

Friend of the Court

Handbook

**Twenty-First
Judicial Circuit**

Isabella County



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Introduction

This handbook summarizes the duties and procedures of the friend of the court (FOC), provides information about parties' rights and responsibilities, and describes some basic court procedures.

The family division of the circuit court decides divorce, paternity, custody, and support matters. The FOC is part of the circuit court and is supervised by the chief judge. The FOC helps the court administer on those types of cases.

Parents can make family disputes less stressful for their children by maintaining their children's regular routines, encouraging frequent contact between the children and both parents, supporting the other parent's involvement in the children's schooling and other activities, and exchanging information about the children. Children want both parents to be part of their lives, to attend their graduations and weddings, to celebrate the births of their children, and to be part of other major life events.

Parties' Rights and Responsibilities

Each Party Has the Right To:

- Meet with the FOC employee who is investigating custody or parenting time.
- Ask the FOC to recommend that an order for support or health insurance be modified. See the section entitled, *Party's Motion to Modify the Support Order*.
- Expect the FOC office to perform its duties under Michigan law and court rules.
- File a grievance concerning an FOC employee or an FOC office procedure.
- Hire and consult an attorney.
- If the parties agree and the court approves, decline all FOC assistance ("opt-out").

Each Party Has the Responsibility To:

- Provide the following information *in writing* to every FOC office that is administering a case involving that party, and provide updates to this information as it changes:
 - A current residential address.
 - A single, current mailing address where all notices and papers should be sent.
 - Current employer's (or other source of income) name, address, and telephone number.
 - Current telephone number (residential or mobile).
 - Occupational 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.
- Obey all court orders.

Friend of the Court Duties

The Michigan Legislature created the FOC system in 1919. At least one FOC office serves each circuit court's family division. The FOC performs the following duties:

- When directed by the judge, it investigates and makes recommendations to the court regarding:
 - Custody;
 - Parenting time;
 - Child support, medical support, and sometimes spousal support.
- It offers voluntary alternative dispute resolution (ADR) services to help settle disagreements about custody or parenting time.
- In cooperation with the Michigan State Disbursement Unit (MiSDU), it collects, records, and distributes support payments as ordered by the court.
- It helps the court enforce orders of custody, parenting time, and support.
- It informs the parties that they may decline FOC services.
- It makes available forms that parties may use to file motions and responses regarding custody, parenting time, support, change of domicile, and repayment plans.
- It informs the parties of the availability of joint custody.

The FOC has no authority to:

- Investigate abuse and neglect.
- Change an order.
- Investigate criminal activity.
- Give legal advice to either party.

Together with the Office of Child Support (OCS), local FOC offices administer all aspects of Michigan's child support program. OCS is part of the Michigan Department of Health and Human Services (MDHHS). OCS administers the child support requirements of the federal Social Security Act, oversees the MiSDU, and oversees Michigan's child support computer system.

This handbook describes the general duties of the FOC. Some specific 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 become familiar with some family law and FOC legal terms, please refer to the glossary at the end of this handbook.

Opting Out of All Services Offered by the FOC

Parties who agree that they do not need the FOC's services do not have to use them, unless certain circumstances apply. They may file a joint motion to opt-out and, if the court approves it, the parties then must deal with each other directly. Before the court approves a motion to opt-out, the parties must file a document that summarizes FOC services and acknowledges that the parties have chosen not to use those services.

If an opt-out motion is filed at the same time as the complaint that starts the case, the court must order the FOC not to open a case file unless one or more of the following are true:

- A party is eligible for "Title IV-D services," because the party receives or has received in the past "public assistance." Please see the glossary for definitions.
- A party has applied for 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.

After a court case has been started and the FOC has opened a file for that case, the parties may file an opt-out motion requesting the court to order the FOC to close its file. The court will issue the order 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 coupled 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.

Parties who opt-out are responsible for administering and enforcing the court's orders. To assure a proper accounting of support payments and their consideration in future proceedings, the parties may make support payments through the MiSDU even after an FOC case file is closed.

At any time, if a party applies for public assistance, requests any service from the FOC, or requests that the FOC reopen a case, the FOC must reopen the case file.

