

# FAMILY COURT MATTER

## Response to Other Party's Request for Parenting Time Assistance

The following documents will be needed to respond to a request for parenting time:

*Responsive Notice of Motion and Motion for Parenting Time Assistance*

*Affidavit in Response to Motion for Parenting Time Assistance*

*Affidavit of Service*

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

## IMPORTANT NOTICES

- **WARNING: You CANNOT use these forms unless there is already a court order giving you or the other party parenting time rights. If you do not have such an order, but you do have a Recognition of Parentage or a paternity order, then you might be able to use the “Establishing Custody and Parenting Time” packet of forms to bring your parenting time issues before the court.**
- The court expects every person who appears in court without an attorney to know and follow the law. The judge will not be able to give you any help in court.
- Court personnel and the County Attorney’s office **CANNOT** help you fill out these forms.
- You **MUST** fill out all forms, and you **MUST** follow these instructions.
- You should see an attorney if you do not know how to answer the questions on these forms, or if you think the other party will hire an attorney. Information about finding an attorney is available online at <http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>.
- Type your answers or print neatly using dark ink.

# INSTRUCTIONS

## Step 1

### Fill Out the *Responsive Notice of Motion and Motion for Parenting Time Assistance* Form

Fill out the *Responsive Notice of Motion and Motion for Parenting Time Assistance*. This form tells the court and the other party your response to the other party's request.

#### FILL OUT THE TOP PART OF THE FORM

**NOTE: The information to fill in the top part of the form can be found at the top of the other party's *Notice of Motion and Motion* or your current parenting time order or your divorce or paternity decree. Be sure to copy the information EXACTLY as it is on your current order.**

- Fill in the case number that is also called the "court file number."
- On the lines marked "Name of Petitioner" and "Name of Respondent," write the names of the Petitioner and Respondent as listed on your **current** parenting time order, or divorce or paternity decree.
- On the line marked "TO:" write the full name and street address of the other party.
- On the line marked "Please Take Notice," write in the date, time, name of judicial officer and location of the hearing the same as in the other party's *Notice of Motion and Motion*.

**FILL OUT THE REST OF THE FORM: The following instructions are numbered the same as the questions on the *Responsive Notice of Motion and Motion* form.**

Review the other party's *Notice of Motion and Motion*. Check off **only** the boxes for the type of help you are asking for from the court, or your response to the other party's request. You should check a box for each question that the other party checked.

1. Check box 1(a) if you are asking for makeup (compensatory) parenting time because a scheduled parenting time was wrongfully denied and the other party has not let you have makeup parenting time. Check box 1(b) if you want the court to deny the other party's request.
2. Check box 2(a) if you are asking the court to appoint a parenting time expeditor to help you and the other party to resolve the parenting time problems and/or any future parenting time problems that may happen. Under Minnesota's law, a parenting time expeditor will first try to help you and the other party to reach an agreement between yourselves regarding the problem. However, if you and the other party are not able to resolve the problem yourselves, then a parenting time expeditor will make a decision settling the problem. A parenting time expeditor **cannot** make a decision that changes the existing parenting time order.
  - **Note: Not all counties have parenting time expeditors. The court will be able to grant this request only if parenting time expeditors are available in your county.**

**Warning: You and the other party will probably be required to pay for the fees and costs of a parenting time expeditor.**

Check box 2(b) if you want the court to deny the other party's request.

3. Check box 3(a) if parenting time is now unsupervised and you are asking for it to be supervised. Check box 3(b) if you want the court to deny the other party's request.

**NOTE: YOU CANNOT CHECK BOTH BOXES 3 AND 4.**

4. Check box 4(a) if parenting time is now supervised and you are asking for it to be unsupervised. Check box 4(b) if you want the court to deny the other party's request.

5. Check box 5(a) if you are asking for the drop-offs and pick-ups of the child(ren) to take place at a parenting time exchange center so that you can avoid contact with the other party as much as possible.

- **Note: Not all counties have parenting time exchange centers. The Court will be able to grant this request only if parenting time exchange center exists in your county.**

**Warning: You and the other party will probably be required to pay for the fees and costs of this service.**

Check box 5(b) if you want the court to deny the other party's request.

6. Check box 6(a) if you are asking for the transportation of the child(ren) to take place in a different way or at a different location than is now happening and then tell the court how you would like it to take place. Check box 6(b) if you want the court to deny the other party's request.

