

◆ THE FRIEND OF THE COURT ◆

- OVERVIEW OF SERVICES-

The Friend of the Court (FOC):

- Provides information about services, forms, contact information and instructions on the FOC website: www.oakgov.com/foc.
- Works with the Michigan State Disbursement Unit regarding the disbursement of payments. Pay online at www.misdu.com.
- Facilitates the use by parties of online payment information from MiCASE at the following website: <https://apps.michigan.gov/MiCase/public/Home.aspx>.
- Conducts investigations & makes recommendations regarding custody, parenting time, and child support.
- Provides formal and informal dispute resolution services to settle custody & parenting time disputes. Refers parties to the Oakland Mediation Center for formal mediation.
- Enforces custody & parenting time orders through administrative and judicial actions.
- Enforces support orders through administrative and judicial actions.

The FOC cannot:

- Provide legal representation or advice.
- Enforce personal protection orders.
- Investigate claims of criminal activity, including spousal abuse and child abuse.

◆ COMMUNICATIONS WITH
THE FRIEND OF THE COURT ◆

What you should know:

- State law requires that all payments must be distributed electronically. Payees should sign up for direct deposit if they do not wish to be sent a child support debit card.
- Due to high volumes, FOC staff may take up to two business days to return telephone calls.
- FOC records are confidential. However, Michigan Court Rules give the other party access to your correspondence with our office.
- Walk-ins are seen only on a limited basis. You should not expect to be seen at the FOC office without an appointment.

-TELEPHONING THE FOC-

Direct Phone lines

The direct telephone numbers of the FOC staff assigned to your case are available at the office, by mail or online at www.oakgov.com/foc. E-mail is not permitted due to confidentiality rules.

Fax Number: 1-248-858-0461

FOC "Interactive Voice Response" (IVR) System

1-248-858-1565 (local)

1-800-357-4507 (out-of-county)

The IVR is available 24 hours a day, 7 days a week, and provides information regarding payments, enforcement, payment coupons, direct deposit, office hours and location. The IVR provides step-by-step instructions or allows experienced users to move quickly through the system.

To access payment information, it is necessary to enter your social security number. The first time you access the system you will be asked to establish a PIN number. You will need to use that PIN number each time you request payment information. Payments are received and disbursed by the Michigan State Disbursement Unit (MiSDU). You may be connected with an operator at MiSDU by selecting option number 4 after you have selected your choice of language (English or Spanish).

FOC Switchboard: 1-248-858-0424.

An automated attendant will answer your call 24 hours a day, 7 days a week, but an operator is only available to assist you between the hours of 8:00 a.m. and 5:00 p.m., Monday – Friday.

◆ DIVORCE CASES ◆

-OVERVIEW OF DIVORCE-

The Process

A divorce begins when one or both parties decide there has been a breakdown of the marriage. The party who files the court action is the plaintiff. His or her attorney files a **Complaint for Divorce** with the County Clerk's Office. The Court and FOC receive copies of the Complaint.

The other party, the defendant, may dispute some of the plaintiff's claims. If the defendant files a response with the County Clerk's Office, the case is considered "contested." A settlement conference will be scheduled regardless of the case being contested or not.

The attorneys may request that the Court enter an order to preserve the status quo during the divorce proceedings. The order may be called an **Ex Parte Order** or a **Temporary Order**. Child support and parenting time may be included in these orders. The attorneys or the parties write the orders. The judge does not write the orders.

After a Complaint for Divorce is filed in Oakland County, the parties and their counsel are directed to appear at an Early Intervention Conference (EIC). This mandatory meeting is held at the FOC Office before the assigned FOC referee. The referee conducts a review of the case status, provides the parties information about the divorce process and FOC services, and schedules a co-parenting class known as "SMILE." More information about SMILE is provided under the "Other FOC Services" section of this handbook.

