

**STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY**

**MOTION REGARDING CHANGE OF
DOMICILE/LEGAL RESIDENCE**

(A) CASE NO.

Court address

Court telephone no.

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

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

v

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

- (C)** 1. On _____ a judgment
Date 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 _____ at _____ at _____ .
Date Time 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

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY	RESPONSE TO MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE	(A) CASE NO.
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Court address Court telephone no.

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

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

v

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

**MOTION REGARDING CHANGE OF DOMICILE/ LEGAL RESIDENCE
SHIAWASSEE COUNTY FRIEND OF THE COURT
FORM FOC 115**

Use this Motion if:

- You have a Judgment of Divorce or Separate Maintenance or a Paternity Case which places restrictions on changing the domicile/residence of the minor child(ren) and you wish to Motion the Court for a change in these provisions.

You cannot use this form:

- To start a custody case; or
- If you are a third party and want to intervene to obtain custody of the child(ren) in a pending case for custody, divorce, separate maintenance, or paternity.

If both parties agree to a change in the Order no Motion is necessary. If an agreement is reached please contact the Friend of the Court indicating the specifics of the agreement. Both parties **MUST** sign the Order Regarding Change of Domicile/Legal Residence. The forms are available at Friend of the Court or at our website www.shiawassee.net.

If there is no agreement, then you must file this motion with the Circuit Court Clerk's Office. You must appear for the hearing and the Judge will make a decision regarding referral of your motion to the Friend of the Court.

MOTION CHECKLIST

Use the following checklist to make sure you have done all the steps that are included.

DID YOU...READ THE INSTRUCTIONS FIRST?

1. Fill out all requested information on the Motion. YES
2. Make all the necessary copies? YES
3. Pay the Motion fee to the Circuit Court Clerk? YES
4. Mail (serve) a copy of the Motion to the other party (and Attorney if represented)? YES
5. Return to the Circuit Court Clerk's office after you mailed the Motion and completed the Certificate of Mailing? YES
6. Keep one copy of the Motion for yourself? YES
7. Give 1 copy of the completed Motion to the Circuit Court Clerk with the completed Certificate of Mailing? YES
8. Deliver 1 copy of the completed Motion to the Friend of the Court with the completed Certificate of Mailing? YES

By using this Motion packet, you are representing yourself in a Court action regarding custody, parenting time, and support. 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 your Motion may be dismissed or the Order you get from the Court may not give you the custody, parenting time, or support you want.

The Friend of the Court does NOT represent either party. In preparation for the hearing, each party is encouraged to review the **CHILD CUSTODY ACT**, which is listed below. The Friend of the Court is **NOT** authorized to give the parties legal advice or assist in filing of this Motion. Either party may hire an attorney during any point in the process.

In a custody or parenting time motion, the Court must make a decision based on the best interests of the minor children. The law (MCL 722.23) sets forth a number of factors that the Court must consider. You **MUST** be prepared to address these factors at your hearing:

- (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. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.
- (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.

INSTRUCTIONS FOR FILING A MOTION

FILING A MOTION

1. Fill out the Motion.

Make at least 4 copies of the Motion and all of the attachments after you have filled it out.

2. File the Motion with the Circuit Court Clerk (located on the second floor of the Courthouse).

Take the original and 4 copies of the Motion and all of the attachments to the Circuit Court Clerk.

You must pay \$100.00 to the Clerk of the Court.

The Circuit Court Clerk will keep the original Motion and any attachments for the Court file and stamp “True Copy” on all other copies. You **MUST** provide the Friend of the Court with a true copy of your Motion and all attachments. Do not lose your remaining true copies of your Motion and the attachments.

What you should have when you leave the Circuit Court Clerk’s office:

- 1 Copy of the Motion (with any attachments)- for you
- 1 Copy of the Motion (with any attachments)- for the other party (and Attorney if represented)
- 1 Copy of the Motion (with any attachments)- for the Judge
- 1 Copy of the Motion (with any attachments)- for the Friend of the Court

3. You must ensure that the address for both parties is the last known address on file with the Friend of the Court. If you fail to provide the correct address for either party your Motion may be dismissed for lack of service.

