

FRIEND OF THE COURT ENFORCEMENT OF PARENTING TIME ORDERS:

What to Do if You are Denied Parenting Time



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

What Should I do When I Am Denied Parenting Time?

A party who believes he or she has been denied court ordered parenting time should do all of the following:

- **Make sure you were denied parenting time:** Review your most recent court order for parenting time to make sure you were actually denied parenting time. Copies of your court order can be obtained from the county clerk's Office. The county clerk may charge a fee for copying the order.
- **Submit your complaint:** Describe the parenting time violation in writing and submit it to the friend of the court (FOC) office. This written document is known as your parenting time "complaint." Typically it is best to include the specific dates and times the parenting time violation occurred. Before submitting your complaint, it is also best to contact the FOC office to find out if they require additional information to be included or have any other important instructions.
- **Make sure the complaint is submitted on time:** Your written complaint must be submitted to the FOC within *56 days* of the parenting time violation.
- **Make a copy of the complaint:** It is always best to keep your own copy of the submitted written complaint.

What Will the FOC Do?

Once the FOC receives a written complaint alleging a parenting time violation, it will:

- **Verify if it is a valid complaint:** The FOC will check to make sure the submitted parenting time complaint is valid by completing the following tasks:
 - **Determine if a violation occurred:** The FOC will review a party's complaint with the court order to determine if the alleged denial of parenting time violated that order. The FOC may not be able to enforce certain complaints due to the way some court orders are written.
Example: Some orders state that parenting time will be as agreed upon by the parties. The FOC may be unable to determine if the denial in the complaint violates the order if it does not know what the parties agreed to.
- **Checking previous complaints:** The FOC will check that the party submitting the complaint has not already submitted two or more unwarranted complaints where costs were assessed and are unpaid.
- **Complaint submitted on time:** The FOC will make sure the complaint was submitted within *56 days* from the date the *violation occurred*.
- **Send a copy of the complaint to the other party:** If the FOC determines a party has submitted a valid parenting time complaint, it will send the other party a copy of the complaint within 14 days of receiving it.
- **Select an enforcement method:** If the FOC determines that a party has a submitted a valid parenting time complaint, it may use one or more of the following methods to enforce parenting time:

The FOC Said There Was A Parenting Time Violation- Now What?

Makeup Parenting Time: Many FOCs will begin parenting time enforcement by sending a notice to both parties informing them that the party who denied parenting time is required to provide the other party makeup parenting time. Either party may object to the makeup parenting time by submitting a written objection to the FOC within 21 days after the notice is sent. If a party objects to makeup parenting time, the FOC will select another enforcement procedure. If neither party objects, the FOC will send another notice to the parties indicating the makeup parenting time must occur.

Using Makeup Parenting Time. The makeup parenting time must occur within one year, and must be the same as the parenting time that was denied.

Example: A party gets 1 weekend of makeup parenting if 1 weekend was denied. The wrongfully denied party is required to notify both the FOC and the other party in writing not less than 1 week before using makeup weekend or weekday parenting time and not less than 28 days before making use of makeup holiday or summer parenting time.

The wrongfully denied party is required to notify both the FOC and the other party in writing that they intend to use the makeup parenting time. For weekend and weekday makeup parenting time, the notice should be sent at least one week in advance. For holiday or summer makeup parenting time, the notice should be sent at least 28 days in advance.

Schedule Mediation: The FOC may schedule mediation. During mediation, the parties meet with a trained mediator or an individual appointed by the court who helps the parties resolve their parenting time dispute. Mediation may be used for significant or less significant parenting time issues. If an agreement is reached by the parties, the FOC employee will prepare their agreement and ask the judge to sign the modified order. If the parties do not reach an agreement, another enforcement procedure may be selected by the FOC office.

Schedule a Joint Meeting: The FOC may schedule a joint meeting. At a joint meeting, the parties meet with FOC staff to discuss solutions to the alleged parenting time violation. The parties may be asked to attend a joint meeting if the violation includes an issue such as pickup/drop-off times, minor schedule changes, or the return of a child's belongings after parenting time. If the parties reach an agreement, the FOC employee prepares the agreement and asks the judge to sign it. If the parties do not reach an agreement, FOC staff may still submit its recommendation to the court to become an order. The parties are then sent the recommendation. If either party disagrees with the recommendation, he or she must submit a written objection to the FOC within 21 days after it was sent and a judge or referee will hold a hearing to resolve the parenting time dispute.

Schedule a Civil Contempt Hearing: For more serious violations, the FOC may schedule a hearing in court in front of a judge or referee. These hearings are often called civil contempt or show cause hearings. These hearings might be used after multiple violations by a party or when an alleged violation is very serious in nature and must be addressed by a referee or judge. At this hearing, the alleged violating party has an opportunity to explain to the judge or referee the reasons for violating the court order, or prove the violation did not occur. If a judge or referee finds that a party violated the court order *without good cause*, they could do any of the following:

- Place additional terms in its order;
- Modify the parenting time order (if already requested by one of the parties);
- Order makeup parenting time;
- Order a fine of \$100 or less;
- Commit the party to jail or alternative to jail with work release (not more than 45 days for the first contempt finding and no more than 90 days for any additional contempt finding);
- Order the parent to participate in a community corrections program;
- Place the parent under the supervision of the FOC;
- The judge or referee may require make up parenting time at the contempt hearing.

If the party fails to provide makeup parenting time or ongoing parenting time, the judge or referee may suspend that party's work, driver's, recreational, or sporting licenses.

FOC Requests for Modification of Parenting Time: The FOC may ask the court to modify the parents' parenting time order. The FOC typically only requests modification when it is clear the existing order is not good for the parties or the child, and the parties do not have the ability or opportunity to do this on their own.

I Want to Change the Current Parenting Time Order - How Do I Do That?

If a party wants to change the current parenting time order, the party can start by doing any of the following:

- Contacting the other party to see if he or she would agree to change the parenting time order. If the parties reach an agreement, the FOC may prepare a proposed court order that reflects that agreed modification. Once signed by the judge it becomes a court order.
- Requesting FOC mediation; if the parties agree to change the current order, that agreement can be signed by the judge to become a modified parenting time order.
- Contacting an attorney who may then file a motion to change the order on the party's behalf.
- Filing a motion without the assistance of an attorney. The parenting time motion form (FOC 65) is available at: <http://courts.mi.gov/Administration/SCAO/Forms/courtforms/domesticrelations/custody-parentingtime/foc65.pdf>.

Please visit the following website for additional parenting time information on the Michigan Parenting Time Guidelines:

[http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/pt_gdlns.pdf#search="parenting time guideline"](http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/pt_gdlns.pdf#search=\)

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