

Establishing Parenting Time Checklist

If a child custody dispute is raised as an original action under the Child Custody Act (CCA), [MCL 722.21 et seq.](#), or incident to another action, the court may, among other options, provide for reasonable parenting time of the child by the parties involved. See [MCL 722.27\(1\)\(b\)](#). [MCL 722.27a](#) governs parenting time of the child by the parents. [MCL 722.27\(1\)\(b\)](#).

If a party seeks to establish a parenting time order that involves a party or matters outside of Michigan, the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), [MCL 722.1101 et seq.](#), applies. Refer instead to the Michigan Judicial Institute's [Determine/Modify Interstate Child-Custody Dispute Checklist \(Preliminary Matters\)](#) and [Determine/Modify Interstate Child-Custody Dispute Checklist \(Hearing\)](#), for the appropriate procedures.

In establishing parenting time of a child, make the following inquiries and determinations:

- Ensure proper service.
- Consider, evaluate, and determine the *best interests of the child*, (MUST presume the best interests of a child is to have a strong relationship with both parents). See [MCL 722.27a\(1\)](#). See [MCL 722.23](#) for the *best interests of the child* factors.
- If the child's parents AGREE on parenting time terms, ORDER the parenting time terms agreed on *unless* it is determined on the record by clear and convincing evidence that the parenting time terms are not in the *best interests of the child*. [MCL 722.27a\(2\)](#). See [MCL 722.23](#) for *best interests of the child* factors.
- Determine the frequency, duration, and type of parenting time to be granted:
 - MUST grant a parent parenting time in a frequency, duration, and type reasonably calculated to promote a

strong relationship between the child and the parent. See [MCL 722.27a\(1\)](#).

MAY consider the following factors:

- The existence of any special circumstances or needs of the child.
- Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.
- The reasonable likelihood of abuse or neglect of the child during parenting time.
- The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.
- The inconvenience to, and burdensome impact or effect on, the child of traveling for purposes of parenting time.
- Whether a parent can reasonably be expected to exercise parenting time in accordance with the court order.
- Whether a parent has frequently failed to exercise reasonable parenting time.
- The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter must not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.
- Any other relevant factors. [MCL 722.27a\(7\)](#).

Determine whether to grant parenting time of a child:

DENY parenting time if:

- the proceeding involves a child who is conceived as the result of acts for which one of the child's biological parents (offending parent) is convicted of certain types of criminal sexual conduct (CSC) or is found by clear and convincing evidence in a fact-finding hearing to have committed acts of nonconsensual sexual penetration** (this does not apply if, after the date of the conviction or the fact-finding hearing, the biological parents cohabit and

establish a mutual custodial environment for the child). [MCL 722.27a\(4\)](#); [MCL 722.27a\(19\)](#).

- If the offending parent is bringing the parenting time action, he/she may present an affirmative defense regarding the conviction or clear and convincing evidence presented under [MCL 722.27a\(4\)](#). [MCL 722.27a\(5\)](#).
- an individual is convicted of certain types of CSC and the victim is the individual's child** (no parenting time with the child-victim or his/her sibling, unless both the child's other parent and, if the court considers the child or sibling to be of sufficient age to express his/her desires, the child or sibling consent to the parenting time). [MCL 722.27a\(6\)](#).
- a parent would be exercising parenting time in a country not a party to the Hague Convention on the Civil Aspects of International Child Abduction** (unless both parents provide written consent otherwise).¹ *Safdar v Aziz*, 327 Mich App 252, 257 (2019), citing [MCL 722.27a\(10\)](#).
- GRANT parenting time (a child has a right to parenting time with a parent) *unless* it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health. [MCL 722.27a\(3\)](#).
- If granting parenting time of a child, the parenting time order:
 - MAY provide general or specific terms and conditions. See [MCL 722.27\(1\)\(b\)](#).
 - MUST provide specific terms *if* requested by either party at any time. [MCL 722.27a\(8\)](#).
 - MAY contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of parenting time by a parent, including one or more of the following:
 - Division of the responsibility to transport the child.
 - Division of the cost of transporting the child.

¹ To be a *party* to the Hague Convention, a ratifying state (the United States, for example) must accept the other country's accession to the Convention; if a country's accession is not accepted by a ratifying state, that other country "is not bound to all the benefits and obligations imposed by the Convention[.]" *Safdar v Aziz*, 327 Mich App 252, 266 (2019) (although Pakistan acceded to the Hague Convention, the United States never recognized the accession; accordingly, "Pakistan [was] not a 'party' to the Convention as contemplated by [MCL 722.27a\(10\)](#)").

- Restrictions on the presence of third persons during parenting time.
- Requirements that the child be ready for parenting time at a specific time.
- Requirements that the parent arrive for parenting time and return the child from parenting time at specific times.
- Requirements that parenting time occur in the presence of a third person or agency.
- Requirements that a party post a bond to assure compliance with a parenting time order.
- Requirements of reasonable notice when parenting time will not occur.
- Any other reasonable condition determined to be appropriate in the particular case. [MCL 722.27a\(9\)](#).
- MUST include a prohibition on exercising parenting time in a country that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction (this provision does not apply if both parents provide the court with written consent to allow a parent to exercise parenting time in a country that is not a party to the Convention). [MCL 722.27a\(10\)](#).
- MUST include a provision that:
 - the parents AGREE as to how a change in either of the child's legal residences will be handled.
 - If such a provision is included in the order and a child's legal residence change is done in compliance with that provision, the 100-mile rule does NOT apply.² [MCL 722.31\(5\)](#).
 - if the parents do NOT agree as to how a change in either of the child's legal residences will be handled, the court *must* include in the order the following provision:

“A parent whose custody or parenting time of a child is governed by this order shall not change the legal residence of the child except in compliance with [MCL 722.31](#)[(100-mile rule)].” [MCL 722.31\(5\)](#).

² For a checklist on the 100-mile rule, see the Michigan Judicial Institute's [Changing Child's Legal Residence \(100-Mile Rule\) Checklist](#).

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](#).

