

## **Form FOC 115**

# **MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE**

### **Use this form if:**

- you have a pending case for divorce, separate maintenance, family support, custody, or paternity; or
- you have a judgment of divorce or separate maintenance, a family support order, custody order, or an order of filiation that restricts you from changing the legal residence or domicile of your minor child(ren);
- and you want the court to allow a change in legal residence or domicile.

## 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. Make all necessary copies? YES
3. Pay the fee(s) to the clerk? YES
4. Mail (serve) a copy of the motion 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
5. Return to the clerk's office after you mailed the motion and notice of hearing to the other party and completed the certificate of mailing? YES
6. Keep one copy of the motion and notice of hearing form for yourself? YES
7. 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 change in domicile or legal residence. 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 authority you want.

NOTE: Under the Michigan Child Support Formula, a change in domicile or legal residence may affect parenting time and the amount of child support that is ordered. The court is required to use the Michigan Child Support Formula unless the court finds that using the Formula would be unjust or inappropriate. If the court orders a change in child support, it may direct that a party prepare the Uniform Child Support Order.

**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 115 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. File the Motion form with the county clerk.**

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

You must pay a \$20.00 motion fee. If parenting time or custody is changed, you may also be required to pay an \$80.00 fee when the motion is filed. If you can't afford to pay the fee(s), 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 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 115 (with any attachments) - for you
- One copy of FOC 115 (with any attachments) - for other party
- One copy of FOC 115 - for proof of service to the court
- One copy of FOC 115 - for proof of service to the friend of the court

### **»» SERVING THE MOTION ON THE OTHER PARTY OR PARTIES**

#### **1. Serve the Motion 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 115 (with any attachments) - for the other party

Two copies of FOC 115 - for proof of service

Any additional copies of FOC 115 (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 with attachments to the other party. If there is a custodian or guardian, mail one copy and attachments to him/her. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy for your own records.

## **2. Return to the county clerk.**

Once you have mailed the motion and notice of hearing and filled out the Certificate of Mailing on the remaining three copies, 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 Change of Domicile/Legal Residence (form FOC 29) 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 an order allowing you to change domicile or legal residence of your minor child(ren).
  - 4) the facts or reasons for your request (**bring papers that support your facts or reasons**).
  - 5) why you believe this order would be in the best interests of the child(ren) .
  - 6) the number of overnights that the child(ren) will be spending each year with each of the parties, should your request be allowed.

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 29, "Order Allowing Change of Domicile/Legal Residence." 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 CHANGE OF DOMICILE/LEGAL RESIDENCE"

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

Items A through G 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 both names where they belong, you must check the box "moving party" in the same box as your name.

**C** Enter the date of the most recent order regarding custody.

**D** 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. If you checked the box in item 1 that you have sole legal custody, you must explain why it is in the best interests to move. If you have joint legal custody, you must explain how each of the factors applies to your family situation. See MCL 722.31 for the factors allowing you to move.

**E** For items 4 and 5, 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.

**F** 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.

**G** 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.

**H** 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.**

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>MOTION REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE</b>	<b>(A) CASE NO.</b>
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Court address Court telephone no.

<b>(B)</b> Plaintiff's name, address, and telephone no. <input type="checkbox"/> moving party  Third party name, address, and telephone no. <input type="checkbox"/> moving party	v	Defendant's name, address, and telephone no. <input type="checkbox"/> moving party
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- (C)** 1. On \_\_\_\_\_ a judgment  
Date or order was entered regarding custody.
2. Legal custody is  joint.  
 sole with the  plaintiff.  defendant.

**(D)** 3. It is in the best interests of the child(ren) to permit a change in the legal residence or the domicile of the following child(ren) because: Use a separate sheet to explain in detail why it is in the best interests of the child(ren) and attach. Include all necessary facts. Name each child for whom you want this change.

**(E)** 4. I ask the court to enter an order allowing a change of domicile or legal residence. Use a separate sheet to explain in detail what you want the court to order and attach.

**(F)** 5. I ask the court to enter an order  continuing the current parenting-time order.  modifying the parenting-time order as follows: Use a separate sheet to explain in detail what you want the court to order and attach.

\_\_\_\_\_ Date

\_\_\_\_\_ Moving party's signature

**NOTICE OF HEARING**

A hearing will be held on this motion before \_\_\_\_\_ Judge/Referee Bar no.

**(G)** 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 116.

**CERTIFICATE OF MAILING**

I certify that on this date I served a copy of this motion and notice of hearing on the parties or their attorney by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

**(H)** \_\_\_\_\_ Date

\_\_\_\_\_ Moving party's signature

## **Form FOC 29**

# **ORDER REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE**

### **Use this form if:**

- you had a hearing on your Motion Regarding Change of Domicile/Legal Residence (form FOC 115) and both you and the other party or third party agree to sign the order without another hearing; or
- you had a hearing on your Motion Regarding Change of Domicile/Legal Residence (form FOC 115) and the other party or third party will not sign the order; or
- you and the other party or third party have agreed about change of domicile/legal residence and want the court to sign your proposed order without having to file a motion and attend a hearing on the motion.

