

FRIEND OF THE COURT MODEL HANDBOOK

Prepared by the
Friend of the Court Bureau,
State Court Administrative Office,
Michigan Supreme Court

2021



To view the most current version of this publication and other SCAO publications, please visit the
Michigan Supreme Court's website at

<http://courts.mi.gov/administration/scao/officesprograms/foc/pages/resources.aspx>

TABLE OF CONTENTS

| | |
|---|-----------|
| INTRODUCTION..... | 1 |
| PARTIES’ RIGHTS and RESPONSIBILITIES | 2 |
| FRIEND of the COURT DUTIES | 2 |
| OPTING OUT OF FRIEND OF THE COURT SERVICES..... | 3 |
| Filing an Opt-Out Motion at the Start of the Case | 3 |
| Filing an Opt-Out Motion After the FOC Opens the Case | 3 |
| COURT PROCEDURES..... | 4 |
| Starting a Case..... | 4 |
| Hearings | 4 |
| Court Orders | 4 |
| Changing an Order | 5 |
| Referee Decisions..... | 5 |
| Reconciliations and Dismissals..... | 6 |
| ALTERNATIVE DISPUTE RESOLUTION (ADR)..... | 6 |
| FOC Domestic Relations Mediation (MCR 3.224)..... | 6 |
| Court Rule Domestic Relations Mediation (MCR 3.216)..... | 7 |
| Joint Meeting..... | 7 |
| FOC Facilitative Information-Gathering (FIG) Conferences..... | 7 |
| CUSTODY | 7 |
| Investigations | 8 |
| Frequently Asked Questions About Custody | 8 |
| PARENTING TIME..... | 10 |
| Frequently Asked Questions About Parenting Time..... | 10 |
| SUPPORT | 12 |
| Child Support Formula..... | 13 |
| Support Enforcement..... | 13 |
| Health Care Enforcement | 14 |

| | |
|---|-----------|
| Intergovernmental Cases | 14 |
| Frequently Asked Questions about Support Orders and Payments..... | 15 |
| MISCELLANEOUS QUESTIONS and ANSWERS | 17 |
| Change of Domicile/Change of Legal Residence | 17 |
| Enforcement of Judge’s Oral Ruling..... | 17 |
| Property Settlement | 17 |
| Access to Friend of the Court Records..... | 17 |
| Access to Other Records | 18 |
| Adoptions, Marriages, and Military Enlistments Impact on Child Support..... | 18 |
| Parent Locator | 18 |
| Paternity Establishment..... | 18 |
| Complaints about Attorneys, Judges, or the Friend of the Court..... | 18 |
| GLOSSARY OF FREQUENTLY USED TERMS | 20 |
| STATE AND LOCAL AGENCIES..... | 21 |

INTRODUCTION

This handbook summarizes the friend of the court (FOC) office's duties and procedures, provides information about parties' rights and responsibilities, and describes some basic court procedures. The circuit court's family division decides divorce, paternity, custody, and support matters. The FOC helps the court administer these types of cases. The FOC is part of the circuit court and is supervised by the chief judge.

This handbook describes the FOC's general duties. Some procedures vary by county. You may discuss any questions regarding local or statewide procedures or requirements with your local FOC office or with your attorney.

To learn some of the common family law and FOC legal terms, please turn to the glossary at the end of this handbook.

PARTIES' RIGHTS and RESPONSIBILITIES

Each party has the right to:

- Meet with the individual who is investigating custody or parenting time before the investigator makes a recommendation regarding the dispute.
- Ask for a modification to the party's order for support or health insurance (see *Party's Motion to Modify the Support Order* in this handbook for more information).
- File a grievance about an FOC employee or an FOC office procedure.
- Hire and consult an attorney. The FOC does not represent either party.
- If the parties agree and the court approves, decline all FOC assistance ("opt-out").

Each party has the responsibility to provide the following information and any changes in writing to every FOC office that has a case involving that party:

- Current residential address.
- A single, current mailing address where all notices and documents should be sent.
- Current employer's (or other source of income) name, address, and telephone number.
- Current telephone number (residential or mobile).
- Occupational, recreational, or driver's licenses held, and license number(s).
- Social security number, unless exempt by law from disclosing that number.
- Current address of children.
- Current information regarding health care coverage that is available to either party as a benefit of employment, or that either party purchases directly from an insurer.
- Provide other information required by law to help the FOC carry out its duties.

FRIEND of the COURT DUTIES

An FOC office performs the following duties:

- Investigates and makes recommendations to the court regarding custody, parenting time, child support, or medical support.
- Offers voluntary alternative dispute resolution (ADR) services to help settle disagreements about custody, parenting time, or support.
- Collects, records, and distributes support payments as ordered by the court in cooperation with the Michigan State Disbursement Unit (MiSDU).
- Assists the court with enforcing custody, parenting time, and support orders.
- Provides forms for parties to use to file motions and responses regarding custody, parenting time, support, change of domicile, and repayment plans.

The FOC has no authority to:

- Investigate criminal activity or abuse and neglect (but FOC employees must report suspected abuse and neglect).
- Change an order.
- Give legal advice.