INSTRUCTIONS FOR SERVING A MOTION

SERVING THE MOTION ON THE OTHER PARTY

1. Serve the Motion on the other party.

YOU MUST SERVE (NOTIFY BY ORDINARY MAIL) the other party prior to the Friend of the Court reviewing the Motion. You may hand deliver the papers to the other party.

What you need for service:

- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for you
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the other party (and Attorney if represented)
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the Judge
- 1 Copy of the Motion (with any attachments)- with the completed Certificate of Mailing for the Friend of the Court

Fill out the Certificate of Mailing (date and sign) on all copies of the Motion (with any attachments). Mail one copy to the other party (and Attorney if represented).

NOTE: Serve the papers by mailing them to the other party by regular, first class mail. **THE DATE ON THE CERTIFICATE OF MAILING MUST BE THE DATE YOU MAILED THE MOTION AND ATTACHMENTS TO THE OTHER PARTY (AND ATTORNEY IF REPRESENTED).**

2. Return to the Circuit Court Clerk

Once you have mailed the Motion (with any attachments) to the other party (and Attorney if represented) return to the Circuit Court Clerk's office. You will have three copies with the completed Certificate of Mailing. Give the Circuit Court Clerk one copy for the Judge. Keep 1 copy for your own records. Deliver 1 copy to the Friend of the Court. You **MUST** deliver a copy directly to the Friend of the Court office.

3. Response from the other party.

If you receive a response to your Motion from the other party make sure you read it.

INSTRUCTION FOR COMPLETING “MOTION REGARDING CHANGE OF DOMICILE/ LEGAL RESIDENCE”

Please print neatly. After filling in the Motion, you will need to make at least 4 copies.

Items A through J must be completed before your Motion can be filed with the Court. Please read the instructions then fill in the correct information for that item on the Motion.

- A. Before you fill in the Case No., get your Court papers for divorce, separate maintenance, or paternity and copy the Case No. from those Court papers onto this Motion form.
- B. Also use your Court paper to fill in the “Plaintiff” and the “Defendant” boxes. Copy the names from these court papers onto this Motion. For example, if your name is in the box that says “Plaintiff” on the original court document, then you should write your name in the “Plaintiff” box on this Motion form.

You are the “moving party” and the task of proving why you should be granted the requested relief lies with you. Once you have written both names where they belong, you must check the box “moving party” in the same box as your name.

You must ensure that the address for both parties is the address on file with the Friend of the Court and if you do not know the address you must verify the address with the Friend of the Court.

- C. Write in the date of the order which placed restrictions on changing the residence/domicile of the minor child(ren).
- D. Explain who has court ordered legal and/or physical custody of the child(ren) (address whether the order states sole or joint legal custody).
- E. State who the child(ren) are living with now, the address or location where the child(ren), 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 change in domicile/residence (a move of over 100 miles when there is joint legal 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 4 copies of these sheets to attach to 4 copies of the Motion.
- G. State the causes that require a change in domicile/residence (a move of over 100 miles when there is joint legal custody). The Friend of the Court will review these causes using the 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 4 copies of these sheets to attach to 4 copies of the Motion.
- H. Check this box if you and the other party agree about domicile/residence (a move of over 100 miles when there is joint legal custody). Explain in as much detail as possible what you agreed to including parenting time. If you need more space, use a separate sheet of paper. **If you need more space, use a separate sheet of paper. Print this information as neatly as you can.** You will need 4 copies of these sheets to attach to 4 copies of the Motion.
- 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”. You need to include information about parenting time as well. **If you need more space, use a separate sheet of paper. Print this information as neatly as you can.** You will need 4 copies of these sheets to attach to 4 copies of the Motion.
- J. Write in today’s date and sign your name.