

MASON COUNTY FRIEND OF THE COURT HANDBOOK

304 E LUDINGTON AVE LUDINGTON MI 49431

www.masoncounty.net

CHILD SUPPORT PAYMENT INFORMATION 1-877-543-2660



The Friend of the Court does not offer emergency services. If you believe some action regarding yourself or your child requires immediate attention, you should contact a police agency, a hotline service, or Protective Services of the Family Independence Agency.

CHILD ABUSE/NEGLECT: Allegations of abuse or neglect should be reported to Protective Services of the Family Independence Agency.

LEGAL ADVICE: The Friend of the Court is not permitted to provide legal advice. If you need legal advice, please contact an attorney.

The provisions of this handbook are based on currently known statutory requirements. The laws regarding domestic relations are currently in a great state of change. Please check with this office or an attorney if you believe a new law has been enacted that is not addressed in this handbook.

All Child Support accounting and payment processing utilizes the federally required statewide computer system commonly referred to as MiCSES.

GENERAL INFORMATION

COMMUNICATION: Persons using Friend of the Court services may communicate with Friend of the Court staff by writing a letter or by scheduling an appointment.

Communicating in writing is preferred and more efficient. However, some concerns are better addressed by scheduling a phone or office appointment at 231 843 4791.



COURT PROCEDURES

Any person who wants to start a case must file the correct papers in the circuit court according to Michigan Court Rules. The court does not require a party to use an attorney, although an attorney is often helpful. Each case begins with the Plaintiff filing a complaint that asks the court to grant an order for support, paternity, custody, interstate collections, or divorce. The complaint is served upon the Defendant and the Defendant has the opportunity to answer the complaint, according to Michigan Court Rule.

Family Support Actions are generally initiated by the Prosecuting Attorney in cases where parents have separated, no divorce action has been filed, and support is requested.

Paternity is the process that determines the legal father of a child born to parents not married to each other and establishes custody, parenting time, and child support. Paternity actions are generally initiated by the Prosecuting Attorney, upon referral from the Michigan Family Independence Agency.

CHILD SUPPORT - MEDICAL SUPPORT - SPOUSAL SUPPORT

The child support enforcement program was created under Title IV-D of the Social Security Act and is administered by the Office of Child Support in cooperation with the Friend of the Court. The Office of Child Support, a division of the Family Independence Agency, is responsible for administering federal child support program funds, coordinating absent parent locate services, managing the income tax refund intercept program, and initiating legal complaints for child support under Michigan law and federal interstate law.

The Mason County Friend of the Court administers child support, medical support, and spousal support orders in divorce, paternity, and family support cases. This includes maintaining support accounts, enforcing orders, reviewing support orders, and making recommendations to the court regarding support amounts.

Effective December 2002, Michigan Law M.C.L.A. 552.605c requires that child support payments be held if the payer is obligated under a support order for a future support payment and the overpayment is less than or equal to the monthly support order amount. The payment is to be held and disbursed when the amount becomes payable as support.

The same law required that child support be calculated and stated in monthly amounts. Therefore, held monies will be disbursed on or shortly after first of the month, when the monthly amount becomes payable as support. To convert a weekly support payment to monthly, multiply the weekly amount by 4.35.

SUPPORT REVIEW

The Friend of the Court reviews support orders for possible changes every two years. Effective June 30, 2005, support reviews will be conducted every three years. When a person is receiving public assistance, the Friend of the Court automatically initiates the support review. For non-assistance cases, the review is initiated at the request of either party. When support is reviewed, the Friend of the Court gathers financial information from both parties and makes a recommendation for support based on the Michigan Child Support Guidelines.

In addition to the statutory review, the Friend of the Court has motion forms available for use by any party who does not yet qualify for a statutory review but feels that there has been a substantial change in circumstances since the last support order or review. There is a \$20.00 fee for filing a motion. For post judgment motions, a \$40 court order entry fee must be paid in addition to the \$20 motion fee for a total of \$60.

If the parties agree to a support amount, the Friend of the Court may prepare a stipulation and order at no cost to the parties if no state assistance is involved.

FRIEND OF THE COURT REFEREE

The Friend of the Court Referee holds hearings on any domestic relations issue, except a modification of spousal support. After a hearing, the referee issues a recommendation that becomes a court order after 21

days if neither party files an objection. If an objection is filed, the judge conducts a hearing and enters an order. A party may object to a Referee recommendation by using an attorney or by using an objection form available at www.masoncounty.net.