Court Procedures

Starting a Case

No court can require a party to use an attorney. Anyone, including a party acting without an attorney, who wants to start a court case, must follow Michigan Court Rules and Michigan law. Because domestic relations cases often involve difficult legal and factual questions, most people will want to be represented by an attorney.

Plaintiff's Complaint

A case begins when the person requesting the court's assistance (the plaintiff) files a "complaint" that asks the court to decide a dispute between the plaintiff and the other party (the defendant). In a domestic relations case, the plaintiff may ask the court to do any of the following:

- Grant a divorce.
- Order a person to pay child support (including medical support) or spousal support.
- 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 for the defendant to be served with a summons and a copy of the complaint. The summons tells the defendant to answer the complaint. Whenever minor children are involved or spousal support is requested, an informational handbook (this handbook or one like it) must also be given to the defendant.

Defendant's Answer to the Complaint

The defendant is allowed 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.

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

When a court makes a decision, it must sign a written order summarizing the decision. Someone must prepare the order; usually, one of the attorneys prepares the order, but sometimes a court employee prepares it. In cases where a party is unrepresented by an attorney (often called "in pro per" or "pro se"), the court may require that a party prepare the order and present it to the court. No matter who prepares the order, it is not enforceable until a judge signs it and the signed order is filed with the county clerk. A referee can only recommend an order and prepare it; the recommended order does not become enforceable until a judge signs it. If a party disagrees with an order and wants to challenge it, the party may file a motion for a rehearing (by the judge who issued the order) or file an appeal (to a higher court). A party cannot change an order by filing a grievance or by complaining to other government agencies.

Preliminary Order

Courts sometimes enter temporary orders that remain in effect only until the parties have an opportunity to present more detailed evidence and arguments at a later hearing. This often happens in divorce cases.

Ex Parte Order (temporary orders entered at the request of one party before any formal hearing)

An ex parte order is an order that is entered without first hearing from all the parties. A judge will enter an ex parte order when the judge believes that serious harm will occur if the judge waits to hear from both parties before issuing the order. Ex parte orders usually are intended to keep the situation stable until the judge can hear from both parties. A party who disagrees with an ex parte order may file a written objection to the order or file a motion asking the court to change or cancel the order, but the ex parte order will remain in effect until it is changed by the court.

When an ex parte order deals with custody, parenting time, or child support, the order will include a notice that a written objection or a motion to change the order may be filed within 14 days.

After a court decides a motion challenging an ex parte order, the court will enter a temporary order with instructions that the parties must follow until a final judgment order (or a modified temporary order) is entered.

Instructions on challenging an ex parte order are available at:

<https://www.courts.michigan.gov/4a65f2/siteassets/forms/scao-approved/p05.pdf>

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 *Changing a Child Support Order* later in this handbook.

Referee Decisions

A referee is not a judge, but performs some tasks on behalf of the judge who is presiding over the case. A referee may hold hearings, examine witnesses, and make recommendations to a judge. The chief judge of a circuit court may appoint a referee to hear testimony and arguments on any issue in a domestic relations case except spousal support (alimony). Only a judge may hear testimony and arguments on spousal support.

A referee's decision is only a recommendation to the judge. A referee's recommendation will

become a court order only if neither party files an objection within specific time limits, or (if a party does object) only after the court holds a hearing and the judge then signs an order approving the referee's recommendation. The court may make the referee's recommended order effective temporarily until either the time to object to the recommended order expires or the judge hears an objection at a de novo, or new, hearing.

A party who disagrees with a referee's recommendation may request a de novo hearing before the judge. The objection and a request for a hearing must be in writing and must be filed with the circuit court clerk within 21 days after the referee's recommendation is mailed or delivered.

Consult an attorney for more information on how to object to a referee's recommendation and how to request a hearing before a judge. Some FOC offices will provide written instructions that explain how to file an objection.

Reconciliations and Dismissals

Not every domestic relations case ends with the parties divorced or separated. If the parties are trying to work out their differences and no longer wish to have an order in their case enforced, 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.

Enforcing Orders When One Parent Leaves Michigan

The obligation to pay child support does not end when a party leaves Michigan. Both parents must tell the FOC whenever they move. The support payer must continue to pay support and the friend of the court must continue to enforce the court order.

