



# **Family Law Training for Pro Bono Attorneys for Detroit Bar Association's Access to Justice/Pro Bono Committee**

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Michigan Poverty Law Program

# Agenda



## **Initial screening of pro bono intakes**



## **Sorting out domestic relations case types:**

Modification of Prior Order or New Case?



## **Issues for Modification/Relief from Existing Orders**

Online Forms and Resources for Motions & Responses



## **New Cases - Types and Overview**

Online Forms and Resources for New Case Filings - Complaints & Answers

# How do I screen my clients for domestic violence?

Interview	Interview your client alone in a safe and secure location
Normalize	Let your client know that you ask a series of standard questions of all your clients
Explain	Explain why you are asking about domestic violence <ul style="list-style-type: none"><li>• Prevalence of DV</li><li>• Influence on representation and legal process</li><li>• Providing referrals and support</li></ul>
Ask	Include direct questions about domestic violence in your standard set of questions <p><b>Refer for Safety Planning - MCEDSV Michigan Domestic Violence Hotline</b> <b>1-866-864-2338 (Phone)</b> <b>1-877-861-0222 (Text)</b></p>

# SCAO Screening

<https://www.courts.michigan.gov/4a726b/siteassets/forms/scao-approved/foc124.pdf>

STATE OF MICHIGAN CIRCUIT COURT	DOMESTIC VIOLENCE SCREENING	CASE NO. and JUDGE
Your name: <input type="text"/> <small>First, middle, and last name</small>		Date: <input type="text"/>
<p>Our goal is to provide a safe environment for families with a friend of the court case. We often meet with both parents. However, there are times bringing both parents together may not be appropriate. Your answers to the following question will help us determine whether both parents can meet together in a safe environment. The information you provide can only be viewed by judges, referees, and friend of the court staff. It cannot be viewed by the other parent or his or her attorney, and it cannot be used in any court proceedings. Please answer the following questions to the best of your ability.</p>		
1. Do you feel safe around the other parent? <input type="checkbox"/> yes <input type="checkbox"/> no If no, please explain: <input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
2. Is there currently or has there ever been a personal protection order or a no contact order limiting contact between you and the other parent? <input type="checkbox"/> yes <input type="checkbox"/> no If yes, please explain and include when and where: <input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
3. Is there currently or has there ever been a personal protection order or a no contact order issued against the other parent or you by someone else? <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Unknown about other parent If yes, please explain and include when and where: <input type="text"/>		
<input type="text"/>		

## Getting Oriented:

- + Is there already a domestic relations court order or juvenile/child welfare case for this family?
  - If so, when and where?*
  - If so, is client looking to enforce or looking to modify?*
  - If modify, what has changed?*
  - Is client looking for retroactive relief from support order?*
- + Is client wanting to file new complaint/motion or respond to pending complaint/motion?
- + Were parties married?
- + Is legal paternity/parentage established?
- + Is child with a 3<sup>rd</sup> party non-parent (guardianship/foster care)

# Family Division - Domestic Relations.

[DC] Custody. Custody or custody and support proceedings where no divorce action has been filed.

[DM] Divorce, Minor Children. All complaints for divorce, separate maintenance, or annulment when minor children are involved.

[DO] Divorce, No Children. All complaints for divorce, separate maintenance, or annulment when no minor children are involved.

[DP] Paternity All questions of paternity; paternity and custody; or paternity, custody, and support.

[DS] Other Support. All child support or child support and custody matters under the Family Support Act, and expedited support actions under the Summary Support and Paternity Act.

[DZ] Other Domestic Relations. All other prejudgment matters involving domestic relations proceedings not otherwise coded.

