



Cass County Friend of the Court

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“Cass County is an equal opportunity provider and employer”

CASS COUNTY FRIEND OF THE COURT HANDBOOK

Honorable Susan L. Dobrich, Chief Judge
Probate/Family Court Judge

Honorable Mark A. Herman, Circuit Court Judge

Carol Montavon Bealor, J.D.
Director, Friend of the Court
Circuit/Family/Probate Court Administrator

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Deputy Friend of the Court

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Attorney Referee

This manual is a “living document” and will be frequently revised and updated. If you have questions, you can email those questions to: FOC@cassco.org to the attention of Carol Montavon Bealor.

Visit the Cass County FOC Website at:
<http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt.aspx>

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CASS COUNTY FRIEND OF THE COURT HANDBOOK

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Contacting the Cass County Friend of the Court

By mail:

Cass County Friend of the Court
Law & Courts Building
60296 M-62, Suite # 3
Cassopolis, MI 49031

By e-mail..... FOC@ cassco.org
(if recipient of email is known, please put email to that person’s attention)

By phone:..... 269-445-4436

If you wish to speak to the receptionist	Press “0”
If you are an employer with questions regarding an employee’s child support obligation	Press “1”
If you are a support recipient who has not received a support payment in more than 4 weeks	Press “1”
If you are calling about a bench warrant or have general enforcement questions	Press “1”
If you need to schedule a Court date, have questions about emancipations, want to request child support printouts or have general accounting questions	Press “2”
If you are calling to report new employment or a change in the status of your employment	Press “4”
If you are calling to find out the status of a new Court order, or if you have medical or insurance questions	Press “5”
If you have questions about how your support was distributed or about payments that are past due by 2-4 weeks	Press “6”
If you have questions about your income withholding order, tax intercept or credit bureau letter	Press “7”
All other questions	Press “0”

By Fax: 269-445-4435

Around the clock automated information about your support account is available through this toll-free number: 1-877-543-2660.

The county code is 227 for Cass County.

Normal business hours for the office are 8 a.m. to 5 p.m.
Monday through Friday

To obtain Court forms online, please visit:
<http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt.aspx>

PURPOSE OF THE FRIEND OF THE COURT HANDBOOK

This handbook is intended to give parties who have a domestic relations case (divorce, paternity, etc.) helpful and accurate information regarding duties and responsibilities of the Friend of the Court (FOC), including information about the federal child support enforcement program, which is also known as the IV-D program. This handbook also provides information about the parties' rights and responsibilities and describes some basic Court procedures.

It is essential for parents to work together to co-parent their children. While parents may no longer desire a relationship with one another, each parent will always be "Mom" and "Dad" to their children. 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.

After you read this handbook, any questions you have about procedures, requirements, or problems you are having should be discussed with your local FOC staff, or with an attorney of your choosing. The FOC cannot give you legal advice. FOC staff can help explain Court procedures and practices and the options available to you (what you may do), but not what options you should pursue (what you should do).

We will do our best to handle your case fairly and quickly. We suggest that you retain this handbook for information on issues that may arise in the future.

THE FOC

The FOC system was created by the Michigan Legislature in 1919. There is at least one FOC office serving each Circuit Court, which usually means one FOC office in each county. It is important to get information from the FOC office in the county where your case is situated since each case has unique circumstances that determine what action is appropriate and each county's FOC procedures can be very different.

FOC Staff

The Director of the FOC and the management team are responsible for the general administration, budgeting, staffing, policies, and procedures of the office.

The Referee is the hearing officer on Domestic Relations motions, enforcement actions and hearings processed by the Friend of the Court personnel or cases referred by a Judge.

The Support Enforcement Division is responsible for the collection and enforcement of all child support orders, including reimbursements of uninsured medical expenses for the minor children; interstate collection and enforcement; and initiation of bench warrants and felony arrests against non-payers of support.

The Order Modification Caseworker conducts financial investigations, makes recommendations, and files petitions for child support orders. This person also conducts and assists in processing child support motions filed by persons who are not represented by an attorney.

The Financial and Case Management division is responsible for entering and modifying all Court Orders in the Child Support Program that have been entered by the Court. They will provide you with printouts and answer your support account questions. This division also schedules Court Hearings, manages the tax offset program, credit bureau reporting, emancipations, income withholding orders, medical insurance and medical enforcement, member assistance from DHHS, adjustments and address changes.

Legal Advice

Most FOC staff are **NOT** attorneys. They are not permitted to give you legal advice. FOC Staff will work hard to provide you with as much information as they are permitted by law to provide to help you make the best possible choices for your children. FOC Staff will tell you when your questions require legal advice, and will urge you to consult with an attorney of your choosing on those issues, so that you have the information necessary for making good and informed choices. In some circumstances, staff

attorneys can meet with you to help you understand legal forms and your legal options, although staff attorneys may not represent you or favor one parent over the other.

If you cannot afford to hire a private attorney, you may qualify for the services of Legal Aid of Western Michigan. You may contact them at 1-800-819-0773 to learn more about whether you are eligible. You may also wish to take advantage of the services offered at Michigan Legal Help, a website with forms and legal advice for persons handling cases without the assistance of an attorney. This website can be found at <http://michiganlegalhelp.org/>.

Location and Security

The Cass County FOC is located in the Law and Courts Building at 60296 M-62, Cassopolis, Michigan. As you enter the building you will pass through metal detection and possibly additional searches if the security staff decides it is necessary. You will not be permitted to carry any weapon or potential weapon into the building. If you are found in possession of any illegal item, you will be placed under arrest.

The FOC staff reserves the right to terminate any contact that has become abusive or threatening, and will summon the assistance of Sheriff's deputies to accompany you out of the building and off the Courthouse grounds. Our staff is directed to treat you with courtesy and dignity, and expects the same treatment from you. The Director of the FOC has "zero tolerance" for threats against Court personnel, and will file a police report whenever any threat is made, whether she believes it is serious or not.

Office Hours and Access by Telephone, Email or Fax

The FOC office is normally open from 8:00 a.m. until 5:00 p.m., Monday through Friday. The main telephone number for the FOC is 269-445-4436. You may fax information to the FOC at 269-445-4435. You may email the FOC at FOC@cassco.org. WHEN YOU LEAVE A TELEPHONE MESSAGE, SEND A FAX, OR SEND AN EMAIL, MAKE SURE YOU INCLUDE YOUR NAME, CASE NUMBER, AND CONTACT INFORMATION IN ORDER TO RECEIVE A PROMPT RESPONSE FROM OUR OFFICE.

Around the clock automated information about your support account is available through this toll-free number: 1-877-543-2660. The county code is 227 for Cass County.

You can also access your account on-line by signing up for MiChildSupport. This link can be found at the WWW.MISDU.COM website.

FOC Duties

Except as limited by insufficient resources, the FOC will do the following:

- Investigate, report and make recommendations to the Court on child support.
- Provide mediation as a way of settling custody and parenting time disagreements.
- Facilitate and assist parents wanting to enforce Court orders regarding custody, parenting time, and medical support.
- In cooperation with the Michigan State Disbursement Unit (MiSDU), it collects, records and distributes child support payments as ordered by the Court.
- Automatically enforce child support orders meeting certain non-payment criteria without the recipient of support having to request support enforcement.
- Make forms available that parties may use to file motions and responses regarding custody, parenting time, child support and related matters.

RIGHTS AND RESPONSIBILITIES OF THE PARTIES

Each party has the right to:

- Expect the FOC to perform the duties listed in this handbook.
- Request the FOC office to explain its procedures.
- Be treated with courtesy and respect by FOC and other Court employees.
- File a grievance with the FOC office concerning an employee or office procedure.
- Consult an attorney regarding concerns.

Each party has the responsibility to:

- Inform the FOC in writing of changes which affect the way the FOC must do its job, such as:
 - Change of address and/or telephone number;
 - Change in income status or employment information;
 - Changes in children's residence;
 - Changes in health care coverage.
- Provide information to the FOC office to assist them in carrying out its duties.
- Obey all orders of the Court.
- Keep appointments made with the office, or cancel an appointment in advance and make a new one.
- Treat the FOC staff and other Court employees with courtesy and respect.

PROCESSES IN A DOMESTIC RELATIONS CASE

Starting a case

Any parent who wants to start a domestic relations action must file the correct papers with the Circuit Court, according to specific legal rules. There can be many complicated issues and rules involved in a domestic relations case. The Court will not require any party to use an attorney, but most people choose to be represented by an attorney to file the correct papers and follow the specific rules of law and courtroom procedure.

Plaintiff's Complaint & Summons

Every domestic relations matter starts when the person requesting the Court's assistance ("the Plaintiff") files a "Complaint" against another person (the "Defendant") that asks the Court to make certain orders that the Plaintiff wants such as granting a divorce, ordering a person to pay child support, establishing paternity, establishing custody, or ordering parenting time.

Once the case is filed, a "Summons" is issued which is a document that notifies the Defendant about the lawsuit and asks the Defendant to "answer" the Complaint.

Being the Plaintiff means that you are the person who started the case and that you have the responsibility to move the case along to completion. The Court can dismiss a case which is not moving along towards completion in a timely manner.

Being the Defendant means only that you are the person against whom the lawsuit is filed. As a Defendant, if you want to have an impact on the outcome of your case, you must "answer" or otherwise be involved in the case. Even if the Defendant refuses to participate in the action, the case will move forward and the Defendant will still be required to obey the Court's orders.

Service

The Michigan Court Rules require the Plaintiff to arrange for the Defendant to be "served" (legally given) a copy of the Complaint and Summons. These documents must be delivered to the Defendant to give him or her legal notice of the action that has been started.

One typical way to "serve" a Defendant is for a person other than the Plaintiff to personally hand the papers to the Defendant. At other times "service" is accomplished by mailing papers in a manner allowed by the Michigan Court Rules.

Defendant's Answer to the Complaint

After the Defendant is served and knows what the Plaintiff wants the Court to order, the Defendant must make a decision about whether or not to "answer" the Complaint.

The Defendant is allowed a certain amount of time to "answer" the Complaint. If no answer is filed within the time allowed by law, then the Defendant can be "defaulted." This means the Court will enter orders without considering what the Defendant wants, and that the Defendant waives his or her right to have concerns and requests considered by the Court before final orders are granted.

Hearings

Once a case is filed, either party may file a motion asking the Court to decide custody, parenting time, child support, and other related issues. Typically, hearings in domestic relations case are scheduled to be heard in front of the “Attorney Referee.” A referee is not a judge, but performs tasks assigned by the judge including holding hearings, examining witnesses and making recommendations as to what type of order should enter in a given case.

It is important for parties to be prepared for scheduled hearings. If a party chooses to represent himself or herself, that party will be held to the same standards an attorney would be held to as far as how the hearing is conducted.

Alternative Dispute Resolution (ADR)

Parties involved in a domestic relations case are encouraged to participate in ADR, which may allow them to settle a case without further Court proceedings. The Court may order ADR for disputed issues before the judge will hear the case.

The most common type of ADR is “mediation.” Mediation is a process where a third party, called a “mediator,” acts as a neutral and attempts to assist the parties with reaching an agreement to settle the issues in their case without the Court’s direct involvement. Parties often find this rewarding because they make the decisions, instead of leaving the decisions in the hands of the Court. The Court must still enter an order, but the Court order will reflect the agreement reached by the parties so long as the parties’ agreement is allowed by law.