If a support payer leaves Michigan and stops paying as ordered, there are laws that allow Michigan courts to have their support orders enforced in other states. For example, every state has passed a law that allows a court in another state to withhold the payer's income, enforce the order, set or modify a support order, or assist with finding the payer's assets. For more information, see *The Uniform Interstate Family Support Act* (UIFSA) located at: https://www.courts.michigan.gov/4a71b9/siteassets/publications/pamphletsbrochures/focb/web-view/uifsa_final.pdf

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.

Information about Custody, Parenting Time, and Support Payments

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 *Michigan Custody Guidelines* at:

<https://www.courts.michigan.gov/4a7b4e/siteassets/court-administration/standardsguidelines/foc/custodyguideline.pdf>

Custody Questions and Answers

Can a custody order be changed if both parents agree?

Both parents may sign an agreement and present an order to the court. If the judge approves and signs the order, it will then become the new custody order.

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 that you will need. The court will expect you to follow the same rules that an attorney must follow. There are many complex issues in a custody case and most people prefer to have an attorney represent them. The FOC cannot file a motion for you, nor can that office 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 State Department's Office of Children's Issues will work with the local U.S. embassy and the other country's government to assist the child and the lawful custodial parent. However, because child custody disputes are private legal disputes between the two parents, the State Department has no jurisdiction to 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 custodial parent file the appropriate documents with the foreign authorities. It also will monitor and report on the foreign judicial or administrative proceedings.

A parent may contact the Office of Children's Issues at the United States Department of State, in writing, at the following address: Department of State, Office of Children's Issues, SA-29, 2201 C Street, NW; U.S. Department of State, Washington, DC 20520-2818. The Office of Children's Issues can be reached by phone at 1-888-407-4747, by fax 1-202-736-9080, or at the state department's website for foreign travel at: <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/abductions-contact-us.html>

Is the FOC allowed to investigate child abuse or neglect?

The FOC does not have authority to investigate abuse or neglect. Abuse or neglect should be reported to the Child Protective Services (CPS) division of the Department of Health and Human Services (DHS) in the county where the children live.

A judge may consider allegations of abuse or neglect when making a decision regarding custody or parenting time. A party should inform the FOC of any concerns about abuse or neglect if the FOC is doing a custody or parenting time investigation. Both the judge and the FOC will rely on Child Protective Services to investigate and evaluate the abuse or neglect allegations.

May my child enroll in my local school, even though the 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 specifies 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 states:

Parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time. If the parents of a child agree on parenting time terms, the court shall order the parenting time terms . . . [unless it is shown] that the parenting time terms are not in the best interests of the child. A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health. [MCL 722.27a(1)-(3).]

The statute also lists factors that the judge may consider when determining the frequency,

duration, and type of parenting time. (MCL 722.27a(7).)

The court may order parenting time per the Isabella County Reasonable Parenting Time Policy, which is outlined below.

ISABELLA COUNTY **REASONABLE PARENTING TIME POLICY**

The non-custodial parent shall have reasonable rights of parenting time. Reasonable parenting time includes any arrangements agreed upon between the parties. If the parties are unable to reach an agreement, then the following schedule will be implemented.

FROM BIRTH UNTIL THE CHILD'S FIRST (1ST) BIRTHDAY

The non-custodial parent shall have two (2) times per week for three (3) hours each, and three (3) times per month for six hours each. If the parents can't agree, the times shall be Tuesday and Thursday from 5:00 p.m. until 8:00 p.m., and the first three (3) Saturdays of each month from 12:00 noon until 6:00 p.m.

FROM THE CHILD'S FIRST (1ST) BIRTHDAY **UNTIL THE CHILD'S THIRD (3RD) BIRTHDAY**

WEEK TO WEEK

1. Every other weekend: The non-custodial parent shall have every other weekend from Saturday at 10:00 a.m. until Sunday at 6:00 p.m.

2. Mid-week: The non-custodial parent shall have one (1) mid-week parenting time each week for four (4) hours. The child(ren) must be returned to the custodial home no later than 8:00 p.m. If the parties are unable to agree otherwise, mid-week parenting time shall be on Wednesdays from 4:00 p.m. until 8:00 p.m. If the non-custodial parent cannot arrange to pick up the child(ren) at 4:00 p.m., the non-custodial parent shall identify an alternative pick-up time which shall remain consistent from week to week.