	Domestic Relations						
	Divorce Children	Divorce No Children	Paternity	UIFSA	Support	Other Domestic	Total
Beginning Pending	1,388	1,174	6,724	150	7,142	280	16,858
New Filings	2,346	3,034	4,773	174	6,861	647	17,835
Reopened	32	30	9	1	15	21	108
<b>Total Caseload</b>	<b>3,766</b>	<b>4,238</b>	<b>11,506</b>	<b>325</b>	<b>14,018</b>	<b>948</b>	<b>34,801</b>

## Wayne County 2023 Case Types

<b>DC</b>	<b>DM</b>	<b>DO</b>	<b>DP</b>	<b>DS</b>	<b>DZ</b>
270	1,388	1,174	6,724	7,142	10
628	2,346	3,034	4,773	6,861	19
21	32	30	9	15	0
<b>919</b>	<b>3,766</b>	<b>4,238</b>	<b>11,506</b>	<b>14,018</b>	<b>29</b>

## Other possible case types

---

Child Protective Proceedings [NA]. All child protective proceedings initiated by petition under the juvenile code.

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Minor Guardianship [GM]. All matters involving full guardianship of minors.

---

Limited Guardianship of Minor [LG]. All matters involving limited guardianship of minors.

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Personal Protection in Domestic Relationships [PP]. All personal protection proceedings under MCL 600.2950 and/or MCL 600.2950a when there is a domestic relationship



## Prior case – Limitations/Challenges

- + DM, DC, DS, DP cases between parents have a custody and parenting time paragraph as well as provide for child support incorporating USCO.
- + DS/DZ support case for 3<sup>rd</sup> party guardian = no custody. 3<sup>rd</sup> party guardianship alters calculus for a custody case between parents.
- + If there is already a family law case involving the paternity, custody, or support, any new motion must be made in that docket.
- + Requirement to provide date of and/or a copy of most recent order with motion.

## Prior case – Limitations/Challenges

- + If new divorce for parties with existing case, prior case (DP, DC, DS) will continue to govern until orders enter in the DM docket. When divorce JOD enters, prior orders void. (MCL 552.455, FAMILY SUPPORT ACT)
- + Motion to consolidate if multiple cases for children of same parties.
- + Continuing exclusive jurisdiction:
  - Motion change domicile/residence.
  - Motion to transfer to another county.
  - UCCJEA issues if existing order from another state.

# Nonspecific Parenting Time

- + Very common for DS/DP orders entered by default to have non-specific terms for parenting time

*“as parties mutually agree” or “at discretion of custodial parent”*

- + Parenting time must be granted in specific terms if requested by either party at any time. MCL 722.27a(8)

*This is an exception to threshold requirements to change a specific schedule/term*

*However, court must still find that proposed PT is in best interest of child*



Third Judicial Circuit of  
Michigan

Essential Links...

General Information ▾

Departments / Divisions ▾

News & Announcements

# WAYNE COUNTY CIRCUIT COURT FORMS FOR SELF REPRESENTED LITIGANTS

## Description

[3CC-FOC-4021PW - Motion to Set Aside DS](#)

[3CC-FOC-4038PW - Motion to Set Aside DP](#)

[FD-FOC 4033 Motion to Transfer Case to Another County](#)

[FD-FOC 4045 Complaint for Health Care Expenses](#)

[FD-FOC 4140 Wayne County Make-Up Parenting Time Policy](#)