During mediation, any information shared with the mediator is considered confidential. The mediator may not disclose this information to anyone. This means that mediators cannot be called as witnesses at a Court hearing if the case is not settled at mediation.

Court Orders

When a Court makes a decision, it must sign a written order summarizing the decision. The Court “speaks” through its written orders.

Someone must prepare the order. Usually, one of the attorneys prepares the order; however, sometimes a Court employee prepares the order. In cases where a party is unrepresented by an attorney (often called “in pro per” or “pro se”), the Court may require the unrepresented party to prepare the order and present it to the Court.

A Court order 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 you disagree with a Court order

If a party disagrees with a Court order and wants to challenge it, the party may timely:

- file a written objection to the order and written request for a de novo hearing in front of the judge if the order was issued as a result of a referee hearing;
- 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.

TYPES OF DOMESTIC RELATIONS CASES

DIVORCE

A person wanting to end their marriage must have a Circuit Court enter a Judgment of Divorce ending the marriage. Before the Court can grant a Judgment of Divorce, the Court must determine that there has been a breakdown in the marriage relationship to the extent that the parties will no longer live together as husband and wife. At least one of the parties (usually the Plaintiff) must appear in Court to show that this breakdown really exists. In Michigan, a divorce can be granted even when one of the marriage partners does not want the divorce.

A divorce ends the legal relationship between a husband and wife. The Judgment of Divorce divides property and debts and establishes parenting rights and responsibilities. The divorce does not end the parents' relationship with the children, although that relationship will change.

Many decisions must be made before a divorce is finalized. Some of these decisions include:

- Who will make major decisions (e.g. education, medical) regarding the children? (legal custody)
- Will the children live primarily with one parent, or both parents? (physical custody)
- What contact will child have with a parent they do not live with? (parenting time)
- How should the property and debts from the marriage of the parties be divided? (property settlement)
- How will financial responsibilities for the children be divided? (child support and medical support)
- What amount, if any, should one party contribute toward the support of the other, either permanently or temporarily? (spousal support/alimony)
- How will the children's medical, dental and other healthcare expenses be paid? (healthcare coverage)
- Will the wife take back her maiden name? (restoration)
- Will children be allowed to move from the State of Michigan? (domicile)
- Will children be allowed to move more than 100 miles away? (legal residence)

Decisions can be made several different ways:

- The parties may reach an agreement by themselves, or by talking through their attorneys. (stipulation)
- The parties may reach an agreement with the help of a trained mediator. Mediation is made available by the FOC or the parties can hire a private mediator (mediated agreement).
- The Circuit Court Referee may hold a hearing on contested issues and make a recommendation to the Judge. (contested hearing).
- The Judge may hold a pretrial or settlement conference where issues are decided (pre-trial/settlement conference).
- If all issues are not resolved through one or more of these methods, the Judge will hold a hearing or trial on the issues that have not been resolved (hearing/trial).

Parties are in the best position to make decisions about their children since the parties know more about their children than the Court. Parties are encouraged to work together to make the important decisions about what arrangements will work best for their children and themselves.

Recommendations for child support and medical support will be made by the FOC for every pending divorce with minor children, even when the parents have reached agreement on these issues. The Court is not required to accept the agreements of the parties if these agreements do not meet the best interest of the children, and the Court generally must follow the Michigan Child Support Formula in setting child support amounts.

Preliminary or Temporary Orders

Courts sometimes enter temporary orders that remain in effect until the case is finalized. For example, in a divorce case, the Court may enter a temporary order for custody, parenting time and child support that remains in effect until the parties finalize the divorce by agreement or by trial at which time the Court then enters a final order finalizing all pending matters.

Ex-Parte Orders

An ex-parte order is an order issued by the Court at the request of one party with no advance notice given to the other party and with no hearing held prior to the order being issued. A motion for an ex-parte order must be supported by an affidavit setting forth facts which justify the issuance of an ex-parte order.

Ex-parte orders are only issued by the Court in very limited circumstances. A judge will only 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 a situation stable until the judge can hold a hearing and 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.

Reconciliation and Dismissals

Not every divorce action ends with divorce. Sometimes parties work out their differences and want enforcement of their child support order suspended. In order to stop enforcement of the Court's child support order, the parties must provide the FOC with a written *Notice of Reconciliation*. A *Notice of Reconciliation* does not dismiss a divorce action or suspend the Court's orders. It only suspends enforcement of a particular order for a specified time.

If the parties decide not to complete their divorce, they must file a proposed *Order of Dismissal* with the Court and provide a copy of this order to the FOC. This Order of Dismissal will stop the divorce action. If any child support arrearage is owed to the State of Michigan, the parties must make arrangements with the FOC to pay this arrearage; it is not canceled when the parents get back together.

Judgments of Divorce

A "Judgment of Divorce" completes the divorce action, although often matters arise after the judgment which may bring issues back to the Court. A Judgment of Divorce contains orders that deal with child support, parenting time, custody, property, and other issues. If you are representing yourself in a divorce action without the assistance of an attorney, please be aware that you must come to your divorce trial or hearing to finalize your divorce with a proposed Judgment of Divorce for the Court's consideration.

Before a Judgment of Divorce can be finalized, the statutory waiting period must be completed. In Michigan, there is a 60 day mandatory waiting period from the date of filing a divorce action without minor children to the date the judgment can be entered, and the waiting period is usually six months if the parties have minor children together.

When the waiting period is over, the Judge may grant a Judgment of Divorce. A Judgment of Divorce ends all temporary orders. If there is a temporary order in your case that you want to continue after the divorce is final, it *must* be included in writing within the Judgment of Divorce if it is to remain an enforceable order.

As indicated above, some provisions of the Judgment of Divorce may be changed in the months and years following a divorce (see Modification of Orders below). Once a judgment has been entered, parties must comply with its terms, or risk negative consequences if they are found to have violated an order, including possible fines and incarceration.

Modification of a Judgment of Divorce

After a Judgment of Divorce has been entered, there are some provisions that can be modified, including custody, parenting time, child support, and domicile. In order to modify custody, the first thing the Court must consider is whether there is proper cause or a change in circumstances after which the Court must consider whether the modification is in the best interests of the children.

A change in the Judgment of Divorce can only occur if it is ordered by the Court after:

1. Both parties have mutually agreed to change the Judgment of Divorce and both parties have signed an agreement, called a stipulation, which will be entered as an order when signed by the Judge; or
2. A motion has been filed, a Court hearing has been held, and the Judge grants a change.

Agreements reached between parties are only recognized by the Court and the Friend of the Court when those agreements are entered as an Order of the Court. Simply notifying a Friend of the Court employee or a Department of Health & Human Services worker of an agreement does **not** change the Court order. The police and Child Protective Services do not have the power or authority to verbally change an order of the Court. The only way an existing Court order can be changed is by entry of another Court order modifying the existing Court order.

FAMILY SUPPORT ACTIONS

There are two types of cases that are called "family support" cases. One type of case involves married parents who are separated but not divorced and the parent with the children needs financial help from the absent parent.

The other type of case involves unmarried parents when the biological father has signed a paternity acknowledgment, which is called an "Affidavit of Parentage" in Michigan. When a man acknowledges paternity, he is declaring that he is the biological father of the child and that he is also agreeing to become the "legal" father of the child.

The person starting the family support action is called the Plaintiff and the other parent is the Defendant. The Plaintiff must file a complaint asking the Court to grant support. There is a filing fee for this action, although in many cases where the Plaintiff is receiving public assistance, the Cass County Prosecuting Attorney files the action and there is no filing fee. If a divorce or separate maintenance case is already pending between the Plaintiff and the other parent, a new family support case cannot be started since support issues can be handled in the pending divorce or separate maintenance action.

Many family support cases begin because two parents have separated and one parent has applied for some form of state assistance such as Temporary Assistance to Needy Families (TANF). When this occurs the county Department of Health & Human Services (DHHS) will send a “referral” to the county prosecutor asking that a family support case be filed. However, if a parent is not applying for or receiving public assistance and that parent wants to start a family support case that parent can contact the county DHHS office and ask for help, or that parent may choose to contact a private attorney to file a family support action.

The FOC has the responsibility to enforce all Orders of Support for as long as they are in effect. If the parents get back together and decide to end the Family Support Order, they must contact either the Prosecuting Attorney or their private attorney, and file an Order of Dismissal with the Court. Simply notifying a DHHS caseworker or the FOC that you are back together does **not** end the Court’s support order. Collection and enforcement of the order by the FOC will and legally must continue. State law requires the FOC to enforce the support order until it is changed or eliminated.

When the FOC receives an Order of Dismissal, the Family Support Order collection and enforcement will stop, except for any arrearage that may still be due. If public assistance has been received for the children, parents will have to make an arrangement with the FOC to pay any overdue support owed to the State.

Either partner may begin a divorce action, even after the Court has ordered support in a Family Support action. The Family Support order will end when a Judgment of Divorce is entered and a new Uniform Child Support Order is entered in the divorce. If back support is owed under the Family Support action, state law requires that an order to pay any support arrearage must be part of the Judgment of Divorce.

If the parties have a Family Support Order and have also filed for divorce, and then decide to stop the divorce action, they must file an Order of Dismissal in the divorce action, and they must also file an Order of Dismissal in the Family Support case. Filing an Order of Dismissal for the divorce case does not stop the Family Support Order.

PATERNITY ACTIONS

“Paternity” is a word that means “being a father”. In Michigan, paternity can be established in several ways. Most often, paternity actions are brought under the Paternity Act, or the Child Custody Act and sometimes the Acknowledgment of Parentage Act.

By signing a paternity affidavit, called an “Affidavit of Parentage” in Michigan, a father gives a child born out of wedlock the same legal status as a child born to married parents. Paternity acknowledgment is the voluntary process of a biological father being recognized as the legal father.

The most common ways to establish paternity are:

- Signing an acknowledgment/affidavit of parentage form. The fact that your name appears on the birth certificate does not automatically establish paternity. The form needed is called an Affidavit of Parentage in Michigan. These forms are available through DHHS offices and the Michigan DHHS website, Prosecuting Attorneys’ offices, and hospitals.
- Under the Paternity Act, an Order of Filiation may be entered. The Order of Filiation will provide for establishment of a legal father, support of the child, reimbursement of medical expenses incurred in the child's birth, healthcare insurance coverage when it can be obtained at a reasonable cost, and support for the period before the order was entered. Orders of Filiation are enforced under the Support and Parenting Time Enforcement Act. DHHS makes referrals to the Prosecutor’s office whether or not a party receives public assistance. A party also has the right to retain a private attorney to file the paternity action.

Parenting time (a provision for the father or mother to spend time with the child) is not automatically ordered in paternity cases. However, if a parent who has a paternity action pending would like a parenting time order they should tell the Prosecuting Attorney or their attorney before the entry of the final orders. If both parties agree, a parenting time provision will be included in the final orders of the Court.

If the parties cannot agree upon custody or parenting time issues, they will have to file a petition to bring those matters before the Court and those issues will be dealt with separately from the paternity action. The Prosecuting Attorney cannot represent either parent on those issues.