Whenever a more specific holiday parenting time is specified, it shall take precedence over week-to-week parenting time. When the holiday schedule concludes, the every other weekend schedule shall resume according to the pre-existing plan as if it had not been interrupted.

SUMMER BREAK

1. From age one (1) to age two (2): The non-custodial parent shall have one (1) week between June 1st and August 31st.

Summer parenting time can be taken in any manner selected by the non-custodial parent, but not less than one week at a time. A summer parenting time schedule shall be submitted in writing to the custodial parent by May 1st of each year. If the custodial parent has special plans (i.e. family reunions, weddings, etc.) he or she shall notify the non-custodial parent in writing by April 15th of each year, and request the non-custodial parent work around those dates. However, summer parenting time is the non-custodial parent's choice.

2. From age two (2) to age three (3): The non-custodial parent shall have two (2) non-consecutive weeks between June 1st and August 31st.

Summer parenting time can be taken in any manner selected by the non-custodial parent,

but not less than one week at a time. A summer parenting time schedule shall be submitted in writing to the custodial parent by May 1st of each year. If the custodial parent has special plans (i.e. family reunions, weddings, etc.) he or she shall notify the non-custodial parent in writing by April 15th of each year, and request the non-custodial parent work around those dates. However, summer parenting time is the non-custodial parent's choice.

CHRISTMAS BREAK

During even numbered years the Mother shall have from December 23rd at 6:00 p.m. until December 24th at 8:00 p.m., and the Father shall have from December 24th at 8:00 p.m. until December 25th at 6:00 p.m.

During odd numbered years the Father shall from December 23rd at 6:00 p.m. until December 24th at 8:00 p.m., and the Mother shall have from December 24th at 8:00 p.m. until December 25th at 6:00 p.m.

STARTING ON THE OLDEST CHILD'S THIRD (3rd) BIRTHDAY

The following provisions apply to all children over the age of 24 months starting on the oldest child's third (3rd) birthday, and take precedence over the provisions of the policy for first(1st) birthday through third (3rd) birthday.

WEEK TO WEEK

1. Every other weekend: The non-custodial parent shall have every other weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

2. Mid-week: The non-custodial parent shall have one (1) mid-week parenting time each week during the school year for four (4) hours. The child(ren) must be returned to the custodial home no later than 8:00 p.m. If the parties are unable to agree otherwise, mid-week parenting time shall be on Wednesdays from 4:00 p.m. until 8:00 p.m. If the non-custodial parent cannot arrange to pick up the child(ren) at 4:00 p.m., the non-custodial parent shall identify an alternative pick-up time which shall remain consistent from week to week.

Whenever a more specific holiday parenting time is specified, it shall take precedence over week-to-week parenting time. When the holiday schedule concludes, the every other weekend schedule shall resume according to the pre-existing plan as if it had not been interrupted.

SPRING BREAK

When the oldest child begins kindergarten, during even numbered years the Father shall have spring break, and during odd numbered years the Mother shall have spring break. Spring break parenting time shall be from 6:00 p.m. the Sunday following the last day of school until 6:00 p.m. the Friday before school resumes. Mid-week parenting time is suspended during spring break.

SUMMER BREAK

From the child's third (3rd) birthday until the child starts Kindergarten, the non-custodial parent shall have four (4) non-consecutive weeks between June 1st and August 31st.

When the child starts Kindergarten, the non-custodial parent shall have six (6) weeks of the child's summer break.

Summer parenting time can be taken in any manner selected by the non-custodial parent, but not less than one week at a time. A summer parenting time schedule shall be submitted

in writing to the custodial parent by May 1st of each year. If the custodial parent has special plans (i.e. family reunions, weddings, etc.) he or she shall notify the non-custodial parent in writing by April 15th of each year, and request the non-custodial parent work around those dates. However, summer parenting time is the non-custodial parent’s choice.

Every other weekend parenting time shall remain in place for both parents throughout the child(ren)’s summer break. Mid-week parenting time is suspended for the child(ren)’s summer break.

CHRISTMAS BREAK

During odd numbered years, the Father shall have from 6:00 p.m. the last day of school until 12:00 noon on Christmas Day, and the Mother shall have from 12:00 noon on Christmas Day until January 1st at 6:00 p.m. During even numbered years, the Mother shall have from 6:00 p.m. the last day of school until 12:00 noon on Christmas Day, and the Father shall have 12:00 noon on Christmas Day until January 1st at 6:00 p.m. Week-to-week parenting time shall resume on January 1st at 6:00 p.m. Mid-week parenting time is suspended during Christmas Break.