ALL REFEREE HEARINGS ARE BY ZOOM

NON-RETROACTIVE SUPPORT ACTIONS

In most cases, a support order can only be changed from the date a motion is mailed or served. If your financial situation changes, you should immediately file a motion if you believe a change in support is necessary.



INTERSTATE SUPPORT ACTIONS

If either parent leaves the state of Michigan, it does not mean that the child support obligation ends. The Uniform Interstate Family Support Act (UIFSA) assists 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. There are several procedures available under UIFSA. A Michigan order may be registered in another state for enforcement and for modification of the support amount. Interstate Income Withholding allows the Friend of the Court to send a withholding order directly to an employer in another state. And UIFSA provides some assistance in obtaining information needed for support hearings if one party lives in another state.

MEDICAL SUPPORT

In most cases, parents are required to maintain health insurance for the minor child(ren) if it is available at a reasonable cost. Using the Michigan Child Support Guideline, reasonable cost is determined according to the parents' incomes. Parents are required to provide current health insurance information to the Friend of the Court.

In addition to providing health insurance, both parents are generally required to pay a percentage of uninsured health care costs. Providing that the other parent is court-ordered to pay a portion of uninsured health care expenses, the parent seeking reimbursement of uninsured health care expenses sends a Request for Health Care Expense Payment directly to the other parent. The request must be mailed to the other parent within 28 days of either the insurance payment or denial. The Friend of the Court is not involved in this process and we do not need a copy of the request form at this time.

If a payment agreement is not made or the parent does not pay the uninsured portion, the parent seeking reimbursement may request the Friend of the Court to enforce payment by submitting a Complaint For Enforcement of Health Care Expense Payment form according to the following conditions:

1. A (valid) Request for Health Care Expenses Payment must accompany the complaint form.
2. The complaint is made within (6) months after the date of payment or insurance denial, or within (6) months after the obligor defaulted on a payment agreement (payment agreement attached), or within (1) year of the date the expense was incurred.

The Friend of the Court mails the Complaint For Enforcement of Health Care Expense Payment to the other parent (obligor):

1. If the obligor objects to the health care expenses, the obligor files a Motion For Determination Regarding Health Care Expenses within (21) days after the date of the complaint notice.

2. If there is no objection to the complaint notice within (21) days from the date of mailing, the Friend of the Court adds the health care expenses to the medical account for collection.

Friend of the Court office to make payment. Only cashier's checks will be accepted for this payment.

STATUTORY FEES

Michigan law requires the Friend of the Court to charge the payer of support a service fee of \$24.00 per year and a state court fee of \$18.00 per year. The fees are assessed in \$21.00 increments twice a year, January 1 and July 1. 80 cents per week is added to Income Withholding Orders for fee payment.

ELECTRONIC FUND TRANSFER (DIRECT DEPOSIT) OF SUPPORT PAYMENTS

Information regarding Electronic Fund Transfer (Direct Deposit) is available by calling the support assistance line 1-877-543-2660.

MAKING SUPPORT PAYMENTS

Michigan law requires all ordered child support to be paid by Income Withholding. If you are ordered to pay support, you must keep the Friend of the Court informed of all changes in the name and address of your employer. If you are self employed or between jobs, you will need to personally mail your payments to: MICHIGAN SDU, PO BOX 30351, LANSING, MI 48909-7851. Please make checks or money orders payable to "MiSDU". It is extremely important to include your name, social security number, county name and number (Mason County – 53) and docket number. Payments may no longer be accepted at the Friend of the Court office, except for the following:

If you are court ordered to pay a lump sum and have more than one case, you must contact the Mason County

SUPPORT ENFORCEMENT SERVICES

When ordered support is not paid, you may request enforcement services in writing from the Friend of the Court. Enforcement requests are handled by the case managers in the order that they are received. Written requests are preferred as it allows the case managers more time to process each request in a more timely manner.

Michigan law provides several enforcement instruments. Income Withholding is used to withhold ordered support from a source of income. The Income Tax Intercept Program applies a payer's income tax refund to past due child support. Contempt actions ("show cause" hearings) are filed for failure to pay. Bench warrants are issued for payers who fail to appear or fail to follow specific court-ordered requirements. Cash bonds and liens may be used to secure support payment. Occupational and drivers' licenses may be suspended for chronic failure to pay support. Information regarding support payment may be provided to consumer reporting agencies. When the arrearage equals \$5,000, the payer's passport can be denied or revoked. The payer of support's name and arrearage can be published, or posted on the Internet.