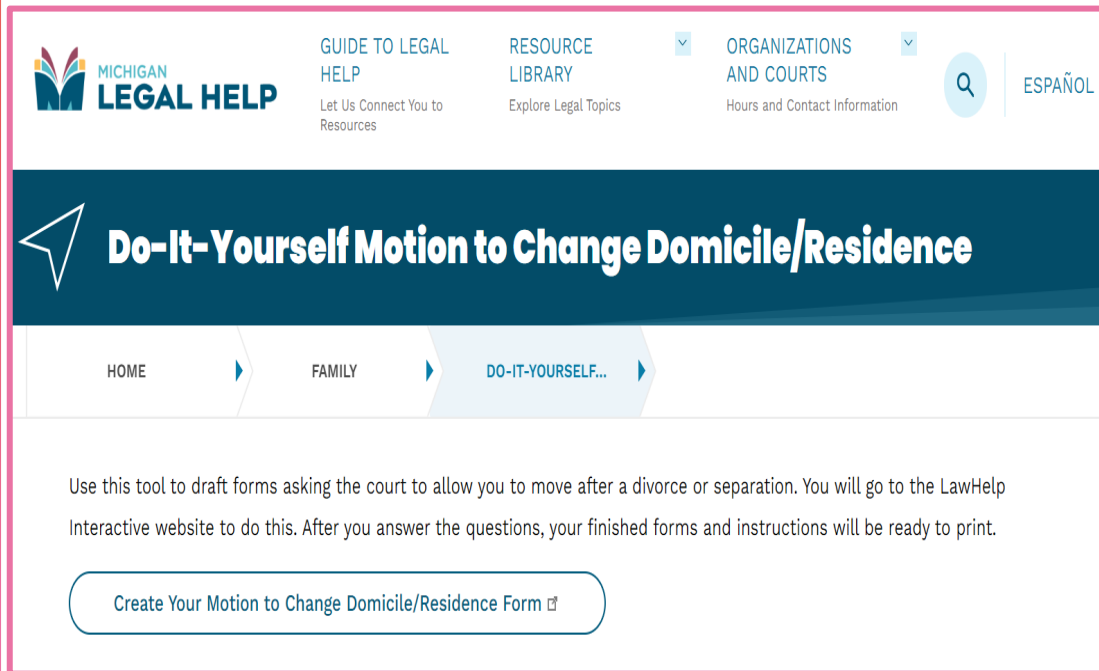
[FD-FOC 4163 Complaint for Paternity Due to Juvenile Proceedings](#)

[FD-FOC 4164 Complaint for Custody Due to Juvenile Proceedings](#)

[FD-FOC 4165 Motion for Change in Custody Due to Juvenile Court Proceeding](#)

[FDFOC 4018 Motion to Change Custody](#)

# Michigan Legal Help – Modification Forms:



The screenshot shows the Michigan Legal Help website interface. The header includes the logo, navigation links for 'GUIDE TO LEGAL HELP', 'RESOURCE LIBRARY', and 'ORGANIZATIONS AND COURTS', a search icon, and a language toggle for 'ESPAÑOL'. The main heading is 'Do-It-Yourself Motion to Change Domicile/Residence'. Below this is a breadcrumb trail: 'HOME' > 'FAMILY' > 'DO-IT-YOURSELF...'. The text explains that this tool is used to draft forms for moving after a divorce or separation. A button at the bottom says 'Create Your Motion to Change Domicile/Residence Form'.