HOLIDAYS

Easter, Memorial Day, Labor Day: Easter, Memorial Day, and Labor Day shall be part of the weekend for whichever parent has the child(ren) that weekend. Easter, Memorial Day, and Labor Day parenting time shall conclude at the 6:00 p.m. on the holiday.

Mother’s Day / Father’s Day: The Father shall have Father’s Day from 9:00 a.m. until 6:00 p.m., and the Mother shall have Mother’s Day from 9:00 a.m. until 6:00 p.m.

July 4th: The Father shall have July 4th during even years and the Mother shall have July 4th during odd years. Parenting time for July 4th shall be from 9:00 a.m. on July 4th until 9:00 a.m. on July 5th. If July 4th is a Thursday and the same parent has the adjoining weekend, parenting time shall be from Thursday at 9:00 a.m. until Sunday at 6:00 p.m.. If July 4th is a Monday and the same parent has the adjoining weekend, parenting time shall be from Friday at 6:00 p.m. until Tuesday at 9:00 a.m.

Halloween and the child(ren)’s birthdays: The father shall have the child(ren) for Halloween and the child(ren)’s birthdays during odd years and the Mother shall have the child(ren) for Halloween and the child(ren)’s birthdays during even years. Parenting time for Halloween and the child(ren)’s birthdays shall be from 5:00 p.m. until 8:00 p.m.

Thanksgiving: The Father shall have the children for Thanksgiving during odd years and the Mother shall have the child(ren) for Thanksgiving during even years. Parenting time for Thanksgiving shall be from 6:00 p.m. Wednesday until 6:00 p.m. Friday.

	EVEN YEARS	ODD YEARS
FATHER	Spring Break July 4th Second part of Christmas break	Children’s birthdays Halloween Thanksgiving First part of Christmas break

MOTHER	Children's birthdays Halloween Thanksgiving First part of Christmas break	Spring break July 4th Second part of Christmas break
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TRANSPORTATION

The responsibility for transporting the child(ren) to and from parenting time (weekends, holidays, breaks, and summers) will be shared by both parents. The non-custodial parent will pick up the child(ren) at the child(ren)'s home at the specified time for pick-up. The custodial parent will pick up the child(ren) at the end of parenting time to return the child(ren) to the custodial home.

When parenting time does not include an overnight, the parent exercising parenting time shall be responsible for all transportation.

MISCELLANEOUS

A thirty-minute delay in pick up and drop off of child(ren) shall be allowed for unforeseen circumstances only.

Parenting Time Enforcement

The FOC is required to enforce parenting time orders. The FOC office usually starts enforcement action when it receives a written complaint stating specific facts that show a violation of an order governing custody or parenting time. The FOC may decline to respond if (1) the alleged violation occurred more than 56 days before the complaint is made, (2) the complaining party has previously made two or more similar complaints that were found by the court to be unwarranted and the complaining party has failed to pay the costs assessed in those prior proceedings, or (3) the court order does not include an enforceable parenting time provision.

The FOC starts enforcement proceedings by sending a copy of the written complaint to the other party within 14 days after the FOC office receives the complaint. If the FOC finds that the court's order has been violated, the FOC has the following options:

- Suggest "makeup" parenting time.
- Start an action requiring the party to show cause why the court should not find the party in contempt.
- File a motion to modify existing parenting time provisions.
- Schedule mediation, depending on the type of ADR services available in your county.
- Schedule a joint meeting with the parties.

Parenting Time Modification Motions

A party may file a motion to change the parenting time order, if the party can show proper cause or a change in circumstances. The FOC office has printed forms and instructions for filing this type of motion. Parties may want to hire an attorney to assist with the motion.

If both parents agree to change the parenting time arrangement, they may sign an agreement to that effect and ask the judge to modify the current order. Even though the parties have agreed to

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

Parenting Time Questions and Answers

My order states I will have “reasonable” parenting time. What does this mean?

An order that grants “reasonable” parenting time assumes that you and the other parent will agree to a parenting time schedule that is convenient to both of you and to the child.

