



Cass County Friend of the Court

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PARENTING TIME GUIDELINE

adopted by the Cass County Friend of the Court effective 04-21-2015

This guideline supercedes any other reasonable rights policy from this Court.

§1.00—PURPOSE OF THIS GUIDELINE

Under Michigan law, parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except for very limited situations, parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time. *See MCL 722.27a.*

This Guideline recognizes that challenges arise between parents. However, both parents need to understand that even though you may no longer be husband and wife, or may never have been married to each other, you and your child’s other parent will always be “Mom” and “Dad.” Nobody knows your situation better than you do, so the Court prefers that you, as parents, make mutual decisions, and set up whatever parenting time works best for both of you and your children.

The purpose of this Guideline is to provide a reasonable parenting time structure for parents. If parents are unable to agree on parenting time issues, or if the parenting time issue you are facing is not addressed in your Court order, the Friend of the Court (FOC) will apply this Parenting Time Guideline. If parents are in agreement about parenting time arrangements and wish to follow the schedule they have agreed upon instead of the Parenting Time Guideline, that is acceptable to (and preferred by) the Court.

This Guideline is to be followed if reasonable rights of parenting time have been ordered, at times when the parties cannot agree on what parenting time is reasonable. Even if parties agree on a parenting time schedule, specific provisions of this guideline shall be followed if the parties are unable to agree on other issues related to parenting time (for example, holiday parenting time, transportation, etc.).

§2.00—INALIENABLE RIGHTS OF THE CHILDREN

Parents will cooperate with respect to each child so as to, in a maximum degree, advance each child's health, emotional and physical well-being and to give and afford each child the love and affection of both parents along

Cass County Friend of the Court: Serving and empowering families to make children’s lives better

with a sense of security. Neither parent will, directly or indirectly, influence a child so as to prejudice the child against the other parent. Parents will endeavor to guide each child to promote an affectionate relationship between the child and the father and the child and the mother.

Parents will cooperate with each other in carrying out the provisions of all orders for a child's best interests. Whenever it seems necessary to adjust, vary or increase the time allotted to either parent or otherwise take action in regard to a child, each parent shall act in the best interests of the child. Neither parent shall do anything that may estrange the other parent from a child, injure a child's opinion of the other parent, or hamper the free and natural development of a child with respect to the other parent.

§3.00—REASONABLE RIGHTS OF PARENTING TIME

The schedule presented in this guideline is based upon commonly used schedules. Specific days and periods of time have been chosen for ease of use. Specific parenting time may reference alternate years (even and odd numbered years) with fathers in some years and mothers in other years in order to promote uniformity and ease of use.

Parties should develop a schedule that best accommodates their own families' situation. The parties may agree to use the sample schedule, or it may be necessary to use the sample schedule because the parties cannot agree. The preferred schedule is one that the parties develop themselves.

The schedule listed in §3.01 is to be followed if reasonable rights of parenting time have been ordered when the parties cannot agree on what parenting time is reasonable.

If your order provides for specific parenting time, for example, alternate weeks starting at 6 p.m. on Sunday until 6 p.m. the following Sunday, then reasonable rights of parenting time, as set out in this Guideline will not apply. The reasonable rights, as set out in this Guideline, are only used when the parenting times are not specifically ordered. However, in some cases, a combined approach is used; for example, alternating weeks may be ordered for most of the year, but with the parents alternating the major holidays based upon the reasonable rights schedule, as set out in the Guideline.

The rules that apply in your situation depend completely upon the language of your court order. The first thing to determine if confusion or disagreement occurs is "What does the court order say?" The answer to this question should clear up the confusion or resolve the disagreement.

If a parent is given "Reasonable Rights of Parenting Time," he/she will be given credit for 90 overnights for purposes of calculating child support.

§3.01—CASS COUNTY REASONABLE PARENTING TIME SCHEDULE

The following subsections set out the interpretation of the Cass County Circuit Court as to what constitutes reasonable rights of parenting time in the absence of agreement of the parties or court order to the contrary.

§3.01A—ALTERNATING WEEKENDS

If the parents live less than 200 miles apart and the visiting parent has a place to house the child such as a house, an apartment or a relative's home, parenting time shall occur on alternating weekends from 6:00 p.m. Friday until 6:00 p.m. Sunday.