**MICHIGAN LEGAL HELP**  
Let Us Connect You to Resources

**GUIDE TO LEGAL HELP**  
Let Us Connect You to Resources

**RESOURCE LIBRARY**  
Explore Legal Topics

**ORGANIZATIONS AND COURTS**  
Hours and Contact Information

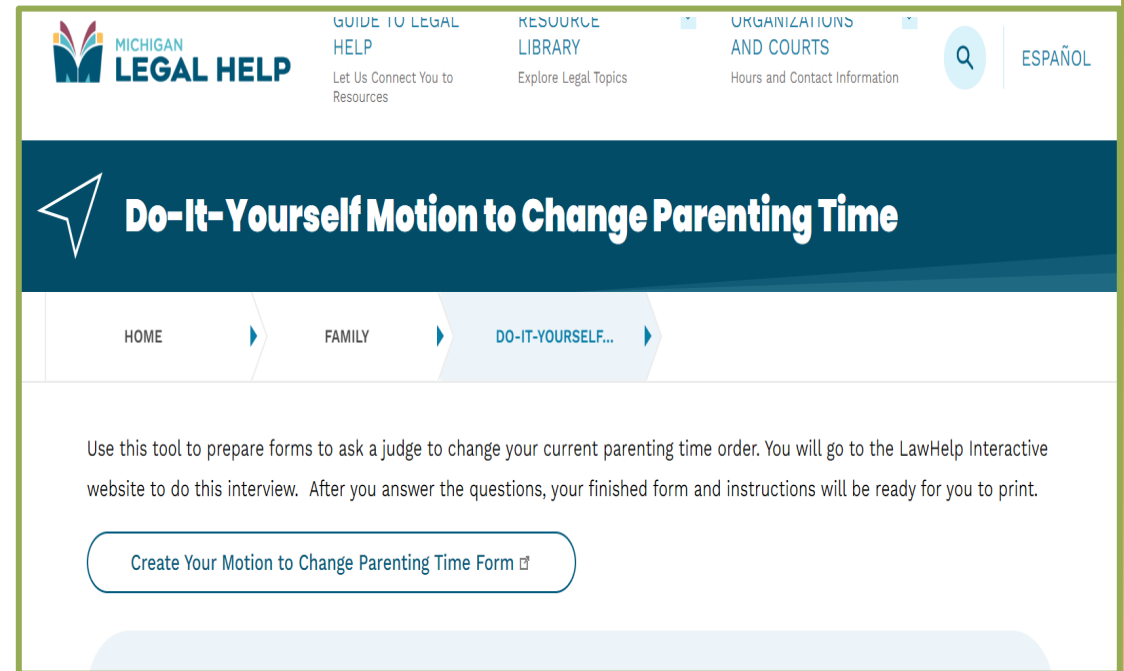
ESPAÑOL

## Do-It-Yourself Motion to Change Domicile/Residence

HOME > FAMILY > DO-IT-YOURSELF...

Use this tool to draft forms asking the court to allow you to move after a divorce or separation. You will go to the LawHelp Interactive website to do this. After you answer the questions, your finished forms and instructions will be ready to print.

[Create Your Motion to Change Domicile/Residence Form](#)



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ESPAÑOL

## Do-It-Yourself Motion to Change Parenting Time

HOME > FAMILY > DO-IT-YOURSELF...

Use this tool to prepare forms to ask a judge to change your current parenting time order. You will go to the LawHelp Interactive website to do this interview. After you answer the questions, your finished form and instructions will be ready for you to print.

[Create Your Motion to Change Parenting Time Form](#)

# SCAO forms for pro per motions to modify


## Motion Regarding Custody

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY		MOTION REGARDING CUSTODY		A CASE NO.	
Court address				Court telephone no.	
B Plaintiff's name, address, and telephone no. <input type="checkbox"/> moving party		v		Defendant's name, address, and telephone no. <input type="checkbox"/> moving party	
Third party name, address, and telephone no. <input type="checkbox"/> moving party		C 1. <input type="checkbox"/> a. On _____ a judgment Date or order was entered regarding custody. <input type="checkbox"/> b. There is currently no order regarding custody.			
2. Attached is a completed Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC 416).					
D <input type="checkbox"/> 3. The <input type="checkbox"/> plaintiff <input type="checkbox"/> defendant <input type="checkbox"/> third party was ordered to have custody of the following child(ren):					
E 4. The child(ren) have been living with _____ at Name(s) Complete address _____ since _____ Date					
F 5. Proper cause exists or circumstances have changed as follows: Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.					
G 6. It is in the best interests of the child(ren) to establish or change custody for the following reasons: Use a separate sheet to explain in detail which best interest factors under the Child Custody Act support this motion and attach. Include all necessary facts.					
H <input type="checkbox"/> 7. _____ and I agree to custody, support, and parenting time as follows: Name Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.					
I 8. 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.					
J _____ Date		_____ Moving party's signature			
NOTICE OF HEARING					
A hearing will be held on this motion before _____ Judge/Referee					
K 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.					
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 88.					

