

FAMILY COURT MATTER

Request for Parenting Time Assistance

The following court forms will be needed to request parenting time assistance:

Notice of Motion and Motion for Parenting Time Assistance
Affidavit in Support of Motion for Parenting Time Assistance
Affidavit of Service by Mail
Affidavit of Personal 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 651-297-7651.

IMPORTANT NOTICES

- **WARNING: You CANNOT use these forms UNLESS there is already a court order giving you or the other party parenting time. If you do not have such an order, then you may need to talk to an attorney to see which set of forms is right for your situation. Information about finding an attorney is found online at <http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>.**
- **“Parenting time” means the time a parent spends with a child regardless of the custodial designation regarding the child. See Minn. Stat. § 518.003, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/518.003>).**
- 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.

INSTRUCTIONS

Step 1

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

Fill out the *Notice of Motion and Motion for Parenting Time Assistance*. This form tells the court and the other party the type of parenting time problem you are having, what you are asking for from the court, and the date and time of the hearing.

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 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.

- Write the case number that is also called the “court file number.”
- If your current order has “In re the Marriage of” in the caption, then check the box on that line.
- 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 party (or parties) who has/have custody and is/are causing your parenting time problem.

Do not fill in the date, time, name of judge and location of the hearing yet. You will do that as part of Step 3.

Fill out the rest of the form. The instructions that follow are numbered the same as the paragraphs/questions on the *Notice of Motion and Motion* form.

Review paragraphs/questions 1-14 that list different types of help you can ask for from the court. Check off **only** the boxes for the type of help you are asking for from the court—you **do not need to check off every box**. You may check off as many types of help as you wish, but it will be up to the court to decide what types of help (if any) will be ordered.

1. Check box 1 if you are asking for makeup (compensatory) parenting time because a scheduled time was wrongfully denied and the other party has not let you have makeup parenting time.
2. Check box 2 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, the parenting time expeditor will first try to help you and the other parties reach an agreement between yourselves regarding the problem. However, if you and the other party are not able to resolve the problem yourselves, then the parenting time expeditor will make a decision settling the problem. The 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 the parenting time expeditor.**

3. Check box 3 if parenting time is now unsupervised and you are asking for it to be supervised.
4. Check box 4 if parenting time is now supervised and you are asking for it to be unsupervised.

Note: You cannot check both boxes 3 and 4.

5. Check box 5 if you are asking for the drop-offs and pick-ups of the children 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.

6. Check box 6 if you are asking for the transportation of the children to take place in a different way or at a different location than is now happening and then write down how you would like it to take place.
7. Check box 7 if your existing Order states only that parenting time shall be “reasonable” and you want a specific schedule. Be as complete and as specific as possible when describing the schedule you want.
8. Check box 8 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.
9. Check box 9 if your existing Order “reserves” parenting time and you are asking for parenting time rights. Be as complete and as specific as possible when describing the parenting time schedule you want.
10. Check box 10 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.
11. Check box 11 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 children to you and the other parent would not let the children go.
12. Check box 12 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.**

13. You may place a check mark in box 13 only if **each** of the following is true:
- Your parenting time was wrongfully denied by the other party; AND
 - You lost money because of the wrongful denial of parenting time; AND
 - You have another parenting time scheduled in the future and have already paid for something to do with that time (for example: air fare); AND
 - You want the other party to pay money (the same amount as the money paid for the upcoming parenting time) to be held by the court to help guarantee that the other party obeys the court order in the future and, if the upcoming parenting time is denied, to have the money paid to you.

Read the Verification and Acknowledgment carefully. By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth or if you are misleading the court or if you are serving or filing this document for an improper purpose, the court can order you to pay money to the other party or impose other sanctions.

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

Step 2

Fill Out the *Affidavit in Support of Motion for Parenting Time Assistance* Form

Fill out the *Affidavit in Support of Motion for Parenting Time Assistance* form. 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 *Notice of Motion and Motion* form in Step 1.

- Write the case number which is also called the “court file number.”
- If your current order has “In re the Marriage of” in the caption, then check the box on that line.
- 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, or an Order exists “reserving” parenting time. In paragraph/question 1, check either a. or b. If a. applies, also check off who has parenting time with the children: 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 children 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, children in need of protection or services, foster care, or termination of parental rights) involving the children 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 involved in this case. If more room is needed, attach another sheet of paper and make a note of that on the form.
5. Write the name of the state in which the children currently live and the month and year when they first started living there. Also list the name of the person with whom the children live and that person's relationship to the children (mother, father, grandparent). Finally, list the address of the children (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 Notice of Motion and Motion form.

7. Check box 7 ONLY if you checked box 1 on the *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 children with me when I went to pick them up for my scheduled parenting time*"; or "*the other party refused to drop off the children as planned*"; or "*the other party wasn't home when I went to pick up the children 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 2 on the *Notice of Motion and Motion form*. You do not need to fill in any other blanks for paragraph/question 8.
 - **WARNING: You and the other party will probably be required to pay for the fees and costs of the parenting time expeditor.**
9. Check box 9 ONLY if you checked box 3 on the *Notice of Motion and Motion form*. Then tell the court why parenting time should be changed to supervised.
10. Check box 10 ONLY if you checked box 4 on the *Notice of Motion and Motion form*. Then tell the court why parenting time should be changed to unsupervised.
11. Check box 11 ONLY if you checked box 5 on the *Notice of Motion and Motion form*. Then tell the court why the pick-ups and drop-offs of the children should take place at a parenting time exchange center.

