Form FOC 65

MOTION REGARDING PARENTING TIME

Use this form if:

- you have a pending case for divorce, separate maintenance, family support, or paternity; or
- you have a judgment of divorce or separate maintenance, a family support order, or an order of filiation but parenting time was not included; or
- you already have parenting time orders in your judgment of divorce or separate maintenance, your family support order, or your order of filiation, and you want the court to either order parenting time or change parenting time.

If you want the court to change support, use form FOC 52. If you want the court to change custody, use form FOC 87.

MOTION CHECKLIST

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

DID YOU . . .

1.	Fill out all requested information on the form?	YES ☐
2.	Complete and attach MC 416, Uniform Child Custody Jurisdiction Enforcement Act Affidavit?	YES ☐
3.	Make all necessary copies?	YES ☐
4.	Pay the fees to the clerk?	YES ☐
5.	Mail (serve) a copy of the motion and MC 416 on the other party and on any other custodian/guardian after the judge and hearing date were assigned to your case by the clerk?	YES ☐
6.	Return to the clerk's office after you mailed the motion and notice of hearing and MC 416 to the other party and completed the certificate of mailing?	YES ☐
7.	Keep one copy of the motion, notice of hearing and MC 416 forms for youself?	YES ☐
8.	Give two copies of the completed form to the clerk of the court?	YES ☐

If you cannot answer "yes" to all the above steps, a hearing on your motion may be delayed or your motion may be dismissed.

By using this form packet you are representing yourself in a court action regarding parenting time. 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 parenting time you want.

If you have any questions about the steps in the process, refer to pages 3 through 5 of this booklet for details.

INSTRUCTIONS FOR USING FORM FOC 65
FILING A MOTION AND SERVING A MOTION

»» FILING A MOTION

1. Fill out the Motion form.

Use the instructions on page 6. Be careful not to make mistakes.

Before filling out the "Notice of Hearing" part of the form, contact the friend of the court office to find out whom to contact about getting a hearing date. Then contact the person or office as directed by the friend of the court office. Fill in the form with the information you get about the hearing date, location of hearing, and name of the judge or referee who will be hearing the motion.

Make at least five copies of the form after you have filled it out.

2. Fill out MC 416, Uniform Child Custody Jurisdiction Enforcement Act Affidavit.

3. File the Motion form and MC 416 with the county clerk.

Take the original and five copies of the form and MC 416 to the county clerk in the county where your case is located.

You must pay a $100.00 fee at the time of filing. If you can't afford to pay the fees, ask the county clerk for an Affidavit and Order, Suspension of Fees/Costs (form MC 20 not included in this packet) to fill out.

The county clerk will write the name of the judge assigned to your case on your form. The clerk will keep the original and one copy of the motion, MC 416 and any attachments for the court file and the friend of the court. Then the clerk will return four copies and remaining attachments to you. Do not lose them.

What you should have when you leave the clerk's office:

One copy of FOC 65 and MC 416 (with any attachments) - for you
One copy of FOC 65 and MC 416 (with any attachments) - for other party
One copy of FOC 65 - for proof of service to the court
One copy of FOC 65 - for proof of service to the friend of the court

»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES

1. Serve the Motion, MC 416 and Notice of Hearing on the other party.

The other parent, or other party (if there is a custodian or guardian other than a parent) must be served with (notified of) the motion and hearing date at least 9 days before the hearing date.

NOTE: Serve the papers by mailing them to the other party by first-class mail.

What you need for service:

One copy of FOC 65 and MC 416 (with any attachments) - for the other party
Two copies of FOC 65 - for proof of service
Any additional copies of FOC 65 and MC 416 (with any attachments) - for other custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren).

Mail one copy and MC 416 with attachments to the other party. If there is a custodian or guardian, mail one copy with attachments and MC 416 to him/her. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy of the forms and attachments for your own records.

2. Return to the county clerk.

Once you have mailed the motion and notice of hearing and MC 416 and filled out the Certificate of Mailing on the remaining three copies of FOC 65, return to the county clerk's office with two copies. Remember to keep one copy for your own records. The county clerk will deliver one copy to the friend of the court.

