

Osceola County Friend the Court  
301 West Upton Avenue  
P.O. Box 135  
Reed City, MI 49677  
(231) 832-6131

## **MOTION REGARDING DOMICILE/LEGAL RESIDENCE – FOC 115**

By using this form, you are representing yourself in a court action.

### **MOTION MUST BE COMPLETELY FILLED OUT. TYPE OR PRINT NEATLY.**

Before you fill in the Case No., get your court papers for custody, divorce, separate maintenance or paternity and copy the Case No. from those court papers onto this form.

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

To obtain a hearing date you will first need to go to the County Clerk's Office and pay the \$ 20 filing fee and \$80 order entry fee, **total \$100**. With your receipt and copies of the Motion go to the Friend of the Court Office to get a hearing date.

On the date that you file this Motion, complete the certificate of mailing on all of your copies. **File the original** with the **County Clerk**, a copy with the Friend of the Court Office, mail a copy to the other party along with the Response Form (FOC 116), and keep a copy for yourself.

**This Motion, Including Notice of Hearing, must be served at least 9 days (not including holidays) before the hearing date. They may be served by regular, first class mail.**

You must attend this hearing. Since you are representing yourself, you are expected to follow the same general rules as an attorney would. Bring all supporting documents, evidence and witnesses with you.

**The Friend of the Court Office will not represent you or the other party.** Check in at the Friend of the Court office on the scheduled day and time, 10 to 15 minutes early. Dress neatly. Be prepared to spend most of the morning or afternoon in court.

If you feel you need to subpoena someone to attend this hearing follow the procedure in Michigan Court Rule 2.506 or consult an attorney.

After the hearing, the Friend of the Court Referee will make a Recommendation. If no Objection is filed within **21 days** of the proof of mailing, the Recommendation will become an Order of the court.

## Change of Legal Residence/Domicile Factors

The specific factors a court must consider in determining whether or not to grant a change of domicile are the following:

Whether the prospective move has the capacity to improve the quality of life for both the child and the relocating parent.

The degree to which each parent has complied with, and utilized his or her time under, a court order governing parenting time with the child, and whether the parent's plan to change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

STATE OF MICHIGAN  
49TH JUDICIAL CIRCUIT  
OSCEOLA COUNTY

MOTION REGARDING CHANGE OF  
DOMICILE/LEGAL RESIDENCE

**A** CASE NO.

Court address

301 WEST UPTON AVENUE, P.O. BOX 135, REED CITY, MI 49677

Court telephone no.

(231) 832-6131

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

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

v

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 Friend of the Court Referee David P. Oostdyk  
Judge/Referee  
on \_\_\_\_\_ at \_\_\_\_\_ at 301 West Upton Ave. Reed City, MI 49677  
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

# 49<sup>th</sup> CIRCUIT COURT - FAMILY DIVISION

Honorable Marco S. Menezes

Family Court Judge



MECOSTA COUNTY  
Mecosta County Courthouse  
400 Elm Street  
Big Rapids, MI 49307  
Phone: (231) 592-0135  
Fax: (231)-592-0191

OSCEOLA COUNTY  
Osceola County Courthouse Annex  
410 West Upton  
Reed City, MI 49677  
Phone: (231) 832-6127  
Fax: (231) 832-6181

## POLICY ON DE NOVO JUDICIAL HEARINGS FOLLOWING OBJECTIONS TO FOC REFEREE RECOMMENDATIONS

The following policy is adopted by the Family Division of the 49<sup>th</sup> Circuit Court, pursuant to MCL 552.507 and MCR 3.215, in order to preserve the resources of litigants and of the Court:

1. **Request for De Novo Hearing:** Following referee hearings in domestic relations matters, a party wishing to object to any recommendation made by the Referee shall, within 21 days after the recommended interim order is served on the parties, file written objections with the Court, and request a judicial hearing.

a. **Service:** The objecting party shall serve copies of written objections on the opposing party and on the Friend of the Court.

b. **Contents:** Objections shall include a clear and concise statement of specific errors of law or clearly erroneous findings of fact made at the Referee level. Matters not specifically objected to will not be considered by the Court. Objection forms shall be made available at the FOC office.

c. **Transcripts:** The objecting party shall contact the office of the Friend of the Court to request preparation of a transcript of the referee hearing. The transcript shall be submitted to the court for review prior to the scheduled *de novo* hearing. Unless waived by the court pursuant to paragraph 3, the costs of transcription shall be paid in full by the objecting party before the transcript is prepared. If payment in full is not received at least 2 weeks prior to the scheduled judicial hearing, the objection will be deemed withdrawn and the hearing will be cancelled.

d. **Pre-Hearing Conference:** Upon request, the Court may schedule a pre-hearing conference, as necessary to advance the purpose of this policy.

2. **Scope and Form of Review:** The Court will consider the written objections and Referee hearing transcript and determine the scope and form of its *de novo* review. Depending on the circumstances of each case, the court's review and decision may:

a. Be based entirely upon the record of the referee hearing (including any memoranda, recommendations or proposed orders by the referee); or

b. Be based in part on the entire record of the referee hearing, supplemented by relevant new evidence that was not introduced at the referee hearing. Requests to supplement the

record shall be made by verified motion filed with the written objections, establishing that the proposed new evidence was not available at the time of the referee hearing. On a sufficient showing, a "live" judicial hearing will be scheduled to supplement the record with such new evidence; or

c. Be based entirely upon evidence presented at a "live" judicial hearing.

**3. Transcription Costs. Indigence:** If the party seeking review prevails, the cost of the transcript will be apportioned equally between the parties; if he/she fails to change the outcome of the Referee hearing, the cost is completely paid by the party who sought the judicial hearing. On a showing of indigence, the Court may waive the transcription costs incurred or apportioned to any party.

**4. Frivolous Objections:** If the court determines that an objection is frivolous or has been interposed for the purposes of delay, the court may assess reasonable costs and attorney fees. MCR 3.215(F)(3).