§3.01B—WEEKNIGHT PARENTING TIME

If the parties live within 90 miles of each other, parenting time shall occur 1 evening per week from 5:30 p.m. to 8:30 p.m. on a day of the week to be determined by the parties. If the parties cannot agree on a day, the parenting time shall occur on Wednesday.

§3.01C—WEEKLY TELEPHONE CONTACT

The child shall have the right to reasonable contact with each parent by telephone or Internet at reasonable hours and at reasonable intervals without interference from the other parent.

In the absence of agreement by the parties, for children ages 4 and up, a parent shall receive two weekly phone contacts with a minor child for a minimum 10 minute block of time and maximum 30 minute block of time. This shall be on days and times mutually agreeable to the parties, but in the absence of an agreement, then every Tuesday and Thursday between the hours of 6:00 p.m. and 8:00 p.m.

If a child will be vacationing or residing at a location different from the usual location, the other parent should be informed of a telephone number, address and the means to contact the other parent in case of an emergency.

The use of electronic media (e-mail, video, Skype, etc.) to contact a parent, if available to the child, should be used with a frequency rate that is appropriate for the age and developmental level of the child. For cases in which supervised parenting time is ordered, this form of contact may not be allowed. This will need to be reviewed on a case by case basis.

§3.01D—HOLIDAYS

In the absence of a court order to the contrary, or an agreement by the parties.

	<u>FATHER</u>	<u>MOTHER</u>
<u>ODD-NUMBERED YEARS:</u>	New Year’s Day Easter Fourth of July Halloween Christmas Eve Children’s Birthdays Spring Break 1st half Christmas Break 2nd half Summer Break New Year’s Eve	Memorial Day Labor Day Thanksgiving Christmas Day 2nd half Christmas Break 1st half Summer Break

	<u>FATHER</u>	<u>MOTHER</u>
<u>EVEN-NUMBERED YEARS:</u>	Memorial Day Labor Day Thanksgiving Christmas Day 2nd half Christmas Break 1st half Summer Break	New Year’s Eve Easter Fourth of July Halloween Christmas Eve Children’s Birthdays Spring Break 1st half Christmas Break 2nd half Summer Break New Year’s Day

Note: The schedule above is set up so that each year, one parent will have New Year’s Eve, and the other parent will have New Year’s Day. In this manner, the parents each have one day of the two day holiday. Of course, if the parties agree to some other arrangement, that is preferred. As with all parts of this Guideline, it only needs to be used if the parents cannot agree.

PRIORITY OF HOLIDAYS AND BIRTHDAYS

Holiday parenting time takes precedence over any regularly scheduled parenting time. In the event that the parent's holiday coincides with his or her regular weekend schedule, the children shall remain with that parent continuously through the holiday or weekend. So for example, if it is dad’s alternate weekend from 6 pm on Friday until 6 pm on Sunday and it is dad’s Easter holiday from 9 am to 7 pm on Easter, dad gets to keep the children for his weekend and then until 7 pm on Easter Sunday for his Easter holiday.

If a child’s birthday or a parent’s birthday falls on a holiday, the holiday shall take precedence over the birthday. Birthday Parenting Time shall include all siblings, and is scheduled 9 a.m. to 7 p.m. (except school hours). Father shall have parenting time on Father’s Day and Father’s Birthday. Mother shall have parenting time on Mother’s Day and Mother’s Birthday. If the child and the parent share a birthday, the child’s birthday shall take precedence over the parent’s birthday, and parenting time shall be alternated as specified herein.

§3.01E—HOLIDAY EXCHANGE TIMES

The schedule below applies in the absence of a court order to the contrary, or an agreement of the parties.

<u>HOLIDAY:</u>	<u>MICHIGAN TIME:</u>
New Year's Day	9 a.m. 01/01 to 9 a.m. 01/02
Easter	9 a.m. to 7 p.m.
Memorial Day	9 a.m. to 7 p.m.
Fourth of July	9 a.m. 7/4 to 9 a.m. 7/5
Labor Day	9 a.m. to 7 p.m.
Halloween	9 a.m. to 7 p.m. (except school hours)
Thanksgiving Day	9 a.m. to 9 a.m. the day after
Christmas Eve	9 a.m. 12/24 to 9 a.m. 12/25
Christmas Day	9 a.m. 12/25 to 9 a.m. 12/26
New Year's Eve	9 a.m. 12/31 to 9 a.m. 01/01
Father/Mother's Day	9 a.m. to 7 p.m.
Other religious holidays must be addressed in a Court order, or agreed by the parties.	