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

12. Check box 12 ONLY if you checked box 6 on the *Notice of Motion and Motion* form. Then tell the court how the transportation arrangements should be changed and why.
13. Check box 13 ONLY if you checked box 7 on the *Notice of Motion and Motion* form. Write in why this schedule is in the best interests of the children.
14. Check box 14 ONLY if you checked box 8 on the *Notice of Motion and Motion* form. Write in why this new schedule is in the best interests of the children.
15. Check box 15 ONLY if you checked box 9 on the *Notice of Motion and Motion* form. Answer all of parts a.-f.
16. Check box 16 ONLY if you checked box 10 on the *Notice of Motion and Motion* form. Itemize and then total the amount of court fees and costs you paid. Explain why the other party should have to pay you for those fees and costs.
17. Check box 17 ONLY if you checked box 11 on the *Notice of Motion and Motion* form. Itemize and then total the amount of other expenses you have because of the denied parenting time.
18. Check box 18 ONLY if you checked box 12 on the *Notice of Motion and Motion* form.
19. Check box 19 ONLY if you checked box 13 on the *Notice of Motion and Motion* form. Itemize the other expenses you have already paid for regarding an upcoming scheduled parenting time, and then give the total amount.
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. Be specific.

When you sign your *Affidavit in Support of Motion*, 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

Get Hearing Date, Time, and Location from Court Administrator

When your *Notice of Motion and Motion* form and your *Affidavit in Support of Motion* form have been completed, contact the Court Administrator to schedule a court date and time.

Fill in the date, time, location, name of the judge, and room number of the hearing on the first page of the *Notice of Motion and Motion* form.

Step 4

Make Copies of Forms

1. Make **two** copies of the *Notice of Motion and Motion* form.
2. Make **two** copies of *Affidavit in Support of Motion* form.
3. Keep one copy of each form for yourself (make sure you bring your copies with you to Court on the day of the hearing).
4. Step 5 tells you how to serve the second copy of each form upon the other party. Step 7 tells you what to do with the originals of the forms.

Step 5

Serve Notice on the Other Party At Least 21 Days Before the Hearing Date

Overview

The other party must receive notice of the hearing and 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

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

Papers **CANNOT** be served on legal holidays (as defined in Minn. Stat. § 645.44, subd. 5, <https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Who Can Serve

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

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

Personal Service

At least 21 days before the hearing date, the server hands to the other party **one copy** of the completed *Notice of Motion and Motion*, and **one copy** of your *Affidavit in Support of Motion*, including one copy of any and all attachments.

Service by Mail

The server places **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of your *Affidavit in Support of 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 by first class U.S. mail **at least 24 days before the hearing date.**

Warning: If your forms are not personally served on the other party at least 21 days before the hearing, OR mailed to the other party at least 24 days before the hearing date, your *Motion* may NOT be heard by the court.

Step 6

The Person Who Served the Papers Personally or By Mail Fills Out the *Affidavit of Service* Form

After the papers are served on the other party (*not before*) either personally or by mail, the server must fill out the *Affidavit of Service* form. This form is proof for the court that the papers were served on the other party.

IF THE PAPERS WERE SERVED PERSONALLY, FOLLOW THESE INSTRUCTIONS:

Use the [Affidavit of Personal Service \(SOP102\)](#)

YOU:	1. Fill in the caption the same as you did for the <i>Notice of Motion and Motion</i> (see Step A, above).
THE SERVER:	1. Write the server's name and date of birth.
	2. Write the date the server handed the papers to the other party.
	3. List all of the papers the servers handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i>).
	4. Write the other party's name.
	5. Write the location (where) the server handed the papers to the other party.
	6. Write in the server's name, address, and telephone number. Server should sign and date the form, and list what county and state they are in when they sign the <i>Affidavit of Personal Service</i> .

After the server signs the *Affidavit of Personal Service* (SOP102), make one copy for your records. The original is filed with the court as part of Step 7 below.

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

Use the [Affidavit of Service by Mail \(SOP104\)](#).

YOU:	1. Fill in the caption the same as you did for the <i>Notice of Motion and Motion</i> (see Step A, above).
THE SERVER:	1. Write the server's name and date of birth.
	2. Write the date the server mailed the papers to the other party.
	3. List all of the papers the servers handed to the other party (<i>Notice of Motion and Motion, Affidavit in Support of Motion, etc.</i>).
	4. Write the other party's name.
	5. Write the other party's address. Note: the address is broken up. The first line is for the street address (<i>123 Main St.</i>); the second line is for the city (<i>Mantorville</i>); then state; then zip code.
	6. Write the city and state the server was in when they mailed the papers.
	7. Write in the server's name, address, and telephone number. Server should sign and date the

form, and list what county and state they are in when they sign the <i>Affidavit of Service by Mail</i> .

After the server signs the *Affidavit of Service by Mail*, make one copy for your records. The original is filed with the court as part of Step 7.

Step 7

File the Forms with the Court

The original documents must be RECEIVED by the Court Administrator's office **at least 21 days before the date of the hearing**. You can file the documents listed below in person, by mail, or electronically (you must allow three extra days if you mail your forms).

File the following documents with the Court Administrator:

- The **original** of the *Notice of Motion and Motion for Parenting Time Assistance*;
- The **original** of your *Affidavit in Support of Motion for Parenting Time Assistance*;
- The **original** of the *Affidavit of Service by Mail OR Affidavit of Personal Service*.

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 <http://mncourts.gov/GetForms.aspx?c=19&p=69>). 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 8

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 children to the first hearing**. The hearing is very formal. You should be polite to everyone in the courtroom, and address the judge as "your honor." Remember to talk to the judge, not to the other party. Do not argue with the other party or be unnecessarily disparaging of the other party. 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.