OPTING OUT OF FRIEND OF THE COURT SERVICES

Parties may file a joint motion to opt out of the FOC's services, along with a document that shows they are voluntarily giving up FOC services. If the court approves the motion, the parties must then deal with each other directly.

Parties who opt-out of FOC services must carry out and enforce the court's order on their own. To guarantee a proper accounting of support payments, parties may make support payments through the MiSDU even after an FOC case file closes.

If at any time a party applies for public assistance, requests any service from the FOC, or requests that a case be reopened, the FOC will reopen the case. In these situations, the court may request that a party or the FOC prepare a written order to reopen the case.

Filing an Opt-Out Motion at the Start of the Case

If the parties file an opt-out motion at the same time as the complaint that starts the case, the FOC will not open a case file unless one or more of the following is true:

- A party receives "public assistance" and qualifies for Title IV-D Services (please see the glossary for definitions).
- A party has applied for Title IV-D Services.
- A party has asked the FOC to open a case file.
- There is evidence of domestic violence or bargaining inequality and evidence that the opt-out request is against the best interests of a party or the child.

Filing an Opt-Out Motion After the FOC Opens the Case

After the FOC opens a case, the parties may file an opt-out motion requesting the FOC close it. The FOC will close the case unless one or more of the following are true:

- A party objects to the closure.
- A party is receiving public assistance.
- Within the past 12 months, a support arrearage has existed, a custody or parenting time violation has occurred, or a party has asked the FOC to reopen its case file.
- There is evidence of domestic violence or bargaining inequality along with evidence that the request is against the best interests of a party or the child.
- The parties have not filed a document with the court, signed by each party, that acknowledges the FOC services that the parties are giving up.

COURT PROCEDURES

Starting a Case

A party who wants to start a court case must follow Michigan Court Rules and Michigan law. Many people will want to be represented by an attorney.

Plaintiff's Complaint

A case begins when a person (the plaintiff) requests the court's assistance by filing a "complaint" that asks the court to decide a dispute between the plaintiff and the other party (the defendant). The plaintiff may ask the court to do any of the following:

- Grant a divorce.
- Review the case to determine if an order for child support (including medical support) or spousal support is appropriate.
- Establish paternity.
- Establish custody of a child with one (or both) parties.
- Establish each party's parenting time with a child.

Service

The plaintiff must arrange to serve the defendant with a summons and the complaint. The summons tells the defendant to answer the complaint. When minor children are involved, or if spousal support is ordered, this handbook must also be given to the defendant.

Defendant's Answer to the Complaint

The defendant has 21 days to answer the complaint. If the defendant does not answer within 21 days, the judge may enter an order granting the plaintiff's requests without holding a hearing.

Hearings

After both a complaint and an answer have been filed, the court usually holds a hearing to obtain the information it needs to decide the case. At the hearing, the parties may tell the court what they want it to decide. The court is not bound by parties' recommendations. Either party may file a motion asking the court to decide custody, parenting time, and support issues.

Court Orders

After the court decides the case, it must sign a written order summarizing its decision. The court may require a party or his or her attorney to prepare the order. The order is not enforceable until a judge signs it and it is filed with the court clerk. If a party disagrees with an order, the party may file a motion for a rehearing or appeal to a higher court. **A party cannot change a court order by filing a grievance or by filing a complaint to other government agencies.**

Preliminary Orders

Courts sometimes enter preliminary orders that remain in effect only until the parties have an opportunity to present more detailed evidence and arguments at a hearing. Examples are orders

after a Facilitative and Information-gathering Conference (see pg. 9) and *ex parte* orders.

Ex Parte Orders

A judge will enter an *ex parte* order (an order entered without first hearing from all parties) when the judge believes serious harm will occur if the judge waits for a hearing or response from the other party. *Ex parte* orders usually try to keep a situation stable until the judge can hear from both parties. An *ex parte* order remains in effect until the court changes it.

A party may file an *Objection to Ex Parte Order and Motion to Rescind or Modify (FOC 61)* within 14 days of the order being issued to ask the court to change or cancel the order. If a party files an objection, the FOC will try to help the parties settle the dispute without going to court. If the parties cannot agree, the FOC will provide forms and instructions for unrepresented parties to schedule a court hearing.

After a court decides an objection or motion challenging an *ex parte* order, the court will enter a temporary order the parties must follow until it enters a modified temporary order or a final order. An *ex parte* order becomes a temporary order if no objection is filed within 14 days.

Temporary Orders

A party may file a motion requesting a temporary order at any time. The court may modify a temporary order at any time following a hearing and upon a showing of good cause. A temporary order remains in effect until it is modified or until the court enters a final order.

Final Orders

A final order or judgment is an order that decides all the issues before the court after a hearing, trial, or the parties' agreement.

Changing an Order

The FOC cannot change a court order; only a court can. Normally, a court will change an order if both parties agree to the change. Otherwise, a court will change an order only after a party (or the FOC) files a motion and the court holds a hearing on the motion.

