

**PETITION REGARDING CUSTODY AND PARENTING TIME
SAGINAW COUNTY FRIEND OF THE COURT
FORM 40**

Use this Petition if:

- You have a Judgment of Divorce or Separate Maintenance or a Paternity Case but custody was not included; or
- You already have a custody order in your Judgment of Divorce or Separate Maintenance or your Paternity Case and you want to petition the Court for a change in custody and/or parenting time.

You cannot use this form:

- To start a custody case; or
- If you are a third party and want to intervene to obtain custody of the child(ren) in a pending case for custody, divorce, separate maintenance, or paternity.

If both parties agree to a change in the Order, no Petition is necessary. If an agreement is reached please notify the Friend of the Court in writing (requires signature of both parties and copies of your identification) indicating the specifics of the agreement. Both parties **MUST** sign the written statement.

If there is no agreement, then you must file this petition and notice the petition up for hearing in front of the Judge. You must appear for the hearing and the Judge will make a decision regarding referral of your petition to the Friend of the Court. The Court will also address the investigation fee which must be paid prior to any interviews being set.

**IF YOU HAVE FILED AN AFFIDAVIT FOR
SUSPENSION OF FILING FEES DUE TO
INDIGENCY AND THE FILING FEES HAVE
BEEN WAIVED, YOU STILL MUST PAY THE
INVESTIGATION FEE**

This packet is prepared in accordance to the guidelines of the State Court Administrator's Office Forms.

PETITION CHECKLIST

Use the following checklist to make sure you have done all the steps that are included.

DID YOU...READ THE INSTRUCTIONS FIRST?

1. Fill out all requested information on the Petition and Notice of Hearing? YES
2. Make all the necessary copies? YES
3. Pay the Petition fee to the Circuit Court Clerk? YES
When you file the original Petition and Notice of Hearing with the Circuit Court Clerk, ask for the copies of the Petition and Notice of Hearing to be stamped (True Copy).
4. Mail (serve) a copy of the Petition and Notice of Hearing on the other party (and Attorney if represented)? YES
5. Return to the Circuit Court Clerk's office **after** you mailed the Petition and Notice of Hearing and completed the Certificate of Mailing? YES
6. Keep one copy of the Petition and Notice of Hearing for yourself? YES
7. Give 1 copy of the completed Petition and Notice of Hearing to the Circuit Court Clerk with the completed Certificate of Mailing? YES
8. Deliver 1 copy of the completed Petition and Notice of Hearing to the Friend of the Court with the completed Certificate of Mailing? YES

By using this Petition and Notice of Hearing packet you are representing yourself in a Court action regarding custody and parenting time. 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 your Petition may be dismissed or the Order you get from the Court may not give you the custody/parenting time you want.

The Friend of the Court does NOT represent either party. In preparation for the Investigation, each party is encouraged to review the CHILD CUSTODY ACT, which may be obtained from the State Court Administrator's Office or the public library. The Friend of the Court is NOT authorized to give the parties legal advice or assist in filing of this Petition. Either party may hire an attorney during any point in the process.

INSTRUCTIONS FOR FILING A PETITION

⇔FILING A PETITION

1. Fill out the Petition and Notice of Hearing.

Make at least 4 copies of the Petition and Notice of Hearing after you have filled it out.

2. File the Petition and Notice of Hearing with the Circuit Court Clerk (located in the basement of the Courthouse).

Take the original and 4 copies of the Petition and Notice of Hearing to the Circuit Court Clerk.

You must pay \$100.00 in either the form of a money order, cash or personal check (not a starter check) made payable to the "Clerk of the Court" (\$20.00 is the **Motion Fee** and \$80.00 is the fee for entry of the **Order**).

The Circuit Court Clerk will keep the original Petition and Notice of Hearing and any attachments for the Court file and stamp "True Copy" on all other copies. You **MUST** provide the Friend of the Court with a true copy of your Petition and Notice of Hearing. Do not lose your remaining true copies of your Petition and Notice of Hearing.

What you should have when you leave the Circuit Court Clerk's office:

- 1 Copy of the Petition and Notice of Hearing (with any attachments)- for you
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- for the other party (and Attorney if represented)
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- for the Court
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- for the Friend of the Court

3. You must ensure that the address for both parties is the address on file with the Friend of the Court. If you fail to provide the correct address for either party your Petition may be dismissed for lack of service.

