



THE THIRD JUDICIAL CIRCUIT
OF MICHIGAN

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DETROIT, MICHIGAN 48226-3413

ADMINISTRATIVE ORDER 2005-04

STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT

**SUBJECT: PILOT FOR REFERRING SELECTED PARENTING TIME
DISPUTES TO THE COMMUNITY DISPUTE RESOLUTION
CENTER FOR MEDIATION**

MCL 552.511b allows a parent who has the right to interact with a child under a custody or parenting time order to file with the Friend of the Court a written complaint that states specific facts constituting a custody or parenting time order violation. The Third Judicial Circuit Court has determined that alternative dispute resolution (ADR), specifically mediation, can serve an extremely useful purpose in resolving parenting time disputes.

Wayne County was selected to pilot a program providing for the community dispute resolution center to mediate post-judgment parenting time disputes. Beginning November 1, 2004, and continuing through October 31, 2005, or further order of the court, the Third Judicial Circuit Court adopts the pilot program to mediate post-judgment parenting time disputes.

At a minimum each quarter, the Chief Judge or her designee, in consultation with the Community Dispute Resolution Program, will review the mediation results and recommend amendments to the project. The Third Judicial Circuit Court will select appropriate post-judgment parenting time disputes for mediation. Only those individuals entitled to Friend of the Court services will be selected. The community dispute resolution center will mediate the selected disputes. This local administrative order describes the scope and applicability of the rule, referral for mediation, qualifications to mediate, and mediation procedures.

This administrative order is issued in accordance with MCL 552.641.

IT IS ORDERED:

1. Scope and Applicability of Rule

All domestic relations cases as defined in MCL 552.502(i) are subject to mediation under this rule, unless otherwise provided by statute or court rule. Domestic relations mediation is a nonbinding process in which a neutral third party facilitates communication between parents to promote settlement. This administrative order only applies to post-judgment parenting time disputes.



2. Friend of the Court Enforcement of Parenting Time Violations

If a party who has a right to interact with a child submits a written parenting time complaint that states specific facts, the Friend of the Court office may review the case to determine its eligibility for mediation.

A. The following cases will not be referred to mediation:

- 1) Cases involving child abuse or neglect.
- 2) Cases involving domestic abuse.
- 3) Cases where there is an inability of one or both parents to negotiate for themselves at the mediation.
- 4) When there is a reason to believe that one or both parties' health or safety would be endangered by mediation.
- 5) When other good cause shown as determined by the Friend of the Court.

B. The Friend of the Court may refer a case that does not have any of the foregoing conditions to mediation. The Friend of the Court may decline to refer the parenting time complaint to the mediation if circumstances are present as provided in MCL 552.641(2)(a)-(c).

3. Referral to Mediation

The Friend of the Court may refer post-judgment parenting time complaints to the community dispute resolution center for mediation.

A. The Friend of the Court will provide the following to the community dispute resolution center:

- 1) A copy of the written complaint received by Friend of the Court alleging parenting time denial.
- 2) The parties' names, addresses, and phone numbers.
- 3) The parties' attorneys' names, addresses, and phone numbers.
- 4) Copies of appropriate court orders for parenting time.

B. The Friend of the Court will send the parties a notice for the mediation appointment. The notice will include the date, time, contact phone number, and location of the mediation session. The Friend of the Court shall send a copy of the notice to the community dispute resolution center.

C. To object to a parenting time dispute being referred to the community dispute resolution center, a party must file a motion with the court.

D. The mediator will conduct the Domestic Violence Screening according to the Friend of the Court and State Court Administrator Office.

4. Qualifications to Mediate Parenting Time Disputes

To be eligible to serve as a post-judgment parenting time mediator during the pilot project, a mediator must have received training approved by the State Court Administrative Office.

5. Mediation Procedures

The community dispute resolution center mediation procedures:

A. Intake Process: The community dispute resolution mediator will conduct intake procedures to identify any of the following exemptions from mediation:

- 1) Child abuse or neglect.
- 2) Domestic abuse.
- 3) Inability of one or both parties to negotiate for themselves at the mediation.
- 4) Reason to believe that one or both parties' health or safety would be endangered by mediation.

If any of the exemptions are identified during the community dispute resolution mediator's intake process, the parenting time dispute will be referred back to the Friend of the Court.

- B. If no exemptions from mediation are identified during the intake process, and the mediator has not had prior involvement with the parties, the mediator may conduct the mediation.
- C. Any communications between a post-judgment parenting time mediator and a parent during mediation is confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted into evidence in any proceedings nor used by the Friend of the Court for any investigative or enforcement procedure, or during other mediation. The same protection shall be given to communications between the parties in the presence of the post-judgment parenting time mediator.
- D. If the parties agree to makeup parenting time, the agreement will be written into a memorandum of understanding (MOU) to be signed by the parties and the mediator. If the parties agree to modifications to the court order, that agreement will be written into the MOU and signed by the parties. The mediator shall forward the agreement to the Friend of the Court. The Friend of the Court will take the necessary steps to have a modified consent order presented for entry by the court.
- E. If an agreement is not reached during mediation, the parenting time dispute may be referred to the Friend of the Court to apply one of the enforcement procedures provided in MCL 552.641.
- F. If the party who has allegedly denied post-judgment parenting time fails to appear for the mediation, the community dispute resolution center will notify the Friend of the Court. The Friend of the Court may schedule the matter for a civil contempt hearing.

- G. If the party who filed the complaint fails to appear for the mediation, the community dispute mediator will notify the Friend of the Court. The Friend of the Court will make a note in the case file stating that the party who filed the complaint failed to appear and no additional action was taken.

Effective Date: April 1, 2005



**Honorable Mary Beth Kelly
Chief Judge
Third Judicial Circuit**

Dated: March 18, 2005