HOW TO FILE A MOTION REGARDING CUSTODY

Please read all instructions carefully. Accuracy and completeness are important. Court staff cannot provide legal advice.

Use this Motion if all of the following apply:

1. You are a party to a custody order entered through (any of the following):
    - Judgment of Custody
    - Divorce or Separate Maintenance
    - Child Support Order
    - Order of Filiation

    in Muskegon County Family Court; and
2. There has been a **change in circumstances**, and you are requesting a change to **legal custody and/or physical custody**; and
3. You are **not represented by an attorney**.

Do NOT use this Motion if any of the following apply:

- You want to **start a new custody case**
- You want to **add a child** to an existing case
- You **do not have an existing case** involving the child(ren) in Muskegon Family Court
- You only want to change **parenting time (visitation)** or **child support**
- You are a **third-party** seeking custody in an existing case
- You **have an attorney** representing you in this matter

Filing your Motion with Circuit Court Records:

- Bring your completed Motion to the Circuit Court Records office to file. They are located at the **Muskegon Hall of Justice** at 990 Terrace Street, Suite 600, Muskegon MI 49442.
- There is a $100 filing fee.
    - If you cannot afford the filing fee**,** ask the clerk for a **Fee Waiver Request** (Form MC 20).
- If desired, make a copy for your records before filing.

What Happens Next?

- Court staff will schedule a hearing regarding your custody motion with a Family Court Referee and will send the parties notice of this hearing.
- If the person who filed the motion fails to appear, the motion will be dismissed.
- If you have an email on file with the Friend of the Court (FOC), hearing notices and documents WILL be emailed to you. If you prefer to receive documents via first class mail, you must fill out and submit the **Request to Discontinue E-Service** form found on our website or at the Muskegon Family Court office.

Important: If both parents agree to change custody, do not use this Motion packet. Instead, get an Agreement & Request for Order packet from Muskegon Family Court (located on the 3rd floor of the Muskegon Hall of Justice).

INSTRUCTIONS FOR COMPLETING "MOTION REGARDING CUSTODY"

Please print neatly. Items (A) through (I) must be completed before your motion can be filed with the court. Read the instruction for each item and 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 custody, divorce, separate maintenance, family support or paternity and copy the Case No. from those court papers onto this form.

B 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 custody, divorce, separate maintenance, family support, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box (a). If there is no information about custody, check box (b).

D Check this box only if you checked box (a) in **C** above. Read your court papers for custody, divorce, separate maintenance, family support, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).

E State who the child(ren) are living with now, the address or location where the child(ren) are living, 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 custody order or a change in custody. **Explain in as much detail** as possible what has happened. If you need more space, use a separate sheet of paper.

G State the causes that require a custody order or a change in custody. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child. The best interests factors are listed on the last page attached in this packet. **Explain in as much detail** as possible what the causes are. If you need more space, use a separate sheet of paper.

H You need to **explain in as much detail** as possible what you want the court to order. If you need more space, use a separate sheet of paper. You need to include information about support and parenting time as well.

I Write in today's date and sign your name.

Approved, SCAO

STATE OF MICHIGAN 14th JUDICIAL CIRCUIT MUSKEGON COUNTY	MOTION REGARDING CUSTODY	A CASE NO.

Court address
990 Terrace Street, Suite 600, Muskegon, MI 49442

Telephone no.
(231) 724-6421

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

1. a. On

C ☐ _____ (Date) a judgment or order was entered regarding custody.

☐ b. There is currently no order regarding custody.

D ☐ 2. The ☐ plaintiff ☐ defendant ☐ third party was ordered to have custody of the following child(ren):

_____.

E 3. The child(ren) have been living with _____ (Name(s)) at _____ (Complete address) since _____ (Date).

F 4. Circumstances have changed as follows that require custody or a change in custody:
Use a separate sheet to explain in detail what has happened and attach it to this motion. Include all necessary facts.

G 5. Proper cause exists as follows that require custody or a change in custody: Use a separate sheet to explain in detail which factors of the Child Custody Act for determining best interests of the child(ren) are affected by the circumstances in (4.) above. Include all necessary facts.

H 6. **I ask the court to order that custody, parenting time, and support be** as follows:
Use a separate sheet to explain in detail what you want the court to order and attach.

I _____ (Date) _____ (Moving party's signature)

In custody matters, the Court considers the best interests of the child as it pertains to the following factors. Has there been a change of circumstances that pertains to any factors? Please consider this carefully as you complete the Motion Regarding Custody.

CHILD CUSTODY ACT OF 1970 (EXCERPT)
Act 91 of 1970

722.23 "Best interests of the child" defined.

Sec. 3.

As used in this act, "best interests of the child" means the sum total of the following factors to be considered, evaluated, and determined by the court:

(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.

(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.