Even if the parties agree to change a court order, the court and the FOC cannot follow the new agreement until the judge signs a new order that approves the agreement.

Sometimes, the law requires the FOC to ask the court to change an order, but the order will not be changed until the court approves the order after offering to hear from all parties involved. See *Parenting Time Enforcement and Modification of a Child Support Order* later in this handbook.

Referee Decisions

The chief circuit court judge may appoint a referee to hear testimony and arguments on issues in a domestic relations case. A referee is not a judge but recommends an order to the judge. A referee's recommendation becomes a final court order if (1) no party files a written objection with the court clerk within 21 days after the referee serves the recommendation on the parties, or (2) after a

party's objection, the court holds a hearing and the judge decides to approve and sign the referee's recommended order. The court may make the referee's recommendation a temporary order, which expires when the time to object to the order passes or until the judge holds a new hearing.

Parties may wish to consult an attorney for more information on how to object to a referee's recommendation and how to request a hearing before a judge.

Reconciliations and Dismissals

Not every domestic relations case ends with the parties divorced or separated. If the parties try to work out their differences and no longer wish to have the court enforce an order in their case, they may file a motion asking the court not to enforce the order.

If the parties wish to stop all further action in a case, they must file a motion asking the court to dismiss the case. If the state of Michigan provided financial assistance to a party or the parties' children while the case was pending, or if the payer has other debts under the order, the payer may be required to pay any unpaid debts on the case before the court will dismiss the case.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Alternative Dispute Resolution (ADR) is a process to try to settle disputes without going in front of a judge for a decision. ADR is less formal than a court hearing. Parties involved in a domestic relations case may participate in ADR, which allows them to settle a case without much court involvement. In addition to parents, ADR may sometimes involve grandparents and other third parties. Parties often like this better because they make the decisions, instead of the court. The court must still enter an order, but the court order is usually what the parties agreed to.

Check with your local FOC office to find out what ADR services are available. The next few sections summarize different kinds of ADR.

FOC Domestic Relations Mediation (MCR 3.224)

The FOC offers mediation to help parents resolve custody and parenting time disputes. The court may order parties to mediation, or the parties may agree to attend mediation. The mediator will write out any agreement the parties make. The parties may review this agreement with their attorneys.

Except for some information concerning violent or criminal activity, matters discussed during mediation are confidential. If domestic violence is discovered before or during mediation, FOC mediation cannot occur unless the victim signs a consent document and additional safety precautions are taken.

An FOC mediator may not share information about what happened during mediation, except for what is stated in the parties' agreement. After mediating a case, an FOC mediator cannot later enforce, investigate, or serve as a referee in that same case.

Court Rule Domestic Relations Mediation (MCR 3.216)

The court may refer family matters to mediation under MCR 3.216 if the parties agree, if the judge orders mediation on a party's motion, or on the court's own initiative.

Unlike the FOC mediation summarized above, court rule mediation is not limited to only custody or parenting time issues; the court may order mediation for any disputed issue related to the domestic relations case. The parties may agree to have the case mediated by any person who has the qualifications specified in the court rule. If the parties cannot agree on a mediator, the court's ADR clerk will assign one from a list of qualified mediators. Information discussed during the mediation is confidential unless it meets one of the exceptions listed in MCR 2.412(D). The person who performs mediation under MCR 3.216 is entitled to a reasonable fee. The parties usually share that expense equally.

If the court orders mediation, the parties must attend the mediation sessions and they may bring their attorneys. If the parties reach an agreement during mediation, they will be asked to sign a written agreement. The parties must then have the mediation agreement entered as a court order.

Joint Meeting

The FOC may use joint meetings to resolve custody, parenting time, and support disputes. Joint meetings can occur before or after an order is entered to resolve a custody or parenting time complaint (usually involving minor disagreements). Following a joint meeting, the FOC employee may recommend a court order, which the court may enter if neither party objects to it.

FOC Facilitative Information-Gathering (FIG) Conferences

In an FOC FIG conference, an FOC employee meets with the parties to try to resolve custody, parenting time, or support issues. If the parties fail to reach an agreement, the FOC may prepare a report or recommended order. If the FOC recommends an order, the court may enter it and give the parties an opportunity to object and have a hearing, or the court may hold the order until the parties have an opportunity to object and first have a hearing. Discussions during FIG conferences are nonconfidential and may be shared.

CUSTODY

There are generally two kinds of custody. "Physical Custody" determines where a child primarily lives. "Legal Custody" determines which parent can make important decisions for the child, such as the child's school or medical decisions.

"Sole" physical custody means one parent primarily lives with the child. "Sole legal custody" means one parent makes major decisions for the child.

Joint custody is available to parents. "Joint custody" means (1) the child resides alternately for

specific periods with each parent, (2) the parents share decision-making authority for important decisions affecting the welfare of the child, or (3) both. The child does not have to live an equal amount of time with each parent for them to have joint custody. Unless only one parent has legal custody of a child, no matter how many days a parent has parenting time with a child, the child is considered to have a legal residence with each parent who will, in consultation with the other parent, make important decisions for the child, and regular decisions about the child's care, while the child is in his or her custody for parenting time. At a parent's request, the court must consider ordering joint custody. If both parents agree to a joint custody arrangement, the court must order it unless the court determines that joint custody is not in the "best interests of the child." A court must consider both the "best interests" factors and also whether the parents will be able to cooperate and usually agree on important decisions affecting their child's welfare before ordering joint custody.