7. Check box 7(a) if your existing order states only that parenting time shall be "reasonable" and you want a specific parenting time schedule. Be as complete and as specific as possible when describing the schedule you want. Check box 7(b) if you want the Court to deny the other party's request.

8. Check box 8(a) if your existing order includes a specific parenting time schedule and you are asking for that schedule to be changed. Be as complete and as specific as possible when describing the schedule you want. Check box 8(b) if you want the court to deny the other party's request.

9. Check box 9(a) if you are asking the court to order the other party to pay any court fees or other costs that you have because of this hearing. Check box 9(b) if you want the court to deny the other party's request for you to pay his/her costs.

10. Check box 10 if you are asking for the other party to pay any expenses that you have because the other party disobeyed the parenting time order. For example, if you had to pay for day care because the other parent did not appear, or if you had already paid for air fare to bring your child(ren) to you and the other parent would not let the child(ren) go.

11. Check box 11 if you are asking for the other party to pay a penalty to the court because the other party disobeyed the existing parenting time order. The judge will determine the amount to be paid,

which cannot be over \$500. **Note: If the court grants this request, the money will not go to you, but will be paid to the court.**

12. Check box 12 if you want the court to deny the other party's request.

Date and sign the *Responsive Notice of Motion and Motion* form.

## Step 2

### Fill Out the *Affidavit in Response to Motion for Parenting Time Assistance* Form

Fill out the *Affidavit in Response to Motion for Parenting Time Assistance*. This form tells the court and the other party what you are asking for from the court and **WHY** you are asking for it. Fill in the top part of the form the same way you did on your *Responsive Notice of Motion and Motion* form in Step 1.

- Write the case number which is also called the “court file number.”
- On the line marked “Name of Petitioner,” write the name of the Petitioner as listed on your **current** parenting time order or divorce or paternity decree.
- On the line marked “Name of Respondent,” write the name of the Respondent as listed on your **current** parenting time order or divorce or paternity decree.
- Write your name on the line above the first numbered paragraph/question.

#### **FILL OUT THE REST OF THE FORM:**

You **MUST** answer paragraphs/questions 1 through 6:

1. You **CANNOT** use these forms **UNLESS** a Parenting Time order already exists for you or the other party. In paragraph/question 1, check off who has parenting time with the child(ren): You or the other party.
2. Check off whether an *Order for Protection* (OFP) is or is not currently in effect in any state involving you and the other party or the child(ren) of this case. If an OFP **IS** in effect, fill in the county, state, and file number found on the OFP.
3. Check off whether a juvenile court proceeding (including delinquency, child(ren) in need of protection or services, foster care, or termination of parental rights) involving the child(ren) of this case. If more room is needed, attach another sheet of paper and make a note of that on the form.
4. List the name, birth date, and your relationship (e.g., mother, father, grandparent) to each child(ren) involved in this case. If more room is needed, add another sheet of paper and make a note of that on the form.
5. Write the name of the state in which the child(ren) currently live and the month and year when they first started living there. Also list the name of the person with whom the child(ren) live and that

person's relationship to the child(ren) (mother, father, grandparent). Finally, list the address of the child(ren) (including street address, city, and state).

6. Describe as clearly and as completely as possible the parenting time problem you have, including dates, times, witnesses, and other information that will be helpful to the court in resolving the problem.

*For Paragraphs/Questions 7-20, check off only the type(s) of help that you checked off on your Responsive Notice of Motion and Motion form.*

7. Check box 7 ONLY if you checked box 1(b) on the *Responsive Notice of Motion and Motion form*. Then also fill in the date(s) and time(s) on which you were scheduled to have parenting time and what the other party did to deny you that parenting time. For example: "*The other party did not let me take the child(ren) with me when I went to pick them up for my scheduled parenting time*"; or "*the other party refused to drop off the child(ren) as planned*;" or "*the other party wasn't home when I went to pick up the child(ren) at the scheduled time and even though I waited for an hour the other party did not show up.*"
8. Check box 8 ONLY if you checked box 1(a) on the *Responsive Notice of Motion and Motion form*. If you agree that the other party may have compensatory parenting time, check box "YES" and write in the place and times and the reason for the make-up time. If you do not agree to make-up time, check box "NO" and write in the reason.
9. Check box 9 ONLY if you checked box 2(a) on the *Responsive Notice of Motion and Motion form*. Write in your reasons for your request.