Before the final **JUDGMENT OF DIVORCE** is granted, decisions must be reached on:

- A. How the care, control, and maintenance of the minor child/ren shall be shared between the parties. (Physical and legal custody.)
- B. What actual contact the child/ren shall have with each parent. (Parenting time.)
- C. How the assets and debts the parties acquired during the marriage shall be divided. (Property settlement.)
- D. What financial contribution each of the parents shall make to the support of the child/ren. (Child support, healthcare, childcare, etc.)
- E. What contribution, if any, one party shall make to support the other, either permanently or temporarily. (Spousal support.)
- F. If a spouse shall take back a former/maiden name. (Restoration of former/maiden name.)
- G. If the residence of the minor children may be removed from the State by either parent. (Removal of Domicile or Permission to leave the jurisdiction.)

- H. What requirements shall be imposed if a parent seeks to move the child/ren. (Permission to change the child/ren's residence -- "100-mile rule.")
- I. How the tax laws will be considered in deciding support and property matters.
- J. If the parties shall cover college expenses.

The judge resolves issues presented to him/her. Many of the decisions listed above are resolved without having to have a hearing before the judge. In cases involving minor children, the Court is required to wait six months from the time of filing the action before a divorce may be granted. During this waiting period, the FOC may investigate issues, the parties and attorneys may negotiate, and sometimes the parties may reconcile. Many parties become involved in counseling and mediation during this time. This waiting period may be waived if the court finds that good cause exists to waive the six months.

After the waiting period, the case is scheduled for a hearing before the judge. In most cases, the matters are resolved, and the Court simply takes the testimony of one of the parties and grants the divorce. The divorce papers are called the judgment of divorce. The judgment is prepared by the attorneys or parties and presented to the judge for signature. After the judgment of divorce is entered, any matters that come before the Court are referred to as post judgment proceedings.

In simple cases, the parties may appear in Court only once. In complex or highly emotional cases, the parties may be in and out of Court and at the FOC Office repeatedly.

-THE FIRST COURT ORDER-

The Temporary Order

Many divorce actions begin with a temporary court order. If you filed the divorce, your attorney may prepare a court order that addresses custody, parenting time, and possibly the amount of support that should be paid. If you are not the party starting the suit, you will be served with notice that a suit has been filed. You must find out immediately what orders have been entered in your case. You may want to file a motion asking the Court to change the orders if you are not in total agreement with them.

The FOC cannot assist you in this process. Go directly to your attorney or contact the Oakland County Bar Association (248 338-2100) for direction in obtaining an attorney. ***Time is important!***

Enforcement of the Temporary Order

To enforce the temporary support order, contact your attorney or the FOC. You can complain in person at the FOC or write a complaint letter identifying both parties

and the docket number. Please date and sign all correspondence and be sure to state clearly the action you would like taken on your case.

Parenting Time is Given Special Consideration.

If you have been served with an **EX PARTE PARENTING TIME ORDER** with which you do not agree, you may file written objections within 14 days after receiving notice of the order with the Clerk of the Court and the FOC. The FOC will try to help both parents resolve their parenting time difference within 14 days of receiving the objection. If an agreement is not reached by the parents, the FOC will supply a motion form which will allow a parent to bring the matter to the Court without the assistance of an attorney. A hearing will be scheduled by the FOC within 21 days.

What to Do If You Reconcile.

You must let the Court know you no longer want a divorce. Not every divorce action ends in a judgment of divorce. Many parties reconcile their differences and drop the divorce case. You must file an Order of Dismissal with the County Clerk's Office to end enforcement of the court orders. If the children have been supported by public assistance, you must arrange to pay any child support arrearage due to the State of Michigan. Contact the FOC to make arrangements for repayment of this obligation.

- THE JUDGMENT OF DIVORCE -

The Parties Must Follow the Court's Orders

The Judgment details each party's court ordered rights and obligations regarding their children and each other. Both parties are expected to understand the Judgment of Divorce and follow its provisions.

Almost from the beginning of the divorce action, the parties and their children will be subject to court orders. The orders are binding and failure to comply with them can result in contempt of court proceedings against the offending party. The Court provides firm guidelines to aid and assist the parties and protect the interests of the minor children.

When the judge grants the divorce, one of the attorneys will prepare a court order and present it to the judge for signature. If neither party has an attorney, one of them must prepare the court order.