The court must state its reasons for granting or denying the request for joint custody.

Parents are encouraged to reach their own custody agreements. When parents cannot agree, the court analyzes the "best interests of the child" factors listed in the Michigan Child Custody Act to determine custody.

For more information about custody, see the *Michigan Custody Guidelines* on the Michigan Supreme Court's website.

Investigations

The FOC investigates custody and parenting time issues upon request of the court or the parties. When the investigation is complete, the FOC files a report and recommendation with the judge. The FOC must give each party or the party's attorney a copy of the report, including the recommendation and a summary of information used to make the recommendation. If the parties request the investigation, the FOC may charge the parties for the expense of conducting the investigation and making the report.

Frequently Asked Questions About Custody

Can custody be changed if both parents agree?

Yes. But the judge must approve and sign a new order before it takes effect.

Do I need an attorney to file a motion to change custody?

No. You may file the motion on your own, and the FOC will provide the forms and instructions you need. Forms and instructions are also on the Michigan Supreme Court's website and the Michigan Legal Help website.

You have to follow the same rules an attorney must follow. There are many complex issues in a custody case, and many people prefer to have an attorney represent them. The FOC cannot file a motion for you, provide you with an attorney, or tell you what to say in the motion.

What happens if the other parent does not follow the order to return the child to me?

There are three actions you can take in this situation. You can ask the FOC office to enforce the order or you or your attorney may file a motion and ask the court to enforce the order. If you believe the other parent will not return the child, you may contact the police or the prosecuting attorney and ask either to file a parental kidnapping charge.

How do I enforce the custody order if the other parent takes our child to another country?

When a child who is a United States citizen is illegally kept outside of this country, the United States Department of State Office of Children’s Issues will work with the local U.S. embassy and the other country’s government to assist the lawful parent. However, the State Department cannot force the other parent to obey a court order.

If the parents cannot reach an agreement, this kind of child custody dispute often must be resolved by judicial proceedings in the country where the child and the other parent are living. The State Department will help the lawful parent file documents with the foreign authorities. It also will monitor and report on the foreign judicial or administrative proceedings.

The Child Custody Act requires that parenting time orders prohibit exercising parenting time in a nation that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction, unless both parents provide the court with their written consent.

The Office of Children’s Issues at the United States Department of State can be reached at:

United States Department of State
Bureau of Consular Affairs- Office of Children’s Issues
SA-17, 9th Floor
Washington, DC 20522
AbductionQuestions@State.gov
Phone: 1-202-501-4444 or 1-888-407-4747 (toll free)

Can the FOC investigate child abuse or neglect?

The FOC does not have authority to investigate abuse or neglect. However, FOC employees employed in a professional capacity are required to report suspected child abuse and neglect.

If you suspect abuse or neglect, you should contact the Child Protective Services (CPS) division of the Michigan Department of Health and Human Services (MDHHS) at 1-855-444-3911.

A judge may consider abuse or neglect when deciding custody or parenting time. A party should inform the FOC of any concerns about abuse or neglect if the FOC is investigating custody or parenting time. Both the judge and the FOC will rely on CPS to investigate and evaluate the abuse or neglect allegations.

May I enroll my child in my local school, even though my child lives in another school district with the other parent most of the time?

When the parents live in different school districts, Michigan law allows a child to attend a school in either district, regardless of which parent has custody.

PARENTING TIME

A parenting time order says when a child will spend time with each parent. A parent is responsible for all routine decisions that affect the child during his or her parenting time. The Michigan Child Custody Act governs how a judge may grant parenting time. The State Court Administrative Office's *Parenting Time Guidelines* are available at the Michigan Supreme Court's website. Contact your local FOC office to find out about local guidelines.

In some situations, you may resolve parenting time issues and disagreements through ADR. Contact your local FOC office to determine what ADR services are available.

Enforcement

The FOC must enforce parenting time orders. The FOC office usually starts enforcement when it receives a written complaint stating facts that show a party violated the order. The FOC may decline to enforce if:

- the violation occurred more than 56 days before the complaint is made;
- the complaining party previously made two or more complaints that the court found unwarranted and the complaining party has failed to pay the costs assessed in those proceedings; or
- the court order does not have an enforceable parenting time provision.

The FOC starts enforcement by sending a copy of the written complaint to the other party within 14 days after the FOC receives the complaint. The FOC may respond to the complaint by:

- Applying "makeup" parenting time.
- Asking the court to decide if the party who is accused of violating parenting time is in contempt.
- Filing a motion to modify parenting time provisions.
- Scheduling mediation, depending on the type of ADR services available in your county.
- Scheduling a joint meeting with the parties.