Liens exist by operation of law against the payer's real and personal property, including accounts with financial institutions. If the arrearage exceeds the amount of periodic support payments payable for one year under your support order, the payer's real or personal property can be encumbered or seized.

If a payer transferred title or ownership of real or personal property without fair consideration, the Friend of the Court may obtain a settlement requiring payment of the arrearage or initiate proceedings to have the transfer set aside.

PARENTING TIME ORDERS

Parenting time, formerly called visitation, is the time a non-custodial parent spends with the child. It is considered to be in the child's best interest to have regular contact with the non-custodial parent unless there is clear and convincing evidence showing that parenting time would jeopardize the child's physical, mental, or emotional health. Parenting time may be "reasonable", meaning the parents work cooperatively in coordinating parenting time, or "specific", meaning the parents stipulate to or the Court orders a specific parenting time schedule. The Michigan Child Custody Act provides the following factors for determining the frequency, duration, and type of parenting time to be granted by the Court:

- (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 to and from the parenting time.
- (6) Whether the visiting parent can reasonably be expected to exercise parenting time in accordance with the court order.
- (g) Whether the visiting parent has frequently failed to exercise 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.

The Friend of the Court is required to provide enforcement services regarding parenting time orders. Enforcement begins when a written statement including dates, times, and reasons for any claimed denial of parenting time is received. A party may request Friend of the Court assistance in preparing the statement. Most parenting time issues are addressed first through mediation. If mediation is not successful in resolving the issue, then the Friend of the Court may set a binding schedule, in some cases, or schedule a hearing to resolve the issue.

A change or modification of the parenting time order may be initiated by the Friend of the Court or by either party. In many cases the Friend of the Court will hold an informal hearing to address changes in parenting time. Also, there are motion forms available at the Friend of the Court office or www.masoncounty.net if a party chooses to file a motion. Instructions and assistance are available. A \$20.00 filing fee is required. For post judgment motions, an \$80 court order entry fee must be paid in addition to the \$20 motion fee for a total of \$100.

If the parties agree to a parenting time order, the Friend of the Court will prepare a stipulation and order at no cost to the parties.

PARENTING TIME TRANSPORTATION POLICY

In any existing or future domestic relation matters involving minor children, whereby there is an Order providing for parenting time, the following policy and procedure for transportation shall be followed, unless otherwise specified in an order.

The responsibility of all transportation for all parenting time shall be split 50/50 between the parties, providing the child support arrearage owing to the custodial parent does not exceed an amount equal to the monthly child support charge. When the child support arrearage owing to the custodial parent exceeds the monthly child support charge, the payer shall be responsible for 100%

of the transportation. The same rule applies if the balance is owing to the State of Michigan and the custodial parent is receiving family independence payments from FIA.



When the parties cannot agree on a method of splitting the responsibility, the following method will be adhered to: The non-custodial parent will pick the child/ren up at the specified time and place and the custodial parent will pick the child/ren up at the conclusion of the parenting time period.

CUSTODY

A number of custody arrangements are possible.

Joint Legal Custody arrangements: parents communicate and cooperate in mutual decision-making regarding major medical, educational, religious, and similar issues.

Joint Physical Custody arrangements: the child lives with one parent part of the time and the other parent part of the time, although not necessarily equal amounts of time.

Primary Physical Custody arrangements: the child lives primarily with one parent.

Sole Custody arrangements: the child lives with one parent and that parent is responsible for all major decision-making.

Parents are encouraged to reach their own agreements regarding custody. When parents cannot agree, the court must decide by considering all of the following factors of the Michigan Child Custody Act:

- (a) The love, affection, and other emotional ties existing between the parties involved and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and the continuation of the educating and raising of the child in its religion and creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care and 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.
- (f) The moral fitness of the parties involved.
- (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 deems the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent/child relationship between the child and the other parent.
- (k) Domestic violence, regardless of whether the violence was directed against, or witnessed by the child.
- (l) Any other factor considered by the court relevant to a particular child custody dispute.