## Motion Regarding Parenting Time

STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY		MOTION REGARDING PARENTING TIME		A CASE NO.	
Court address				Court telephone no.	
B Plaintiff's name, address, and telephone no. <input type="checkbox"/> moving party		v		Defendant's name, address, and telephone no. <input type="checkbox"/> moving party	
Third party name, address, and telephone no. <input type="checkbox"/> moving party		C 1. <input type="checkbox"/> a. On _____ a judgment Date or order was entered regarding parenting time. <input type="checkbox"/> b. There is currently no order regarding parenting time.			
2. Attached is a completed Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC 416).					
D <input type="checkbox"/> 3. _____ has disobeyed the parenting-time order as follows: Name <input type="checkbox"/> a. he/she has denied me parenting time with the child(ren) as follows: <input type="checkbox"/> b. he/she has not had parenting time with the child(ren) as follows: <input type="checkbox"/> c. he/she has made changes in parenting time without court order as follows: <input type="checkbox"/> d. he/she has not followed the specific conditions of parenting time as follows: Use a separate sheet to explain in detail what has happened and attach. Include all necessary facts.					
E <input type="checkbox"/> 4. _____ and I have agreed to parenting time as follows: Name Use a separate sheet to explain in detail what you have agreed on and attach. Include all necessary facts.					
F 5. It is in the best interests of the child(ren) to <input type="checkbox"/> establish parenting time <input type="checkbox"/> change parenting time because: Use a separate sheet to explain why it is in the best interests of the child(ren) and attach.					
G 6. I ask the court to order that parenting time be <input type="checkbox"/> established <input type="checkbox"/> changed <input type="checkbox"/> made up as follows: Use a separate sheet to explain in detail what you want the court to order and attach.					
H _____ Date		_____ /s/ _____ Moving party's signature			
NOTICE OF HEARING					
I A hearing will be held on this motion before _____ Judge/Referee					
on _____ at _____ at _____ Date Time Location					


# Motion/Response to Motion to Change Child Support




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Explore Legal Topics

ORGANIZATIONS AND COURTS  
Hours and Contact Information

 ESPAÑOL

 **Do-It-Yourself Motion to Change or Get Child Support**


HOME

FAMILY

DO-IT-YOURSELF...

Use this tool to prepare forms to ask the court to change a Child Support Order, or to get a Child Support Order if you need one in a divorce case, custody case, paternity case, or other type of family court case. You will go to the LawHelp Interactive website to do this. After you answer the questions, your finished forms will be ready to print.

Create Your Motion to Change or Get Child Support Form ↗

 **Do-It-Yourself Response to Motion to Change Child Support**

HOME

FAMILY

DO-IT-YOURSELF...

Use this tool to draft forms to answer or respond to a motion regarding support filed by your child's other parent. You will go to the LawHelp Interactive website to do this. After you answer the questions, your finished forms will be ready for you to print.

Create Your Response to Motion to Change Child Support Form ↗

Our forms are always **free**. You will leave Michigan Legal Help and go to our partner site to create forms. The LawHelp Interactive website asks for an **optional** donation. You do **not** need to pay anything.

For more information, go to [Using Online Forms: How to Log In, Get Saved Answers, and Find Forms](#)

# Modifying Child Support

- + Must **TIMELY** file motion or request FOC administrative review.
- + **Abatement/Redirection** - **WRITTEN** notice to FOC if unordered change of custody or incapacitation/incarceration.
- + The party moving for modification bears the burden of proof in establishing a change of circumstances that would justify such modification. The “minimum threshold for modification” is ten percent (10%) of the currently ordered support payment or fifty (\$50.00) dollars per month, whichever is greater.