Modification Motions

A party may file a motion to change the parenting time order. The FOC office has forms and instructions to file this type of motion. Parties may want to hire an attorney to assist them.

Even if the parties agree to a change, the current order remains in effect until the judge signs a new order and it is filed with the court clerk.

Frequently Asked Questions About Parenting Time

My order states I have "reasonable" parenting time. What does this mean?

A 'reasonable' parenting time order assumes you and the other parent will agree to a parenting time schedule. If you and the other parent cannot agree on a "reasonable parenting time" schedule, you may:

- Ask the other parent to attend ADR with the FOC.
- Ask the FOC whether the order is specific enough to allow the office to help.
- File a motion on your own or contact an attorney.

I would like to change my parenting time schedule. What can I do?

First, you can ask the other parent to agree to a change. The agreement, by itself, is not enforceable; it must first be changed into a new court order. If no agreement is possible, you may file a *Motion Regarding Parenting Time (FOC 65)* asking the court to order a new schedule. You may file the motion on your own, or have an attorney file it for you. The FOC office may provide the form to you, or you can find it online.

The other parent is not paying child support. Do I have to allow parenting time?

Yes. You must continue to obey the parenting time order. Ask the FOC to enforce child support (see *Enforcement Methods* later in this document).

The other parent is not sending or returning clothes or other items our child uses during parenting time. Can the FOC do something about that?

The FOC can only enforce the court's orders. If your court order does not say anything about transferring clothes or other items, try to work it out with the other parent. If that is unsuccessful, you may file a motion requesting a new order to require the other parent to transfer clothes or other items along with your child.

The other parent is not following the parenting time order. What can I do?

You can file a written complaint with the FOC (see *Parenting Time Enforcement*). Your complaint should state facts explaining how the other parent is not following the order. Some FOCs have a form to file a parenting time complaint. Contact your local FOC to find out how to proceed.

If I believe that the other parent is under the influence of alcohol or drugs, do I have to let the children go with that other parent for parenting time?

If you do not follow the court order, the court may order you to explain your decision to the court at a hearing to decide whether you are in contempt of court. At the hearing, you can explain why your decision was in the best interests of the children. If the judge agrees, you will not be held in contempt.

The other parent will not let me phone, e-mail, or text my children. What can the FOC do?

The FOC can only enforce the court's orders. If your court order does not provide for phone calls, e-mails, or texting, try to negotiate an agreement with the other parent. You can also ask your FOC office how to proceed. You also may file a motion asking the court to modify the order to require that you be allowed to call, e-mail, or text your children.

I think my child is being abused during parenting time. What should I do?

Report your concerns to the MDHHS Children's Protective Services (CPS) at 1-855-444-3911. In Wayne County, call 1-800-716-2234. The FOC cannot investigate abuse or neglect allegations, nor can it remove children from a person; only CPS can do that.

My child does not want to spend time with the other parent. What can I do?

Parents must obey court orders no matter the child's age and preferences. Each parent must try to promote a positive relationship between the child and the other parent. You may want to try the following:

- Work out a different arrangement with the other parent.
- Seek counseling for you, your child, and/or suggest that the other parent does the same.
- Contact the FOC and request alternative dispute resolution.
- File a motion asking the court to change your parenting time order.

The other parent refuses to see our children. What can the FOC do?

The FOC cannot force a parent to see his or her children. To promote a positive relationship with the children and the other parent, you may wish to consider counseling, mediation, or filing a motion to change the parenting time order.

SUPPORT

The Office of Child Support, the prosecuting attorney's office, and the FOC office work together to establish and enforce child support orders.

A "support order" is any court order for a party to pay:

- Child support.
- Spousal support (formerly called "alimony").
- Medical, dental, and other health care expenses for the child(ren).
- Confinement/birthing expenses.
- Child care expenses.
- Educational expenses.

All support orders state an amount due on the first day of each month. Support is past due if not paid by the last day of the month. When an order starts after the first day of a month, support is prorated for the partial month. Support will end on the last day of the month stated in the order.

Changing a Child Support Order

The FOC must review child support orders automatically once every 36 months if the child or the parent receives public assistance. In other cases, the FOC conducts a review on a party's written request, but not more often than once every 36 months, unless the party proves a substantial change in circumstances. The court can also order the FOC to review support. After reviewing the support, the FOC will ask the court to change the order if a change is warranted. As part of its review, the FOC may request information such as a parent's earnings, details of any health care coverage, tax refunds, and job or education history.

Threshold for an FOC Motion to Modify the Support Order

The FOC will ask the court to change the support payment if the difference between the current support and the amount determined by the child support formula (using the party's most recent income data) is at least 10 percent or \$50.00 per month, whichever is greater. If the difference is

less than that, the FOC is not required to request a change.

Party's Motion to Modify the Support Order

Merely notifying the FOC that one parent's financial situation has changed cannot automatically change the child support amount. A party who needs an immediate change in child support should file a *Motion Regarding Support (FOC 50)* requesting the change. The FOC provides forms and instructions for this type of motion, but the FOC cannot complete the motion for the party. A party may also hire an attorney to file a modification motion.

