



**53rd JUDICIAL CIRCUIT COURT
FAMILY DIVISION
OFFICE OF THE FRIEND OF THE COURT**



Cheboygan County Office
PO Box 70, Room 210
Cheboygan, MI 49721
(231) 627-8825 Main Line
(231) 627-8417 FAX
(800) 649-3777 TDD

KEVIN W. WELLER
Friend of the Court

Presque Isle County Office
PO Box 192
Rogers City, MI 49779
(989) 734-4312 Main Line
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(800) 649-3777 TDD

IN PRO PER PACKETS

****IMPORTANT NOTE***

Friend of the Court Staff *cannot* assist you in filling out these forms.
Friend of the Court Staff *cannot* give legal advice. You must contact an attorney for legal advice.

Effective January 1, 2004, the Cheboygan County Family Division of the 53rd Circuit Court initiated a referee system to facilitate the scheduling and hearing of certain family court motions. Your motion may be one heard before the referee. If you are filing an in pro per motion regarding custody, parenting time or child support, the attached motion should be completed and the notice of hearing section should reflect Referee Bruce Cranham (P28554) as the one hearing the matter at 11am in Commissioners Meeting Room #135. The Circuit Court scheduling clerk will assign a hearing date.

To receive a date for your motion to be heard before the Referee or before the Court if scheduling a hearing after 21 day objection to Referee recommendation or an original motion before the court, you must contact the Assignment Clerk for the next available time and date at 231-627-8818 or inquire at room 213 in the Cheboygan County Building.

It remains your responsibility to carefully follow the general instructions provided for filing the original and service of copies. Court rule requires service by regular mail nine (9) days prior to the hearing [or seven (7) days by personal service], therefore we recommend mailing at least two (2) weeks in advance of your hearing date. In addition, please note that nothing that is decided in the courtroom becomes effective until an order is filed with the Court. If there is a referee recommendation, it should be attached to the order after the 21 day objection period has passed.

Once the motion is completed, file as follows:

- File the ORIGINAL motion with the \$20.00 filing fee, plus \$80.00 for final judgments and orders where custody and parenting time is established or modified or plus \$40.00 for final judgments and orders where support of a minor child is established or modified, in the Cheboygan County Clerk's Office, PO Box 70, Room 204, Cheboygan County Building, Cheboygan, MI 49721. 231-627-8808. To be completed properly, the motion must contain the request for relief, date of hearing and proof of service.
- A COPY of the motion must go to the Circuit Court Assignment Clerk, PO Box 70, Room 213, Cheboygan County Building, Cheboygan, MI 49721. 231-627-8818
- A COPY of the motion with all attachments goes to the Cheboygan County Friend of the Court, PO Box 70, Room 210, Cheboygan County Building, Cheboygan, MI 49721. 231-627-8825
- A COPY goes to the other party, with all attachments.
- A COPY is retained for yourself.

Once again, nothing is effective unless parties are properly served, and an order is signed by the Judge and filed with the Clerk .

Very truly yours,

Kevin W. Weller

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 you ask to modify a parenting-time order, you may also be required to pay an \$80.00 judgment and order entry 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 the 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 the 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 that 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 on 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.

NOTE: 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 you receive the referee's recommendation to file an objection and request a de novo hearing before the judge. Use the packet for 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 H must be completed before your motion can be filed with the court. Please read the instruction 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 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.

STATE OF MICHIGAN
53rd JUDICIAL CIRCUIT
CHEBOYGAN COUNTY

MOTION REGARDING CHANGE OF
DOMICILE/LEGAL RESIDENCE

(A) CASE NO.

Court address

870 S MAIN STREET, PO BOX 70, ROOM 210, CHEBOYGAN, MI 49721

Court telephone no.

(231) 627-8825

(B) Plaintiff's name, address, and telephone no. moving party

Third party name, address, and telephone no. moving party

Defendant's name, address, and telephone no. moving party

- (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

(G) A hearing will be held on this motion before Referee Bruce Cranham (P28554)
Judge/Referee
on _____ at 11:00 am at PROBATE ROOM 214
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