

Effective Date:

The 22nd Circuit Court has agreed to participate in a pilot program that refers domestic relations matters involving custody and parenting time to the Dispute Resolution Center. The Center will provide domestic relations mediation conducted by a neutral third party who facilitates communication between the parties to promote settlement. This local administrative order applies to custody and parenting time motions filed with the court, grandparenting time visitations, contested custody and parenting time issues identified by the court, and parenting time complaints filed with the friend of the court.

This administrative order is issued in accordance with MCL 552.641, MCL 552.452, MCL 722.717b, and MCR 3.216.

IT IS ORDERED:

Types of Referrals

1. The following domestic relations cases may be referred to the Center for mediation:
 - A. Motions regarding custody, parenting time and grandparenting time; and
 - B. Contested custody and parenting time issues identified by the court;
 - C. A written parenting time complaint received by the friend of the court from a party that has a legal right to interact with a child but has been denied access to and visitation with the child.

2. Certain cases are not suitable for mediation.
 - A. Cases that include allegations of child abuse or neglect;
 - B. Cases that include allegations of domestic violence;
 - C. Cases in which one or both parents are unable to negotiate for themselves at the mediation;
 - D. Cases in which the court has a reasonable belief that one or both parties' health or safety would be endangered by mediation;
 - E. Cases in which the friend of the court has determined other good cause exists to decline to refer to mediation; and
 - F. Under MCL 552.641(2)(a)–(c), the friend of the court may decline to refer parenting time complaints to the Center for mediation.

Procedures for Referral to Mediation

3. If the friend of the court receives a written parenting time complaint, the friend of the court shall:
 - A. Send a notice to the parties that includes the following statement required by MCL 552.642 (2):

“FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF THE COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME POLICY ESTABLISHED BY THE COURT WILL BE APPLIED.”
 - B. In the cases in which a party does not submit a written response contesting the make-up of parenting time within 21 days, notify each party that the make-up parenting time policy applies.
 - C. In cases in which a party responds in writing within 21 days and contests the make-up of parenting time, the friend of the court may refer cases suitable for mediation to the Center.

4. For cases referred to the Center for mediation, the court or friend of the court will:
 - A. Send a notice to the parties that the case has been referred to the Center for mediation and that the Center will contact the parties with the date, time, and location of the mediation;
 - 1) A party may object to mediation by filing a written motion with the court requesting removal of the case from mediation.
 - B. Send a copy of the referral notice to the Center.
 - C. Before the scheduled mediation and at the request of the Center, provide the Center with the following information:
 - 1) Copies of complaints, motions and responses received by the court that relate to domestic relations matters identified as being within the scope of this pilot;
 - 2) The parties’ names, mailing addresses, and telephone numbers;
 - 3) The parties’ attorneys’ names, addresses, and telephone numbers; and
 - 4) Copies of court orders involving the domestic relations case.

Mediation Procedures

5. The Center will schedule the mediation and notify the parties and the court or friend of the court of the date, time, and location of the mediation session, including information about how the parties may contact the Center.
6. Prior to mediation, the Center will conduct an intake with each party.
 - A. In the event one or more of the following are identified during the intake, the case will not be mediated and the Center will notify the court or friend of the court that this case is not suitable for mediation.
 - 1) Allegations of child abuse or neglect;
 - 2) Allegations of domestic violence;
 - 3) The inability of one or both parties to negotiate for themselves during the mediation; and
 - 4) A reasonable belief by the Center that one or both parties' health and safety may be endangered by mediation.
7. After the Center conducts an intake for each party and the case is identified as being suitable for mediation, the case will be assigned to the first available mediator.
 - A. Mediators who have received training approved by the State Court Administrative Office are qualified to conduct mediations for this pilot.
8. The following applies to the mediations conducted by the Center:
 - A. Communications between the mediator and parties during mediation and between the parties in the presence of the mediator are confidential and will be preserved and accepted by this court as a privileged communication.
 - 1) Any confidential communication will not be admitted as evidence in any proceedings.
 - 2) The court will not use confidential mediation communications for any investigative or enforcement procedures, nor during other alternative dispute resolution processes.
 - B. Agreements reached during mediation between the parties regarding custody, parenting time, or make-up of parenting time will be written into a memorandum of understanding and will be signed by the parties and the mediator.

- 1) The memorandum of understanding will be forwarded to the court or friend of the court where a determination may be made to modify an existing order.
- C. In cases where the parties do not reach an agreement, the case will be referred back to the court or friend of the court.
- D. Within 24 hours of the conclusion of the scheduled mediation, the Center will provide the following to the court or friend of the court, if applicable:
 - 1) The original memorandum of understanding signed by both parties and the mediator(s),
 - 2) A report from the Center that contains information about the outcome of mediation, including:
 - a) The name of any party who failed to appear for mediation;
 - b) The name of any party who refused to participate in the mediation services;
 - c) That a mediation was held, but no agreement was reached;
 - d) That a mediation was held, but only a partial agreement was reached;
 - e) That a mediation was held, but the mediation was terminated before an agreement was reached;
 - i) Mediations may be terminated by the mediator or by either party at any time; specifically, if allegations of domestic violence or child abuse are made or a party is threatening or violent;
 - f) The date, time, and duration of the mediation;
 - g) The mediator's name.
9. If the parties do not reach an agreement during parenting time complaint mediation, the friend of the court will apply one of the enforcement procedures pursuant to MCL 552.641.
10. If the party who has allegedly denied the parenting time fails to appear at the mediation, the court will schedule the matter for a civil contempt hearing.

11. If the party who filed the parenting time complaint does not attend mediation, the friend of the court case file will include documentation of this failure to appear and reflect the fact that no subsequent action is necessary.

Date: 6/21/06

Archie Cameron Brown
Chief Judge, Washtenaw County Trial Court