**NOTE: Not all counties have parenting time expeditors. The court will be able to grant this request only if parenting time expeditors are available in your county.**

**WARNING: You and the other party will probably be required to pay for the fees and costs of the parenting time expeditor.**

10. Check box 10 ONLY if you or the other party is asking for supervised parenting time. Check "YES" if you checked box 3(a) on your *Responsive Motion*. Check "NO" if you checked box 3(b) on your *Responsive Motion*. Then tell the court why parenting time should be changed to supervised or why the court should not change the time as the other party asked.
11. Check box 11 ONLY if you or the other party is asking for unsupervised parenting time. Check "YES" if you checked box 4(a) on your *Responsive Notice of Motion and Motion form*. Check "NO" if you checked box 4(b) on your *Responsive Notice of Motion and Motion form*. Then tell the court why parenting time should be changed to unsupervised or why the court should not change the parenting time as the other party asked.
12. Check box 12 ONLY if you or the other party is asking to transfer the child(ren) at a parenting time exchange center. Check "YES" if you checked 5(a) on your *Responsive Notice of Motion and Motion*. Check "NO" if you checked box 5(b) on the *Responsive Notice of Motion and Motion form*. Then tell the court why the pick-ups and drop-offs of the child(ren) should take place at a parenting time center or why the other party's request should be denied.

**NOTE: Not all counties have parenting time exchange centers. The court can grant this request only if a parenting time exchange center exists in your county.**

**WARNING: You and the other party will probably be required to pay for the fees and costs of this service.**

13. Check box 13 ONLY if you or the other party wants to change the transportation for parenting time. Check “YES” if you checked box 6(a) of your *Responsive Notice of Motion and Motion* form. Check “NO” if you checked box 6(b) of your *Responsive Notice of Motion and Motion* form. Then tell the court how the transportation arrangements should be changed and why or tell the court why the other party’s request should be denied.
14. Check box 14 ONLY if you or the other party is asking for a specific parenting time schedule. Check “YES” if you checked box 7(a) on your *Responsive Notice of Motion and Motion* form. Then tell the court why your proposed schedule is in the best interests of the child(ren) or why the court should deny the other party’s request.
15. Check box 15 ONLY if you or the other party wants to change the existing schedules. Check “YES” if you checked box 8(a) on your *Responsive Notice of Motion and Motion*. Check “NO” if you checked box 8(b) of your *Responsive Notice of Motion and Motion*. Then tell the court why your proposed schedule is in the best interests of the child(ren) or why the court should deny the other party’s request.
16. Check box 16 ONLY if you checked box 9(a) on your *Responsive Notice of Motion and Motion*. Then tell the court the total amount of court fees and costs you paid and why the other party should have to pay you for those fees and costs.
17. Check box 17 ONLY if you checked box 10 on your *Responsive Notice of Motion and Motion*. Then tell the court the total amount and type of other expenses you have because of the denied parenting time.
18. Check box 18 ONLY if you checked box 12 on the *Responsive Notice of Motion and Motion* form. You do not need to fill in any other blanks for paragraph/question 18. **Note: The money will not be paid to you, but will be paid to the court.**
19. Check box 19 ONLY if you checked box 11 on the *Responsive Notice of Motion and Motion* form. Then tell the court the amount and type of expense you have already paid for regarding an upcoming scheduled parenting time.
20. Check box 20 ONLY if there is other information you think would be helpful to the court in deciding this case. Write in the information you want the court to know. Be specific.

When you sign your *Affidavit*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then write the names of the county and state you are in when you signed it, and print your personal contact information below your signature.

## Step 3

### Make Copies of Forms

1. Make **two** copies of the *Responsive Notice of Motion and Motion, Affidavit in Response to Motion*, and any supporting documents.
2. Keep **one** copy of each form for yourself (make sure you bring your copies with you to court on the day of the hearing).
3. Step 4 tells you how to serve the second copy of each form upon the other party. Step 6 tells you what to do with the originals of the forms.

