

What It Means To Represent Yourself in a Child Custody, Parenting Time, or Child Support Matter



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Because many people know little about the laws and procedures that govern court proceedings, it usually is recommended that most people hire attorneys to represent them. But sometimes people decide to represent themselves in child custody, parenting time, and child support matters.

Michigan law requires friend of the court (FOC) offices to distribute “do-it-yourself” forms (often called “pro se” or “in pro per” packets) to people who are interested in representing themselves in a child support, parenting time, or custody matter.

This brochure answers some common questions about self-representation in a child custody, parenting time, or child support matter after a court case has already been filed and a court order for custody, parenting time, or support exists. Please consult other sources to find information about how to start a new case by filing a complaint, and how to answer someone else’s complaint.

(1) Where do I get “do-it-yourself” motion forms?

For domestic relations cases that involve children, the FOC office responsible for your specific case can provide the forms and instructions to assist you in asking the court to change a child support, parenting time, or custody order. You also can obtain these forms online at <http://courts.michigan.gov/scao/courtforms/domesticrelations/drindex.htm#cust>.

(2) Once I have the “do-it-yourself” motion forms packet, may I ask the FOC or the court clerk for help or advice?

Court staff is not permitted to give legal advice, nor can court staff tell you how to fill out your forms. The FOC staff can give you information about your current order and can tell you who to contact to obtain a court hearing. The court clerk will give you basic information about how to schedule a hearing and where the hearing will be held.

(3) Do courts charge a fee for filing a motion?

Yes. For most domestic relations matters, the court clerk will charge a \$20 motion fee. In an action that concerns the custody or parenting time of minor children, an \$80 fee will also be assessed. In actions that involve only the financial support of a minor, a \$40 fee will be assessed in addition to the motion fee. In actions where both the custody or parenting time and support will be determined, an \$80 fee will be assessed in addition to the motion fee. If you cannot pay this fee, you may ask the clerk for “Form MC20,” which allows you to ask the court to waive the fee so that you don’t have to pay it. This form also is available online at <http://courts.michigan.gov/scao/courtforms/general/mc20.pdf>.

(4) Once I file my motion, who serves the required documents on the other party?

If you use the “do-it-yourself” forms, **you** must send the other party a copy of the form containing the motion and hearing date. There are many ways to deliver the documents to the other party. Regular first-class mail is the most frequently used and the least expensive method.

(5) Who represents me at the motion hearing? Can the referee or judge help me?

You may hire an attorney or you may represent yourself. If you decide to represent yourself, you must come prepared to explain what you are asking the court to change, and the reasons why the court should decide in your favor. This may also require that you understand court rules and procedures. Proving your case may require that you present evidence (testimony or documents) to the court. Neither a referee nor a judge may help you present your case.

(6) What if the other party has an attorney? Can I get someone to help me?

The fact that the other party appears with an attorney does not entitle you to one. The court might reschedule the hearing to a later date if you say that the presence of counsel for the other side has caused you to change your decision to represent yourself, but the court is not obligated to delay the case for that reason.

(7) After the referee or judge has ruled on a motion, who prepares the written order that makes that ruling an official order of the court?

If you use the “do-it-yourself” forms and appear before a judge, then unless the judge orders otherwise, **you** are responsible and must prepare the order for the judge to sign. Therefore, you should take notes during the hearing, and ask questions if you do not understand something. After the judge signs the order, you must send a copy of the order to the other party. If a referee (in place of a judge) hears the case, the referee might offer to prepare the order, but no law requires referees to do that.

(8) What if I do not agree with the referee’s or judge’s decision?

A referee makes a recommendation; only a judge can sign a court order. If you disagree with the referee’s recommendation, you have 21 days to request a review hearing before a judge. The referee or FOC office will provide you with information on how to do that. If you disagree with a judge’s decision, you may appeal to a higher court or file a motion to have the matter reconsidered by the same judge.

(9) Here are some definitions you should know:

Complaint - A written claim filed with the court to start a case.

Consent - When both parties agree that the court may grant a motion without conducting a hearing.

Defendant - The person against whom the original case is filed.

Enter - The process by which an order becomes effective. The process includes getting the judge to sign the order and filing the signed order with the county clerk.

First-Class Mail - The “regular mail” by which most people send letters. You may use first-class mail to deliver motions and orders to the other party in your case.

Hearing - A court session conducted by a judge or referee at which both parties explain why a motion should be granted or denied.

Motion - A request that the court take some specific action in a pending case.

Order - A decision signed by a judge and requiring certain action.

Party - The case’s plaintiff or defendant (usually the two parents). The term may also include someone other than a parent (a “third party”) if the court grants that person’s request to participate in a case.

Evidence – Information presented to the court to show why the court should agree with a party’s position. Evidence includes written documents, pictures, or live testimony by people who have first-hand knowledge of important facts.

Plaintiff - The person who started the original case.

Referee - A court officer with authority to hear motions and recommend orders.

Service - How one party delivers legal papers to the other party. (See “First-Class Mail”)

Legal Resources for Litigants Who Represent Themselves

State Bar of Michigan Lawyer Referral Service:

1-800-968-0738 or

<http://www.michbar.org/programs/lawyerreferral.cfm>