

## **Instructions for Filing a Motion Regarding Custody (FOC87)**

Otsego County Friend of the Court, 800 Livingston Blvd. Ste 1A Gaylord, MI 49735  
Phone: (989)731-7450 Fax: (989)731-0226

This motion packet is used for those who wish to represent themselves in a court action regarding custody. Carefully follow the instructions to avoid delays in the process.

The Case No., item (A) can be located on other court documents in your case. If you need additional assistance with the case number, you may contact the Friend of the Court or Circuit Court Clerk's office.

The Plaintiff and Defendant on a case remain throughout the life of the case regardless of who files a motion. The person who is filing the motion would check the 'moving party' box under item (B).

1. Complete the Motion Regarding Custody form items (A) – (J) based upon what you are asking of the court and why. Attach any additional information.

2. Call the **Friend of the Court Scheduling Clerk at (989)731-7471** to request a hearing date and time. Ask for the name of the Referee and the location address of the hearing. Complete item (K) Notice of Hearing on the Motion form.

3. Sign and Date under (L) Certificate of Mailing on the Motion form with the actual date you are serving/mailing the copy.

4. Make the appropriate number of copies and mark the upper corner of the copies as follows: Make three (3) copies of the completed Motion and any attachments. An additional copy may be necessary if the other party is represented by an attorney.

Mark one copy of each document, "FOC."

Mark one copy, "Plaintiff **or** Defendant", (the other party)

Mark one copy, to keep for yourself.

5. File the original Motion Regarding Custody form along with the Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC416) and all copies with the Circuit Court Clerk at 225 West Main Street Gaylord, MI 49735. A filing and order entry fee of \$100.00 is due at the time of filing.

If seeking a Fee Waiver, please contact FOC for the MC20 form and instructions prior to receiving your hearing date and time. If a Fee Waiver (MC20) is approved, then contact the FOC Scheduling Clerk. The Fee Waiver is to be presented to the Circuit Court Clerk along with the Motion form in place of the filing fee. If the Order is not approved, you are responsible to pay the fee at filing.

6. Serve all other copies of the Motion. They are to be mailed on the date as reflected in the Certificate of Mailing on the Motion and no later than 9 days prior to the date of hearing. If there are less than 9 days before the hearing date, contact Friend of the Court to cancel the original hearing date and schedule a new one, otherwise the Motion will simply be removed from the docket for the original hearing date. Keep a copy of all documents for your records.

7. Appear for Court prepared and dressed appropriately at the location, date and time as reflected on the Notice of Hearing (K) on the Motion form. Failure to attend the hearing may result in your motion being dismissed by the Court.

**Instructions for Filing Uniform Child Custody Jurisdiction Enforcement  
Act Affidavit (MC416)**

Otsego County Friend of the Court, 800 Livingston Blvd. Ste 1A Gaylord, MI 49735  
Phone: (989)731-7450 Fax: (989)731-0226

1. Fill in the Case No. and Case name. The Case name is the name of the Plaintiff -vs- the name of the Defendant.
2. Complete items 1 - 3.
3. Items 4-6 provide the information requested concerning any prior determination by a court regarding custody or parenting time, any pending proceedings, and any person claiming rights of legal or physical custody or parenting time with the child(ren) other than a party in this case. Check any of the boxes that apply.
4. Under item 7, write the home state of the child(ren)
5. Only check box 8. If appropriate.
6. **In front of a Notary**; sign name, print name, and complete your address.
7. The Notary is to complete the very bottom portion of the form.
8. Make the appropriate number of copies and mark the upper corner of the copies as follows:  
Make three (3) copies of the completed Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC416). An additional copy may be necessary if the other party is represented by an attorney.  
    Mark one copy of each document, "FOC."  
    Mark one copy, "Plaintiff **or** Defendant", (the other party)  
    Mark one copy, to keep for yourself.
9. The original Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC416) is to be filed with the original Motion Regarding Custody form and all copies with the Circuit Court Clerk at 225 West Main Street Gaylord, MI 49735.
10. Keep a copy of all documents for your records.

For additional information:  
[www.michiganlegalhelp.org](http://www.michiganlegalhelp.org)

**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. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent.
- (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.



<b>STATE OF MICHIGAN JUDICIAL CIRCUIT PROBATE COURT COUNTY</b>	<b>UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT AFFIDAVIT</b>	<b>CASE NO.</b>
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Court address

Court telephone no.

<b>CASE NAME:</b>
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- The name and present address of each child (under 18) in this case is:
- The addresses where the child(ren) has/have lived within the last 5 years are:
- The name(s) and present address(es) of custodians with whom the child(ren) has/have lived within the last 5 years are:
- I do not know of, and have not participated (as a party, witness, or in any other capacity) in any other court decision, order, or proceeding (including divorce, separate maintenance, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence) concerning the custody or parenting time of the child(ren), in this state or any other state, **except:** Specify case name and number, court name and address, and date of child custody determination, if one.
- I do not know of any pending proceeding that could affect the current child custody proceeding, including a proceeding for enforcement or a proceeding relating to domestic violence, a protective order, termination of parental rights, or adoption, in this state or any other state, **except:** Specify case name and number, court name and address, and nature of the proceeding.  
  
That proceeding  is continuing.  has been stayed by the court.  
 Temporary action by this court is necessary to protect the child(ren) because the child(ren) has/have been subjected to or threatened with mistreatment or abuse or is/are otherwise neglected or dependent. Attach explanation.
- I do not know of any person who is not already a party to this proceeding who has physical custody of, or who claims rights of legal or physical custody of, or parenting time with, the child(ren), **except:** State name(s) and address(es) of each person.

7. The child(ren)'s "home state" is \_\_\_\_\_ . See back for definition of "home state."

8. I state that a party's or child's health, safety, or liberty would be put at risk by the disclosure of this identifying information.

I have filled this form out completely, and I acknowledge a continuing duty to advise this court of any proceeding in this state or any other state that could affect the current child-custody proceeding.

_____ Signature of affiant	_____ Name of affiant (type or print)	_____ Address of affiant
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Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date      Signature: \_\_\_\_\_

Notary public, State of Michigan, County of \_\_\_\_\_

"Home state" means the state in which the child(ren) lived with a parent or a person acting as a parent for at least 6 consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than 6 months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of the period.