Sections of the Judgment

The Michigan Court Rules require that a divorce judgment include specific sections that cover such issues as child custody, parenting time, and property settlement.

Additionally, the rules require that all domestic relations cases include a Uniform Support Order, which includes distinct paragraphs regarding:

1. Child support and health care coverage for the children. This may include base support, the apportionment of ordinary medical expenses and extraordinary medical expenses, child care, a net health care premium adjustment, and medical support.
2. Spousal support (if applicable).
3. Mandatory Income Withholding of child support.
4. Notice that a support order may not be modified retroactively.
5. Notice that a lien may be imposed on property if a support obligation becomes delinquent.
6. Notice that the parties must provide written notice to the FOC of any change to their name, address, social security number (unless exempt by law), employment status, health insurance coverage, and occupational or driver licenses.
7. Notice that the FOC may redirect support or abate support.
8. Notice that service fees, and processing fees may be imposed.
9. Notice that except as changed by the order, prior provisions remain in effect and support payable under any prior order is preserved.

Furthermore, the rules require a person obtaining the judgment or new order to summarize custody, parenting time, or support provisions on a Judgment Information Form and file it with the FOC. In Oakland County, the Judgment Information Form is filed at the County Clerk's office. The County Clerk forwards the Judgment Information Form to the FOC for storage in the FOC file.

Some Sections Can Never Be Modified

Each of the USO paragraphs and the role of the FOC will be discussed in the following pages. Orders may vary depending on the facts and type of case. Some sections of the order, as they affect custody, parenting time, child support, and possibly spousal support, are subject to modification. These are considered continuing matters and can be amended as conditions or circumstances change. Property provisions found in a judgment of divorce, however, are not generally subject to change.

How to Modify a Section of the Order

The Court will only review one of the continuing matters if a party files a motion to bring the matter before the Court. This is done through private counsel or by the party seeking the change. If you choose to represent yourself to modify custody, parenting time, or child support after your judgment has been entered, you may request the appropriate form motion at the FOC Office by mail or

online at www.oakgov.com/foc. The FOC does **NOT** represent either party and cannot provide legal advice.

A FOC investigation and recommendation is done only if the judge signs an order referring the issue to the FOC. This is known as an order of reference.

Parties may file a motion requesting a change in the custody, parenting time or child support order. Additionally, administrative child support reviews may be requested not more than once every 36 months or whenever circumstances have changed.

If you and the other parent reach an agreement on a new child support amount, you should notify the FOC in writing with your agreement so that a new support order can be prepared.

◆ OTHER TYPES OF CASES ◆

-FAMILY SUPPORT-

A Family Support Action Is Not a Divorce

A family support action is not an action for legal separation (such as a divorce or separate maintenance suit). It results in a court order compelling a parent to provide support.

Payments must begin when the **Judgment of Support** is entered. The payer should not wait for notice from the FOC that his or her account is open. The payer should start setting aside the support money and keep contacting the FOC until s/he learns the account is open. Payments may be made online at www.misdu.com or through the mail to the Michigan State Disbursement Unit (MiSDU). Cash payments are accepted at the FOC office. Electronic Funds Transfers are also available.

Either party may begin a divorce suit even though the Court previously ordered payments in a **Judgment of Support**. The family support order ends when a **Judgment of Divorce** is entered.

Reconciliation Requires an Order

An **Order of Dismissal** must be filed if the parties wish to have enforcement of the family support order terminated. If a party received public assistance, s/he must inform the FOC and the Department of Human Services caseworker. Simply notifying the DHS caseworker of reconciliation is not enough.

-PATERNITY-

Order of Filiation

In paternity suits, the Order of Filiation is the controlling order. The MiSDU receives and disburses

payments in the same manner as all other cases. State law allows a paternity action to be filed at any time up to the date the child turns 18.

Parenting Time in Paternity Cases

Parenting time provisions of paternity orders are enforced by the FOC. Either party may contact the family counselor assigned to their case for assistance with parenting time problems. Enforcement of parenting time is covered in the following pages.