## Step 4

### Serve Papers on the Other Party

#### Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. If papers are served by mail, Court Rules require adding three days. **Papers cannot be served on a legal holiday.**

**If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.**

#### Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

#### Personal Service

The server hands to the other party **one copy** of the completed *Responsive Notice of Motion and Motion, Affidavit in Response to Motion*, and one copy of any and all attachments.

- The server must give the papers to the other party (or their attorney, if they have one) **at least five (5) days before the hearing date**. For example, if the hearing date is January 15, the server must give the papers to the other party on or before January 10. If January 10 is a legal holiday, the papers must be served on or before January 9.



- **Note:** If your responsive *Motion* raises new issues not addressed by the other party's *Notice of Motion and Motion*, your responsive papers must be served **at least ten (10) days before the hearing.**

### Service by Mail

The server places **one copy** of the completed *Responsive Notice of Motion and Motion, Affidavit in Response to Motion*, and one copy of any and all attachments in an envelope.

- The server must mail the envelope containing the forms to the other party (or their attorney, if they have one) by first class U.S. mail **at least 8 days before the hearing date.** For example, if the hearing date is January 15, the envelope must be postmarked on or before January 7.
- **Note:** If your *Responsive Motion* raises new issues not addressed in the other party's *Notice of Motion and Motion*, the Responsive papers must be mailed at least **13 days before** the hearing.

**WARNING: IF YOUR FORMS ARE NOT MAILED TO THE OTHER PARTY (OR HIS/HER ATTORNEY) ON TIME, THE COURT MAY DISREGARD YOUR RESPONSE.**

## Step 5

### The Person Who Served the Papers Fills Out the *Affidavit of Service* Form

After the papers are served, the person who served the papers must fill out an *Affidavit of Service*. The Affidavit of Service is proof for the Court that the papers were served on the other party.

#### **IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:**

1. Use the *Affidavit of Personal Service* (Court Form SOP102).
2. Fill in the top part of the form the same as you did for the *Responsive Notice of Motion and Motion*.
3. Fill in the name and birth date of the server.
4. Fill in the date the papers were handed to the other party.
5. Fill in the name of the other party.
6. The person who served the papers signs the Affidavit under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.
7. After it has been signed, make one copy of the *Affidavit of Personal Service* for your records. You will file the papers with the Court as part of Step 9.

#### **IF THE PAPERS WERE SERVED BY MAIL, FOLLOW THESE INSTRUCTIONS:**

1. Use the *Affidavit of Service by Mail* (Court Form SOP104).
2. Fill in the top part of the form the same as you did for the *Responsive Notice of Motion and Motion*.
3. Fill in the name of the person who mailed the envelope.
4. Fill in the name of the person to whom the documents were mailed (the other party).
5. Write in the address of the other party where the papers were mailed.
6. Write in the name of the city and state where the post office was located from which the documents were mailed.
7. The person who served the papers signs the Affidavit under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.
8. After it has been signed, make one copy of the *Affidavit of Service by Mail* for your records. You will file the original with the Court as part of Step 9.

## Step 6

### File the Forms With the Court

At least five (5) days before the hearing date, hand-deliver the **originals** of the following documents to Court Administrator's office. **If your papers raise new issues** not included in the other party's Notice of Motion and Motion, you must file the papers with the court **at least 10 days** before the hearing date. You can mail them to the court, but you must allow 3 extra days for mailing. Put them in the mail at least eight (8) day before the hearing (or thirteen (13) days before the hearing if the papers raise new issues). **File:**

- The **original** of the *Responsive Notice of Motion and Motion for Parenting Time Assistance*;
- The **original** of your *Affidavit in Response to Motion for Parenting Time Assistance*; and
- The **original** of the *Affidavit of Service by Mail*.

There will be a [motion fee](#) due when you file your paperwork. You can make checks payable to "District Court."

If you cannot afford to pay the motion fee, you can ask for a fee waiver by completing the forms in the *In Forma Pauperis/IFP* packet of forms (found online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms)). If a judge does not sign the fee waiver order, then you must pay the motion fee before Court Administration can process your forms.

## Step 7

### Appear in Court

You must go to court on the date set for the hearing. Be sure to be on time. Bring with you to the hearing your copies of the papers. **Do not bring child(ren) to the first hearing.** After the hearing, the judge will issue an *Order*. The judge may issue the *Order* at the end of the hearing or may send a copy of the *Order* to you in the mail.