Retroactive Modification of Support Generally Not Allowed: Exception

A change in child support generally cannot apply to any time before the date the motion for a change was filed unless a party intentionally fails to report an income change to the FOC or has misrepresented his or her income.

Payment Procedure

Unless otherwise ordered, support payers must make their payments to the Michigan State Disbursement Unit (MiSDU). When the MiSDU receives a payment for an order, the MiSDU must forward the money to the payee within two business days.

In most cases, the FOC automatically withholds support from a payer's wages or other income. A payer who pays the MiSDU directly should clearly identify the case number with the payment.

Once a year, parties may request the FOC to give them a free support account statement. Account information is always available through the MiSDU, online through MiChildSupport, or by calling the FOC office that has the support order. You can reach the MiSDU at 1-877-543-2660.

Statutory Service Fees

Michigan law requires the FOC to charge support payers a \$3.50 per month fee.

Surcharge on Overdue Support (Arrears)

The court can order a surcharge as a sanction for failure to pay support.

Child Support Formula

Federal and state law require the court to use a formula to set child support. That formula considers the parents' incomes and other factors. The court may set a different support amount, but only if the judge explains in writing or during a court hearing why the formula amount is unjust or inappropriate. For more information about the child support formula, see *Facts about the Michigan Child Support Formula (PSA 24)* or the *Michigan Child Support Formula* at the Michigan Supreme Court's website.

Support Enforcement

When support payments are more than one month past due, the FOC must enforce them without waiting for a request for enforcement. Some enforcement begins immediately, including income withholding and health insurance coverage.

The FOC can collect support using the following processes:

- Income withholding;
- Contempt of court;
- Income tax intercept;
- Passport suspension or denial;
- Driver, professional, and recreational license suspension;
- Liens on real and personal property; and/or
- Credit reporting.

For more information on support enforcement processes, see the Friend of the Court Bureau Resources page at the Michigan Supreme Court's website.

Health Care Enforcement

The court may order one or both parents to provide health insurance for the children. The FOC will send a medical support notice to the parent's employer. The employer then must enroll the children in the employer's plan and deduct the premiums from the parent's wages.

Court orders require the parents to reimburse each other for part of their children's uninsured health expenses. If a parent fails to pay his or her share, the FOC will help collect it if the following four conditions are satisfied:

- The amount exceeds the annual ordinary amount in the order, or the requesting parent is the support payer.
- One parent requests payment from the other parent within 28 days after receiving an insurer's determination that an expense is not covered.
- The other parent does not pay within 28 days of the request for payment.
- The FOC's assistance is requested within one year after incurring the expense, within six months after the insurer has denied coverage, or within six months after the other parent fails to pay as required.

If a parent submits a request to the FOC that meets those four requirements, the FOC will notify the other parent of the amount due. If the parent does not object within 21 days, the unpaid amount becomes a support arrearage subject to enforcement. If the parent objects, the FOC must schedule a hearing to decide how to pay the amount that the health insurer did not pay.

Coverage might be available through MI-Child or Medicaid programs. More information about public programs is available at the Michigan Department of Health and Human Services' website.

Intergovernmental Cases

An intergovernmental case is where the child lives in a different state, country, or Tribal nation than one of the child's parents. The obligation to pay child support does not end when a party no longer lives in Michigan. Both parents must notify the FOC whenever they relocate. The support

payer must continue to pay support, and the FOC must continue to enforce the court order.

If a support payer no longer resides in Michigan and stops paying, other states (and some foreign countries) may enforce the Michigan courts' orders. Every state passed the Uniform Interstate Family Support Act (UIFSA) that allows a court in another state to withhold the payer's income, enforce the order, set or modify a support order, or help find the payer's assets. Several other countries have agreed to work together in child support matters.

Under UIFSA, the state that issues the original order is the only state that can change the order as long as one of the parties or a child still lives there. If no party or child still lives in the state that issued the order, the person who wants it changed must ask the state where the other parent lives to change it.

For more information, see *The Uniform Interstate Family Support Act (UIFSA): Working Together to Collect Child Support* (PSA 29) on the Michigan Supreme Court's website.

Frequently Asked Questions about Support Orders and Payments

What is child support?

Child support is money a parent pays to help meet the child's needs when the parent is not living full-time with the child.

Who can receive child support?

A person can receive child support if all of the following apply:

- The person is the minor child's parent or has responsibility for the minor child.
- The minor child lives in the person's home.
- The child is financially dependent on that person.
- One or both of the child's parents do not live with the child.
- The court has ordered a child support payment.

Do I need an attorney to get a support order?

No, but you are expected to understand court rules and state laws if you act on your own.

May I receive child support after my child reaches age 18?

Child support can continue up to age 19 1/2 if the child attends high school on a full-time basis with a reasonable expectation of graduating, and the child continues to reside on a full-time basis with the person who receives the support payments. Effective December 28, 2009, support orders include the specific date when support will end.

If I have been paying child support as required by the court's order but the other party will not allow me the order's parenting time, do I have to keep paying support?