Parenting time orders are not enforceable until the Court has entered a written order for parenting time.

If the mother and father marry each other after the entry of a paternity order, they must give a valid copy of their marriage license to the FOC to end the support order. They must also make arrangements to pay any money owed to a public agency, although payment of birth expenses (confinement) may be suspended in this situation.

INTERSTATE ACTIONS

Child support orders remain in effect even if you or the other parent moves out of Michigan. Both parents are required to notify the FOC whenever they move.

If the parent who is ordered to pay support (the “payer”) leaves the State of Michigan, he or she still must continue to pay support to MiSDU (see Making Payments section). Failure to obey the support order can have serious negative consequences. If either parent leaves Michigan, it does not mean that the support obligation ends. If support payments are not made as ordered, there are laws between the states to assure that payments are made through enforcement mechanisms such as income withholding. Laws to help in enforcing child support between states include:

- **Uniform Interstate Family Support Act (UIFSA)**

UIFSA assists states in dealing with cases where a party or source of income is in another state. Under UIFSA, only one state has the right to establish or modify support. This right can be given to another state only if certain conditions are met (such as both parents and the children move out of the state that entered the original order). If you know that the support payer in your case has moved to another state, contact the FOC to determine whether you can obtain assistance under UIFSA. Some of the procedures available under UIFSA include:

- **Registration of the Michigan Court Order for Enforcement.** The FOC or a private attorney can help with this process. Registration for enforcement allows another state to take the Michigan order and enforce the full amount of support as if it were that state's own order but it does not allow the other state to change the support order.
- **Registration of the Michigan Court order for Modification.** When Michigan or another state no longer has jurisdiction to modify the support order and the order needs modification, the order may be registered in the state where the other party lives. Once the order is registered for modification in the other state, that state can both enforce and modify the support order.

IF.....	THEN.....
The non-custodial parent lives in another state, and his or her employer is known.....	<p>Contact the FOC to issue an Income Withholding Order against the payer’s wages, and the out-of-state employer will be required to honor it by federal law.</p> <p>If an Income Withholding Order is not an effective collection method (e.g. payer is self-employed), other enforcement options will be evaluated.</p>
The custodial parent lives in Michigan, and the non-custodial parent lives in another state, but his or her employer is <i>not</i> known...	<p>Contact the FOC Interstate Caseworker and request an action under the UIFSA (Uniform Interstate Family Support Act).</p> <p>Once the non-custodial parent’s address is verified, the other state serves notice to the payer that a UIFSA action has been started. A Court date will be set in the other state and an order will be entered recognizing the Michigan order and allowing the other state to enforce it. When the UIFSA order is entered, the other state will enforce the Michigan order as if it were that state’s own order.</p>

IF.....	THEN.....
Both parents live in the same state, but not Michigan...	Michigan no longer has authority to enforce its support order, <i>but</i> you can get enforcement through the state where you live. Contact the Prosecutor’s office or Public Welfare office in the county where you reside to learn what local agency provides “support enforcement services under Title IV-D of the Social Security Act”.
Both parents live outside of Michigan but in different states from each other...	Michigan no longer has authority to enforce its support order, <i>but</i> you can get enforcement through the state where the custodial parent lives. The process is nearly the same as when both parents live in the same state, but not Michigan, except the resulting UIFSA order goes through an additional step of becoming “registered” in the non-custodial parent’s state of residence for enforcement.

INFORMATION ABOUT CUSTODY, PARENTING TIME AND CHILD SUPPORT

Custody

A number of custody arrangements are possible. The most common are:

- **Joint Legal Custody.** The custody order directs that parents reach mutual decisions regarding major issues affecting their children. This decision-making process includes, but is not limited to: major medical decisions, educational decisions, and decisions regarding religious upbringing, if any. This requires parents to communicate and cooperate with one another.
- **Sole Legal Custody.** The custody order directs that one parent makes the major medical decisions, educational decisions, and decisions regarding religious upbringing for the children, without being required to consult the other parent.
- **Joint Physical Custody.** The custody order directs that children live with one parent part of the time and the other parent part of the time. This time does not have to be equal. The parent who has care of the children at any given time is responsible for routine decisions regarding the children.
- **Primary (Sole) Physical Custody.** The custody order directs that that the children live primarily with one parent. That parent is responsible for making major decisions regarding the children.

Custody is contested when more than one party wants to be the custodial parent or custodian of the children. Parties are encouraged to reach their own agreements regarding custody since parents know the most about their children, each other, and their particular situation, making them the best decision-makers.

When parents cannot agree on custody, the judge will decide the issue of custody by analyzing the “best interests of the child” factors set forth in the Michigan Child Custody Act, MCL 722.23. The statutory “best interests of the child” factors are as follows:

- (a) The love, affection, and other emotional ties existing between the parties involved and the child. This factor focuses on the emotional bond that already exists between the parent and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any. This factor tries to project the parent’s ability to foster an emotional bond in the future, and the parent’s impact on such matters as education, guidance, and religious training.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- (e) The permanence, as a family unit, of the existing or proposed custodial home or homes. This factor focuses solely on the permanence of the family environment, not the acceptability of the home or child care arrangements.
- (f) The moral fitness of the parties involved. This factor evaluates the parties’ moral fitness only as it relates to how they will function as a parent and not as to who is the morally superior adult.
- (g) The mental and physical health of the parties involved.

- (h) The home, school, and community record of the child.
- (i) The reasonable preference of the child, if the Court considers the child to be of sufficient age to express preference. The Court must take the preference of the child into account if it decides that the child is old enough to express a preference. The Court is not required to disclose the child's preference. The child's preference does not automatically outweigh other factors; it is only one element used to make the determination.
- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
- (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
- (l) Any other factor considered by the Court to be relevant to a particular child custody dispute.

At the request of either parent, the Court will consider an award of joint custody. The Court may consider joint legal and/or joint physical custody even if it is not requested.

Custody Questions and Answers

Q. If there is no Court order for custody, do both parents have equal rights to their children?

- A. This depends on several factors. If the parents are married, and there is no separation or divorce action filed, then parents have interwoven, inseparable custody rights, with no distinguishing factors between parents. If a separation or divorce action has been started in Court, a Petition for a Temporary Order must be filed to get an Order for Custody (as well as parenting time and support).

If the parents were never married, but paternity has been legally determined by acknowledgment or Court order and one parent is ordered to pay support, the other parent is assumed to have custody of the minor child even if the order does not specifically award custody. Most recent paternity orders will award custody to one parent.

Q. How do I get an order for custody?

- A. A motion requesting the Court to grant you custody of your children must be filed with the Court. If both parents agree and sign an agreement (stipulation), that agreement, if approved by the Court, may be entered as a custody order.

There are many complicated issues involved in a custody case. If you choose to represent yourself without an attorney's assistance, you still have the same duties and must follow the same rules as practicing attorneys. FOC staff members are not permitted to give you legal advice. Therefore, it is generally best to always have an attorney represent you when seeking to establish or modify custody so that you can get legal advice about your specific situation.

Q. How do I change an existing order for custody and/or parenting time?

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

The other way that a custody order can be changed is if the parents can sign a written agreement changing custody (stipulation), which if approved by the Court, will change custody. A change in custody, even if the parties agree, must be approved by the Court after a hearing is held. If the parents only wish to change parenting time, the parents can sign a written agreement changing parenting time and submit it to the FOC for approval. If approved, the FOC will prepare an order adopting the parenting time stipulation and submit it to the Judge for signature. The FOC has forms for filing a custody or parenting time stipulation available in the FOC office or on the FOC website.

Q. What will happen if I have an order for custody and the other parent does not return the child to me as stated in the Court order?

- A. You may:
- contact the FOC office and request that it initiate enforcement;
 - file a motion, with or without an attorney, and ask the Court to enforce the order;

- contact the police or the prosecuting attorney and ask either agency to file a parental kidnapping charge, if the other parent is refusing to comply with the custody order and return the child.

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

- A. 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:

International Parental Child Abduction Division, United States Department of State, Bureau of Consular Affairs,
Office of Children's Issues, SA-17 9th Floor, Washington, DC 20522-1709

The Office of Children’s Issues can be reached by phone from the United States and Canada at 1-888-407-4747 or 1-202-501-4444, from overseas at +1-202-501-4444, by fax at 1-202-485-6221, by email at AskCI@state.gov, or at the State Department’s website: <http://travel.state.gov/content/childabduction/en/contact-us.html%20.html>.

Q. Does the FOC have a responsibility to investigate alleged abuse and/or neglect of a child?

- A. 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 & Human Services (DHHS) in the county where the children live or by calling (855) 444-3911.

A judge may consider allegations of abuse or neglect when making a decision regarding custody or parenting time. The judge will rely on Child Protective Services to investigate and evaluate the abuse or neglect allegations.

Q. 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?

- A. 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. However, you should check your Court order because it may specify where your child needs to attend school. In addition, the decision of which school your child should be enrolled in may be a complicated one needing either agreement of the parents or a decision by the Court. You should consult with an attorney before attempting to enroll your child in another school district.

Q. My child is no longer living with the physical custodial parent. What can I do?

- A. The age of your child determines the action you take. Under the age of 17, you may contact the Juvenile Division of the Family Court if you think truancy, runaway or delinquency charges need to be filed.

If the child is now living with the noncustodial parent who is also the support payer, the support payer can request that child support be stopped or abated. However, this does NOT change custody. If the support payer wants to change custody and/or have the other parent pay support, a motion has to be filed with the Court requesting those changes.

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]

The Court may consider the following factors when determining the frequency, duration, and type of parenting time to be granted:

- (a) The existence of any special circumstances or needs of the child.
- (b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.
- (c) The reasonable likelihood of abuse or neglect of the child during parenting time.
- (d) The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.
- (e) The inconvenience to, and burdensome impact or effect on, the child of traveling for purposes of parenting time.
- (f) Whether a parent can reasonably be expected to exercise parenting time in accordance with the court order.
- (g) Whether a parent has frequently failed to exercise reasonable parenting time.
- (h) The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.
- (i) Any other relevant factors.

A parenting time order may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of parenting time by a parent, including one or more of the following:

- (a) Division of the responsibility to transport the child.
- (b) Division of the cost of transporting the child.
- (c) Restrictions on the presence of third persons during parenting time.
- (d) Requirements that the child be ready for parenting time at a specific time.
- (e) Requirements that the parent arrive for parenting time and return the child from parenting time at specific times.
- (f) Requirements that parenting time occur in the presence of a third person or agency.
- (g) Requirements that a party post a bond to assure compliance with a parenting time order.
- (h) Requirements of reasonable notice when parenting time will not occur.
- (i) Any other reasonable condition determined to be appropriate in the particular case.

Parenting Time Enforcement

The FOC is required to provide enforcement services regarding Orders for parenting time. The Friend of the Court Act requires that upon receipt of a written complaint stating the specific facts which constitute a violation of a custody or parenting time order, the FOC shall initiate enforcement proceedings. *See MCL 552.511b.*

The Cass County FOC has a form available for this purpose, entitled *Complaint for Parenting Time*. The form is available at the FOC office and on the FOC website, found at:

<http://www.casscountymi.org/LinkClick.aspx?fileticket=4k5hFo2YOzA%3d&tabid=416&mid=1068>

When completing a *Complaint for Parenting Time*, be sure to provide specific information about the date(s), time(s), and circumstances of the alleged denial of parenting time or dispute. A Complaint for Parenting Time must be filed within 56 days after an alleged, wrongful denial of parenting time. Upon receipt of a Complaint for Parenting Time, the FOC will determine the appropriate response to the complaint.