§3.01F—SPRING BREAK AND CHRISTMAS BREAK

Each parent is entitled to alternating breaks. Refer to §3.01D for the schedule. Spring break and Christmas break start at 9 a.m. on the first day following the last day of school and end at 9 a.m. on the last day of vacation prior to the resumption of school in the school district where the child resides. This is regardless of the age of each child. Any out-of-town vacation plans should be confirmed by both parents in writing no later than four weeks before the travel.

If parenting time is being exercised pursuant to the Long Distance Parenting Time provisions in §3.02, and the child will be traveling more than 400 miles by car, then the Christmas Break and Spring Break parenting time shall end at 12:00 p.m. on the Saturday before the resumption of school in the school district where the child resides.

§3.01G—SUMMER PARENTING TIME

Each parent is entitled to one half of the summer vacation, with reciprocal parenting time to the other parent. Summer break starts at 6:00 p.m. on the Sunday after the last day of school and ends at 6:00 p.m. on the Sunday prior to the first day of school at 6:00 p.m., in the school district where the child resides. This is regardless of the age of the child. Both parents, in writing, should confirm any out-of-town vacation plans no later than four weeks before the travel.

Parents should work together to develop a summer parenting time plan that works well for the minor children. Some examples of different summer parenting time schedules include:

- Alternative 1: Alternate week (“week on/week off”) parenting time, with the parties exchanging the children at 6:00 p.m. on Sundays.
- Alternative 2: Alternating 14 days periods (“two weeks on/two weeks off”) of parenting time, with the parties exchanging the children at 6:00 p.m. on Sundays.
- Alternative 3: Each parent has one-half of the summer, as set forth in §3.01D.
 - If this option is chosen, then each parent shall have alternate weekend parenting time from Friday at 6:00 p.m. until Sunday at 6:00 p.m. during the other parent’s half of the summer vacation period.

If parties are unable to agree on the summer parenting time plan to be exercised, then Alternative 1 shall apply.

§3.01H—NO HOME FOR OVERNIGHT PARENTING TIME/ WORK SCHEDULE CONFLICTING WITH PARENTING TIME

When parents who do not have a place to house a child overnight, and/or when parents regularly work one day of their weekend, and when the parents are unable to agree otherwise, then the visiting parent shall exercise weekly parenting time during the day on either Saturday or Sunday, from 9 a.m. until 6 p.m. That parent is also entitled to weeknight visitations every Tuesday and Thursday between 6 p.m. and 8 p.m.

§3.02—LONG DISTANCE PARENTING TIME

Parenting time arrangements will usually consist of a schedule which takes into account the needs of the child and the availability of the parent. The standard parenting time guidelines will be adequate for most parenting time situations. However, there are some cases for which the standard guideline must be altered because of the special needs of a parent or child or due to logistical considerations such as distance, residence or other matters. The following considerations are a list of more specialized subjects that may be relevant to a particular

parenting time case.

Long distance parenting time exchanges are those that occur between parties who are over 200 miles apart. (This distance is in “travel miles”, not “as the crow flies”.) When long distances are involved, there is usually less time available for a parent and child to gain access to each other through traditional parenting time. There may also be increased stress on the parent and child related to long distance parenting time transportation. For this reason, Summer, Winter and Spring breaks are usually handled differently.

If parents live more than 200 miles apart and are unable to agree otherwise, the visiting parent shall exercise the following parenting time:

- One-half of Christmas Break, as set forth in §3.01D and §3.01F.
- Every Spring Break, as set forth in §3.01F.
- Summer Break, starting at 9:00 a.m. on the Sunday after school recesses for summer break and ending at 9:00 a.m. seven days prior to the resumption of school in the school district where the children reside.

