

# Form FOC 89

## ORDER REGARDING CUSTODY AND PARENTING TIME

### Use this form if:

- you had a hearing on your Motion Regarding Custody (form FOC 87) and both you and the other party (and a third party) agree to sign the order without another hearing; or
- you had a hearing on your Motion Regarding Custody (form FOC 87) and the other party (and a third party) will not sign the order; or
- you and the other party (and a third party) have agreed on the custody, parenting time, and support and want the court to sign your proposed order without having to file a motion and attend a hearing on the motion.

## ORDER CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

### DID YOU . . .

1. Fill out all requested information on the form? YES
2. Make all necessary copies? YES
3. Get the judge's signature? (NOTE: See pages 3-5 for details) YES
4. Return to the clerk's office with all copies of the signed order? YES
5. Make sure the clerk stamps all copies of the signed order? YES
6. Keep one copy of the signed order for yourself? YES
7. Mail (serve) a copy of the order on the other party and on any other custodian/guardian after it was stamped by the clerk? YES
8. Give two copies of the completed form to the clerk of the court? YES

If you cannot answer "yes" to all the above steps, you do not have a valid order.

By using this form packet you are representing yourself in a court action regarding custody, parenting time, and support. In order to receive the action you seek, you must follow the instructions in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you the custody you want. **NOTE:** Regardless of the custody you ask for, the court is required to use the Child Custody Act in deciding what custody should be. If you filed the motion form FOC 87, you are responsible for preparing the order even if it is not what you asked for.

**If you have any questions about any steps in the process, refer to pages 3 through 5 of this booklet for details.**

## **What instructions are in this packet:**

Pages 3 and 4 - Instructions for getting a stipulated (mutually agreed upon) order signed.

Pages 5 - Instructions for getting an order signed after a hearing.

### **INSTRUCTIONS FOR GETTING A STIPULATED (MUTUALLY AGREED UPON) ORDER SIGNED** (when both parties have signed the order without a hearing)

#### **»» SIGNING AND FILING OF ORDER**

**NOTE:** A hearing on a stipulated order is not necessary unless the judge requests it.

#### **1. Fill out the order form.**

Use the instructions on page 6. Be careful not to make mistakes. Attach the completed Uniform Child Support Order (FOC 10/52 or FOC 10a/52a) when appropriate.

**Make at least five copies of the form after you have filled it out.**

#### **2. Approval by friend of the court.**

In some courts the order has to be approved by the friend of the court before the judge will sign it. Contact the friend of the court office and ask if the order must be approved by the friend of the court. Then complete either step a or b below.

a. If the order must be approved by the friend of the court, go to the friend of the court office with the original and five copies of the order. Leave the order with the office. Someone from the office should tell you when to come back for the order or should call you when the order has been approved. If you do not hear from the office within 5 days, contact the office to find out when to pick up the order. Go back and pick up the order. Then complete step 3 below.

b. If the order does not need to be approved by the friend of the court, complete step 3 below.

#### **3. Get the order to the judge and get signed copies.**

Since the other party or third party has signed the order, contact the clerk of the court for instructions to get the order signed by the judge. Listen carefully to all the instructions for getting the order signed. Every circuit has a different way of handling the signing of orders. Ask how to get at least four copies of the order after it is signed by the judge.

## »» SERVING THE ORDER ON THE OTHER PARTY OR PARTIES

### 1. Serve the signed order on the other party.

The other party must be served with (notified of) one copy of the signed order.

**NOTE:** Serve the papers by mailing them to the other party by first-class mail.

#### **What you need for service:**

One copy of FOC 89 (and FOC 10/52 or 10a/52a when appropriate) - for the other party

Two copies of FOC 89 (and FOC 10/52 or 10a/52a when appropriate) - for proof of service

Any additional copies of FOC 89 (and FOC 10/52 or 10a/52a when appropriate) - for other custodian or guardian if there is someone other than the other parent who has care or custody of the child(ren)

Mail one copy to the other party. If there is a custodian or guardian, mail one copy to that person. Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one copy for your own records.

### 2. Return to the county clerk.

Once you have mailed the order and filled out the Certificate of Mailing on the remaining three copies, return to the county clerk's office with two copies. Remember to keep one copy for your own records. The clerk will deliver one copy to the friend of the court.

## INSTRUCTIONS FOR GETTING THE ORDER SIGNED AFTER A HEARING

### »» SIGNING AND FILING OF AN ORDER

#### 1. Fill out the order form.

Normally you will fill out the order at the hearing on the motion. Use the instructions on page 6. Be careful not to make mistakes.