If the parties agree to a custody arrangement, the Friend of the Court will prepare a stipulation and order at no cost to the parties. If the parties do not agree to a custody arrangement, then a party may file a motion requesting a custody arrangement. The motion may be filed by the party (Pro Se) or by the party's attorney. It is important to note that custody cases involve complex issues and you may wish to have an attorney represent you. If you decide to file your own motion, forms and instructions are available at the Friend of the Court office or www.masoncounty.net. A \$20.00 filing fee is required. For post judgment motions, an \$80 court order entry fee must be paid in addition to the \$20 motion fee for a total of \$100. The Friend of the Court cannot file a motion for you, nor can they provide you with an attorney.

The Friend of the Court's role in custody issues is to offer mediation services to the parties as an alternative method of dispute resolution. If the custody issue goes to court, then the Friend of the Court is often directed to conduct an evaluation and file a written report and recommendation based on the factors listed in the Michigan Child Custody Act. Each party is entitled to receive a copy of the Friend of the Court's report and recommendation.

CASE TRANSFER

Cases may be transferred to another county in Michigan only if all of the following conditions are met: (a) the transfer is requested on the basis of the residence and convenience of the parties, or other good cause consistent with the best interest of the minor child(ren), (b) neither party nor the court-ordered custodian has resided in the county of current jurisdiction for at least 6 months prior to the filing of the motion, (c) at least one party or the court-ordered custodian has resided in the county to which the transfer is requested for at least 6 months prior to the filing of the motion, and (d) the county to which the transfer is requested is not contiguous to the county of current jurisdiction. The Court or the Friend of the Court may also initiate a case transfer when appropriate. Motion forms are available from the Friend of the Court or on our website. A \$20 filing fee is required.

CHANGING DOMICILE

In most cases, domicile of a child may not be removed from the State of Michigan without approval of the court. If the parents agree to change domicile of the child, the Friend of the Court will prepare a stipulation and order at no cost to the parties. If the parties are not in agreement, then a party may file a motion through an attorney or by using a motion form (Pro Se) from the Friend of the Court. A \$20.00 filing fee is required. For post judgment motions, an \$80 court order entry fee must be paid in addition to the \$20 motion fee for a total of \$100. Four factors are considered by the Court to determine whether changing domicile is in the best interest of the child: (1) whether the prospective move has the capacity to improve the quality of life for both the custodial parent and the child, (2) whether the move is inspired by the custodial parent's desire to defeat or frustrate parenting time by the noncustodial parent and whether the custodial parent is likely to comply with the substitute parenting time orders where he or she is no longer subject to the jurisdiction of the courts of this state, (3) the extent to which the noncustodial parent, in resisting the move, is motivated by the desire to secure a financial advantage in respect of a continuing support obligation, and (4) the degree to which the court is satisfied that there is a realistic opportunity for parenting time in lieu of the weekly pattern which can provide an adequate basis for preserving and fostering the parental relationship with the noncustodial parent if removal is allowed.

Effective January 9, 2001, in addition to the change of domicile requirement, a parent of a child whose custody is governed by court order shall not change a legal residence of the child to a location that is more than 100 miles from the child's other legal residence at the time of the commencement of the action in which the order is issued. Both parents' residences are considered to be the child's legal residences for the purposes of the provision. This does not apply if the child's 2 legal residences were already more than 100 miles apart at the time the custody order was issued. If a parent has sole legal custody of the child, the 100 mile requirement does not apply. Parents may agree to living in residences more than 100 miles apart. The factors considered by the Court to change a child's legal residence are basically the same four factors used in determining a change of domicile plus a fifth factor reviewing domestic

violence history. A \$20.00 filing fee is required. For post judgment motions, an \$80 court order entry fee must be paid in addition to the \$20 motion fee for a total of \$100.

ADOPTION

When an adoption order is entered, child support charges will stop. However, any past due support must be paid unless canceled by order.

ACCESS TO FRIEND OF THE COURT RECORDS

A Friend of the Court file is not a matter of public information. Parties, or their attorneys, must be given access to all information in the Friend of the Court records that is not confidential.

COMPLAINTS

If you have a complaint regarding Friend of the Court office services, you may schedule an appointment with the Friend of the Court to discuss your concerns.

You may also file a formal grievance about office operations or employees with the Friend of the Court. If not satisfied with the Friend of the Court's response, you may file the same grievance with the chief judge.

MORE INFORMATION

Further information regarding Friend of the Court operations is available on the One Court of Justice Michigan Court internet site: www.courts.michigan.gov. Also, information regarding child support may be found at the Office of Child Support internet site: www.mfia.state.mi.us.