This schedule is to be followed regardless of the age of each child. The other parent is given reciprocal telephone contact with each child during the visiting parent’s time, either by agreement of the parties or as set forth in §3.01C.

Transportation arrangements should be made at least 30 days in advance of the parenting time. If air travel is considered, the airline rules for child traveling unaccompanied must be followed. There may also be an increased need to share transportation in such cases to allow the maximum amount of parenting time to occur off the road instead of during transportation. Unless your Court order says differently, each parent shares the transportation responsibilities to carry out parenting time pursuant to §3.03 which means that if air travel is involved, the visiting parent would be responsible for the airline travel that occurs at the start of parenting time and the other parent would be responsible for the airline travel that occurs at the end of parenting time. Another option would be for one parent to purchase a round trip ticket and then the parties could share the costs of that ticket equally—if that option is chosen, then the parent who purchased the ticket shall be responsible for providing the other parent with a copy of the ticket and travel itinerary within 24 hours of purchase.

Before requesting a change of domicile for your children, it is important to understand that as part of that change of domicile, the Court may hold you responsible for the increased transportation costs.

REMINDER: Parents cannot change the legal residence of their children to outside the state of Michigan without getting approval from the Court BEFORE moving. Moves more than 100 miles away, must be done in compliance with MCL §722.31 with Court approval BEFORE moving.

§3.03—TRANSPORTATION

The parents shall share transportation. The visiting parent initiates the parenting time by picking up the minor child at the other parent’s residence. The other parent will be responsible for transporting the minor child at the end of the parenting time.

Parents are encouraged to provide their own transportation for parenting time. If the parent cannot personally provide transportation, the parent can designate a fully licensed, insured adult, who is not under the influence of any intoxicant and/or mood-altering substance, to transport the minor child. The child must be familiar with that adult. Identification can be requested prior to release. It is advisable to have the parent send a note, giving consent, with the transporter so there are no misunderstandings.

When a parent has parenting time supervised by a third party, it is the responsibility of that parent to ensure that transportation is supervised as well. When supervised parenting time involves an agency or therapy, it is the non-visiting parent's obligation to transport the child. When supervised parenting time is ordered at an agency or at a therapist's office, both parents should arrive early for parenting time.

§3.03A—CAR SEATS AND AIRBAGS

Car seats are required by law. Each parent is to provide the appropriate car seat. Michigan law requires all passengers to wear seat belts. Children under the age of 12 should NOT be permitted to ride in the front seat of any vehicle equipped with passenger side airbags.

§3.03B—EXCHANGE TIME AND PUNCTUALITY

Child exchange times are set forth in this Guideline. The parties may agree to deviate. An exact time for exchange, other than specified above, should be established and agreed upon by all parties.

Be on time to child exchanges. A parent who anticipates being late should contact the other parent as soon as possible. In cases of unforeseen circumstances a 30-minute delay in picking up or returning the child is allowed. This does not mean that a parent can habitually exercise a pick-up or return time of 6:00 p.m. at 6:30 p.m. **This 30-minute exception is to be used only when absolutely necessary.** A parent should not be early for parenting time as this may cause undue disruption for the child and the other parent.

§3.03C—EXCHANGE LOCATION

The exchanges will occur at the residence of each parent, unless your order specifically states otherwise. Both parents may mutually agree to set a neutral location for child exchanges. If there is substantiated assaultive, intimidating, or harassing behavior which occurs between any adults in the presence of the minor child at the time of any transfer for visitation, both parents have a right to petition the Court to set a neutral location for pick up/drop off.

§4.00—GENERAL PROVISIONS

The following issues are those that were identified as the most frequently occurring issues concerning parenting time which one parent or the other parent may need addressed.

§4.01—CONTACT INFORMATION

Each parent must provide the other parent with a home phone number or a residential home address of where the children will be staying during their parenting time with each parent. In the event either parent fails or refuses to do so, then his or her parenting time shall be forfeited without opportunity for make-up until such time as the parent has complied with this provision. Both parents need to notify the FOC in writing with any changes in address, phone, employment, etc.

In the event either parent leaves the state of Michigan with a minor child of the parties for a continuous period of more than 24 hours, that parent shall provide the other parent with a basic itinerary of the trip and a phone number through which they can be contacted in emergency circumstances only.