# Relief from child support

- + **MCR 2.612 Relief from Judgment, is not available to set aside a child support arrearage. MCL 552.603(2) sets forth a clear statement of policy which supersedes the Court rule.**
- + MCL 552.603(2) - ....a support order that is part of a judgment or is an order in a domestic relations matter is a judgment on and after the date the support amount is due as prescribed in section 5c, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, **but only from the date that notice of the petition was given to the payer or recipient of support.**
- + **Discharge of arrears ≠ Overpayment clawback**



# I Need Help Managing My Child Support Debt

[HOME](#)[FAMILY](#)[I NEED HELP...](#)

Topic Menu



Past due child support is called “arrears.” It could be a debt you owe to a person, the state, or both. If you owe money to a person, it is usually your child’s other parent or guardian. You may owe your debt to the State of Michigan if your child or child’s household gets public benefits or got them while you were ordered to pay child support.

Your child may be older than 18, but you may still owe arrears. Or, you may be paying current support and also owe arrears. Even if you are up-to-date on current support payments, owing past child support can create problems for you.

# Revoking Legal Paternity/Parentage

- + Depends on how legal paternity was established.
  1. Acknowledgment of Parentage - Voluntarily signed vital record.
  2. Order of Filiation - Court ordered by default without participation.
  3. Marital presumption - Married to mother at time of conception/birth.
  4. Genetic father - Court ordered based on DNA evidence.
- + Within 3 years of child's birth, with certain exceptions.
- + Order for genetic testing but best interest of the child factors are also applicable.



## GUIDE TO LEGAL HELP

Let Us Connect You to Resources

## RESOURCE LIBRARY

Explore Legal Topics



## ORGANIZATIONS AND COURTS

Hours and Contact Information



ESPAÑOL



# Revoking Paternity

HOME



FAMILY



REVOKING PATERNITY



### Revoking Marriage-Based Paternity: For the Mother or Birthing Parent

Learn about revoking your spouse/ex-spouse's paternity when someone else is your child's other biological parent.



### Revoking Marriage-Based Paternity: For the Husband or Spouse

Learn about revoking your paternity when you are not the biological parent of your spouse's (or ex-spouse's) child.



### Revoking Marriage-Based Paternity: For the Biological Father/Parent

Learn about revoking the paternity of the spouse or ex-spouse of your child's other parent.

## **If no prior case, filing the complaint:**

- + If divorce, in county meeting jurisdictional minimums (county 10 days/State of Michigan 180 days) MCL 552.9.
- + Venue under Child Custody Act - "county where the child resides or may be found" MCL 722.26(2)
- + UCCJEA jurisdiction - Is there another state involved?
- + If legal paternity needs to be revoked, all interested parties.
- + Child support will be included under any type of complaint.
- + If child support priority, either parent may request IV-D/DHHS



# Divorce

[HOME](#)[FAMILY](#)[DIVORCE](#)

## Filing for Divorce without Children

Learn about divorce when you  
and your spouse do not have  
minor children.



## Filing for Divorce with Children

Learn about divorce when you  
and your spouse have minor  
children.



## Responding to Divorce without Children

Learn about divorce when you  
are the defendant and you do  
not have minor children with  
your spouse.



## Responding to Divorce with Children

Learn about divorce when you  
are the defendant and you have  
minor children with your spouse.



## Transferring Real Property as Part of Divorce

Learn about transferring real  
property after a divorce.



# Custody

[HOME](#)[FAMILY](#)[CUSTODY](#)

## Filing a Custody Case (Unmarried Parents)

Learn about getting a custody, parenting time, and child support order if you are not married to your child's other parent.



## Responding to a Custody Case (Unmarried Parents)

Learn about being a defendant in a case for custody, parenting time, and child support if you are not married to your child's other parent.



## Filing to Move with Your Children

Learn about moving with your children after separation or divorce.



## Responding to a Motion to Move with Your Children

Learn what you can do when your child's other parent wants to move with your child after separation or divorce.



## Giving Someone Else Parental Authority over Your Child (Short-Term Parental Power of Attorney)

Learn about giving another adult short-term parental authority over your child without a guardianship.



# Parenting Time

[HOME](#)[FAMILY](#)[PARENTING TIME](#)

## Filing a Custody Case (Unmarried Parents)

Learn about getting a custody, parenting time, and child support order if you are not married to your child's other parent.



