

# **Instructions Regarding Motion to Change Domicile/ Legal Residence**

**13<sup>TH</sup> CIRCUIT FRIEND OF THE COURT – Antrim, Grand Traverse and Leelanau Counties**

## Change of Domicile

Court orders are required to contain a prohibition on changing the domicile of a minor child from the State of Michigan without the permission of the Court. If you and your co-parent are in agreement to a domicile change, you may submit your written agreement, signed by both of you, to the Friend of the Court and the Friend of the Court will prepare the appropriate order. If you and your co-parent do not agree, you will need to seek court permission **before you move** by filing a motion and having a court hearing. This needs to be done even if you have sole legal custody.

## Change of Legal Residence

When parents have joint legal custody court orders also prohibit changing the legal residence of the child(ren) to a location that is more than 100 miles from the child(ren)'s legal residence at the time of the commencement of the action. [Court decisions have interpreted 100 miles to be measured "as the crow flies"; i.e., not "road" miles.]

If you and your co-parent agree to the change you may submit that in writing signed by both of you and the Friend of the Court will prepare the appropriate order. If you and your co-parent do not agree you will need to seek court permission to change the child(ren)'s legal residence by filing a motion and having a hearing.

## Forms

**These forms are provided as a guide. The Friend of the Court cannot complete them for you and cannot give you legal advice.**

- Please type or print neatly. After completing the form, you will need to make 2 copies (one to serve on the other party and a copy for your own records).
- Refer to your court papers or call the Court Clerk to obtain the correct case number. Be sure to specify the correct county and court address.
- 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.
- Refer to your court orders to determine whether you have joint legal custody or sole legal custody and the date of the order.
- Complete the remainder of the sample motion.
- Check the form for accuracy. Write in today's date and sign your name.
- You are now ready to file your Motion. Take the original and 1 copy to the Family Division Clerk's office in the appropriate county. A \$20 filing fee is required. 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:

<b>For Grand Traverse:</b> GRAND TRAVERSE COUNTY CLERK FAMILY DIVISION 280 WASHINGTON ST STE 206 TRAVERSE CITY MI 49684 231/922-4679	<b>For Antrim:</b> ANTRIM COUNTY CLERK FAMILY DIVISION 203 E CAYUGA ST BELLAIRE MI 49615 231/533-6353	<b>For Leelanau:</b> 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 or by certified mail or by delivery in person. 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 may 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.

After filing your Motion with the Family Division Clerk's office in the appropriate county, the Judge's office staff will arrange for a hearing and send you and the other party a Notice of Hearing. 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 receive a Notice of Hearing within 14 days, call the Judge's scheduling clerk to inquire. The Judges' offices are:

JUDGE HAMLYN/JUDGE ELSENHEIMER CIRCUIT COURT ADMINISTRATION 328 WASHINGTON ST STE 300 TRAVERSE CITY MI 49684 231/922-4701	JUDGE WHITTEN 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 hearing. Testimony and other evidence will not be presented at a status conference. You need not bring witnesses to the 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 the statements, you will have a chance to question him/her or refute the testimony with your own.

After the Referee or Judge hears the evidence, 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.

8. 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.