

Contempt for Custody or Parenting Time Violation Checklist

On receipt of an alleged custody or parenting time violation, the Friend of the Court (FOC) *may*, in response to the allegation, among other options, commence civil contempt proceedings. [MCL 552.641\(1\)](#). However, if the FOC determines that a procedure authorized under [MCL 552.641](#) for resolving a parenting time dispute, other than a civil contempt proceeding, is unsuccessful in resolving the dispute, the FOC *must* commence a civil contempt proceeding to resolve the parenting time dispute.¹ [MCL 552.644\(1\)](#).

The FOC commences a civil contempt proceeding by moving for an order to show cause why the party should not be held in contempt. See [MCR 3.208\(B\)\(1\)](#). The FOC must provide the parent with a copy of the order to show cause by personal service, ordinary mail, or another manner permitted by [MCR 3.203](#). [MCR 3.208\(B\)\(2\)](#). Notice must include the allegations on which the dispute is based, possible sanctions if the parent is found in contempt, and the parent's right to request a modification of the parenting time schedule within 21 days after the date of notice as provided in [MCL 552.645](#).² [MCL 552.644\(1\)](#); [MCR 3.208\(B\)\(3\)](#).

Consolidated hearing *must* be held if motion to modify parenting time is timely filed UNLESS good cause is shown on the record to keep the hearings separate. If hearings are held separately, the modification hearing *MUST* be held before the contempt proceeding. See [MCL 552.645\(3\)](#).

The show cause hearing cannot be held until the passage of seven days since the order to show cause was served on the party or nine days after mailing, if the party was served by ordinary mail. [MCR 3.208\(B\)\(4\)](#).

¹ The FOC may inactivate its case and would not be responsible for enforcement of custody or parenting time violations under the Support and Parenting Time Enforcement Act, [MCL 552.601 et seq.](#), "when a case is no longer eligible for federal funding because a party fails or refuses to take action to allow the [FOC's] activities to receive federal funding or because the federal child support case is closed pursuant to Title IV, Part D of the Social Security Act, [42 USC 651 et. seq.](#)" [MCR 3.208\(D\)](#).

² For a checklist on the modification of parenting time, see the Michigan Judicial Institute's [Modification of Parenting Time Checklist](#).

The court may hold the show cause hearing without the FOC unless a party presents evidence that requires the court to receive further information from the FOC's records before making a decision. [MCR 3.208\(B\)\(5\)](#).

Procedures to follow during the show cause hearing:

- Ensure proper notice has been provided. See [MCL 552.644\(1\)](#); [MCR 3.208\(B\)\(2\)](#).
- If the parent FAILS to appear at the show cause hearing,
 - MAY issue a bench warrant³ requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. [MCL 552.644\(5\)](#); [MCR 3.208\(B\)\(5\)](#).
 - If a bench warrant is issued, MAY enter an order that a law enforcement agency render any vehicle owned by the parent temporarily inoperable, by booting or another similar method, subject to release on deposit of an appropriate bond. [MCL 552.644\(9\)](#).
 - Unless good cause is shown on the record, MUST order parent to parent to pay costs of the hearing, the issuance of the bench warrant, the arrest, and any later hearings. Costs ordered constitute a judgment at the time the order is entered. [MCL 552.644\(7\)](#).
- If the parent APPEARS, determine whether either parent violated the parenting time order without good cause.⁴
 - If YES, find that parent in contempt, AND consider doing one or more of the following:
 - require additional terms and conditions consistent with the court's parenting time order. [MCL 552.644\(2\)\(a\)](#).
 - modify the parenting time order to meet the best interests of the child (if modification of parenting time was requested, and notice provided to both parties and a hearing held). [MCL 552.644\(2\)\(b\)](#). See

³ If the parent is arrested under the bench warrant, the court MUST *immediately* hold a hearing on the merits of the bench warrant. See [MCL 552.644\(5\)](#) (within 48 hours). If a hearing CANNOT be held immediately after the parent's arrest, the parent *may* be released if a bond in the amount of fines, costs, and sanctions imposed under [MCL 552.644](#) and any additional amount determined necessary to secure the parent's appearance is deposited with the court. [MCL 552.644\(5\)](#).