§4.02—ACTIVITIES OF A CHILD

The parties should cooperate with each other when enrolling the child in extracurricular activities to ensure that the activities do not interfere with the ability of the child to exercise parenting time. Neither parent should enroll the child in excessive activities which serve to interfere with the other's ability to spend time with the child.

Neither parent shall arrange for any appointment or activity for the minor children during the other parent's time with the children without the express permission and agreement of the other parent.

Each parent shall facilitate each minor child's attendance and participation in school-related performances, and any other activities (e.g. organized sports, music or other lessons, church) in which a minor child is involved through the mutual agreement and permission of each parent. If the minor children were involved in these activities during the parties' relationship with each other and the child wishes to continue these activities, each parent should try to accommodate the child's continued participation in the activity. Parents should keep one another advised of all of the child's activities so the other parent has the opportunity to attend or participate in the activity, even if the activity occurs during the parent's off schedule.

When supervised parenting time is ordered, the child should not be enrolled in activities that would interfere with the supervised schedule.

As children grow, they are involved in different activities. As their developmental needs change, both parents need to be flexible with their parenting time schedule and allow room for adjustment. Because continuity in activities is important, parents must be willing to alter the parenting time schedule.

§4.03—CLOTHING

Each parent should be responsible for providing adequate clothing for the child sufficient for the weather and events in which the child engages. When occasional need or cost issues favor having only one item, such as seasonal clothing, snow boots or swim wear, these items should be transported back and forth with the child. This can be extended to particular toys or items for which a child has a special fondness (a blanket, toy etc.). Any clothing that is with the child at the beginning of parenting time should be returned clean, with the child.

§4.04—SUMMER SCHOOL

Summer school necessary for the child to pass to the next grade **MUST** be attended. If summer school is going to interfere with parenting time, written verification from the school regarding the necessity of summer school enrollment must be provided to both parents and the FOC.

§4.05—ALLEGATIONS OF CHILD ABUSE OR NEGLECT

The FOC does not have the legal authority to handle neglect and abuse cases. Information regarding suspected child abuse or neglect should be immediately reported to Children's Protective Services at the Department of Human Services (DHS) and a local law enforcement agency in the county where the children reside. If parenting time is withheld pending investigation, you must sign a release at the DHS to have information sent to the FOC and you must come to the Court and file a motion or petition asking the Court to modify its orders. Intentionally making a false report of child abuse or neglect knowing that the report is false is a misdemeanor or felony, depending on the seriousness of the alleged crime reported. *See MCL 722.633.*

§4.06—ACCESS TO A CHILD'S RECORDS

A parent, regardless of the custody arrangement, shall not be denied access to records or information concerning his or her child, unless prohibited by a protective order. Records of information include medical, dental, school records, day care provider's records, and notification of meetings regarding the child's education. *See MCL 722.30*. Both parents have the responsibility to take an active role in researching and reviewing these records.

§4.07—CHILD'S MEDICAL NEEDS

A parent should provide all necessary medication and doctor's written instructions to the parent exercising parenting time. The parent exercising parenting time should administer all medications according to the doctor's written instructions. If the child requires medical attention during parenting time, the parent should obtain treatment for the child and notify the other parent as soon as possible.

In the event special equipment is necessary for the child's health, the parent exercising parenting time should make arrangements to learn the use of the equipment and arrange for the equipment's transfer. When a parent has supervised parenting time, the supervisor should receive adequate training and instruction concerning any special needs the child may have and receive all necessary medication and doctor's written instructions.

Parents need to discuss the general health care needs of the child and to advise each other of illness and treatment requirements. It is imperative that all knowledge of medical treatment be shared, for example, in a situation where follow up treatment may have to be provided by the parent who did not take the child initially to the doctor.

§4.08—SAFETY ISSUES

Each party is responsible to ensure the safety and well-being of the child. All written doctor's instructions including, but not limited to, those concerning exposure to certain foods, plants, animals, smoke and other elements should be followed. When supervised parenting time is ordered, the supervisor should also follow such safety precautions.