Yes. Parenting time and child support are enforced separately (see the *Parenting Time* section of this Handbook).

The other parent is not paying child support as ordered. What can I do?

You can contact the FOC for help if the other parent is more than one month behind on the support payments. You can also hire an attorney.

My court order says to pay support through the Michigan State Disbursement Unit (MiSDU). May I pay the other parent directly?

No. A payer who pays the other party directly will not receive credit for the payments.

Will the FOC make sure that child support money is spent on the children?

No. The law does not let the FOC investigate how support payees spend child support; however, the court may change custody if you can show that the other party neglected the children.

Will the court modify the child support order if the payer is in jail or prison?

The FOC is required to review the order within 14 days of receiving notice that a parent has been incarcerated or released from incarceration, and recommend any necessary support changes.

My license was suspended. How can I have it reinstated?

If you comply with the court's orders (which may include paying off arrearages or setting up a payment plan), you must get a Compliance Certificate for License Reinstatement from the FOC and pay a \$45.00 fee to the clerk of court.

Who do I contact for more information?

For general child support information, you can visit the Michigan Child Support website. If you have questions regarding paternity, you can contact your local prosecuting attorney's office. If you have questions about your case, you can contact your local FOC office. If you have judicial process questions, you can contact The State Court Administrative Office, Friend of the Court Bureau, at 1-517-373-5975 or focb-info@courts.mi.gov.

THE FEDERAL IV-D CHILD SUPPORT PROGRAM

Title Four, Part D (IV-D) of the Social Security Act establishes the federal child support program and sets requirements all states must meet to receive federal funding to find missing parents and their assets and to help establish paternity and child support. The IV-D program provides funding to help parents change orders when appropriate; enforces child support and orders; works with other states to enforce support; and collects and processes child support payments.

Applying for IV-D Child Support Services.

Persons who want to establish paternity or support, or collect child support, may apply for IV-D child support services. To get an application or learn more about the application process, you may (1) call the Office of Child Support at 1-866-540-0008; (2) visit a local MDHHS office, prosecuting attorney's office, or FOC office; or (3) apply online.

All IV-D applicants are entitled to receive *Understanding Child Support: A Handbook for Parents*. You may view the handbook on MDHHS' website, or you can contact your local FOC or MDHHS office for a paper copy.

MISCELLANEOUS QUESTIONS and ANSWERS

Change of Domicile/Change of Legal Residence

How do I get the court's approval to change the children's residence?

If you have joint legal custody with the other parent, do not already live 100 miles from the other parent, and wish to relocate over 100 miles away, you may sign an agreement with the other parent to change residence. The agreement must be in the form of an order, and submitted to the court for approval and signature. If you and the other parent cannot agree, you may:

- Use the FOC's ADR services; or
- File a motion that asks the court to enter an order approving the change.

Whether you have joint or sole custody, notifying the FOC that you intend to move the children (or *filing* a motion requesting the court's approval) does **not** automatically allow you to move your children. You must obtain a court order approving the move.

Enforcement of Judge's Oral Ruling

Why won't the FOC enforce what the judge said in court, even if it's not in the written order?

The FOC can enforce only what is in a written order. If you think a written order does not say what the judge said in court, first speak to the person who prepared the order and request a change. If necessary, you can file a motion that asks the court to correct the order.

Property Settlement

Can the FOC enforce my divorce judgment's property settlement provisions?

No. The FOC has no authority to enforce the court's property division order.

Access to Friend of the Court Records

May I review my FOC file?

Parties and their attorneys can see most information in the FOC file. There are exceptions for certain confidential documents. *See* MCR 3.218. The FOC may charge a reasonable fee for copying records.

If the FOC office will not let you see its file, you may file a motion asking the court to allow you to see the file. *See* MCR 3.218(G).

May other persons see my FOC file?

An FOC file is not public information. However, MCR 3.218(B)-(F) allows certain individuals or agencies access to FOC files.

Access to Other Records

May I see my child's school, medical, and other records if my child lives with the other parent?

Michigan law gives both parents the right to see certain records including medical, dental, school, and day care records. Both parents are entitled to receive advance notice of meetings that concern their child's education; however, the FOC cannot enforce that law. You may wish to consult an attorney if you are denied any of those rights.

Adoptions, Marriages, and Military Enlistments Impact on Child Support

What happens to my child support order if my child is adopted, marries, or enters the military service?

When any of these occur, the court can stop child support. You should provide copies of adoption orders, marriage records, or military service records to the court, and pay any overdue support.

Parent Locator

Will the FOC help locate a missing parent?

Yes. The state and federal governments have a "parent locator service" to locate a parent for any of the following purposes:

- To collect child support;
- To obtain or enforce a child custody or parenting time order;
- To prohibit the unlawful taking or restraint of a child.

Paternity Establishment

How do I establish my child's paternity (father)?

If the child's parents are married, the court assumes the mother's husband is the father. If the child's parents are not married, a father may establish his paternity by signing an Acknowledgement of Parentage or by filing for an Order of Filiation. If the mother or father applies for public assistance, MDHHS and the prosecuting attorney's office work together to establish paternity. For more information regarding paternity establishment, please visit the Michigan Supreme Court website or the MDHHS website.