## Responding to a Custody Case (Unmarried Parents)

Learn about being a defendant in a case for custody, parenting time, and child support if you are not married to your child's other parent.



## Filing to Change Parenting Time

Learn about changing a parenting time order.



## Responding to a Motion to Change Parenting Time

Learn what you can do when your child's other parent files a motion to change parenting time.



# Custody, Parenting Time & Support

May be raised and decided in:

Divorce case

Custody case  
(married or  
separated)

Support or paternity  
case

Third party non-  
parent with care  
custody of the child  
- support only.

# WHAT IS CUSTODY?

## A court order that specifies:

- The child resides alternately for specific periods with each of the parents. (physical custody)
- AND**
- The parents share decision-making authority about important decisions affecting the welfare of the child. (legal custody)

# Legal Custody

“Important decisions affecting the welfare of the child” including:

- Education
- Medical
- Religion

Joint legal custody:

Parents must agree on important decisions or ask the Court to decide.

No legal presumption favoring joint custody.

# CHILD SUPPORT - Application & Deviation

The Court must apply the child support formula:

- Unless it would be unjust or inappropriate, then the court may deviate.
- Public benefits are considered.
- Examples:
  - The child has special needs or educational expenses.
  - Parent has reduced available income due to medical expenses.
  - Parent provides substantial amount of child's daycare.

MCL 552.605



+ Click to read the latest updates *(Last updated on 10/26/2022)*

Welcome

Getting Started

Parent A



Parent B



Non-Parent Custodian

Results

## Welcome to the MiChildSupport Calculator

### What is the MiChildSupport Calculator?

This is Michigan's child support calculator. It is used to calculate child support using the [Michigan Child Support Formula](#). Federal laws require the use of a statewide guideline (formula) for calculating child support amounts. State law requires the use of the Michigan Child Support Formula (MCSF) to calculate child support. The support calculation provided by this Calculator is not a support recommendation or a support order.

Note: The MCSF was updated on January 1, 2021 and will be effective until December 31, 2024.

### What You Need:

It will take about 30 minutes to create a calculation result. Before starting, you should have income information and the number of overnights with each child for both parents. Additionally, you will be asked to provide health care and child care information for both parents and/or a custodian.

# How is Custody Determined?

Court must consider whether an “established custodial environment” exists before establishing or modifying custody.

The ECE cannot be changed absent clear and convincing evidence that a change is in child’s best interests.

# 1. The “ECE”

“The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered.” MCL 722.27(1)(c)

- **Quantity and quality**
- **Physical and psychological environment**
- **Marked by security, stability and permanence**

## 2. The Best Interests of the Child

Court must consider and evaluate the 12 best interest factors. MCL 722.23.

- It must make specific findings on each factor.
  - *Overall v Overall*, 203 Mich App 40 (1994).
- It is not required to give equal weight to each factor.
  - *McCain v McCain*, 229 Mich App 123 (1998).
- Where facts impact multiple factors, court may apply them wherever relevant.
  - *Fletcher v Fletcher*, 229 Mich App 19 (1998).



# Before Awarding Joint Custody...

## **Court must:**

- Weigh the best interest factors in MCL 722.23

AND

- Determine whether the parents will be able to cooperate and generally agree concerning important decisions affecting the child's welfare.

MCL 722.26a(1)

# The Best Interest Factors (MCL 722.23)

a. Love, affection, other emotional ties existing between the parties involved & the child.	b. Capacity, disposition of parties to give child love, affection & guidance, & to continue the education & raising of the child in his / her religion or creed.	c. Capacity, disposition of parties to provide the child with food, clothing, medical care & other material needs.
d. Length of time child has lived in a stable, satisfactory environment, & desirability of maintaining continuity.	e. Permanence, as a family unit, of the existing or proposed custodial home or homes.	f. Moral fitness of the parties.
g. Mental & physical health of the parties.	h. Home, school, & community record of the child.	i. Child's reasonable preference, if the child is old enough to express one
j. Willingness/ability to facilitate, encourage the child's close, continuing relationship with the other party. *amended 2016	k. Domestic violence, regardless of whether directed against or witnessed by the child.	l. Any other factor the court considers relevant in a particular case.