§4.09—PERSONAL PROTECTION ORDERS

A Personal Protection Order (PPO) should not be used to deny custody or parenting time. If the parties have a PPO, parenting time exchanges shall occur (if permitted by the order) in a manner which ensures the order is not violated. In order to provide appropriate safety when a PPO is in place or when a documented history of abuse exists, all exchanges should occur in a public place, at a designated neutral exchange site, by a third party, or at a supervised parenting time facility.

§4.10—APPROPRIATE BEHAVIOR AT PARENTING TIME EXCHANGES

Neither parent should use the parenting time exchange as an opportunity to argue with one another, exchange bills, discuss support issues, discuss parenting time or to behave disrespectfully toward the other parent or anyone else present at the child exchange.

§5.00—COMMON EXCUSES FOR DENYING PARENTING TIME

Both parents should offer encouragement to prepare the child emotionally for all parenting time. Neither parent should use the parenting time as an occasion to cause concern or anxiety to the child. Both parents should use all reasonable means to ensure that the parenting time occurs provided that no excessive force is used. In general, the following are not appropriate reasons for denying parenting time.

- **The child is sick.** Each parent has a responsibility to care for the child in sickness and in health. The only time a denial should take place is by a doctor's written order, with make-up the following weekend. All medications should be provided to the visiting parent in the original container with a note stating when the last dose was given. All medications should be returned to the other parent at the conclusion of the parenting time.
- **The child has other plans/does not want to go/is not home.** Both parents are responsible to see that the child is available for parenting time. In no event shall a child be allowed to make the decision as to whether scheduled parenting time takes place, regardless of the child's age.
- **A parent does not want the child to go.** Both parents are required to obey the court order.
- **The other parent failed to meet preconditions set solely by the party allegedly denying parenting time.** Both parents are required to obey the court order. A party cannot add conditions unilaterally (on their own). If a party wants to change the provisions of the order, a new order must be sought.
- **The child fusses when picked up by the other parent.** This is common for many children. Take care not to jump to conclusions; such behavior does not necessarily indicate problems with the other parent.
- **Lice infestation.** This is not a reason for denial of parenting time. Document each incident and if there are repeated occurrences (i.e. 2-3 within one year), you may want to file a petition with the court to suspend parenting time until the problem is resolved. The parent whose home has the infestation is expected to contact a physician or a local drug store for medication and information regarding treatment for lice.
- **The visiting parent arrives intoxicated for pickup.** Suggest that the parent follow you to the nearest police department where they can voluntarily take a breathalyzer test to rule out intoxication. Taking a breathalyzer test is voluntary—it is not mandated by this guideline and cannot be mandated by the other parent. The availability of a breathalyzer test will depend on consideration of law enforcement resources which include, but are not limited to, officer availability and discretion. An officer may use his or her discretion in deciding whether or not to administer a breathalyzer test to a parent. Neither parent should be under the influence of any intoxicant or any non-prescribed mood-altering substance during any parenting time with a minor child. If intoxication or use of legal or illegal drugs becomes an ongoing problem, you can bring this to the Court's attention by filing a motion asking the Court to take some sort of action.
- **The child is grounded for the weekend.** Parenting time cannot be denied based on this. If a child is to be disciplined in this manner, the grounding should occur during the time of the parent imposing the discipline. Of course, parents are encouraged to communicate and work cooperatively on discipline and other parenting issues.

- **The weather is bad.** Parenting time should be forfeited only when a road emergency exists; e.g., when state police or the county sheriff advises motorists to stay off the roads. Make-up parenting time should occur the following weekend.
- **The parent obligated to pay child support is behind on his/her support obligation.** Child support and parenting time are separate issues. A parent cannot withhold parenting time due to non-payment of child support; likewise, the parent obligated to pay child support cannot withhold payment of child support due to denial of parenting time.
- **Religious reasons.** Both parents are required to obey the court order. A party cannot add conditions unilaterally (on their own). If a party wants to change the provisions of the order, a new order must be sought.