⁴ "For the purpose of [[MCL 552.644\(2\)](#)], 'good cause' includes, but is not limited to, consideration of the safety of a child or party who is governed by the parenting time order." [MCL 552.644\(3\)](#).

Shade v Wright, 291 Mich App 17, 28 (2010) (expansive definition of proper cause/change of circumstances appropriate for determinations regarding parenting time when a modification does not alter established custodial environment).

- order that makeup parenting time be provided for the wrongfully denied parent to take the place of wrongfully denied parenting time. [MCL 552.644\(2\)\(c\)](#).
- order the parent to pay a fine of not more than \$100. [MCL 552.644\(2\)\(d\)](#). A fine ordered constitutes a judgment at the time the order is entered. [MCL 552.644\(7\)](#).
- commit the parent to the county jail or an alternative to jail. [MCL 552.644\(2\)\(e\)](#).
- commit the parent to the county jail or an alternative to jail *with* the privilege of leaving the jail or other place of detention during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his/her place of employment. [MCL 552.644\(2\)\(f\)](#).
- condition a suspension of license for a parent's occupational license, driver's license, recreational, and/or sporting license on noncompliance with an order for makeup and ongoing parenting time. [MCL 552.644\(2\)\(g\)](#).
- order the parent to participate in community corrections program established as provided in the Community Corrections Act, [MCL 791.401 et seq.](#), if available. [MCL 552.644\(2\)\(h\)](#).
- place the parent under the supervision of the office for a term fixed by the court with reasonable conditions, including one or more of the following:
 - participation in a parenting program.
 - participation in drug or alcohol counseling.
 - participation in a work program.
 - seeking employment.
 - participation in other counseling.

- continuing compliance with a current support or parenting time order.
- entering into and compliance with an arrearage payment plan.
- facilitating makeup parenting time. [MCL 552.644\(2\)\(i\)](#).
- If parent is found in contempt and NO sanctions under [MCL 552.644\(2\)](#) are issued, state on the record the reason why. [MCL 552.644\(3\)](#).
- If there is a finding of a party to a parenting time dispute acting in bad faith,
 - MUST order a sanction of not more than \$250 for the first offense and not more than \$500 for the second, and not more than \$1,000 for the third or subsequent offenses. [MCL 552.644\(6\)](#). A sanction ordered constitutes a judgment at the time the order is entered. [MCL 552.644\(7\)](#).
 - MUST order the party to pay the other party's costs. [MCL 552.644\(8\)](#).

Duration of Commitment under Commitment Order. A commitment MUST not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt. [MCL 552.644\(4\)](#).

The committed parent must be released if there is reasonable cause to believe that the parent will comply with the parenting time order. [MCL 552.644\(4\)](#).

Violation of Commitment Order. If the custodial parent is committed to jail or an alternative to jail *with privileges of release* under conditions set out under [MCL 552.644\(2\)\(f\)](#) and the parent

- violates those conditions, the court MUST commit the custodial parent to the county jail without the privileges for the balance of the period of the commitment imposed by the court. See [MCL 552.646\(1\)](#).
- fails to return to the place of confinement within the time prescribed, the custodial parent MUST be considered to have escaped from custody and MUST be found guilty of a misdemeanor, punishable by imprisonment for not more than one year. See [MCL 552.646\(2\)](#).

Suspension of License. If the parent fails to comply with the makeup and ongoing parenting time schedule, find the parent in contempt and,

after notice and an opportunity for a hearing, MAY suspend any of the parent's licenses with respect to which the order under [MCL 552.644\(2\)\(g\)](#) was entered and proceed under [MCL 552.630](#). [MCL 552.645\(1\)](#).

On entry of a license suspension order, MAY order a makeup parenting time schedule if the parent demonstrates a good faith effort to comply with the parenting time order. If the court orders a makeup parenting time schedule, enter an order rescinding the suspension order that is effective as provided in [MCL 338.3434](#) or [MCL 324.43559](#). [MCL 552.645\(2\)\(a\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