The FOC normally must initiate enforcement if it receives a written complaint stating specific facts which show a violation of the custody or parenting time Order. However, the FOC's office may decline to respond to the alleged violation if (1) more than 56 days have passed since the alleged denial of parenting time and the date the Complaint was made or (2) the complaining party has made two or more complaints found by the Court to be unwarranted and has failed to pay any costs assessed in those actions.

The FOC initiates enforcement by sending a notice of alleged denial to the accused party within 14 days of when the office receives the complaint. The notice, entitled 21-Day Notice to Alleged Violator of Custody of Parenting Time Provisions, advises the accused party that a FAILURE TO RESPOND IN 21 DAYS TO THE OFFICE OF THE FRIEND OF THE COURT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED.

The date of the postmark will be used to determine whether either party has complied within the time limits. The 56-day time period commences the day following the alleged denial of parenting time. If the other parent makes a timely reply with an explanation as to why she or he feels time was not wrongfully denied, or if the FOC believes that the parenting time Order has been violated, the office may: (1) Schedule a meeting with the parties and attempt to resolve the dispute; or (2) Refer the parties to a mediator if they agree to mediation.

If either of the previous two options is not appropriate or successful, the FOC shall do one or more of the following:

- (1) Apply a local make-up parenting time policy. Each office is required to have such a policy. See below for this Court's make-up policy.
- (2) File a Motion and Order to Show Cause and schedule a contempt of Court hearing. At the time of this hearing, the parent who is ordered to appear in Court is required to show "good cause" why (s)he is not obeying the Court's Order for parenting time. If the Court decides the parent is in violation of the Court Order, the Court may impose penalties including make-up parenting time, fines, license suspension and/or jail time.
- (3) Petition the Court for a change in the existing parenting time Order.

If the FOC determines that parenting time was not wrongfully denied, both parties shall be notified and no further action shall be taken by the FOC.

Cass County Parenting Time Make-up Policy

A parent who is deprived of parenting time by the other parent is entitled to make-up parenting time. The parenting time to be made up shall be the same type and length of time as the parenting time missed. For example, make-up parenting time will be on a holiday if the missed parenting time was a holiday, a weekend if the missed parenting time was a weekend, and a weeknight if the missed parenting time was a weeknight.

The parent denied parenting time may choose when to make-up the missed parenting time, but must do so within six months of the determination that the other parent wrongfully denied parenting time, unless otherwise specified in a Court order. The visiting parent must provide the other parent 21 days' notice prior to the make-up parenting time, unless otherwise specified in a Court order. Furthermore, the visiting parent may not choose make-up parenting time that will prevent the child's attendance at previously scheduled organized activities, such as school activities and athletics.

If a parent fails to exercise parenting time, the schedule is not adjusted and future parenting time occurs as if no time was missed. The same general provision applies in a case involving an order for supervised parenting time. However, the parent that failed to appear for the supervised parenting time may be responsible for any fee assessed by the agency for cancellations without appropriate advance notice. In addition, this action may adversely affect the supervised parenting time schedule and the parenting time progression.

Parents must request make-up parenting time before make-up parenting time can be considered or ordered.

Parenting Time Questions and Answers

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

- A. This means the parents have the responsibility for setting up a mutually agreed upon schedule for parenting time, which is reasonable under the circumstances. If you cannot mutually agree to a visitation schedule, you have the following options:
- a) Contact the other party to see if he or she will agree to mediation.
 - b) Contact the FOC to see whether the order is specific enough for the FOC to give direction.
 - c) File a petition on your own behalf or contact an attorney to help you file the petition to define your specific parenting time rights.

Some orders provide that if the parties are unable to agree upon a reasonable parenting time schedule, then the parties shall follow the schedule set forth in the Cass County FOC written Parenting Time Guideline. Check your Court order to determine whether the Parenting Time Guideline applies or not to your case.

Q. I have a specific parenting time schedule that I need to change. What can I do?

- A. If you need a temporary change in your parenting time schedule, contact the other parent to discuss making other arrangements. If you need to make a permanent change,
- a) See if you and the other parent can agree to a change and if you do, then you can prepare and submit a stipulation to change parenting time and ask the Court to approve your stipulation by way of a Court order.
 - b) The FOC can provide mediation services, if both parties agree to participate.

- c) File a parenting time motion with the Court for a change in the order on your own behalf or contact an attorney to help you file a parenting time motion.

Q. *If the payer of child support is not making regular child support payments, do I have to allow parenting time?*

- A. Yes, parenting time and support are separate orders of the Court, with separate enforcement procedures.

Q. *The other party is not following the parenting time order. What can I do?*

- A. File a written complaint with the FOC office. If the FOC determines that either parent has violated the visitation order, they will proceed with enforcement (see Parenting Time Enforcement Section).

Q. *The other parent is not sending or returning clothing or other personal items for our child. Is there anything the FOC can do?*

- A. The FOC follows the written Order of the Court. Unless your Court order states each parent's responsibility for clothing, the FOC does not have any enforcement power.

Q. *Do I have to let my children go for parenting time if it appears that the other parent has been drinking or using drugs?*

- A. That is your decision. If you make the decision to deny parenting time and disobey the Court order in these circumstances, you may be required to explain to the Court at a contempt hearing why you felt your decision was in the best interest of the children and why you should not be held in contempt of Court.

Q. *I think my child is being abused or neglected during parenting time. What should I do?*

- A. 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 & Human Services (DHHS) by calling (855) 444-3911.

Q. *I have a parenting time order, and my teenage child does not want to come for parenting time. What can I do?*

- A. The parents of the child are bound by the Court orders. However, you may consider one or more of the following:
- You may want to see if you can work out a different arrangement with the child and the other parent.
 - You may want to seek counseling for you and the child.
 - You can file a motion with the Court requesting a change in your parenting time order.
 - You can request that the FOC enforce your parenting time order (see Parenting Time Enforcement section).

Q. *My child fusses and cries when the other parent begins their parenting time (or when my parenting time comes to an end). Should I worry? What should I do?*

- A. Some fussing is normal, and has been nicknamed "the transition blues" when a child goes from one parent's care to the other's care. Remember that all children have some stress and growth pain, even if their parents are still together and getting along. Be careful not to jump to conclusions. Fussiness does not necessarily mean there are problems with the other parent.

Make transition time from one parent to the other as swift and smooth as possible (no long good-byes) Keep your mood upbeat and positive. If the behavior continues for more than three months, or consistently lasts more than a day after the child has been with the other parent, consider professional evaluation and parenting advice.

Q. *The other parent makes plans for things with the kids (doctors' appointments and social events) when the children are supposed to be with me. Is there anything I can do?*

- A. Neither parent is permitted to arrange for any appointment or activity for the minor children during the other parent's time with the children, without the express permission and agreement of the other parent. Unless the Court order says differently, each parent should facilitate each minor child's attendance and participation in school-related performances, and any other activities (e.g., organized sports, music or other lessons, church) in which the minor children are involved through the mutual agreement and permission of each parent. If the minor children were involved in these activities during the parties' relationship with each other and the children wish to continue these activities, each parent should try to accommodate the children's continued participation in the activities.

Q. *Can the police help me get my child(ren) for my parenting time?*

- A. Not usually. The only time police should be called is if the child(ren) or one of the parents is in immediate danger. Calling the police for parenting time disagreements is very traumatic for the child. Law enforcement officers cannot become involved because parenting time disputes are not usually criminal matters, such that the police typically end up referring the parents to the FOC. In all non-violent situations, parents should make every effort to settle the dispute through the FOC, and outside of the presence of the child. While you work out problems with the other parent, reduce your child's exposure to your tension and conflict as much as possible. If violence is involved, though, the police should be notified immediately.

Q. *The other parent has not exercised their parenting time in a very long time. Now they want to exercise it. What should I do?*

- A. Until the parenting time order is changed, you have to follow the current order. However, you may file a motion at any time asking the Court to change the current parenting time order.

Q. *I do not know where the other parent will be taking our child(ren) for parenting time (I do not have a phone number to reach the other parent in case of an emergency). Do I have to let my child(ren) go for parenting time?*

- A. The non-custodial parent has an obligation to provide the custodial parent with a residential address of where the child will be staying for parenting time, and an emergency phone number. The non-custodial parent's refusal to provide this information *could* create an acceptable reason for the custodial parent to refuse parenting time depending on the specific facts and circumstances of your particular case.

Q. *I have a problem with parenting time that I need an answer about before the other parent gets our child and I can't talk with the FOC before the child goes with the other parent. Can I keep my child with me until I get an answer?*

- A. Unless parenting time will seriously endanger the child's physical, mental or emotional health, you must follow the Court order and provide the child to the other parent as currently ordered, until that Order is changed. If you withhold parenting time because you believe the child is at risk of serious physical, mental or emotional harm, you may have a show cause (contempt proceeding) filed against you and the Court may require you to explain your reasons for withholding parenting time and if the Court doesn't agree with the actions you have taken, you could be held in contempt of Court and subjected to punishment for contempt.

If your children have been neglected or abused in the other parent's home, report your concerns to the Children's Protective Services in the County where the harm occurred by calling (855) 444-3911.

Q. *I want to take the child on a trip, but it is the other parent's weekend. What can I do?*

- A. Parents are encouraged to follow a regular parenting time schedule pursuant to the provisions of the order. If the regular schedule cannot be followed because of extraordinary circumstances, you should arrange an alternate parenting time schedule by agreement with the other parent.

It is best to get agreed changes in writing signed by both parents. If you cannot agree to a change in the schedule, then you are to abide by the current Court order unless and until the Court order is changed (you may file a motion to request a change— however, until the Court hears your motion and makes a decision, the Court order in effect remains in effect).

Q. *The other parent refuses to see our child. What can the FOC do?*

- A. 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. If you wish to change the parenting time order, you will need to file a motion.

Support

A "support order" is any order entered by the Court that requires the payment of support. Support may include: 1) child support; 2) spousal support; 3) payment of children's expenses for medical, dental and other healthcare; 4) childcare expenses; and 5) educational expenses.

In 1975, the U.S. Congress established the IV-D child support program to coordinate the services and benefits available to families with dependant children. The IV-D program assists in funding for child support enforcement efforts by local governments to provide enforcement tools such as income withholding, income tax refund interception, federal parent locator services, and other remedies.

Any person with custody of a child who needs help to establish a child support or medical support order, any parent who already has a support order who needs help to collect support payments, or any non-custodial parent can apply for IV-D services. If you are receiving public assistance from Temporary Assistance for Needy Families (TANF), or Medicaid or federally assisted Foster Care programs, you have been automatically referred to the DHHS for services. You may also obtain a referral form for IV-D services from the FOC or the DHHS in the county in which you live. In addition to the establishment of a child support order, the IV-D system can provide assistance with support enforcement, reviews and modifications, paternity establishment, absent parent locating, and monitoring of support payments.