3. Response from other party.

If you receive a response to your motion from the other party, make sure you read it before you attend the hearing. Think about what you want to say on your behalf.

4. Attend the hearing.

You must attend the hearing on the motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring the original and five copies of the Order Regarding Parenting Time (form FOC 67) with you to the hearing. Also bring all supporting papers you have and any witnesses who are willing to testify.

1. Because you are representing yourself, you are expected to conduct yourself as an attorney would and to follow the same general rules an attorney would.

2. Make a list of information you think is important for the referee or judge to know. The information should relate to the reasons stated in your motion. You can use this list as a reminder to bring up the points you think are important.

3. If you think you need to order someone to attend this hearing, follow the procedure in Michigan Court Rule 2.506 or consult with an attorney.

4. Go to the judge's courtroom or referee's hearing room on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court. Bring any witnesses with you.

5. If you are responsible for preparing the order, bring all copies of your order form.

6. Go into the courtroom or referee hearing room and tell the referee or clerk (sitting near the judge's bench) your name, that you are there for a hearing, and you are representing yourself. Do not interrupt any hearing in progress. Then take a seat in the back of the courtroom and wait for your case to be called.

7. When your case is called, be prepared to state:

   1) your name.

   2) that you are representing yourself.

   3) that you need a parenting-time order or a change in a parenting-time order.

   4) the facts or reasons for your request **(bring papers such as reports that support your facts or reasons).**

   5) why you believe this order would be in the best interests of the child(ren) .

   6) whether you have witnesses in court who are willing to testify.

   Answer the judge's or referee's questions clearly and directly. If the judge or referee wants to hear from the other witnesses, ask them to tell the court what they saw or know regarding your situation.

8. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Do not interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.

9. After the judge or referee makes a decision, follow the instructions in the packet for FOC 67, "Order Regarding Parenting Time." You are responsible for preparing the order even if you do not get what you are asking for.

NOTE: If your hearing is held before a referee and you do not agree with the referee's decision, you have 21 days from the date of mailing of the referee's recommendation to file an objection and request a de novo hearing before the judge. Use the packet FOC 68, "Objection to Referee's Recommended Order."

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING PARENTING TIME"

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

Items A through I must be completed before your motion 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 court papers for divorce, separate maintenance, family support, or paternity and copy the Case No. from those court papers onto this form.

(B) Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes and, if applicable, the "Third Party" box. Copy the names from these court papers 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 motion form.

You are the "moving party." Once you have written the names where they belong, you must check the box "moving party" in the same box as your name.

(C) **Check only one box.** If you have a judgment or order for divorce, separate maintenance, or paternity, read it carefully to find out if there is any information in it about parenting time. If there is information about parenting time, check box a. If there is no information about parenting time, check box b.

(D) Check this box only if you checked box a. in (C) above and the parenting time orders have not been obeyed. Then check those boxes a. through d. that best explain what has happened. After you check the boxes, use a separate sheet of paper to **explain in** as much **detail** as possible what has happened. Print this information as neatly as you can. You will need four copies of this sheet to attach to copies of this form.

(E) Check this box if you and the other party have agreed to start parenting time or make changes in the parenting time. If you check this box, use a separate sheet of paper to **explain in** as much **detail** as possible what you have agreed on. Print this information as neatly as you can. You will need to have four copies of this sheet to attach to copies of this form.

(F) Check the box that best states what you are asking the court to order. You need to explain why you think it is in the best interests of the child(ren) for the court to order this request. Use a separate sheet of paper and print your explanation as neatly as you can. You will need four copies of this sheet to attach to copies of this form.

(G) Check the box that best explains what you want the court to order. You need to **explain in** as much **detail** as possible what you want the court to order. Use a separate sheet of paper and print as neatly as you can. You will need four copies of this sheet to attach to copies of this form. If a change in parenting time will affect the support obligation, you may file a Motion Regarding Support (FOC 50).