**Make copies of the form based on the instructions on either page 3 of this booklet or in booklets for forms FOC 53 or FOC 54 depending on your situation.**

#### 2. Approval by friend of the court.

In some courts the order has to be approved by the friend of the court before the judge will sign it. Contact the friend of the court office and ask if the order must be approved by the friend of the court. Then complete either step a or b below.

a. If the order must be approved by the friend of the court, go to the friend of the court office with the original and five copies of the order. Leave the order with the office. Someone from the office should tell you when to come back for the order or should call you when the order has been approved. If you do not hear from the office within 5 days, contact the office to find out when to pick up the order. Go back and pick up the order. Then complete step 3 below.

b. If the order does not need to be approved by the friend of the court, complete step 3 below.

#### 3. Get the order signed by the judge.

After you have filled out the order, you must have it signed by the judge. **If both you and the other party sign the order to show you both approve the order, then go to pages 3 and 4 of this booklet for further instructions on getting the order signed by the judge.** Otherwise you must do either of the following:

a. Schedule and attend a hearing to get the order signed.

**(Use the packet for form FOC 53, Notice of Hearing to Enter Order.)**

b. Notify the other party in writing that the order will be given to the judge to sign and that he or she has 7 days to file any written objections. If no objections are filed by the other party, the order can be signed.

**(Use the packet for form FOC 54, Notice to Enter Order without Hearing.)**

## INSTRUCTIONS FOR COMPLETING "ORDER REGARDING CUSTODY AND PARENTING TIME"

**Please print neatly. After filling in the form, you will need to make copies.** Items A through E must be completed before the order can be given to the judge for signature. Please read the instructions for each item. Then fill in the correct information for that item on the form.

- A** Before you fill in the Case No., get your copy of the Motion (form FOC 87) or your court papers for custody, divorce, annulment, separate maintenance, family support, or paternity. Copy the Case No. from that paper onto this form.
- B** Also use your court papers to fill in the "Plaintiff" and "Defendant" boxes and, if applicable, the "Third Party" box. Copy the names from these court papers onto all pages of this form. For example, if your name is in the box that says "plaintiff," then you should write your name in the "plaintiff" box on this order form.
- C** Fill in this information only if there was a hearing on a Motion Regarding Custody.
- D** If you filed a Motion Regarding Custody (form FOC 87) and the other party will not sign the order, a hearing to enter the order is required. Check the box "after hearing."

If you filed a Motion Regarding Custody (form FOC 87) and the other party will sign the order without a hearing to enter the order, check the box "on consent/stipulation of the parties."

If you and the other party are filling out this order based on an agreement between both of you and you are not filing a motion with the court, check the box "on consent/stipulation of the parties." Even if you have checked this box, the court may still require a hearing. If a hearing is required, follow the directions on scheduling a hearing in the booklet for form FOC 53, Notice of Hearing to Enter Order.

- E** Check the box for item 2 only if you filed an initial request for custody, parenting time, or support. Check the box for item 3 only if you filed a Motion Regarding Custody (form FOC 87). Check the box for item 4 only if the other party filed a Response to Motion Regarding Custody (form FOC 88). Use the following instructions to complete the additional boxes under item 3 and all other items on the order.

Check only those boxes that say what the judge or referee stated or ordered at the hearing on the motion. Where applicable, write in the blank spaces provided what the judge or referee ordered at the hearing. This information must state as closely as possible the exact words of the judge or referee. Use the notes you took at the hearing when filling out this part of the order form.

If you did not check items 2 or 3, you and the other party are stipulating to the order. This means that you both have agreed on what you want the court to order and have not filed a motion. Since there may not be a hearing, you must write in as much detail as possible exactly what you agree on. Make sure you include everything you agreed on. Anything that you do not write down on this form will not be ordered even if you and the other party had agreed on it. If the parties agreed to parenting time in a foreign country/nation that is not a party to the Hague Convention, check item 14, then write the names of the parent and the foreign country/nation.

**If a support order also needs to be entered, complete and attach either FOC 10/52 or FOC 10a/52a using the instructions for the relevant form. Note that the most recent support order supersedes all prior orders regarding support and that all continuing support provisions must be restated in the most recent order.**

If you filed a motion (form FOC 87) and the other party has agreed to sign the order without a hearing to enter the order, both you and the other party must sign the order. If the other party will not sign the order without a hearing to enter the order, follow the directions on scheduling a hearing in the booklet for form FOC 53, Notice of Hearing to Enter Order. If you and the other party are stipulating to the order, you both must sign the order.

Some courts require the friend of the court to approve the order before the judge will sign it. To find out if this is required, contact the friend of the court office. If it is required, see either page 3 or 5 of this booklet for directions on getting the friend of the court's approval. To find out how to get the order signed, contact the friend of the court office for instructions. See either page 3 or 5 of this booklet for details. On the date you serve a copy on the other party, write in the date and sign your name on the remaining three copies.

Return to the county clerk with two copies.

**You must read this booklet and other booklets dealing with orders for directions on the legal process.**