisdiction" (CEJ) of the order. CEJ can be lost (transferred) to another state if circumstances allow it. More information about UIFSA is on the [CHILD SUPPORT](#) page of this website.

### ***How do I enforce the custody order if the other parent takes our child to another country?***

When a child who is a United States citizen is illegally kept outside of this country, the United States State Department's Office of Children's Issues will work with the local U.S. embassy and the other country's government to assist the child and the lawful custodial parent. However, because child custody disputes are private legal disputes between the two parents, the State Department has no jurisdiction to force the other parent to obey a court order. If the parents cannot reach an agreement, this kind of child custody dispute often must be resolved by judicial proceedings in the country where the child and the other parent are living. The State Department will help the lawful custodial parent file the appropriate documents with the foreign authorities. It also will monitor and report on the foreign judicial or administrative proceedings.

The Child Custody Act requires that parenting-time orders prohibit exercising parenting time in a nation that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction, unless both parents provide the court with their written consent.

***Is the FOC allowed to investigate child abuse or neglect?***

The FOC does not have authority to investigate abuse or neglect. However, FOC employees employed in a professional capacity are required to report suspected child abuse and neglect.

If you have any suspicions of abuse or neglect you should immediately contact Child Protective Services (CPS) division of the Department of Human Services (DHS) at 855-444-3911.

A judge may consider allegations of abuse or neglect when making a decision regarding custody or parenting time. A party should inform the FOC of any concerns about abuse or neglect if the FOC is doing a custody or parenting-time investigation. Both the judge and the FOC will rely on Child Protective Services to investigate and evaluate the abuse or neglect allegations.

***May my child enroll in my local school, even though the child lives in another school district with the other parent most of the time?***

When the parents live in different school districts, Michigan law allows a child to attend a school in either district, regardless of which parent has custody.

***May I see my child's school, medical, and other records if my child lives with the other parent?***

Michigan law gives both parents the right to see certain records. These records include medical, dental, school, and day-care records. Both parents are entitled to receive advance notice of meetings that concern their child's education; however, the FOC cannot enforce that law. You may wish to consult an attorney if you are denied any of those rights.

***My order states I will have "reasonable" parenting time. What does this mean?***

It depends on how your court order reads. If an order grants parenting time "reasonable as the parties agree and arrange", that means you and the other parent will make and agree to a parenting-time schedule that is convenient to both of you and to the child. However, if you and the other parent cannot agree on a "reasonable parenting time" schedule, this office cannot enforce the agreements you have made. If your order allows, you may be able to send a letter and request a joint appointment to put together a specific parenting time order—otherwise, you must file a motion to request a new order.

If an order grants parenting time as "reasonable according to the Friend of the Court Policy", this refers to the Wexford/Missaukee Friend of the Court Parenting Time Policy and the section listed under "Reasonable Parenting Time"—you can find a copy of the Parenting Time Policy on the FORMS & LINKS part of this page. If your court order was done before October 1, 2012, it would refer to the Former Parenting Time Policy,

which can also be found under FORMS & LINKS). Court orders with this language are enforceable through this office, as there are definite times for weekends, holidays, and school breaks.

***I would like to change my order's parenting-time schedule. What can I do?***

First, ask the other parent to agree to a change. Remember that the agreement, by itself, is not enforceable; it must first be converted into a new court order.

If no agreement is possible, you may file a motion asking the court to order a new parenting time schedule. You may file the motion on your own, or have an attorney file it for you. The forms to change your parenting time can be found on this page.

***The other parent is not making the child-support payments required by our court order. Do I have to allow parenting time?***

Yes. You must continue to obey the order's parenting-time provisions. Ask the FOC to enforce the child support provisions (visit the [Child Support](#) page for more about support enforcement methods).

***The other parent is not following the parenting-time order. What can I do?***

File a written complaint with the FOC. That complaint should state specific facts explaining how the other parent is not following the parenting-time order. Some counties have a specific form to use when filing a parenting-time complaint. Please contact your local county to find out how to proceed.

***The other parent and I share joint legal custody—what does this mean and what can I do if the other parent is not following the order?***

Legal custody refers to all major decisions regarding your child. This includes medical decisions, decisions regarding schooling, things of that nature.

If you believe that joint legal custody has been violated, you are welcome to file a Motion Regarding Custody with the FOC, in order to have that provision enforced. Your motion should state specifically how your order was violated. Once the completed motion is received, it will be scheduled for a hearing.

***If I believe that the other parent is under the influence of alcohol or drugs, do I have to let the children go with that other parent for scheduled parenting time?***

That is your decision as a parent. If you violate the court order in such a situation, you may have to explain your decision to the court at a "show cause" hearing held to decide whether you should be held in contempt of court for disobeying the parenting-time order. The hearing will be your opportunity to explain why your decision was in the best interests of the children. If the judge agrees, you will not be held in contempt.

***The other parent will not let me telephone, e-mail, or text my children. What can the FOC do?***

The FOC can only enforce the court's orders. If your court order does not provide for telephone calls, e-mails, or texting try to negotiate an agreement with the other parent. You can also contact your local FOC office for guidance on how to proceed. In addition, you may file a motion asking the court to modify the order to require that you be allowed to call, e-mail, or text your children.

***I think that my child is being abused during parenting time that is spent with the other parent. What should I do?***

Report your concerns to the DHS Children's Protective Services (CPS) at 1-855-444-3911.

The FOC does not have authority to investigate abuse or neglect allegations, nor can it remove children from the home of a person who commits or allows mistreatment; only CPS can do that.

***My child does not want to spend time with the other parent. What can I do?***

Parents must obey court orders regardless of the child's age and preferences. Each parent must promote a positive relationship between the child and the other parent. You may want to do the following:

- Work out a different arrangement with the other parent.
- Seek counseling for your child, yourself, and/or suggest that the other parent does the same.
- File a motion asking the court to change your parenting-time order.

***The other parent refuses to see our children. What can the FOC do?***

The FOC cannot force a parent to see his or her children. To promote a positive relationship with the children and the other parent, you may wish to consider counseling, requesting a joint appointment, or filing a motion to change the parenting-time order.