Charging and Payment of Child Support

Child support is charged on the first (1st) day of the month and becomes past due if not paid by the last day of the month.

If you are a payer of support, you **must** immediately inform the FOC of any change in

- the name and address of your employer, and
- your employment that will effect payment of your child support (e.g. mergers, plant shutdowns, relocations, lay-off, etc.).

Unless otherwise ordered, support payers must make their payments to the Michigan State Disbursement Unit (MiSDU). When a payment received by the MiSDU sufficiently identifies the person to whom the support should be paid, the MiSDU must forward the money to the recipient within two business days.

In most cases, support payments are automatically withheld from a payer's wages. A payer who pays the MiSDU directly should clearly identify the case number with the payment. **Do not send cash through the mail.**

Once a year, upon a written request, the FOC will give the parties a free statement of their support account showing payments owed and payments made.

Payments for child support can also be made online at: <https://www.govpaynow.com/gps/user/plc/5012>. In order to make a payment online, you will need the payer's name, the last 4 numbers of the payer's social security number and the numerical portion of the docket number for the child support case which looks something like: "2015000345" for a docket number of "2015-000345-DM."

Accessing Information About Payments

You can access information about your child support account, payments received, arrearages etc., 24 hours a day, seven days a week, by dialing **1-877-543-2660**. The Cass County code is 227, which is the first three letters of the county (CAS).

Information regarding a support account is available through MiCase. MiCase is available at: <https://micase.state.mi.us/micase/welcome.do>.

Child Support Formula

State and federal law require that a child support formula be used in making recommendations and orders for child support amounts. Judges may deviate from using the formula if the judges determine that the formula's use would result in an unjust or inappropriate result. Reasons for deviation must be stated by the Judge on the record or in the Court's order.

In Michigan, a child support formula has been developed that calculates child support after taking into account the non-custodial and custodial parent's incomes, the number of overnights each parent has with the child(ren), and the costs for child care and health insurance for the child(ren). For more information and information about the child support formula currently used in Michigan, you may contact either the FOC or your attorney. A copy of the Michigan Child Support Formula Manual may be available at your local library; and it can be accessed online: <http://courts.mi.gov/administration/scao/officesprograms/foc/pages/child-support-formula.aspx>.

Healthcare Insurance

Provisions requiring one or both parents to maintain health insurance for the children, if such insurance is available at a reasonable cost through a parent's employment, are required in the following:

- Judgments of Divorce with minor children
- Orders involving the children of unmarried or separated parents
- Modifications to existing judgments and orders involving minor children

If your order requires that you maintain health insurance for your children and it is available through your employer, you must provide such coverage even if you have to pay a premium, provided that the premium is determined to be a "reasonable cost" under the provisions of state and federal law. If the amount being paid for child support, childcare, and your portion of the healthcare premium exceeds 50% (in some cases 55%, 60% or 65%) of your wages after taxes, union dues and/or uniform charges, the cost is considered unreasonable. If the amount you would be required to pay for healthcare insurance premiums exceeds five (5%) percent of your gross income, that is also considered to be unreasonable.

If coverage is not maintained through a parent's employer and coverage is available, a National Medical Support Notice (NMSN) will be forwarded to the employer with a copy to each parent. This is required by federal law. The NMSN requires the employer to enroll the children listed on the form for all insurance types available. If there is a cost for insurance coverage, a parent must pay. The employer must tell the FOC what the cost is, along with other information regarding the coverage.

If the employer determines that the employee's wages do not allow the enrollment of the children on the available insurance, the employer must provide documentation to the FOC. If the employer does not deem the insurance cost to be unreasonable but the parent believes the cost is excessive, the parent may write the FOC to object to having to provide the insurance. The parent's written request objecting to carrying health insurance must include the date, the case/docket number, be clearly labeled "Insurance Review Request", and include the basis for the objection and the signature of the objecting parent.

If your Court order does not specifically designate whose insurance is primary (billed first), the insurance carriers will determine this by rules they follow.

Medical Support

Each child support order entered since October 1, 2004 must include an additional amount for "ordinary healthcare expenses". A person who pays support will pay an additional amount each month to cover a portion of the child(ren)'s ordinary healthcare expenses. The amount is determined by the Michigan Child Support Formula. Paying out-of-pocket healthcare expenses as they are incurred eliminates the need to seek separate reimbursement for every routine healthcare bill.

Healthcare expenses above the ordinary healthcare amount in the order (\$357 per year per child in 2013) are "extraordinary" healthcare expenses (also called out-of-pocket expenses). The support order will tell the parents the percentage that each must pay for extraordinary healthcare expenses after deducting the ordinary annual healthcare cost.

For example, if Dad pays Mom child support and if Mom takes child to the doctor and incurs medical bills for calendar year 2013 totaling \$1,500 and the Court order sets the ordinary healthcare amount at \$357 and divides extraordinary medical expenses 50/50, then this is how Mom calculates how much Dad owes her:

$\$1,500 - \357 (ordinary healthcare amount) = $\$1,143 \times 50\% = \571.50 —this is the amount Dad owes mom for the extraordinary medical expenses.

Dad's portion of the ordinary medical amount is already being paid by him as part of his monthly child support obligation paid to Mom.

The custodial parent can only request medical enforcement from the FOC if the ordinary healthcare expenses exceed the annual ordinary healthcare amount stated in the Court order for all the children.

Enforcement of Medical Expenses by FOC

The law requires the FOC to enforce the medical support provisions of your support order. Before a complaint of non-payment will be accepted by the FOC you must first provide, within 28 days after the insurer's final payment or denial of coverage, the other parent with an itemized statement for each expense.

This statement must include the name of the child that received care, the date of the care, the reason and diagnostic code and cost, and the complete name and address of the healthcare provider. If applicable, a copy of your insurance carrier's explanation of benefits (the statement that tells why the insurance did or did not pay towards the expense and the amount paid) should be included.

If the other parent does not pay his or her share of the claimed expenses with 28 days of the date you provided the itemized statement to that parent, and then you may file a written request for enforcement with the FOC. To file a non-payment complaint with the FOC, provide a copy of your FOC 13 Request for Healthcare Expense Payment form and all the attachments. In addition, completion of a Complaint for Enforcement of Healthcare Expense Payment (form FOC 13a) will be required.

A complaint must be submitted to the FOC on or before any of the following:

- One year after the expense was incurred.
- Six months after the insurers' final payment or denial of coverage for the expense.

Instructions for seeking enforcement of medical expenses through the FOC are available on the FOC website at:
<http://www.casscountymi.org/LinkClick.aspx?fileticket=MhsJ30iwhIM%3d&tabid=416&mid=1069>

With regard to expenses for braces/orthodontia treatment, please be aware of the Cass County FOC's policy found at:
<http://www.casscountymi.org/LinkClick.aspx?fileticket=4617rXTxOEo%3d&tabid=416&mid=1069>

Support Investigations and Recommendations

In some cases the FOC is required to periodically review child support provisions (including healthcare) and file a motion for a change in the order if a change is found to be proper. When reviewing support, the FOC office may request information from a parent's employer, including the parent's address, social security number, date of birth, wages earned, and dependant healthcare coverage available as a benefit of employment.

If ordered by the Court, the FOC will conduct a financial investigation and make a written report and recommendation to the parties and the Court regarding child support. The FOC investigator may be called as a witness to testify about the report and recommendation.

MODIFICATION OF CHILD SUPPORT

The Friend of the Court is required to review child support every 36 months. However, a substantial change in circumstances may warrant a review of your current support amount sooner if you are experiencing one of the following circumstance.

- The payer begins or stops receiving social security benefits.
- A child receives social security benefits based on the support payer's earnings record, or a reduction occurs in those benefits by \$50 per month or more.
- A health issue affects a party's ability to earn income for a substantial period (a permanent or long-term disability or injury, a lengthy hospital stay and recuperation, etc.).
- Parent's income changes by 75 percent or more.
- A parent receives a call to active military duty likely to last at least six months and result in a significant income reduction.
- Significant changes in the medical expenses of a party.
- Changes in the physical, mental, or educational needs of a child.
- A significant change in financial circumstances because of a modification of the payer's other support obligations.

A party can request a child support review by completing the "Request for Child Support Review" form available in the FOC office or on the FOC website at:

<http://www.casscountymi.org/LinkClick.aspx?fileticket=kQRbYRzITVQ%3d&tabid=416&mid=1069>

A “minimum threshold” establishes when a support order should be changed. This threshold is the lesser of 10% or \$50.00 per month. If the threshold is not met, no change will be made. A party who needs an immediate change in the support amount should file a Court motion requesting the change. Merely notifying the FOC that one parent’s financial situation has changed cannot automatically change the ordered support amount.

FOC Review

One method of getting support changed is through the FOC review process. Each party has the right to request a FOC investigation of the amount of child support every three years (if public assistance is involved, the three year review will be automatic, without the need for a request). The FOC will conduct an investigation of each party’s income:

- Financial questionnaires will be sent to each parent. It is very important that you fill out the questionnaire completely and accurately and return it promptly. The FOC will rely on these questionnaires in making a recommendation. Failure to complete and return the questionnaire may result in the FOC making a “best guess” about your income, and you may not agree with this “best guess.” If accurate information is received, the resulting recommendation is more likely to be correct, and much delay and aggravation can be avoided
- After the financial review, the FOC will make a written recommendation regarding the modification of child support. The recommendation will be sent to both parties. This recommendation will become a final order if neither party files written objections within 21 days. If a parent objects to the recommendation, the objections must be put in writing and provided to the FOC within 21 days from the time the recommendation is mailed.
- If an objection is received within the 21 days, a hearing date will be set before the referee about the objection. Both parties will be notified of the hearing date. After the hearing, the referee will prepare a temporary order that will become a final order if no one objects within 21 days.
- If a parent disagrees with the referee’s recommendation, the objections must be put in writing and provided to the FOC within 21 days. The Judge will then review the matter, and may affirm or reverse the referee without a further hearing. If, however, the Judge determines that a hearing is necessary, a hearing date will be set before the Judge and the parties will be notified of the hearing date. After the hearing, a final order will be entered.

Motion to Modify Support

Another method to try to get your support changed is to file a motion to modify support. This can be done through a private attorney, or if you wish to represent yourself, the FOC has forms available to assist you. Be sure that you fill out a FOC Case Questionnaire and provide the FOC with recent pay stubs and tax returns.

In most instances, a settlement conference will be conducted before a referee hearing. A representative of the FOC will meet with the parties and explore possible settlement possibilities. If a settlement is reached, a consent order can be entered. If no settlement occurs, the referee will hear the motion and make a recommendation.

Agreement to Modify Support

If both parties agree to change support, in many cases the FOC can assist in obtaining the agreed changes. If the agreed-upon amount is determined by the Michigan Child Support Formula, the parties may sign an agreement.

However, an agreement to deviate from the amount determined by the must be approved by the Court.

Retroactive Changes in Support

Child support usually cannot be modified retroactively. If you lose your job but wait several months before seeking a support modification (through one of the methods described above), you will still be liable for the child support amount ordered until the day a motion to change support is filed. While it could take weeks for the FOC to make a recommendation about the new amount of child support, a new support obligation will be retroactive to the day a motion to modify support was filed with the Court.