# PARENTING TIME

Statutory PT “best interests” factors

A child has a right to parenting time unless clear and convincing evidence establishes it would “endanger the child’s physical, mental or emotional health.”

9 parenting time factors enumerated by MCL 722.27a(7)

Frequency

Granted in frequency, duration and type to promote strong relationship.

Rebuttable Presumption

Presumed to be in the child’s best interest to have a strong relationship with both parents.

# PARENTING TIME ORDERS

**Parenting time must be granted in specific terms if requested by either party.**

The order may include reasonable terms or conditions that facilitate orderly and meaningful exercise of parenting time.

Transportation

Supervision

Presence of 3rd parties

Time restrictions

Evaluations

Treatment

Bond to enforce violation

# MODIFICATION: Threshold & Burden of Proof

CUSTODY	PARENTING TIME
<p>If the proposed custody modification would change the ECE, the movant must prove by clear and convincing evidence that the proposed change is in the child's best interests. <a href="#">MCL 722.27(1)(c)</a>;</p> <p><b><i>Vodvarka v Grasmeyer</i></b>, 259 Mich App 499, 509, 675 NW2d 847 (2003): <i>Proper Cause or Change in Circumstances</i> "since the entry of the last custody order, the conditions surrounding custody of the child, which have or could have a significant effect on the child's well-being, have materially changed."</p>	<p>If the proposed parenting time modification would change the ECE, the standard in <b><i>Vodvarka</i></b> applies. If the modification would not change the ECE, the movant must prove by a preponderance of the evidence that the change is in the child's best interests.</p> <p><b><i>Shade v Wright</i></b>, 291 Mich App 17, 805 NW2d 1 (2010). "more expansive definition" of proper cause and a change of circumstances, it recognized that "normal life changes" that occur during a child's life may be sufficient threshold for considering parenting time modifications.</p>

# DIVORCE

No Fault

Statutory grounds only:

- Breakdown of the marriage relationship;
- No reasonable likelihood that the marriage can be preserved.
- Issues include custody, property division, spousal support

MCL 552.6

# DIVISION OF PROPERTY



## Identify it:

Marital v. Separate

Pensions, personal property,  
real property, debts.



## Value it:

Appraisal of marital home



## Divide it:

Equitable division

# PROPERTY DIVISION

An “equitable distribution” considering the following factors:

- duration of marriage;
- contribution of parties to marital estate;
- age of the parties;
- life status of the parties;
- necessities and circumstances;
- earning abilities;
- past relations and conduct (i.e., fault);
- general principles of equity.

**Sparks v Sparks, 440 Mich 141 (1992)**



# SPOUSAL SUPPORT

## What is it?

- Support and maintenance of a former spouse who is unable to support herself.
- If ordered, must be modifiable (unless the parties agree otherwise). MCL 552.28

## When is it ordered?

- The longer the marriage
- The older the recipient
- The less able the recipient is to support herself due to lack of education or experience.

# JUDGMENT OF DIVORCE

## Resolving your case:

- Settlement/agreement
- Mediation (MCR 3.216)
- FOC Referee Hearing (MCR 3.215)
- Trial

## Testimony must be taken in court:

- No minor children – 60 days after filing.
- Minor children – 6 months after filing, unless hardship or compelling necessity for earlier judgment.

# THE DIVORCE CASE - PROCESS

**Summons and  
Complaint:**

**Service**

**Answer or default**

**Interim  
motions/orders**

**FOC involvement  
(ADR,  
investigation,  
hearing), or  
mediation**

**Discovery**

**Judgment -  
default, consent or  
trial**

# THANK YOU

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