Complaints about Attorneys, Judges, or the Friend of the Court

How do I file a complaint about the FOC?

The Friend of the Court Act has a grievance process for parties to express concerns about an FOC office's operations or employees. A grievance cannot change the FOC's recommendation, a referee's recommendation, or a judge's decision.

There are two ways to file a grievance:

- A party may file a grievance about the FOC office's operations or employees with the local

FOC office by writing a letter, using the heading “Grievance” or using a grievance form from the local FOC office or from the Michigan Supreme Court’s website. Within 30 days, the FOC must investigate the grievance and respond in writing or explain why a response cannot be provided within that time. If a party is not satisfied with the FOC’s response, the party may file the same grievance with the chief circuit court judge.

- A party may file a grievance about office operations (but not FOC employees) with a Citizen Advisory Committee (CAC). Each county may appoint a CAC. Because the committee’s role is advisory, the meeting will be closed to the public. After the committee or subcommittee meets, it reports its findings to the chief judge and the county board of commissioners. To find out if your county has an active CAC, please contact your local FOC.

How do I report misconduct of a judge or referee?

The Judicial Tenure Commission (JTC) reviews allegations of judge or referee misconduct. The JTC Commission can recommend that the Michigan Supreme Court discipline a judge or referee who has acted unethically. However, the JTC cannot change a court order or a referee’s recommendation. To change a court’s decision, a party must either seek rehearing by the same court or file an appeal.

If you wish to file a complaint about misconduct by a judge or referee, contact:

Judicial Tenure Commission
Cadillac Place, Ste 8-450
3034 W. Grand Blvd.
Detroit, Michigan 48202
1-313-875-5110
www.jtc.courts.mi.gov

How do I file a complaint about an attorney?

The Attorney Grievance Commission investigates attorney misconduct. To file a complaint against your attorney (called a “request for investigation”), contact:

Attorney Grievance Commission
Buhl Building
535 Griswold, Suite 1700
Detroit, MI 48226
1-313-961-6585
www.agcmi.org

GLOSSARY OF FREQUENTLY USED TERMS

Arrearage – The total amount of support payments that are overdue.

Bench Warrant – A court order to arrest a person and bring that person before the court.

Child Support – The court-ordered payment of money for a child. Support may include medical, dental, and other health care expenses, child care expenses, and educational expenses. Child support can include child care expenses when the child is less than 12 years old.

Contempt of Court – Failure to do what the court orders without a reasonable cause.

Disbursement – Paying out of collected child support funds.

Domestic Relations Action – Divorce, paternity, custody, parenting time, or support cases.

Evidence – Includes such things as the testimony of a witness, documents, or other items presented to a court to prove a fact.

Additional (Extraordinary) Health Care Expenses – The support recipient’s out-of-pocket expenses that exceed the children’s ordered annual ordinary medical expense amount and any uninsured medical expense paid by the support payer.

Michigan Department of Health and Human Services (MDHHS) – The state agency that provides public assistance to families and Child Protective Services.

Friend of the Court – In this handbook, “friend of the court” means the office that assists the circuit court’s family division. The office investigates, makes recommendations, and helps enforce court orders that affect minor children. “Friend of the Court” also is the formal title of the person in charge of that office.

Motion – A formal written request that a court take a specified action. A motion is sometimes called a “petition.”

Paternity – Fatherhood; a legal father for a child.

Payee – The person or agency entitled to receive support payments (also known as “recipient”).

Payer – The person who must pay support (also known as the “obligor”).

Public Assistance – Cash assistance (FIP) provided under the social welfare act, medical assistance, child daycare (CDC), food assistance (FAP) to a parent, or if foster care is or was provided to a child who is the subject of the case.

Residence – The permanent home to which a person, even when temporarily living elsewhere, always intends to return.

Show Cause Hearing – The court hearing at which a person must respond to a charge that he or she violated a court order. Also known as a “Contempt of Court” hearing.

Spousal Support – Money paid to support a spouse or former spouse, (formerly called “alimony”).

Summons – A notice from the court that someone has sued you.

STATE AND LOCAL AGENCIES

Your FOC office may have a list of local human service organizations that can help you in ways the FOC cannot. The list of agencies below may be able to assist you with your questions.

Michigan Department of Health and Human Services (MDHHS)

235 S. Grand Ave., P.O. Box 30037

Lansing, Michigan 48909

<http://www.michigan.gov/MDHHS>

Cash, Food, Medical or Home and Burial Assistance

1-855-275-6424 (1-855-ASK-MICH)

Reporting Abuse/Neglect

1-855-444-3911

Domestic Violence Hotline

1-800-799-7233

Office of Child Support

1-866-540-0008

(Automated System)

MiChildSupport (24-hour case access)

<https://micase.state.mi.us>

Michigan State Disbursement Unit (MiSDU)

P.O. Box 30351

Lansing, Michigan 48909

<https://www.misdu.com>

Michigan Legal Help

<http://michiganlegalhelp.org>