(H) Write in today's date and sign your name. Now contact the friend of the court office in your county to find out how to get a hearing date. See page 3 of this booklet for details.

(I) Once you get a hearing scheduled, fill in the full name of the judge or referee who will be hearing this motion, the date of the hearing, the time of the hearing (include whether it is a.m. or p.m.), and the place of the hearing.

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.

(J) 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.

Approved, SCAO

Original - Court
1st copy - FOC (if applicable)
2nd copy - Defendant/Respondent
3rd copy - Plaintiff/Petitioner

STATE OF MICHIGAN JUDICIAL CIRCUIT PROBATE COURT COUNTY	UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT AFFIDAVIT	CASE NO.

Court address **Court telephone no.**

CASE NAME:

1. The name and present address of each child (under 18) in this case is:

2. The addresses where the child(ren) has/have lived within the last 5 years are:

3. The name(s) and present address(es) of custodians with whom the child(ren) has/have lived within the last 5 years are:

4. I do not know of, and have not participated (as a party, witness, or in any other capacity) in any other court decision, order, or proceeding (including divorce, separate maintenance, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence) concerning the custody or parenting time of the child(ren), in this state or any other state, **except**: Specify case name and number, court name and address, and date of child custody determination, if one.

5. I do not know of any pending proceeding that could affect the current child custody proceeding, including a proceeding for enforcement or a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption, in this state or any other state, **except**: Specify case name and number, court name and address, and nature of the proceeding.

   That proceeding ☐ is continuing. ☐ has been stayed by the court.
   ☐ Temporary action by this court is necessary to protect the child(ren) because the child(ren) has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent. Attach explanation.

6. I do not know of any person who is not already a party to this proceeding who has physical custody of, or who claims rights of legal or physical custody of, or parenting time with, the child(ren), **except**: State name(s) and address(es) of each person.

7. The child(ren)'s "home state" is _____. See back for definition of "home state."

☐ 8. I state that a party's or child's health, safety, or liberty would be put at risk by the disclosure of this identifying information.

I have filled this form out completely, and I acknowledge a continuing duty to advise this court of any proceeding in this state or any other state that could affect the current child-custody proceeding.

Signature of affiant _____ Name of affiant (type or print) _____ Address of affiant _____

Subscribed and sworn to before me on _____ (Date), _____ County, Michigan.

My commission expires: _____ (Date) Signature: _____

Notary public, State of Michigan, County of _____

"Home state" means the state in which the child(ren) lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of the period.

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 JUDICIAL CIRCUIT COUNTY	MOTION REGARDING PARENTING TIME	(A) CASE NO.

Court address

Court telephone no.

(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. ☐ a. On _____ a judgment
Date
or order was entered regarding parenting time.
☐ b. There is currently no order regarding parenting time.

2. Attached is a completed Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC 416).

(D) ☐ 3. _____ has disobeyed the parenting-time order as follows:
Name

☐ a. he/she has denied me parenting time with the child(ren) as follows:
☐ b. he/she has not had parenting time with the child(ren) as follows:
☐ c. he/she has made changes in parenting time without court order as follows:
☐ d. he/she has not followed the specific conditions of parenting time as follows:

Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.

(E) ☐ 4. _____ and I have agreed to parenting time as follows:
Name
Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.

(F) 5. It is in the best interests of the child(ren) to ☐ establish parenting time ☐ change parenting time because:
Use a separate sheet to explain why it is in the best interests of the child(ren) and attach.

(G) 6. **I ask the court to order that parenting time be** ☐ established ☐ changed ☐ made up as follows:
Use a separate sheet to explain in detail what you want the court to order and attach.

(H) _____ /s/ _____
Date Moving party's signature

NOTICE OF HEARING

(I) A hearing will be held on this motion before _____
Judge/Referee Bar no.

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 66.

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this motion, a Uniform Child Custody Jurisdiction Enforcement Act Affidavit and notice of hearing on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

(J) _____ _____
Date Moving party's signature