



THIRD JUDICIAL CIRCUIT
OF MICHIGAN

701 COLEMAN A. YOUNG MUNICIPAL CENTER
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DETROIT, MICHIGAN 48226-3413

VIRGIL C. SMITH
CHIEF JUDGE

(313) 224-5430

LOCAL ADMINISTRATIVE ORDER 2011 - 02

**STATE OF MICHIGAN
THIRD JUDICIAL CIRCUIT**

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

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. Because of the benefits of mediation, the Court desires to formalize a pilot project using the Wayne Mediation Center to mediate parenting time disputes.

At a minimum once each quarter, the Presiding Judge of the Domestic Relations Division or her/his designee and the Wayne Mediation Center will review the mediation results and recommend amendments to the pilot project. The Third Judicial Circuit Court will select appropriate cases with parenting time disputes for mediation. Only those cases identified by the Friend of the Court will be selected. All mediation from this pilot will be performed by the Wayne Mediation Center. This Local Administrative Order describes the scope and applicability of the process, the referral for mediation, the qualifications to mediate, and the mediation procedures.

This Local Administrative Order is issued in accordance with MCL 552.641 and MCL 552.513.

IT IS ORDERED:

Effective Date: Thirty days (30) after approval by the State Court Administrative Office

I. Scope and Applicability of Order

All domestic relations cases as defined in MCL 552.502(i) are subject to mediation under this order, 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 parenting time disputes.

II. Friend of the Court Parenting Time Motions and Violations

If a party who has a right to interact with a child submits a written parenting time motion or a parenting time complaint that states specific facts, the Friend of the Court office will 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 the health or safety of one or both parties would be endangered by mediation.
5. When other good cause is 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 mediation if circumstances are present as provided in MCL 552-641(2)(a)-(c).

III. Referral to Mediation

The Friend of the Court may refer parenting time motions and complaints to Wayne Mediation Center volunteers.

A. The Friend of the Court will provide the following to the Wayne Mediation Center:

1. A copy of the motion or written complaint received by Friend of the Court.
2. The parties' names, addresses, and phone numbers.
3. The attorneys of record's 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 Wayne Mediation Center.

C. To object to a parenting time matter being referred to mediation, a party must file a motion with the court.

- D. The Wayne Mediation Center will confirm the results of the Domestic Violence Screening before scheduling the case for mediation.

IV. Qualifications to Mediate Parenting Time Disputes

To be eligible to serve as a volunteer parenting time mediator, a mediator must have successfully completed a 40-hour domestic relations mediation training pursuant to MCR 3.216 that is approved by the State Court Administrative Office. The Friend of the Court and the Wayne Mediation Center will collaborate to establish standard requirements for ongoing training.

V. Mediation Procedures

The Wayne Mediation Center's procedures:

- A. Intake Process: The Center will perform intake screening to identify the presence of any of the following which would exclude parties 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 the health or safety of one or both parties 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. The mediator will begin the process by explaining the mediation process in which the parties will participate. Any communications between a parenting time mediator and a parent during mediation is confidential and shall be preserved inviolate as a privileged communication. The communication shall not be admitted into evidence in any proceedings, shall not be used by the Friend of the Court for any investigative or enforcement procedure, and shall not be used during other mediation.
- D. If the mediating parties reach an agreement, the agreement will be documented in writing and signed by the parties and the mediator. The Friend of the Court will take the necessary steps to have a modified consent order presented for entry by the court.

- E. If the party fails to appear for the mediation, the volunteer mediator will promptly advise the Friend of the Court. The Friend of the Court will use the appropriate legal remedies to address the situation.
- F. At the conclusion of mediation, the volunteer mediator will record the outcome of the mediation, gather the necessary reporting information to provide the State Court Administrative Office, and return the required documentation to the Friend of the Court.
- G. If the party who filed the complaint fails to appear for the mediation, the Wayne Mediation Center 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.

Dated: March 21, 2011

 3/20/11

Honorable Virgil C. Smith, Chief Judge
Third Circuit Court