If you and the other parent cannot agree on a “reasonable parenting time” schedule, you may:

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

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

First, ask the other parent to agree to a change. If you agree, you should prepare an order containing your agreement and provide proof to the court that both of you agree to the order. The judge will typically sign an order that is based on the parents’ agreement. Remember that the agreement by itself is not enforceable; it must first be converted into a new court order.

If no agreement is possible and you can show proper cause or a change in circumstances, you may file a motion asking the court to order a new parenting time schedule. You may file the motion on your own, or have an attorney file it for you.

The other parent is not making the child support payments required by our court order. Do I have to allow parenting time?

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

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

The FOC can only enforce the court’s written orders. If your court order does not say anything specific about transferring clothing or other personal items, try to work it out with the other parent. If that is unsuccessful, you may file a motion requesting a new court order that will require that clothing or other personal items be transferred along with your child before and after parenting time.

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

File a written complaint with the FOC (see *Parenting Time Enforcement*) using the *Physical Custody or Parenting Time Complaint* form.

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 scheduled parenting time?

That is your decision as a parent. If you violate the court order in such a situation, you may have to explain your decision to the court at a “show cause” hearing held to decide whether you should be held in contempt of court for disobeying the parenting time order. The hearing will be your

opportunity to explain why your decision was in the best interests of the children. If the judge agrees, you will not be held in contempt or otherwise punished.

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 that my child is being abused during parenting time that is spent with the other parent. What should I do?

Report your concerns to the MDHHS's Children's Protective Service's division in the county where the children live. The FOC does not have authority to investigate abuse or neglect allegations, nor can it remove children from the home of a person who commits or allows mistreatment; only CPS can do that. CPS can be reached at 1-855-444-3911.

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

Parents must obey court orders regardless of 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 your child, yourself, and/or suggest that the other parent does the same.
- 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

A "support order" in the form of a Uniform Support Order (USO) is any court order that requires a party to pay:

- Child support.
- Spousal support (formerly called "alimony").
- Medical, dental, and other health care expenses for the child(ren).
- Confinement expenses (the mother's childbirth costs and medical bills).
- Child care expenses.
- Educational expenses.

All support orders state an amount that is 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 takes effect on a day other than the first

day of a month, the support amount must be prorated for the partial month. Unless an order gives a specific end date, support will end on the last day of the month specified by the order. The last month of support will not be prorated to a certain date.

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 number is unjust or inappropriate. For more information about the child support formula, see the *Michigan Child Support Formula* webpage at: <https://www.courts.michigan.gov/4a55a4/siteassets/court-administration/standardsguidelines/foc/2021mcsf.pdf>

For more information see *Facts about the Michigan Child Support Formula* at: https://www.courts.michigan.gov/4a7150/siteassets/publications/pamphletsbrochures/focb/web-view/michchildsupptformula_final.pdf

Agreement to Modify the Support Order

If the parties agree to change the support amount to a different amount determined by the child support formula, they may sign an agreement. That agreement, once put in the form of an order, signed by the judge, and filed with the court clerk, becomes the new support order.

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 *Friend of the Court Child Support Enforcement* at: <https://www.courts.michigan.gov/4a7115/siteassets/publications/pamphletsbrochures/focb/web-view/childsupportenforcement.pdf>

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 Medicaid Program 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* at:

https://www.courts.michigan.gov/4a71b9/siteassets/publications/pamphletsbrochures/focb/web-view/uifsa_final.pdf

Child Support Questions and Answers

How do I get an order for child support?

If no one has commenced a lawsuit that raises the child support issue, a party must first file a complaint that requests that the court enter a child support order. If both parties agree to a support amount determined by the child support formula, they can sign an agreement. Once that agreement is put in the form of a Uniform Support Order, signed by the judge, and filed with the court clerk, it becomes the court's support order. If the parties do not agree to follow the

formula, the judge will determine the appropriate support amount.

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 graduation, 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 have included 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. An order's parenting time and child support provisions are enforced separately (see *Parenting Time Enforcement*).

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

Contact the FOC for enforcement help if the other parent is more than one month behind on the support payments. You may also hire an attorney to start enforcement proceedings.

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

No, and you might not receive credit for payments made directly to the other parent.