## ORDER 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. Make all necessary copies? YES
3. Get the judge's signature? (NOTE: See pages 3-5 for details) YES
4. Return to the clerk's office with **all** copies of the signed order? YES
5. Make sure the clerk stamps all copies of the signed order? YES
6. Keep one copy of the signed order for yourself? YES
7. Mail (serve) a copy of the order on the other party and on any other custodian/guardian after it was stamped by the clerk? 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, you do not have a valid order.

By using this form packet you are representing yourself in a court action regarding change of domicile/legal residence. 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 authority you want.

NOTE: Under the Michigan Child Support Formula, a change in domicile or legal residence may affect parenting time and the amount of child support that is ordered. The court is required to use the Michigan Child Support Formula unless the court finds that using the formula would be unjust or inappropriate. If the court orders a change in child support, it may direct that a party prepare the Uniform Child Support Order.

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

**What instructions are in this packet:**

Page 3 - Instructions for getting a stipulated (mutually agreed upon) order signed

Page 5 - Instructions for getting an order signed after a hearing

**INSTRUCTIONS FOR GETTING A STIPULATED (MUTALLY AGREED UPON) ORDER SIGNED**  
(when both parties have signed the order without a hearing)

**»» SIGNING AND FILING OF ORDER**

**NOTE:** A hearing on a stipulated order is not necessary unless the judge requests it.

**1. Fill out the order form.**

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

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

**2. Approval by friend of the court.**

In some courts the order has to be approved by the friend of the court before the judge will sign it. Contact the friend of the court office and ask if the order must be approved by that office. Then complete either step a or b below.

a. If the order must be approved by the friend of the court, go to the friend of the court office with the original and five copies of the order. Leave the order with the office. Someone from the office should tell you when to come back for the order or should call you when the order has been approved. If you do not hear from the office within 5 days, call that office to find out when to pick up the order. Go back and pick up the order. Then complete step 3 below.

b. If the order does not need to be approved by the friend of the court, complete step 3 below.

**3. Get the order to the judge.**

Because the other party or third party has signed the order, contact the friend of the court for instructions to get the order signed by the judge. Listen carefully to all the instructions for getting the order signed. Every circuit has a different way of handling the signing of orders. Ask when to come back for the signed order. If the signed order is sent to the county clerk by the judge, you won't have to pick it up.

**4. Pick up the signed order.**

If the other party or third party signed the order and you dropped it off for the judge's signature, go back and pick it up on the day and time you were told unless the judge sends the signed order to the county clerk for you. If you have to pick up the order, make sure you pick up the original and all five copies of the order.

**5. Return to the county clerk.**

Once you have the signed order (FOC 29), bring the original and all five copies with you. The clerk will stamp the order, keep the original and one copy and return the other four copies to you. The county clerk will deliver one copy to the friend of the court.

**»» SERVING THE ORDER ON THE OTHER PARTY OR PARTIES**

**1. Serve the signed order on the other party.**

The other party must be served with (notified of) one copy of the signed order.

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

**What you need for service:**

- One copy of FOC 29 - for the other party
- Two copies of FOC 29 - for proof of service
- Any additional copies of FOC 29 - 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 to the other party. If there is a custodian or guardian, mail one copy to him/her. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy for your own records.

**2. Return to the county clerk.**

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

## INSTRUCTIONS FOR GETTING THE ORDER SIGNED AFTER A HEARING

### »» SIGNING AND FILING OF AN ORDER

#### 1. Fill out the order form.

Normally you will fill out the order at the hearing on the motion. Use the instructions on page 6. Be careful not to make mistakes.

**Make copies of the form based on the instructions on either page 3 of this booklet or in booklets for forms FOC 53 or FOC 54 depending on your situation.**

#### 2. Approval by friend of the court.

In some courts the order has to be approved by the friend of the court before the judge will sign it. Contact the friend of the court office and ask if the order must be approved by it. Then complete either step a or b below.

- a. If the order must be approved by the friend of the court, go to the friend of the court office with the original and five copies of the order. Leave the order with the office. Someone from the office should tell you when to come back for the order or should call you when the order has been approved. If you do not hear from the office within 5 days, call that office to find out when to pick up the order. Go back and pick up the order. Then complete step 3 below.
- b. If the order does not need to be approved by the friend of the court, complete step 3 below.

#### 3. Get the order signed by the judge.

After you have filled out the order, you must get it signed by the judge. **If both you and the other party sign the order to show you both approve the order, then go to pages 3 and 4 of this booklet for further instructions on getting the order signed by the judge. Otherwise** you must do either of the following:

- a. Schedule and attend a hearing to get the order signed.  
**(Use the packet for form FOC 53, Notice of Hearing to Enter Order.)**
- b. Notify the other party in writing that the order will be given to the judge to sign and that he or she has 7 days to file any written objections. If no objections are filed by the other party, the order can be signed.  
**(Use the packet for form FOC 54, Notice to Enter Order Without Hearing.)**

## INSTRUCTIONS FOR COMPLETING "ORDER REGARDING CHANGE OF DOMICILE/LEGAL RESIDENCE"

**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 the order can be given to the judge for signature. 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 copy of the Motion (form FOC 115) or your court papers for divorce, annulment, separate maintenance, or paternity. Copy the Case No. from that paper onto this form.
- B** Also use the motion or other court papers to fill in the "Plaintiff" and "Defendant" boxes and, if applicable, the "Third Party" box. Copy the names from the motion or other 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 order form.
- C** Fill in this information only if there was a hearing on a Motion Regarding Change of Domicile/Legal Residence.
- D** If you filed a Motion Regarding Change of Domicile/Legal Residence (form FOC 115) and the other party will not sign the order, a hearing to enter the order is required. Check the box "after hearing."

