

Instructions Regarding Modification of Parenting Time

13th Circuit Friend of the Court – Antrim, Grand Traverse & Leelanau Counties

PARENTING TIME

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General Information

Michigan law presumes that it is in the best interests of the child to have a strong relationship with both parents. Hence, parenting time should be of such frequency, duration and type reasonably calculated to promote this strong relationship. A child has a right to parenting time with a parent unless it is shown by clear and convincing evidence that it would endanger the child's physical, mental or emotional health. It would be the unusual domestic relations case that would never undergo any modification of a parenting time order. However, if the parties do not agree that a modification of parenting time is in the best interests of the child or they agree that there should be some change, but cannot agree on what that change should be, the moving party bears the burden of proving to the Court that there is good cause or there has been a change in circumstances since the entry of the last parenting time order that warrants a particular change in parenting time. Several factors that the Court must consider when faced with a Motion Regarding Parenting Time are found at MCL 722.27a; MSA 25.312(7a) and MCL 722.23; MSA 25.312(3). You should review these factors before you file a Motion Regarding Parenting Time and again before the hearing. A copy of these statutes can be obtained in the Law Library at the courthouse.

In order to obtain a Court hearing on your Motion Regarding Parenting Time you must fill out the attached form, file it at the Family Division Clerk's office in the appropriate county, pay the fees and serve a copy of the Motion and any attachments on the other party.

After you have reviewed the statutes, the second step is to follow the Instructions for completing Motion Regarding Parenting Time.

Instructions

When completing the fillable form, please type or print neatly. After completing the form, you will need to make at least three (3) copies (one for your records, one for the other party and a certificate of service copy.) Items A through H must be completed before your Motion can be filed with the Court. Please read the instructions for each item, then fill in the requested information for that item on the form.

- A. Refer to your court papers or call the Court Clerk to obtain the correct case number. Fill in the correct county and court address.
- B. Refer to your court papers to properly fill in the appropriate names, addresses and phone numbers under Plaintiff and Defendant. You are the moving party; therefore, check the box moving party next to your name.
- C. Refer to your court orders to determine the date of the most recent parenting time order. If your court orders do not refer to parenting time, check box b.

- D. Complete this item, stating, specifically, what has changed since the last court

order.

- E. If you and your co-parent have reached an agreement, attach a copy of the signed and dated agreement.
- F. State why your proposal is in the children's best interests.
- G. State what schedule you wish the Court to order.
- H. Check the form for accuracy. Write in today's date and sign your name.

You are now ready to **FILE YOUR MOTION**. Take the originals and copies to the Family Division Clerk's office in the appropriate county. You will need to inquire at the Clerk's office for a current fee schedule to file your motion. If you are indigent and cannot afford the fee, request the Clerk to give you an Affidavit and Order for Suspension of Fees/Costs.

The Clerk will keep the original Motion. The Clerks' Offices are located:

For Grand Traverse: GRAND TRAVERSE COUNTY CLERK FAMILY DIVISION 280 WASHINGTON ST STE 206 TRAVERSE CITY MI 49684 231/922-4679	For Antrim: ANTRIM COUNTY CLERK FAMILY DIVISION 203 E CAYUGA ST BELLAIRE MI 49615 231/533-6353	For Leelanau: LEELANAU COUNTY CLERK FAMILY DIVISION 8527 E GOVERNMENT CTR DR STE 103 SUTTONS BAY MI 49682-9718 231/256-9824
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You must now **SERVE THE OTHER PARTY** with a copy of the Motion by regular, first class mail. Once that is done, you sign and date a copy of the Motion under the section entitled **CERTIFICATE OF MAILING**. File that signed copy with the same Clerk's office. If you have already mailed a copy to the other party, you must sign and date the original Motion at the time of the original filing. You must serve the other party at least 9 days before the hearing date.

Some motions are referred to Friend of the Court; most Motions are first heard by a Family Division Referee. If you receive an Order of Referral, you must comply with the requirements of that Order at least 7 days prior to your hearing. If you do not hear from the court within 14 days, call the Judge's scheduling clerk to inquire as to the status of your motion. The Judges' offices are:

JUDGE POWER/JUDGE ELSENHEIMER CIRCUIT COURT ADMINISTRATION 328 WASHINGTON ST STE 300 TRAVERSE CITY MI 49684 231/922-4701	JUDGE STANTON FAMILY DIVISION 280 WASHINGTON ST STE 202 TRAVERSE CITY MI 49684 231/922-4642	JUDGE HAYES FAMILY DIVISION 203 E CAYUGA ST BELLAIRE MI 49615 231/533-6681	JUDGE KROMKOWSKI FAMILY DIVISION 8527 E GOVERNMENT CTR DR STE 203 SUTTONS BAY MI 49682-9718 231/256-9803
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If you receive a response from the other party, make sure you read it before you attend the hearing. **You must attend the hearing**. If you do not, your Motion will be dismissed and costs may be assessed against you. Read your Notice of Hearing carefully. Your first hearing **may be a status conference**. At this conference, settlement will be discussed as well as scheduling of the trial. Testimony and other evidence will not be presented at a status conference.

General Information Concerning the Hearing

1. Bring all supporting papers and witnesses who will be testifying to the hearing. If copies of exhibits have not been exchanged with the other party, make sure you bring a copy for the other party and the court of all documents that you seek to have admitted into evidence.
2. Since you are representing yourself, you are expected to conduct yourself as an attorney would. Regardless of whether the hearing is conducted by a Referee or a Judge, it is a formal hearing and the Rules of Evidence apply.
3. Prior to the hearing make a list of the information that 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 at the hearing.
4. If you wish to subpoena a person to attend the hearing as a witness or require documents to be brought to the hearing, follow the procedure in Michigan Court Rule 2.506 or consult an attorney.
5. On the date of the hearing, you should arrive at the courthouse 10 to 15 minutes prior to the hearing. The duration of time the court has set aside for the hearing is noted at the bottom of the Notice of Hearing. Enter the courtroom and wait until your case is called.
6. You are the moving party so you will present your testimony and witnesses first. After your case is called you will be expected to state the reasons in support of your request. If you call witnesses you will be expected to question those witnesses. The other party has the right to question you and your witnesses as you have the right to question the other side and their witnesses. The Referee or Judge may have questions. You must not interrupt the other party when he/she is speaking. If you disagree with his/her statements, you will have a chance to question him/her or refute his/her testimony with your own.
7. The children in question are generally not allowed to testify in open Court. If the child is of a suitable age, the preference of the child regarding parenting time is one factor for the court to consider. The children should not be brought to the hearing unless expressly ordered on the Notice of Hearing. The Referee or Judge will schedule a separate time to speak with the children. If you are coming a long distance and re-appearing with the children at a later date would be an inconvenience, contact the staff in the assigned Judge's office and inquire whether the children should appear at the first hearing date.
8. After the Referee or Judge hears the evidence and, in an appropriate case, speaks with the children, he/she will advise you of the decision orally or take the matter under advisement and issue a written decision at a later date. A Referee has 21 days to prepare a written decision.
9. If your hearing was held before a Referee and you do not agree with the Referee's decision, you have 21 days from the date the Referee Recommendation and Order was mailed to you to file a written objection and request a judicial review. If you are representing yourself, you may utilize Objection to Referee Recommendation and Order@ form available at the Friend of the Court office.