INSTRUCTIONS FOR SERVING A PETITION

⇔ SERVING THE PETITION ON THE OTHER PARTY

1. Serve the Petition and Notice of Hearing on the other party.

YOU MUST SERVE (NOTIFY BY ORDINARY MAIL) the other party prior to the Friend of the Court reviewing the Petition. **You CANNOT hand deliver the papers to the other party.**

What you need for service:

- 1 Copy of the Petition and Notice of Hearing (with any attachments)- with the completed Certificate of Mailing for you
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- with the completed Certificate of Mailing for the other party (and Attorney if represented)
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- with the completed Certificate of Mailing for the Court
- 1 Copy of the Petition and Notice of Hearing (with any attachments)- with the completed Certificate of Mailing for the Friend of the Court

Fill out the Certificate of Mailing (date and sign) on all copies of the Petition and Notice of Hearing. Mail one copy to the other party (and Attorney if represented).

NOTE: Serve the papers by mailing them to the other party by regular, first class mail. THE DATE ON THE CERTIFICATE OF MAILING MUST BE THE DATE YOU MAILED THE PETITION AND NOTICE OF HEARING TO THE OTHER PARTY (AND ATTORNEY IF REPRESENTED).

2. Return to the Circuit Court Clerk

Once you have mailed the Petition and Notice of Hearing to the other party (and Attorney if represented) return to the Circuit Court Clerk's office. You will have three copies with the completed Certificate of Mailing. Give the Circuit Court Clerk one copy for the Court file. Keep 1 copy for your own records. Deliver 1 copy to the Friend of the Court. You **MUST** deliver a copy directly to the Friend of the Court office.

3. Response from the other party.

If you receive a response to your Petition from the other party make sure you read it.

INSTRUCTION FOR COMPLETING “PETITION REGARDING CUSTODY AND PARENTING TIME”

Please print neatly. After filling in the Petition, you will need to make at least 4 copies.

Items A through J must be completed before your Petition can be filed with the Court. Please read the instructions then fill in the correct information for that item on the Petition.

- A. Before you fill in the Case No., get your Court papers for divorce, separate maintenance, or paternity and copy the Case No. from those Court papers onto this Petition form.
- B. Also use your Court paper to fill in the “Plaintiff” and the “Defendant” boxes. Copy the names from these court papers onto this Petition. For example, if your name is in the box that says “Plaintiff” on the original court document, then you should write your name in the “Plaintiff” box on this Petition form.

You are the person filing the Petition therefore the burden of proving why you should be granted the requested relief lies with you.

You must ensure that the address for both parties is the address on file with the Friend of the Court and if you do not know the address you **must** verify the address with the Friend of the Court.

- C. **Check only one box.** If you have a judgment or order for custody, separate maintenance, or paternity, read it carefully to find out if there is any information in it about custody.
- 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), and the date the child(ren) started living there even if it is different than what was ordered.
- F. State the circumstances that require a custody order or a change in custody and parenting time. **Explain in as much detail** as possible what has happened. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to 4 copies of the Petition.
- G. State the causes that require a custody order or a change in custody and parenting time. The Friend of the Court will review these causes using the factors from the Child Custody Act to determine the best interests of the child. **Explain in as much detail** as possible what the causes are. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to 4 copies of this Petition.
- H. Check this box if you and the other party agree about custody. Explain in as much detail as possible what you agreed to including parenting time. If you need more space, use a separate sheet of paper. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to the copies of this Petition.
- I. You need to explain in as much detail as possible what you want the Court to order. If you checked **H.** above, you only need to write: Same as 4 above”. If you need more space, use a separate sheet of paper. You need to include information about parenting time as well. Print this information as neatly as you can. You will need 4 copies of this sheet to attach to copies of this Petition.
- J. Write in today’s date and sign your name.

GO TO PAGE 3 & 4 FOR FILING AND SERVICE INSTRUCTIONS.

STATE OF MICHIGAN 10TH JUDICIAL CIRCUIT SAGINAW COUNTY	NOTICE OF HEARING	CASE NUMBER:
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Court Address: 111 S. Michigan Ave., Saginaw, MI 48602

Fax: 989-791-3855
Phone: 989-790-5300

Plaintiff's name, address and phone no:

Attorney:
v

Defendant's name, address, and phone no:

Attorney:

A hearing will be held

Date: _____

Time: _____

Location: _____

Judge: _____

Bar no.

for the following purpose:

You are required to attend this hearing.

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 court, provide your case number(s).

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of the notice of hearing by ordinary mail to the other party (and Attorney if represented) at the addresses stated above.

Date

Signature