

Support, Divorce, Custody- Frequently Asked Questions

How long will it take me to get a divorce?

There is a minimum waiting period from the date of filing a complaint for divorce. Divorce cases without minor children require a minimum waiting period of 60 days. Divorce cases involving minor children require a minimum waiting period of 6 months. However, a divorce will be finalized after the waiting period only if all issues have been resolved, including custody, parenting time, property division, etc.

How can I get divorced?

You may file for divorce in the county in which you live, provided you have lived there for 10 days and 180 days in the state. Do it yourself paperwork is available at the **Legal Self Help Center** in the Grand Haven Courthouse. **Legal Aid of Western Michigan** may be able to provide advice or representation through their hotline **888-783-8190**. The **Grand Rapids Bar Association** may also be able to provide with you with a referral **616-855-0273**.

How can I file for child support?

A person who has a minor child living with him or her, who is separated from the child's other parent, with no divorce or paternity cases pending, may seek a family support order.

The Prosecuting Attorney's Office can initiate a family support order through DHS. This is a free service, and will be done automatically if the custodial partner is receiving any state assistance. Contact the **DHS Office of Child Support at 1-866-540-0008** for more information.

Do-it-yourself paperwork may also be obtained through **the Legal Self Help Center**.

What are the differences between legal custody and physical custody?

Legal Custody: relates to who has the right to make major decisions about the child. Having legal, or joint legal custody enables a parent to do things like consent to a major medical treatment and gain access to school records. Generally, both parents will share joint legal custody, meaning that both parents have the right to share in making major decisions about the child.

Physical Custody: refers to where the child physically resides. Physical custody can be joint (shared) or sole (primary). Joint physical custody usually describes a situation where the child spends a significant amount of time in each parent's home. Sole physical custody usually describes a situation where the child lives primarily with one parent, but has visits with the other.

How do I obtain custody?

To obtain custody, a petition must be filed. If the parties are married, it's easiest to file a custody petition when also filing for divorce. If the parties are not undergoing a divorce, a petition may be filed anyway (either by attorney or through the **Legal Self Help Center**). If an order for custody already exists, a motion to change custody must be filed and the petitioner must be able to show the court that there has been a "change of circumstances."

In extreme situations, an Ex Parte Order regarding custody may be granted. To obtain an Ex Parte Order, the general rule is that a situation must exist where "irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself with precipitate adverse action before an order can be issued." Otherwise, a person has a right to be notified that you are seeking temporary custody and to have a hearing before a decision is made by the Judge.

What if the parents cannot agree on custody?

Parents are encouraged to reach their own agreements regarding custody. When parents cannot, a judge must decide by considering all of the following factors in the Michigan Child Custody Act (which will most often be investigated by the Friend of the Court:

- a) The love, affection, and other emotional ties existing between the parties involved and the child.
- b) The capacity and disposition of the parties involved to give the child love, affection, and guidance, and the continuation of the educating and raising of the child in its religion or creed, if any.
- c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care, and other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- f) The moral fitness of the parties involved.
- g) The mental and physical health of the parties involved.
- h) The home, school, and community record of the child.
- i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.
- j) The willingness and ability of each of the parents to facilitate and encourage and lose and continue parent-child relationship between the child and the other parent.
- k) Domestic violence, regardless of whether the violence was direct against, or witnessed by the child.
- l) Any other factor considered by the court to be of relevance to a particular child custody dispute.

What can I do if I am being denied parenting time?

File a written complaint with the Friend of the Court. If the Friend of the Court believes that the parenting time order has been violated, it shall start enforcement action.

My order for parenting time states that the other parent has “reasonable visitation or parenting time.” What does this mean?

As parents, you have a responsibility to arrange a schedule of parenting time, which is reasonable based on the best interest of the child and your family situation. If you would like a more specific parenting time order, you can file a petition to change your order.