A limited exception to the rule against retroactive modification of support is found in MCL 552.603b, which says:

If an individual who is required by the court to report his or her income to the court or the office of the friend of the court knowingly and intentionally fails to report, refuses to report, or knowingly misrepresents that income, after notice and an opportunity for a hearing, the court may retroactively correct the amount of support.

This means that if a person does not tell FOC of a change in his or her income though he or she knows of the requirement to do so, or lies about his or her income, the support amount can be changed back to what it should be have been if the change had been reported. If the requirement for notice is in the support order, then the Court will find that the person knew or should have known about the requirement to notify the FOC of an income change. Not allowing retroactive modification in this situation would be rewarding someone for failing to do what they were ordered to do (reporting their change in income) in the Court order.

Automatic Support Enforcement

The FOC is required to automatically begin enforcement action against a parent ordered to pay support whose back support is in an amount equal to or greater than four weeks of support. This is to be done without waiting for a complaint or request for enforcement from the person receiving support. The state child support enforcement computer system (MiCSES) is designed to inform the FOC when payments are not made so action can be commenced. However, the system does not always automatically trigger enforcement action by the FOC so if a parent is not receiving the Court ordered support and it has been 4 weeks or longer without a payment, a parent can contact the FOC to speed up the FOC's enforcement efforts.

Support Enforcement Tools

The FOC has many tools available to enforce payment support accounts. These tools include:

- ***Income Withholding Orders:*** An income withholding order requires the employer or another source of income of the person required to pay support to withhold support from his or her wages or other income in a manner similar to income tax withholding. All support orders issued in the State of Michigan are required to include an order of income withholding. If the payer lives out of state, and gets behind in making his or her support payments, the FOC may begin an interstate income withholding action.
- ***Warning Letter:*** This is the first step in enforcement. This notice is sent to each party, and lets the payer know that the FOC is not receiving payments as ordered. The payer is given 30 days to start or resume payments as ordered. If the payer continues to be behind in payments and other remedies do not work, the next action taken is a "Show Cause" Contempt Hearing.
- ***Show Cause Hearing:*** If an order for income withholding does not work and the warning letter does not produce the desired results, the FOC may begin a civil contempt proceeding by filing a petition with the Court for an Order to Show Cause.

Your Court order requires you to keep the FOC advised of your current address. The notice of the show cause hearing will be sent to the last address that you have given (in writing) to the FOC. If you are the person ordered to pay support and you fail to notify the FOC of a new address (in writing), you can legally be arrested for non-appearance at a hearing even though notice was sent to an old address and you did not receive it.

At that hearing, the payer of support has the right to be represented by an attorney. The Court will appoint one for payers who cannot afford to pay for their own attorney if there is the chance that the payer will be put in jail. The payer seeking an attorney will fill out an application for an appointed attorney just before the hearing and the Judge decides if the payer qualifies for no-cost legal services.

In the hearing, the FOC will give the Court a review of the case, and make a recommendation to the Court as to what will happen. The Judge will decide if the payer is in contempt of the Court's support order, and what action or consequence will occur next.

If the show cause hearing is scheduled and the payer does not appear, the Judge will issue a bench warrant for the payer's arrest. Bond is typically set at 25% of the support arrearage, or \$500, whichever is greater. Once the Court issues a bench warrant, the responsibility for the payer's arrest lies with the local law enforcement agencies.

NOTE: The issuance of a bench warrant does not mean that the FOC will not use other tools it has to try to collect the support. The FOC is persistent, and can attach assets, income tax returns, insurance settlements and even ask that criminal charges be filed.

- **Bench Warrant:** When the Court issues a bench warrant, Michigan law enforcement agencies are notified, and the FOC Warrant Officer begins his investigation to pursue the payer to place him or her under arrest. If the non-payer is stopped by law enforcement officials within Michigan for any civil or criminal infraction, these officials will place the non-payer under arrest for non-payment of support.
- **Felony non-support warrants:** These are initiated by the Cass County FOC through a referral to the Cass County Prosecutor's office or to the Michigan Attorney General's office. After the referral is made, it is up to the Prosecutor's/Attorney General's office to determine if there is sufficient evidence and cause for the issuance of the felony warrant. If a person is convicted of felony non-support, he or she will have a felony conviction which can have a major impact on other aspects of the payer's life. It is far easier to work with the FOC to come to a solution than it is to live with a felony conviction, but in large part, this is your choice to make.
- **Tax Intercept:** If back child support is owed and the case otherwise satisfies federal and state requirements, the FOC may request an income tax intercept. In such cases, any tax refunds to which the support payer is entitled will be paid towards past due support.
- **Other:** There are many other tools for enforcement that may be used to enforce payment of support including, revocation of driver's and/or professional licenses, passport revocation, credit reporting, and other remedies. For more information, contact the Cass County FOC Enforcement Division.

Immediate Income Withholding

All support orders must provide for immediate income withholding. A delinquency does not have to occur before income withholding takes place. The support money is taken directly from a payer's check in a way similar to deductions for income taxes and social security payments. This is not optional. It can be avoided only in certain very limited circumstances.

The Court has some limited authority to delay immediate income withholding if the Court finds that it would not be in the best interest of the child (good cause exception).

Statutory Service Fees

Service fees are set by law to partially offset administrative costs of operating the child support system. They are currently charged at the rate of \$21.00 on January 1st and July 1st. Support payments made by income withholding order include the statutory fee. The fee is usually withheld at the rate of \$3.50 per month.

Surcharge on Overdue Support (Arrears)

Some overdue support cases have surcharges added. A surcharge is fully enforceable as support.

Automatic surcharges were eliminated in 2010. Previously assessed surcharges are not forgiven, and are still enforceable; however there will be no further automatic surcharge amounts. Starting on January 1, 2011, the Court may order a surcharge as a sanction for failure to pay support.

Support Questions and Answers

Q. How do I get an order for support?

A. If no one has started a lawsuit that raises the issue of child support, 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.

Q. Do I need to have an attorney to get an order for support?

A. No, but you are expected to understand Court rules and state laws if you act on your own. In family support actions, the Prosecutor's office can assist you in getting an order for support and it is not necessary for you to get your own attorney.

Q. Does the judge have to use the Child Support Formula or the FOC recommendations based upon the Child Support Formula when setting support orders?

A. Yes. The Child Support Formula is used to assist the judge in making a decision concerning support amounts. The law requires support to be set according to the formula's recommended amount, unless there is clear evidence that the formula amount is unjust or otherwise harms the best interests of the child. The Court must record the reasons for not following the formula if it orders support different from the amount recommended by the formula.

Q. If I have been paying my child support and the custodial parent is not allowing parenting time, do I have to keep paying support?

A. Yes, parenting time and support are separate orders of the Court, with separate enforcement procedures. Violation of one order does not permit violation of other orders.

Q. The non-custodial parent is not paying support. What can I do?

A. Contact the FOC and request enforcement if support is past due by four weeks or more. You may also contact a private attorney to file an enforcement action.

Q. The payer of support is self-employed and is not making his or her Court ordered support payments. What can the FOC do?

A. Income withholding orders are not usually effective when a payer is self-employed. In these cases, the FOC may seek enforcement using one or more of the following options: Issue a warning letter to the payer of support; Petition the Court for a show cause hearing; Submit the payer's name for tax intercept; File a lien on the payer's property; Revocation of the payer's driver's, professional, and/or recreational licenses; or Revocation of a payer's passport. Contact your FOC office for further information concerning these options.

Q. My Court order states that I am to pay support through the Michigan State Disbursement Unit (MISDU) office. Can I pay the support to the custodial parent directly?

A. Support is paid through MISDU so that an official record of payments exists. If you want credit for payments made directly to the custodial parent, you must obtain a Court order that directs the FOC to credit your account for a specific amount. If any support is paid directly to the other parent and not through MISDU as ordered, it will be considered a gift and credit will not be given against your support account.

Q. If child support has been ordered by the Court and either parent has a major increase or decrease in income, what can be done?

A. The Michigan Child Support Formula requires the FOC to consider both parents' incomes when making child support recommendations. If either party has had a large increase or decrease in income, they may contact the FOC to request a review of the support order (see Support Modification Section), or forms to assist them in seeking a change. If the parties can mutually agree to a change in the support order, and both parties sign a written agreement (stipulation), that agreement will be entered as an order, if approved by the Court. If the agreement deviates from the amount recommended under the Michigan Child Support Formula, however, certain additional requirements must be met. In most instances, parents are required by their order to report changes in income to the FOC.

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

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

Q. Is the FOC responsible for making sure that child support money is being spent on the child?

A. The law does not give the FOC the right to question how child support payments are spent.

Q. Does child support have to be paid once the child turns 18?

A. 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.

Q. Will the Court modify the child support order if the payer is in jail or prison?

A. Michigan law requires support to be set according to the child support formula, which considers the parties' incomes. Therefore, an incarcerated payer's support obligation might be modified. The FOC is required to start reviewing the order within 14 days of receiving notice that a parent has been incarcerated or released from incarceration.

Accounting

The Michigan State Disbursement Unit (MISDU), unless otherwise ordered by the Court, has the responsibility to collect and forward child support and spousal support to the payee not less than once each month. Once a year, upon a written request, the FOC will provide parties with a statement of the support account free of charge. Payments for support may be made by personal check, money order, or income withholding and mailed to the **Michigan State Disbursement Unit (MISDU), P.O. Box 30351, Lansing, MI 48909-7851** (Cash payments should not be mailed.) Payments may also be made online at: <https://www.misdu.com/secure/MakeanIndividualPayment.aspx>

THE LOCAL FOC OFFICE ACCEPTS PAYMENTS BY CASH, CERTIFIED CHECK OR CREDIT CARD. PERSONAL CHECKS ARE NOT ACCEPTED BY THE LOCAL FOC OFFICE.

Accounting Questions and Answers

Q. Every time I get a support check, it seems to be for a different amount. Why?

A. There are several possibilities:

- The payer did not earn enough to make a full support payment. If this is the case, any unpaid amount becomes part of the "arrearage", or past due support.
- The state computer system is distributing payments according to statute—for example, a support payer may owe child support to more than one person for more than one child—the state computer system automatically distributes such payments.

Q. How often do you process and mail child support checks?

A. MISDU processes and mail checks on a daily basis. You can check the toll free information to find out if a payment has been processed by dialing 1-877-543-2660. The Cass County code is 227, which is the first three letters of our county (CAS).

You can also access your account on-line by signing up for MiChildSupport. This link can be found at the WWW.MISDU.COM website.

Q. My child support payments are being sent to Lansing, instead of the local FOC. Why?

A. Lansing is where MiSDU is located. Federal law mandates each state have one collection point. The Cass County FOC is working with MISDU to process your payments in the most efficient manner.

Q. MISDU records show a check was mailed to me, but I never received it. What should I do?

A. Any outstanding checks will be automatically reissued after 90 day-life of a check expires. You can also return a damaged check for reissue. You will be mailed a form to complete that obligates you to repay the FOC if the original check is cashed after it is voided in our system. The form will be used for ALL reissued checks unless the original check has been physically returned to the Cass County FOC. NOTE: In most cases, payments are being handled by direct deposit or debit card, and problems involving missing checks are no longer a concern.

