

Representing Yourself In Domestic Relations Cases



Friend of the Court Bureau/SCAO
Michigan Supreme Court
<http://www.courts.michigan.gov/scao>

PSA 26 (Rev 02/09)
This publication was produced with federal Title IV-D funds

Introduction

Most people know only a little about the laws and procedures that govern court proceedings; therefore, most should hire an attorney to represent them. But lack of money often forces people to represent themselves when they cannot obtain free legal services from a legal aid organization or volunteer attorneys, often occurring in divorce, child support, and other domestic relations cases.

Michigan law requires friend of the court (FOC) offices to distribute “do-it-yourself” form kits (often called “pro se” or “in pro per” packets) to people interested in representing themselves in a child support, parenting time, or custody matter. In addition, all circuit court clerks have a special packet of forms for obtaining a personal protection order. While these form packets provide some guidance, most people are still uncertain about what happens after an action is filed with the court.

This brochure answers some common questions about self-representation in a domestic relations case. The Q&A sections below explain how to file and answer motions after a domestic relations case already is underway. Please consult other sources for information about how to start a case by filing a complaint, and how to answer someone else’s complaint.

(1) Where do I get “do-it-yourself” motion forms?

For domestic relations cases that involve children, the FOC office responsible for your case will provide the forms and instructions for asking the court to modify a child support, parenting time, or custody order. You also can obtain these forms online at <http://courts.michigan.gov/scao/courtforms/domesticrelations/drindex.htm#cust>. The circuit court clerk has the forms to use to request a personal protection order.

(2) Once I have the “do-it-yourself” motion forms packet, may I ask the friend of the court or the court clerk for help or advice?

Court staff may not give legal advice, nor are they required to help you fill out your forms. The FOC staff will tell you whom to contact to obtain a court hearing. The court clerk will give you basic information about how to schedule a hearing and where the hearing will be held. Most court clerks charge a fee for copying documents.

(3) Do courts charge a fee for filing a motion?

Yes. For most domestic relations matters, the court clerk will charge a \$20 motion fee when you file your motion. In an action in which the custody or parenting time of minor children is determined, there is an \$80 fee assessed in addition to the general motion fee. In actions where the support of a minor is determined or modified, a \$40 fee is assessed in addition to the general motion fee. If you cannot pay this fee, you may ask the clerk for

“Form MC20,” which allows you to ask the court to waive (not charge) the fee. This form also is available online at <http://courts.michigan.gov/scao/courtforms/general/mc20.pdf>.

(4) Once I file my motion, who serves the required documents on the other party?

If you use the “do-it-yourself” forms, **you** must send the other party a copy of the form containing the motion and hearing date. There are many ways to deliver the documents to the other party. Regular first-class mail is the most frequently used and least expensive method.

(5) Who represents me at the motion hearing? Can the referee or judge help me?

You may hire an attorney or represent yourself. If you decide to represent yourself, you must come prepared to explain your case, your current motion, and the reasons why the court should rule in your favor. This may also require that you understand court rules and procedures, because proving your case may require that you present sworn testimony or written evidence to the court. Neither a referee nor a judge may help you present your case.

(6) What if the other party has an attorney? Can I get someone to help me?

This brochure assumes that you have elected to represent yourself. The fact that the other party appears with an attorney does not entitle you to free attorney services. The court may reschedule the hearing to a later date if you say that the presence of counsel for the other side has caused you to change your decision to represent yourself.

(7) After the referee or judge has ruled on a motion, who prepares the written order that makes that ruling an official order of the court?

If you use the “do-it-yourself” forms and appear before a judge, then unless the judge orders otherwise, **you** are responsible for preparing the order for the judge to sign. Therefore, you should take notes during the hearing, and ask questions if you do not understand something after the judge signs the order, you must send a copy of the order to the other party. If a referee (in place of a judge) hears the case, the referee may offer to prepare the order, but no law requires referees to do that.

(8) What if I do not agree with the referee’s or judge’s decision?

A referee makes a recommendation; only a judge can sign a court order. If you disagree with the referee’s recommendation, you have 21 days to request a review hearing before a judge. The referee or FOC office should provide you with information on how to object

to a referee recommendation. If you disagree with a judge's decision, your options are to appeal to a higher court or file a motion to have the matter reconsidered by the same judge.

(9) Here are some definitions you should know:

Complaint - A written claim filed with the court to start a case.

Consent - When both parties agree that the court may grant a motion without conducting a hearing.

Custodian - A parent or any other person who has physical custody of a child.

Defendant - The person against whom a case is originally filed.

Enter - The process by which an order becomes effective. It includes getting the judge to sign the order and filing the signed order with the county clerk.

First-Class Mail - The "regular mail" by which most people send letters. You may use first-class mail to deliver motions and orders to the other party in your case.

Guardian - A person appointed by a court to be legally responsible for a child.

Hearing - A court session conducted by a judge or referee at which both parties explain why a motion should be granted or denied by the judge.

Motion - A request that the court take some specific action in a pending case.

Moving Party - The person who filed the motion.

Objection to a Proposed Order - What parties may do if they disagree with a referee's recommended order. Objections must be made in writing.

Order - A decision signed by a judge and requiring certain action.

Party - The case's plaintiff and defendant, which in domestic relations cases almost always is the two parents. The term may also include someone other than a parent (a third party) if the court grants that person's request to participate in a case.

Pending Case - A court case in which no final judgment has been entered.

Proof - Evidence showing why the court should agree with a party's position. Proof may be either written documents or live testimony by people who have first-hand knowledge of important facts.

Proposed Order - An order that has not yet been signed by the judge.

Plaintiff - The person who starts a case.

Referee - A court officer with limited authority to hear motions and recommend orders.

Service - How one party delivers legal papers to the other party. (See “First-Class Mail”)

Stipulated Order - An order that both parties want the judge to sign.

True Copy - A copy of a court document imprinted with the court’s official seal to show that it is a genuine copy of the original document.

Legal Resources for Litigants Who Represent Themselves

State Bar of Michigan Lawyer Referral Service:

Detroit (313) 961-3545 (Greater Detroit)

Genesee County (810) 232-6000

Grand Traverse, Leelanau, and Antrim Counties (231) 922-4713

Kent County (616) 855-0273

Macomb County (586) 468-8300

Oakland County (248) 338-2100

Washtenaw County (734) 996-3229

Regional Legal Aid Services

Legal Aid & Defender Association, Inc. - Macomb County (586) 465-1344

Legal Aid & Defender Association, Inc. - Oakland County (248) 253-1548

Legal Aid of Western Michigan - Grand Rapids (616) 774-0672 or (800) 442-2777

Legal Aid of Western Michigan - Kalamazoo (888) 783-8190

Legal Services of Eastern Michigan - Flint (800) 322-4512

Legal Services of South Central Michigan - Jackson (517) 787-6111

Legal Services of South Central Michigan - Lansing (517) 394-3121 or (800) 968-0044

Neighborhood Legal Services Michigan - Downtown Detroit Management & Housing Advocacy (313) 964-1975

You can find more resources and telephone numbers at:

<http://www.michiganlegalaid.org/findOrgAll>