§6.00—SOME DO’S AND DON’TS OF CO-PARENTING

- Do maintain open communication with the other parent about your children.
- Do let your children know it is okay to love the other parent.
- Do tell children - again and again - that the parents’ break up is not their fault.
- Do employ consistent policies about homework, television and social activities between households.
- Do keep to a regular schedule and have steady contact with the children as much as possible.
- Do develop your own support system of family, friends, churches, etc.
- Do spend quality time with your child. Minimize the time that a third person watches your child.
- Don’t speak badly of the other parent.
- Don’t communicate with the other parent through your children or involve your children in adult conflicts.
- Don’t tell a child that he or she has the right to say where they want to live. They do not. The Judge considers many different factors before making that determination and a child’s wishes are only one consideration.

§7.00—ENFORCEMENT AND DISPUTE RESOLUTION

You were divorced, or perhaps were never married to the other parent, but you are still BOTH parents to your children. Each parent should be flexible and recognize that you and your child’s schedules change. This will sometimes mean discussing variations of the normal parenting time schedule.

If there is a dispute over parenting time, you should do the following:

1. Read the last parenting time order. The Court speaks through its written orders. If it is not written in the Court order, then it is not the order of the court. If there is no parenting time order, then the FOC cannot assist you in enforcing parenting time. It is each parent’s responsibility to take the necessary steps to obtain or change a court order.

2. Make an effort to resolve issues directly with the other parent, either by telephone or in writing. The communication should be a sincere effort to resolve the issue, keeping the best interests of the children in mind. “We cannot talk to each other” is not an excuse to avoid contact with the other parent.
3. An attempt must be made to pick up the child regardless of threats to deny the parenting time.

If you continue to have problems with parenting time, and you want advice about what you should do, you should talk to an attorney about your legal options.

§7.01—PARENTING TIME COMPLAINTS TO THE FOC

The FOC is required to provide enforcement services regarding Orders for parenting time. The Friend of the Court Act requires that upon receipt of a written complaint stating the specific facts alleging a violation of a parenting time or custody order, the FOC shall initiate enforcement proceedings. *See MCL 553.511b.*

The Cass County FOC has a form available for this purpose, entitled *Complaint for Parenting Time*. The form is available at the FOC office and on the FOC website, <http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt/DownloadableForms.aspx>.

When completing a *Complaint for Parenting Time*, be sure to provide specific information about the date(s), time(s), and circumstances of the alleged denial of parenting time or dispute. A Complaint for Parenting Time must be filed within 56 days after an alleged, wrongfully denied parenting time. Upon receipt of a Complaint for Parenting Time, the FOC will determine the appropriate response to the complaint.

The FOC normally must initiate enforcement if it receives a written complaint stating specific facts which show a violation of the custody or parenting time Order. However, the FOC’s office may decline to respond to the alleged violation if (1) it occurred more than 56 days before the complaint is made or (2) the complaining party has made two or more complaints found by the Court to be unwarranted and has failed to pay any costs assessed in those actions.

The FOC initiates enforcement by sending a notice of alleged denial to the accused party within 14 days of when the office receives the complaint. The notice, entitled 21-Day Notice to Alleged Violator of Custody of Parenting Time Provisions, advises the accused party that a **FAILURE TO RESPOND IN 21 DAYS TO THE OFFICE OF THE FRIEND OF THE COURT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED.**

The date of the postmark will be used to determine whether either party has complied within the time limits. The fifty-six (56) day time period commences the day following the alleged denial of parenting time. If the other parent makes a timely reply with an explanation as to why she or he feels time was not wrongfully denied, or if the FOC believes that the parenting time Order has been violated, the office may: (1) Schedule a meeting with the parties and attempt to resolve the dispute; or (2) Refer the parties to a mediator if they agree to mediation.

If either of the previous two options is not appropriate or successful, the FOC shall do one or more of the following:

- (1) Apply a local make-up parenting time policy. Each office is required to have such a policy. See §7.02 below for this Court’s make-up policy.

(2) File a Motion and Order to Show Cause and schedule a contempt of Court hearing. At the time of this hearing, the parent who is ordered to appear in Court is required to show “good cause” why (s)he is not obeying the Court’s Order for parenting time. If the Court decides the parent is in violation of the Court Order, the Court may impose penalties including make-up parenting time, fines, license suspension and/or jail time.

(3) Petition the Court for a change in the existing parenting time Order.

If the FOC determines that parenting time was not wrongfully denied, both parties shall be notified and no further action shall be taken by the FOC.