GENERAL INFORMATION FOR PARTIES REPRESENTING THEMSELVES

Michigan law requires Courts to distribute forms to assist parties interested in representing themselves without an attorney for some purposes. Forms are available through the FOC office and on the FOC website for custody, parenting time, child and medical support and change of domicile / legal residence actions. Personal protection orders packets are available only through the Circuit Court Clerk. FOC or Clerk staff will copy your papers for \$1 per page, so it is usually less expensive to have them copied somewhere else.

If you cannot afford to hire a private attorney, you may qualify for the services of Legal Aid of Western Michigan. You may contact them at 1-800-819-0773 to learn more about whether you are eligible. You may also wish to take advantage of the services offered at Michigan Legal Help, a website with forms and legal advice for persons handling cases without the assistance of an attorney. This website can be found at <http://michiganlegalhelp.org/>.

Court staff can instruct you as to what type of information should be put in the forms, but they are not allowed to advise you what specific answers you should put on the forms. They will assist you by scheduling hearing dates and advising you of times and locations. ***Court staff cannot give legal advice***; they can advise you what options you have, but not what available option you should choose.

If you choose to represent yourself, you will be held to the same rules of conduct, presentation of evidence, and Court procedure, as any licensed attorney would. You must come to Court prepared to present your evidence, explain your case, call witnesses and question them, and provide the Court with reasons why it should rule in your favor. Neither the Judge nor the Referee can help you present your case.

Never bring minor children to your hearing. Minor children are **not permitted in the hearing room or Courtroom**, and will not be permitted to testify. Pre-verbal infants should be left with a suitable child care provider outside of the Courthouse. You may ask the Court to privately interview a minor child after a hearing, if the child is a suitable age.

In some cases, you may be responsible for preparing the Order for the Judge to sign at the end of your hearing, although in most cases the FOC will prepare the order. However, it is **very important** that you take complete and clear notes at the hearing, and ask questions if you do not understand something. This will help you if you do need to prepare the order, or if you think the order prepared by the FOC does not agree with what the Referee or Judge ordered.

MISCELLANEOUS ISSUES

Access to Records of a Child

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.

Access to FOC Records

The Cass County FOC values your privacy. When you contact the FOC office, please be patient as we may want to confirm your identity before discussing your case, or providing you with information. Federal and State laws prohibit us from sharing your case and personal information with others except under a narrowly defined range of circumstances.

Any person who certifies they are a party, a Court-ordered third-party custodian, a Court-ordered Guardian Ad Litem, or an attorney of record, may request access to non-confidential FOC records. Records may be personally inspected, relayed by a FOC employee reading the requested information in person or over the phone, or copies can be provided upon receipt by the FOC of the necessary copying fee.

The following individuals may also have access to FOC records, which includes some confidential records, in order to perform their assigned duties as prescribed by law:

- Protective Services personnel from the DHHS conducting duties related to the investigation of alleged abuse and neglect;
- Prosecuting attorney and personnel from Michigan Office of Child Support and DHHS performing functions required by Title IV, Part D of the Social Security Act;

- Auditors from state and federal agencies performing audit functions; and
- Personnel assigned to carry out IV-D program functions, including but not limited to consumer credit reporting, reporting TANF collections to the IV-A agency, and providing notice to employers to carry out income withholding. Use and disclosure of any information for purposes other than carrying out IV-D program functions is prohibited.

A written Request for Access form or other suitable writing, verifying the requester’s eligibility for access, and clearly specifying the records to be accessed shall be submitted to the FOC. Within five workdays of the receipt of the request, the FOC shall determine if the request will be honored or denied, in full or in part, and shall communicate that determination in writing to the requesting party. Excluded from disclosure are staff notes, Protective Services reports, formal mediation records, communications from minors, FOC grievances filed by the opposing party and any responses, any information the release of which is prohibited by Court order, and information classified as confidential under Title IV-D of the Social Security Act.

Any denial of information shall include reasons for the denial. Any person denied access to FOC records may file a motion and order for access with the Judge assigned to the case, or if none, the Chief Judge.

Circuit Court and /or FOC records are not subject to Freedom of Information Act requests. MCL 15.232 (d) (v) specifically exempts the judiciary from the Freedom of Information Act.

Circuit Court files of record (*not the FOC files*) may be inspected by the public unless access is restricted by the Court rule, statute, or an order sealing a Court record. Copies of documents filed with the Circuit Court must be obtained through the Circuit Court Clerk’s office, subject to MCR 8.105(C), and subject to applicable copying fees.

Adoptions

Q. What happens to my child support order and any support that may be owed when my children are adopted?

- A. Adoptions take place in a Probate Court. The FOC must be notified by the Probate Court of the adoption. The child support orders stops when children are adopted, not when parental rights are terminated. The FOC is still required to collect all support owed at the time of the adoption. If your child is adopted by someone, contact the FOC to make arrangements to make sure FOC has notice and to pay all money owed so your case can be closed.

Orders Must be in Writing

Q. Why won’t the FOC enforce what the Judge said in Court, even if it is not in my written Order?

- A. Only written orders are enforceable since the Court “speaks” through its written orders. Therefore, the FOC only has authority to enforce written orders of the Court. If you feel the order does not agree with the transcript of your Court proceedings, bring your concerns to the attention of the person who prepared the written order and request a change. If they refuse, you can file a motion with the Court asking the Court to correct the written order.

Change of Domicile/Legal Residence

Most divorce judgments and many support orders and orders of filiation (paternity) include a paragraph that tells parents they must seek the Court’s permission before they can move out of state with the minor child or children of the parties (domicile). You generally must also seek permission to move more than 100 miles from your address at the time of your divorce judgment or other Court order for parenting time (legal residence). Generally, this applies to a parent who has primary physical custody, and applies to both parents if they have shared physical custody.

When parents share joint legal custody, the Court must consider the following factors in deciding whether to grant permission for a parent to remove a minor child from the state:

- Whether the move will improve the quality of life for both the custodial parent and the child.
- Whether the custodial parent is trying to prevent parenting time by the non- custodial parent, and whether the custodial parent would be likely to comply with a new parenting time schedule that would be needed because of a move.
- Whether the non-custodial parent is opposing the move because it would be to his or her advantage in paying support.

- Whether the Court is satisfied that there will be an actual opportunity for parenting time that makes it possible to preserve and foster the child's relationship with the non-custodial parent, if the Court allowed the move.

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.

Parent Locator

Q. What can the FOC do to find a missing parent?

A. The state and federal governments have a parent locating service that can be used to

- locate a parent;
- to collect child support;
- to decide or enforce a child custody or parenting time matter; or
- to enforce state or federal law with respect to the unlawful taking or restraint of a child.

The FOC, Prosecuting Attorney, and DHHS can use this service. The full name, date of birth, social security number, and last known address of the parent to be located is required.

Property Settlement

Q. Will the FOC enforce the property settlement provisions contained in my Judgment of Divorce.

A. No. The FOC only has authority to enforce matters directly relating to the best interests of the minor children, such as custody, parenting time, and support issues. The FOC does not have the authority to enforce property settlement orders between the parties. This should be done through a private attorney.

Referees

Q. What is a Domestic Relations Referee, and what do they do?

A. A domestic relation's referee is usually a lawyer and is a quasi-judicial officer that the Court appoints to hold a hearing, take testimony and make a recommendation about the order the Court should enter in a given situation. A decision made by a referee is final only if the parties do not object to the recommended order or if the referee's recommended order is by consent of the parties. If a parent objects to a referee's recommended order, that party may have the matter further reviewed by the Judge. However, the referee's recommended order may be given interim effect by the Court pending the review by the Judge.

COMPLAINTS ABOUT THE DOMESTIC RELATIONS LEGAL SYSTEM

Attorneys

Q. Why won't the FOC refer me to an attorney, or provide one for me?

A. The FOC is part of the Family Division of Circuit Court with services for processing its domestic relations cases, and enforcing its orders. The FOC cannot show preference for any particular attorney by referring clients to them. The U.S. Constitution guarantees your right to an attorney if you cannot afford one and you are facing possible jailing. The two circumstances when FOC enforcement action might lead to jailing are felony non-payment of support, or an Order to Show Cause hearing regarding either support or parenting time. Those are the only times an appointed attorney would be made available if the Court decides that you cannot afford to retain one on your own. The State Bar of Michigan has Lawyer Referral and Information Service that can be contacted by calling **1-800-968-0738**.

Q. How do I file a complaint about my attorney?

A. The Attorney Grievance Commission will accept complaints about alleged misconduct of Michigan attorneys. Anyone who has serious concerns about the behavior of an attorney can contact the Michigan Attorney Grievance Commission at 535 Griswold, Suite 1700, Detroit, MI 48226, or by telephone at (313) 961-6585.

However, if the attorney represented you properly but you are just unhappy with the outcome, this is not a sufficient basis for a grievance.

Court Order

Q. *How do I complain about my Court order?*

A. If you do not believe your order is appropriate, you must change it in one of two ways:

- Reach an agreement with the other parent, and submit a Stipulation changing it and asking the Court to adopt an Order approving your Stipulation; or
- File a motion asking the Court to change your order over the other parent's objections.

If you have gone through a hearing and disagree with the decision made by the Court, contact an attorney to discuss your legal options, such as making a Motion for Rehearing, or filing an appeal with Michigan Court of Appeals. Until your Court order is changed by a new Court order, you are required to follow the existing order. Court orders are not covered under the FOC grievance procedure.

FOC

Q. *How do I file a complaint against the FOC?*

A. The law provides a grievance procedure that a party can use when they have complaint about FOC operations or employees. A grievance may not be used to disagree with a decision of a Judge or a FOC or Referee recommendation. A grievance also may not be used to disagree with a Court order. You can file a grievance in two ways:

- by filing a grievance form, which you can get at your FOC office; or
- by filing a letter clearly identified as a grievance with the FOC.

The FOC must investigate and answer your grievance within a reasonable period of time, generally within 30 days.

- If you do not agree with the FOC answer to your grievance, you can file a further grievance, in writing, with the Chief Circuit Court Judge. The Chief Circuit Court Judge will investigate and answer your grievance within a reasonable period of time.
- The FOC grievance procedure ends with the response of the Chief Circuit Court Judge. There is no further appeal.

Judge or Referee

Q. *How do I complain about the conduct of the Judge or a Referee?*

A. 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. If you want to attempt to change a Court order or a referee's recommendation, you must either file a motion for de novo review of a referee's recommendation, a rehearing by the same Court, or an appeal.

If you wish to file a complaint about misconduct by a judge or referee, contact the Judicial Tenure Commission at 3034 West Grand Blvd., Suite 8-450, Detroit, MI 48202, or by telephone at (313) 875-5110.

LEGAL RESOURCES OF INTEREST

The following statutes can be viewed on line at <http://www.michiganlegislature.org>:

Friend of the Court Act-MCL 522.501
Support and Parenting Time Enforcement Act- MCL 552.601
Child Custody Act – MCL 722.21
Paternity Act – MCL 722.711
Family Support Act – MCL 552.451
Uniform Interstate Family Support Act – MCL 552.1101

The Michigan Child Support Formula Manual is available at:

<http://courts.mi.gov/administration/scao/officesprograms/foc/pages/child-support-formula.aspx>

Title IV-D of the Social Security Act is found at: http://www.ssa.gov/OP_Home/ssact/title04/0400.htm

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 – (welfare reform) can be located at 42 U.S.C. § 1305.

