Form FOC 88

RESPONSE TO MOTION REGARDING CUSTODY

Use this form if:

- you get a copy of FOC 87, Motion Regarding Custody. By filling out this form, you are answering the statements made in the motion.

RESPONSE TO 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. File the response to motion form with the clerk's office? YES ☐
4. Mail (serve) a copy of the response on the other party and on any other custodian/guardian? YES ☐
5. Return to the clerk's office **after** you mailed the response to the other party and completed the certificate of mailing? YES ☐
6. Keep one copy of the response to motion form for yourself? YES ☐
7. Give two copies of the completed form to the clerk of the court? YES ☐

You must attend the hearing on the motion.

If you cannot answer "yes" to all the above steps, your response may not be heard at the hearing on the motion.

By using this form packet you are representing yourself in a court action regarding custody. 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 custody you want.

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

INSTRUCTIONS FOR USING FORM FOC 88
RESPONDING TO A MOTION

»» FILING A RESPONSE

1. Fill out the Response to Motion form.

If you receive a motion and notice of hearing from the other party, you have time before the hearing to respond in writing to the party and the court. 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. File the Response form with the county clerk.

Take the original and five copies to the county clerk in the county where the motion was filed. The name of the county will be in the upper left-hand corner of the motion form.

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 for the court file and the friend of the court. Then the clerk will return four copies and any remaining attachments to you. Do not lose them.

What you should have when you leave the clerk's office:

One copy of FOC 88 (with any attachments) - for you
One copy of FOC 88 (with any attachments) - for the other party
One copy of FOC 88 - for proof of service to the court
One copy of FOC 88 - for proof of service to the friend of the court

»» SERVING THE RESPONSE ON THE OTHER PARTY OR PARTIES

1. Serve the Response on the other party.

The other party must be served with (notified of) your response at least 5 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 88 (with any attachments) - for the other party
Two copies of FOC 88 - for proof of service
Any additional copies of FOC 88 (with any attachments) - for another 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 records.

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

   Once you have mailed the response 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. **Attend the hearing.**

   You must attend the hearing on the motion.

»» INFORMATION ABOUT ATTENDING THE HEARING

Bring your copy of the motion and your response along with all supporting papers 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 response. 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. 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 <u>not</u> interrupt any hearing in progress. Then take a seat in the back of the courtroom and wait for your case to be called.

6. When your case is called, be prepared to state:

   1) your name.

   2) that you are representing yourself.

3) that you want to respond to the motion for a custody order or to change a custody order.

4) the facts or reasons for your response **(bring papers such as reports that support your facts or reasons including income information such as pay stubs, W-2 forms, income tax forms, etc.)**.

5) whether you have witnesses in court who are willing to testify.

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.

7. 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.

8. After the judge or referee makes a decision, the other party is to prepare the order (using the instructions on the packet for FOC 89, "Order Regarding Custody") even if it is not what is asked for in the motion or your response to the motion.

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 "RESPONSE TO MOTION REGARDING CUSTODY"

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

Items A through J must be completed before your response 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 copy of the Motion Regarding Custody (form FOC 87) and copy the Case No. from that paper onto this form.

(B) Also use the motion to fill in the "Plaintiff" and "Defendant" boxes, and if applicable, the "Third Party" box. Copy the names from the motion 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 response form.

The other party is the "moving party." Once you have written the names where they belong, you must check the box "moving party" in the same box as the other party's name.

(C) **Check only one box.** If you have a judgment or order for custody, divorce, separate maintenance, or paternity, read it carefully to find out if there is any information in it about custody. If there is information about custody, check box a. If there is no information about custody, check box b.

(D) Check this box only if you checked box a. in (C) above. Read your court papers for custody, divorce, separate maintenance, or paternity to find out who was ordered to have custody. Write this information here along with the name(s) of the child(ren).

(E) State who the child(ren) are living with now, the address or location where the child(ren) are living, and the date the child(ren) started living there even if it is different than what was ordered.

(F) Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree", **explain in** as much **detail** as possible what you do not agree with and why. Print this information as neatly as you can. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.

(G) Check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree," **explain in** as much **detail** as possible what you do not agree with and why. The judge or referee will review these causes using factors from the Child Custody Act to determine the best interests of the child. Print this information as neatly as you can. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.

(H) Check this box only if (H) is checked on the Motion form (FOC 87). Then check whether you agree or do not agree with what was said in the Motion form (FOC 87). If you check the box "do not agree," **explain in** as much **detail** as possible what you did agree on. If you need more space, use a separate sheet of paper. You will need four copies of this sheet to attach to four copies of this form.

(I) If you agree with the request in the Motion form (FOC 87), check box a. If you do not agree with the request, check box b. If you checked box b., **explain in** as much **detail** as possible why you do not agree with the request in the Motion form and what you want the court to order. If you need more space, use a separate sheet of paper. Print your explanation as neatly as you can. You will need four copies of this sheet to attach to four copies of this form.

(J) Write in today's date and sign your name.

- 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.

(K) 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.

Approved, SCAO

Original - Court
1st copy - Moving party
2nd copy - Responding party

3rd copy - Friend of the court
4th copy - Proof of service
5th copy - Proof of service

STATE OF MICHIGAN 34th JUDICIAL CIRCUIT Roscommon COUNTY	RESPONSE TO MOTION REGARDING CUSTODY	(A) CASE NO.

Court address: 500 Lake Street, Roscommon, MI 48653

Telephone no.: (989) 275-1902

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

v

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

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

(C) 1. ☐ a. On _____ (Date) a judgment or order was entered regarding custody.

☐ b. There is currently no order regarding custody.

(D) ☐ 2. The ☐ plaintiff ☐ defendant ☐ third party was ordered to have custody of the following child(ren):

(E) 3. The child(ren) have been living with _____ (Name(s)) at _____ (Complete address) since _____ (Date).

(F) 4. I ☐ agree ☐ do not agree that circumstances have changed as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed.

(G) 5. I ☐ agree ☐ do not agree that proper cause exists as stated in the motion.
Explain in detail what you do not agree with and why. Include all necessary facts. Use a separate sheet of paper if needed.

(H) ☐ 6. I agreed with the other party to custody, parenting time, and support:
☐ a. exactly as stated in the motion.
☐ b. but not as stated in the motion.
If b. is checked, explain in detail what you did agree on. Include all necessary facts. Use a separate sheet of paper if needed.

(I) 7. ☐ a. I agree with what is being asked for in the motion.
☐ b. I do not agree with what is being asked for in the motion and ask the court to order custody, parenting time, and support as follows: If b. is checked, explain in detail why and what you want the court to order. Use a separate sheet of paper if needed.

(J) _____ Date

_____ Responding party's signature

CERTIFICATE OF MAILING

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

(K) _____ Date

_____ Responding party's signature