

## **MOTION TO SET SPECIFIC PERIODS OF PHYSICAL PLACEMENT**

These forms are to be used by unrepresented parties when the Judgment provides placement "as agreed" or "on reasonable notice" and parties are unable to agree on placement periods. These forms are available for this purpose, but are not the only forms that may be used. Filing the motion does not guarantee that you will succeed in your request. It only provides you with the opportunity to present your case to the Court.

### **STEP 1 : FILL OUT THE FORMS**

Your signature on the Affidavit must be notarized. Make sure to attach a copy of the most recent order.

### **STEP 2: PAY FILING FEE**

The filing fee is **\$50**. Pay the fee in Room 1000, Dane County Courthouse, 215 S Hamilton Street, Madison, WI 53703.

If you believe you are entitled to a waiver of court fees because of poverty, complete a Petition for Waiver of Filing and Service Fees, which is available in the Court Commissioner Center, Room 2000, Dane County Courthouse. The Court Commissioner will determine if the fee will be waived. **If you ask for a waiver, do so before you pay any fees. Do not pay the fees and then ask for a waiver.**

If the fee is not waived, pay the fee as explained above. If the fee is waived, proceed to Step 3.

### **STEP 3: FILE THE FORMS**

**Take the original and three copies** of the Motion and Affidavit forms to the Clerk of Court's Office in Room 1000, Dane County Courthouse, 215 S Hamilton Street, Madison, WI 53703. Clerk of Court staff will send the original of the motion and affidavit forms to the assigned judge and return the other three copies to you. Keep one copy for yourself. The other two copies are needed for service on the other party or his/her attorney.

### **STEP 4: SERVE THE NOTICE OF MOTION AND MOTION AND AFFIDAVIT**

**If the other party had an attorney at the last hearing, you must mail an additional copy of the forms to the attorney.**

#### **A. By Sheriff**

If the other party lives in Dane County, you may have the Motion and Notice of Motion and Affidavit served on the other party by the Civil Process Division of the Dane County Sheriff's Department, 2nd Floor, Public Safety Building, 115 W. Doty Street, Madison, WI 53703. The Sheriff will need two of the copies you made of the forms filed in STEP 3. There is a \$40 charge for every service or attempted service, plus 37¢ per mile, round trip, that the deputy travels. Once the forms have been served by the Sheriff, you will be sent a Proof of Service form. Bring this form to the hearing with you.

If the party to be served lives outside Dane County, you must call the Sheriff in that county for instructions.

## **B. By Private Process Server**

You may use a private process server to serve the Notice of Motion and Motion and Affidavit forms on the other party. To locate a private process server, look in the phone book yellow pages under "Process Servers." When the forms have been served, you will be sent a Proof of Service form. Bring it with you to the hearing.

## **C. By Mail (Not recommended in pro se cases)**

You may use regular mail or certified mail with return receipt to serve the Notice of Motion and Motion and Affidavit forms on the other party. If you use regular, first class mail and the other party later denies having received the forms, this may result in orders being vacated or hearings rescheduled. If you use certified mail with return receipt, bring the receipt to the hearing. **If you serve by mail, you must submit an Affidavit of Mailing so that it will be kept with your court file.** An Affidavit of Mailing form can be obtained for a small fee from the Legal Resource Center, Room L1007, Dane County Courthouse, 215 S Hamilton Street, Madison, WI 53703., or online at: [http://www.countyofdane.com/clrkort/court\\_forms\\_family.htm](http://www.countyofdane.com/clrkort/court_forms_family.htm).

## **STEP 5: REVIEW BY THE JUDGE**

The assigned judge will review the forms to make sure there are reasons to proceed. The judge may do any of the following:

- 1) Refer the case to the Family Court Counseling Service for mediation and/or a study;
- 2) Refer the motion to the Court Commissioner Center for a Temporary Order Hearing; or
- 3) Schedule a status conference or hearing before the judge.

If a referral is made to Family Court Counseling Service, they will send both parties a letter scheduling a parent education session. After both parties have attended this class, Family Court Counseling will schedule a mediation session for both parties. There is a fee for the parent education class, but not for the first mediation session. There is a fee if additional mediation sessions are needed. If mediation does not result in an agreement, a custody study will be conducted. There is a fee for the study.

If the parties reach agreement before the hearing, complete and sign the form called Stipulated Order to Modify Custody/Physical Placement/Support and mail it or take three copies to the assigned judge, with a self-addressed, stamped envelope. The judge will sign the stipulation, file a copy with the Clerk of Court, and return two signed copies to you. You are responsible for sending a signed copy to the other party. There is no fee for this.

\_\_\_\_\_,  
Petitioner,

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Petitioner's Address  
vs.

**MOTION & NOTICE OF MOTION  
TO SET SPECIFIC PERIODS OF  
PHYSICAL PLACEMENT**

\_\_\_\_\_,  
Respondent.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Respondent's address

Case # \_\_\_\_\_

**MOTION**

I, \_\_\_\_\_ move the Court to order that a specific schedule be set for my periods of physical placement with my child(ren). The basis for this motion is set forth in the attached affidavit.

**NOTICE OF MOTION**

A hearing/status conference on the above Motion will be held at a time and place to be set by the court.

Both parties shall be prepared to prove what type of physical placement with each parent would be in the child's best interest.

The Court may set a specific physical placement schedule after hearing testimony, or may refer the matter to Family Court Counseling Service for further evaluation/mediation. The court may enter other orders that are just and reasonable. If you fail to appear an order may be entered based on the request of the other party.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of party filing motion

\_\_\_\_\_,  
Petitioner,

\_\_\_\_\_  
\_\_\_\_\_

Petitioner's Address  
VS.

**AFFIDAVIT  
In Support of Motion  
To Set Specific Periods  
Of Physical Placement**

\_\_\_\_\_,  
Respondent.

\_\_\_\_\_  
\_\_\_\_\_

Respondent's address

Case # \_\_\_\_\_

I, \_\_\_\_\_ under oath, say that:

1. I am the  father  mother of \_\_\_\_\_

(List Child(ren) and date(s) of birth)

2. The most recent Order of the Court does not set a specific placement schedule for me to have my child(ren). **(attached is a copy of most recent order)**

3. We cannot agree on my periods of physical placement.

4. This Affidavit is made in support of the attached Motion.

5. I would like the specific placement schedule to be: (attach pages, if necessary) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of party filing motion

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary Public, State of Wisconsin  
County of Dane  
My commission expires: \_\_\_\_\_