If I am receiving Temporary Assistance for Needy Families (TANF) or Family Independence Program (FIP) public assistance, may I also receive child support?

All child support payments must be routed through the MiSDU, which sends the payment to the state. The state may pass through some of that child support directly to you.

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

No. The law does not authorize the FOC to investigate how support payees spend child support payments. The court may change the custody arrangements if you can show that the other party has neglected the children's needs.

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

The support amount is determined by the child support formula, which considers the parties' incomes. The FOC is required to initiate a review within 14 days of receiving notice that a parent has been incarcerated or released from incarceration. The FOC will not be able to modify a support order without notice of the change in circumstance.

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

Upon showing you are in compliance 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 clearance fee at the Secretary of State.

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 a party wishes to relocate over 100 miles away, the parties may agree to change of residence (domicile) by signing an agreement. This agreement must be put in the form of an order. When signed and filed with the court clerk, it becomes an order of the court. If you and the other parent cannot agree on the proposed change of domicile, you may:

- File a motion that asks the court to enter an order approving the change.

Providing notification to 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 enforces *written* orders. 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 property settlement provisions in my judgment of divorce?

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

Access to Friend of the Court Records

May I review the FOC file for my case?

Parties and their attorneys are entitled to see most of the information in their 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 intervene on your behalf to allow access.

May other persons see my FOC file?

An FOC file is not public information. However, MCR 3.218 provides access to FOC files for certain individuals or agencies.

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. These records include 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; How They Affect 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 find a missing parent?

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

- To collect child support.
- To obtain a court order on a child custody or parenting time matter, or enforce an existing order of either type.
- To enforce state or federal law prohibiting 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, see the Self-Help Center's Paternity webpage at: <https://www.michigan.gov/mdhhs/adult-child-serv/child-sup/how-do-i/establish-paternity>

Complaints about Attorneys, Judges, or the FOC

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 the *Friend of the Court Grievance (FOC 1a)*. 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 misconduct by judges or referees. The JTC Commission can recommend that the Michigan Supreme Court discipline a judge or referee who has acted unethically. However, the JTC is not a court; that means that it cannot change a court order or a referee's recommendation. To obtain that relief, 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 my attorney?

The Attorney Grievance Commission investigates complaints of misconduct by Michigan attorneys. If you wish to file a complaint (called a "request for investigation"), contact:

Attorney Grievance Commission
Marquette Building, Suite 256
243 West Congress Street
Detroit, Michigan 48226
1-313-961-6585
www.agcmi.org

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>

Glossary of Frequently Used Terms

Alternative Dispute Resolution (ADR) - A process by which the parties are assisted in voluntarily reaching an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

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 that issued the warrant.

Domestic Relations Action - Any litigation involving divorce, paternity, custody, parenting time, or support.

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

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

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.

Friend of the Court - In this handbook, depending on the context, "friend of the court" usually means an 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.

Joint Custody - There are two types of joint custody that may exist together or be combined with another custody arrangement:

Joint legal custody: The children live primarily with one parent, although both parents participate in major decisions affecting the children.

Joint physical custody: The children live with each parent for extended periods.

Joint Meeting – An ADR process used by the FOC to resolve parenting time complaints.

Jurisdiction - The court's power to decide cases that come before it. Whether a court has jurisdiction over a case depends on the type of case and on the parties' connections to the county where the court is located.

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

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

Payee - The person or agency entitled to receive support payments. Payee is also known as a support recipient.

Payer - The person who must pay support. Also known as the payer or obligor.

Public Assistance - A party is considered to be on public assistance if the party receives cash assistance provided under the social welfare act, medical assistance, food assistance, or if foster care is being or was provided to a child who is the subject of the case.

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 - The money paid to support a spouse or former spouse, formerly known as “alimony.”

Summons – A notice from the court that someone has initiated a case against you.

TANF - Temporary Assistance for Needy Families (TANF), a joint federal and state program formerly known as Aid to Families with Dependent Children (AFDC or ADC). In Michigan, the Financial Independence Program (FIP) is the largest program funded by TANF dollars.

Title IV-D Services - Activities to establish, enforce, account for, and collect child support in cases where a party to a domestic relations case has requested IV-D services.

Unrepresented Party - Also called “in pro per” or “pro se.” A party not represented by an attorney.