§7.02—PARENTING TIME MAKE-UP POLICY

A parent who is deprived of parenting time by the other parent is entitled to make-up parenting time. The parenting time to be made up shall be the same type and length of time as the parenting time missed. For example, make-up parenting time will be on a holiday if the missed parenting time was a holiday, a weekend if the missed parenting time was a weekend, and a weeknight if the missed parenting time was a weeknight.

The parent denied parenting time may choose when to make-up the missed parenting time, but must do so within six months of the determination that the other parent wrongfully denied parenting time, unless otherwise specified in a court order. The visiting parent must provide the other parent 21 days’ notice prior to the make-up parenting time, unless otherwise specified in a court order. Furthermore, the visiting parent may not choose make-up parenting time that will prevent the child’s attendance at previously scheduled organized activities, such as school activities and athletics.

If a parent fails to exercise parenting time, the schedule is not adjusted and future parenting time occurs as if no time was missed. The same general provision applies in a case involving an order for supervised parenting time. However, the parent that failed to appear for the supervised parenting time may be responsible for any fee assessed by the agency for cancellations without an appropriate notice. In addition, this action may adversely affect the supervised parenting time schedule and the parenting time progression.

Parents must request make-up parenting time before make-up parenting time can be considered or ordered.

§7.03—MEDIATION

Mediation is an alternative way to resolve custody and parenting time disputes without having a court hearing. This process may be free of charge and can result in the entry of a new order. Contact the FOC or an attorney for more information.

The FOC is required to make mediation services available to the parties to a case directly or by contract. *See MCL 552.513.* Mediation must be provided by an individual who meets statutory requirements to be a mediator because of their education, experience and training. In Cass County, this service is provided through contracted services.

The FOC is required to prepare a consent order if an agreement is reached by the parties at mediation on issues of custody and parenting time. With limited exceptions, everything that occurs in the mediation process is considered confidential and no person may testify to what was said during mediation.

In addition to domestic relations mediation, the FOC is required to attempt to resolve disputes arising from entry of an ex parte interim order for parenting time if the party objecting to the ex parte interim order for parenting time files a timely objection. See MCL 722.27a(12) and (13).

§7.04—AGREEMENTS

If you and the other parent reach an agreement to modify custody or parenting time, you may fill out and submit to the Court a written Stipulation. Stipulation forms may be obtained from the FOC office or online at the FOC website. Forms should be filled out by both parties and submitted to the FOC for review. A Stipulation that modifies custody must be scheduled for a hearing before the Attorney Referee in order to determine whether the proposed modification is in the child(ren)'s best interests. You may wish to contact an attorney to prepare the agreement and to assure that all aspects of the agreement are fully covered by the Stipulation you are submitting to the Court.

§7.05—HIRING AN ATTORNEY

In legal matters, it is always best to be represented by an attorney. If you need a motion filed or if you want your order changed, you can contact an attorney to prepare your motion and/or to give you legal advice about your situation. The FOC cannot refer you to a particular attorney.

§7.06—FILING YOUR OWN MOTION(S)

You have the right to file your own motion(s) and to represent yourself in Court without an attorney. If you choose to represent yourself in Court without an attorney, please understand that you will be held to the same standards as an attorney, which means that you need to make yourself aware of Court Rules, statutes and case law applicable to your case. Form motions and pleadings are available from the FOC and on its website at: <http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt/DownloadableForms.aspx>

§8.00—ADDITIONAL RESOURCES

The FOC has the following information available on request:

- *S.M.I.L.E. (Start Making It Livable For Everyone)*. This is a 24-page booklet and/or a 45-minute videotaped program for separating or divorced parents with three goals:
 - to provide information to help parents better understand the effects of divorce;
 - to help parents understand the needs of their children; and
 - to promote children's healthy adjustment to divorce.
- *Promoting Positive Relationships Between Parents and Young Children When There Are Two Homes*. This is a 34 page booklet designed to assist parents in making decisions about shared parenting time when there are very young children involved (infancy through three years of age).

You can find more information about the FOC, laws, model forms and more at:

<http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt.aspx>

NOTE: The FOC staff and other Court personnel may not provide you with legal advice or refer you to a particular attorney or law firm.