WORDS AND TERMS YOU MAY NEED TO KNOW

ABATE (abatement): to stop, end or suspend. Usually refers to stopping support.

ADJOURN: to postpone until a later date.

AFFIDAVIT OF PARENTAGE (AOP): a document that legally establishes a child's paternity (fatherhood). An affidavit of parentage is executed by the parents for a child conceived and born to a woman who was not married at the time of conception or on the date the child was born.

ALTERNATIVE DISPUTE RESOLUTION (ADR): a variety of processes that help parties resolve disputes without a trial, the most common of which is mediation.

ARREARAGE: the total dollar amount of support payments that is overdue.

ATTORNEY: Also known as a lawyer; a person who is licensed and admitted to practice law in a particular state who represents the legal interests of another person and speaks for that person in legal proceedings.

BENCH WARRANT: a Court order to arrest a person and bring that person before the Court.

CASE NUMBER: The number assigned to a case. The case number includes the year the case started. The case number always remains the same. Also called a docket number or a file number.

CHIEF JUDGE: In Courts with two or more judges, one judge is selected by the Michigan Supreme Court as chief judge for the county. The chief judge is the director of the administration of the Court.

CHILD ABUSE/NEGLECT: The mistreatment (physical, mental, or emotional abuse) of a minor by an adult. Reports of suspected child abuse should be reported to the county DHHS, office of Children Protective Services in the county where the suspected abuse occurred.

CHILD CUSTODY ACT: This law states how custody of a child is to be determined and includes the “best interests” factors the judge uses to decide custody and parenting time.

CHILD SUPPORT: The payment of money for the support of a child in a divorce, paternity, or family support act proceeding. Support includes but is not limited to general (or base) support, healthcare, childcare, and educational expenses.

CIRCUIT COURT: The trial Court in Michigan which hears many types of cases. A judge in the family division of this Court hears custody, parenting time, and child support matters.

COMPLAINT: the document filed with the Court to start a case that asks the Court for some form of relief.

CUSTODIAN: a parent or any other person who has physical custody of a child by Court order.

CUSTODY: the care and keeping of children in a custody case. Child custody is a term that refers to rights and responsibilities for each parent and child. An award of custody is a Court determination about the time a child is going to spend with each parent and each parent's responsibilities to make decisions on behalf of the child.

DEFENDANT: the person against whom a Complaint is filed.

DEPARTMENT OF HEALTH & HUMAN SERVICES (DHHS): the state agency that provides public assistance to families. Child Protective Services (CPS) and the Office of Child Support (OCS) are divisions of DHHS.

DIVORCE: the legal termination of a marriage by a Court order.

DOMESTIC RELATIONS ACTION: any Court action involving divorce, paternity, custody, parenting time, or support.

DOMESTIC RELATIONS REFEREE: a domestic relations referee is a person, who is usually a lawyer, who the Court appoints to hold a hearing and make a recommendation about an order. A decision made by a referee is final only if the parents do not object to the recommended order or if the parents consent to the referee's recommendation. If a party objects to a referee's recommended order, that party may have the matter further reviewed by the Judge.

DOMESTIC REFEREE'S RECOMMENDATION: the referee must provide a written recommendation for an order to the judge, to the attorneys, or to the parties if they are not represented. If either side objects to the referee's written recommendation, that party may file a written objection with the Court within 21 days from the time the recommendation is sent by mail or given to the attorneys, or to the parties if they are not represented.

DOMICILE: the permanent home to which a person, when absent, always intends to return. The word domicile is usually used when a parent wants to move to another state with a child; this is called a change of domicile.

ENTER (entry): how and when an order becomes official. It includes getting the signature of a Judge on an order and filing that order with Court Clerk.

EVIDENCE: includes such things as the testimony of a witness, documents or other items presented to the Court to prove a fact. Only legally admissible evidence is considered by the Court.

EXTRAORDINARY HEALTHCARE EXPENSES: out of pocket expenses that exceed the children's Court ordered annual ordinary healthcare expense amount that are divided between the parties per the Court ordered percentages.

FAMILY DIVISION OF THE CIRCUIT COURT: the branch of the Circuit Court that is responsible for hearing cases about families and their children. The family division hears custody, parenting time, and child support cases, as well as juvenile cases that were formerly heard by the probate Court. Also often referred to as "Family Court"

FOC OFFICE: the office that investigates and makes recommendations to judges and domestic relations referees regarding child support and enforces Court orders for custody, child support, parenting time and related issues.

HEARING: a procedure which provides due process to parties where parties and their attorneys (if any) present evidence before a referee or judge on issues related to why the Court should or should not do something.

JURISDICTION: the Court's power to hear and decide cases before it. Whether a Court has jurisdiction over a case depends on the type of case and on the parties'/children's connections to the county where the Court is located.

MEDIATION: a process where parents meet with a neutral third party, called the mediator, to try to reach an agreement about pending issues without going to Court. The FOC provides mediation services at the request of either parent or as directed by the Judge. If an agreement is reached through mediation, the Court can enter a consent order setting forth the terms of the parties' mediated agreement.

MICHIGAN COURT RULES: procedures and rules established by the Michigan Supreme Court for judges, referees, and Friends of the Court to follow.

MISDU: Michigan State Disbursement Unit—the collection and disbursement unit for child support (and sometimes alimony) in Michigan.

MOTION: a motion is a formal request made in writing to the Court. A motion is sometimes called a petition.

MOVING PARTY: the person who files a motion asking the Court to take some type of action.

OBJECTION: a written document allowing a party to oppose a proposed or recommended order to prevent it from becoming a final order.

ORDER: a decision of the Court made in writing.

PARENTING TIME: time set aside by Court order for a parent and child to spend together in the absence of a contrary agreement by the parties. Michigan law recognizes that it is in the best interests of the child that parenting time occurs in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and each parent. Parenting time should be on a regular schedule with specific consistent starting and ending times for the ease of the parties and child in planning their schedules.

PARTY: a person involved in a Court case, usually the Plaintiff or the Defendant.

PAYEE: the person or agency entitled to receive payments. In support cases, the payee is also known as the support recipient.

PAYER: the person who is ordered to make payments. In support cases, the payer is also known as the support obligor.

PENDING CASE: a case that has not been fully decided by the Judge yet.

PLAINTIFF: the person who files a Complaint with the Court to start a case.

PROPOSED ORDER: a suggested order that the Judge is being asked to approve and sign.

SHOW CAUSE HEARING: a Court hearing at which a person must answer or respond to a charge that he or she has violated a Court order. Also known as a contempt of Court hearing.

SPOUSAL SUPPORT: money paid to support a spouse or former spouse. Formerly known as alimony.

SUMMONS: a notice from the Court that someone has started a case or lawsuit against you.

TEMPORARY ORDER: a Court order that determines issues on a short term basis until a hearing is held or until a final order is entered.

TESTIMONY: the statement of a witness under oath given as evidence.

TITLE IV-D SERVICES: activities to establish, enforce, account for and collect child support in cases under Title IV-D of the Social Security Act.

WITNESS: a person who testifies (typically under oath) to what that person knows, saw, heard, or otherwise observed.

COMMUNITY RESOURCES

<u>Organization</u>	<u>Telephone #</u>	<u>Website</u>
Al-Anon		http://www.usrecovery.info/Al-Anon/Michigan.htm
Cass County Juvenile Division	(269) 445-4444	
Cass County Medical Care Facility	(269) 445-3801	http://www.ccmcf.org
Cass County Public Transit	(269) 445-2455	http://www.mywaythere.org/cass.asp
Cass District Library	(269) 357-7822	http://cass.lib.mi.us/
Cass Family Clinic (medical and dental services)	(269)445-3874	http://cassfamilyclinic.org/
Child & Family Services of Southwestern Michigan, Inc.	(269)925-1725	http://www.cfsswmi.org/
Child Protective Services	(855) 444-3911	http://www.michigan.gov/mdhhs/0,5885,7-339-73971_7119_50648---,00.html
Clerk/Register of Deeds (Cass)	(269) 445-4464	http://www.casscountymi.org/DepartmentsandCourts/ClerkRegister.aspx
Courthouse TTY-Hearing Impaired	(269) 445-4422	
Fourth District Court - Traffic Division	(269)445-4430	
Department of Health & Human Services (DHHS)	(269)445-0200	http://www.michigan.gov/mdhhs
Dowagiac Dial-A-Ride	(269) 782-3300	
Disability Resource Center	(269) 445-6221	
Domestic and Sexual Abuse Services Crisis Line	(800) 828-2023	http://www.dasasmi.org/
Domestic Violence Assistance	(269) 445-4449	
Dowagiac Housing Commission (income based housing)	(269) 782-3786	http://dhcommission.com/index.html
Dowagiac District Library	(269) 782-3826	http://www.dowagiacdl.org/
Edwardsburg Area Food Pantry (local residents only)	(269) 699-5870	
Friend of the Court (Cass County)	(269)445-4436	http://www.casscountymi.org/DepartmentsandCourts/FriendoftheCourt/tabid/92/Default.aspx
Health Department (Cass) (medical/substance abuse/dental)	(269) 782-0064	http://www.vbcassdhd.org/
Helping Hands of Cass County, Inc. (emergency help)	(269) 445-8104	
InterCare Eau Claire (medical services including dental and assisted medication)	(855)869-6900	http://www.intercare.org/eau-claire
Legal Aid of Western Michigan	(888) 783-8190	http://www.legalaidwestmich.org/

COMMUNITY RESOURCES

Link Crisis Intervention Center, Inc. (youth shelter 10-17 years)	(269) 927-1422	
Michigan Rehabilitation Services	(877) 901-9192	http://www.michigan.gov/mdhhs/0,5885,7-339-73971_25392_40237_40244_40913_41068-17766--00.html
Michigan Legal Help		http://michiganlegalhelp.org
Michigan Works	(269)782-9864	http://michiganworks.org/agencies/agency/174/
Pokagon Band of Potawatomi Indians (job training)	(269) 462-4227	http://www.pokagon.com/government/human-resources/training-and-development-opportunities
Probate Court/Family Division/Adoptions	(269)445-4454	http://www.casscountymi.org/DepartmentsandCourts/ProbateCourt.aspx
Prosecuting Attorney (Cass)	(269) 445-4460	http://www.casscoprosecutor.com/
Salvation Army (emergency help)	(269) 684-2660	http://saniles.org/
Secretary of State of Michigan	(888)767-6424	http://michigan.gov/sos
Serenity Hills Recovery & Wellness Center	(269)815-5500	http://www.sacredheartcenter.com/about-us.html
Sheriff's Office (Cass County)	(269) 445-2481	http://www.ccsa.info/
Social Security Administration	(800)772-1213	http://www.ssa.gov/
Society of St. Vincent de Paul (emergency help)	(269) 782-3205	
Unemployment Insurance Agency		http://www.michigan.gov/uia
WIC program (pregnancy assistance – low income)	(269) 782-3374	http://www.intercare.org/wic-locations
Woodlands (substance abuse & mental health services)	(269) 445-2451	http://www.woodlandsbhn.org/