If you filed a Motion Regarding Change of Domicile/Legal Residence (form FOC 115) and the other party will sign the order without a hearing to enter the order, check the box "on consent of the parties."

If you and the other party are filling out this order based on an agreement between both of you and you are not filing a motion with the court, check the box "on stipulation of the parties." Even if you have checked this box, the court may still require a hearing. If a hearing is required, follow the directions on scheduling a hearing in the booklet for form FOC 53, Notice of Hearing to Enter Order.

- E** For items 2 through 7, check only those boxes that say what the judge or referee found at the hearing on the motion. Use the notes you took at the hearing when filling out this part of the order form. If you are stipulating to this order, items 2 through 7 do not apply.
- F** Do not check the boxes in items 8 through 12 until after the hearing.

Check only those boxes that say what the judge or referee ordered at the hearing on the motion. Then write in the blank space provided what the judge or referee ordered at the hearing. This information must state as closely as possible the exact words of the judge or referee. Use the notes you took at the hearing when filling out this part of the order form.

If you and the other party are stipulating to the order, this means that you both have agreed on what you want the court to order and have not filed a motion. Since there may not be a hearing, you must write in as much detail as possible exactly what you agree on. Make sure you include everything you agreed on. Anything that you do not write down on this form will not be ordered even if you and the other party had agreed on it.

- G** If you filed a motion (form FOC 115) and the other party has agreed to sign the order without a hearing to enter the order, both you and the other party must sign here. If the other party will not sign the order without a hearing to enter the order, follow the directions on scheduling a hearing in the booklet for form FOC 53, Notice of Hearing to Enter Order. If you and the other party are stipulating to the order, you both must sign here.
- H** Some courts require the friend of the court to approve the order before the judge will sign it. To find out if this is required, contact the friend of the court office. If it is required, see either page 3 or 5 of this booklet for directions on getting the friend of the court's approval.

To find out how to get the order signed, contact the friend of the court office for instructions. See either page 3 or 5 of this booklet for details.

- I** On the date you serve a copy on the other party, write in the date and sign your name on the remaining three copies. Return to the county clerk with two copies.

**You must read this booklet and other booklets dealing with orders for directions on the legal process.**

<b>STATE OF MICHIGAN</b> 53rd <b>JUDICIAL CIRCUIT</b> Cheboygan <b>COUNTY</b>	<b>ORDER REGARDING CHANGE OF          DOMICILE/LEGAL RESIDENCE</b>	<b>(A) CASE NO.</b>
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**Court address** 870 S. Main, PO Box 70, Cheboygan, MI 49721 **Court telephone no.** (231) 627-8818

**(B)** Plaintiff's name, address, and telephone no.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

v

Third party's name, address, and telephone no.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Defendant's name, address, and telephone no.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**(C)** Date: \_\_\_\_\_  
 Judge: \_\_\_\_\_  
Bar no.

**(D)** 1. This order is entered  after hearing.  on consent of the parties.  on stipulation of the parties.

**(E) THE COURT FINDS:**  
 2. A motion requesting change of domicile/legal residence was filed.  
 3. A response to the motion was filed.  
 4.  The parties have joint legal custody. The  plaintiff  defendant has sole legal custody.  
 5. The requested change of domicile  will  will not change the child(ren)'s established custodial environment.  
 6. It  is  is not in the best interests of the child(ren) to change  domicile.  legal residence.  
 7. The moving party did not appear.

**(F) IT IS ORDERED:**  
 8. \_\_\_\_\_ may change the domicile/legal residence of  
 Name of party \_\_\_\_\_  
 Name(s) of minor child(ren) \_\_\_\_\_  
 a. to a residence more than 100 miles from the child(ren)'s legal residence when this case was commenced.  
 b. from the State of Michigan to \_\_\_\_\_.

9. The parenting-time order dated \_\_\_\_\_ is modified as follows:

10. The cost of transportation for parenting time shall be paid  
 by the plaintiff.  by the defendant.  equally by the plaintiff and the defendant.  as follows:

11. The motion is  denied.  dismissed.

12. Except as changed in this order, the prior order (if there is one) remains in effect.

**(G)** \_\_\_\_\_  
 Plaintiff's signature (consent/stipulation) Defendant's signature (consent/stipulation)  
 \_\_\_\_\_  
 Third party's signature (consent/stipulation)

**(H)** \_\_\_\_\_  
 Date Judge

**CERTIFICATE OF MAILING**

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

**(I)** \_\_\_\_\_  
 Date Signature