Confinement Expenses and Support

The cost of medical expenses connected with the birth of the baby (confinement) may be apportioned between the parties unless Medicaid paid the cost, in which case. These expenses may be ordered payable through the FOC. The amount of the bill may not be known at the time of the court order.

If the father and mother marry, the cost of confinement shall be abated upon documentation being provided to the FOC. If the parents subsequently divorce, or if other "good cause" is shown, the cost of confinement may be reinstated.

Starting Payments

Unless the Order of Filiation specifies another date, the first support payment is always due on the date the judgment is entered. The payer may receive payment coupons from the MiSDU or an income withholding notice may be sent to your employer. If neither one of these things occur, the payer must contact the FOC immediately.

-INTERSTATE ACTIONS-

Continuing Exclusive Jurisdiction (CEJ)

If the payer of an Oakland County support order leaves the state of Michigan, s/he may continue to make payments to MiSDU. If the payments stop and the payer's out of state employer is known, an Income Withholding Notice can be sent directly to the employer. Additionally, the Oakland County support order can be registered for enforcement in the state in which the payer resides. If the order is registered for enforcement only, the responding state cannot modify the order.

As long as one of the parties or the child remains in Michigan, Michigan retains Continuing Exclusive Jurisdiction to modify the order. However, the law allows both parties to agree in writing that a state in which one of them lives may change the order and assume jurisdiction. If both parties and the child leave the state, the Michigan Circuit Court cannot modify the Oakland County support order.

Uniform Interstate Family Support Act (UIFSA)

Under the old interstate law, the Revised Uniform Reciprocal Enforcement of Support Act (RURESA), multiple orders could exist for the same parties and child. As the parties moved from state to state, it was possible for each state to issue a new order. Having more than one order created confusion regarding which order was enforceable and exactly how much past-due support was owed.

By January 1, 1998, all states adopted the Uniform Interstate Family Support Act (UIFSA) which was created to improve enforcement of support between the states. The law allows only one order at one time for the same parties and child. The primary principles of UIFSA are:

1. Only one court has CEJ to modify a support order; and,
2. In cases with 2 or more support orders, only one order may have priority and be considered the Controlling Order.

If only one state issued a support order, UIFSA prohibits another state from issuing a new order. If 2 or more states issued orders, the order that has priority must be decided and ***Determination of the Controlling Order*** must be entered before support can be enforced or changed by another state.

The law also allows the FOC to help a resident payee (person entitled to support) to register an out-of-state support order for enforcement only, modification only, or enforcement and modification in the state that has the authority to take the requested action. The FOC can also help a resident payer (person ordered to pay support) to have an out-of-state order modified in another state.

If both parties with an out of state order reside in Michigan and one of the parties resides in Oakland County, either party may contact the FOC to register the order for enforcement and modification through the Oakland County Family Court.

The FOC also receives requests from other states to register out-of-state orders for enforcement only, modification only or enforcement and modification.

Redirection of Support

If there is no Michigan order, but there is an out-of-state order, a resident payee may request the FOC to inform the source of payments to redirect the payments to the Michigan State Disbursement Unit (MiSDU). A case is filed at the Clerk's Office, and the FOC will monitor the payments. The law explicitly states that the filing of a case for this purpose is not considered a registration and does not give the FOC the authority to enforce or modify the other state's order.

If there is no Oakland County case, a resident payer or payee with an out-of-state order may contact the Oakland County FOC to start an interstate action.

Please note that the UIFSA law does not cover parenting time and custody issues. These issues fall under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The FOC Interstate Unit cannot assist parties with interstate custody and parenting time.

◆CONTENTS OF A DOMESTIC RELATIONS ORDER◆

-CUSTODY-

Determining Custody

Usually parents agree as to how they will share custody of the minor child/ren. An agreement works best for families because it reduces conflict. In **contested** cases, third parties and agencies may assist the Court determine the issue of custody based on the "best interests" of the child. In contested custody cases, the Court often refers the issue to the FOC if the court first finds that proper cause or a change in circumstances exists to justify a change of custody. Following an investigation, the FOC prepares a report to assist the judge in determining who shall be the child's custodian.

Custody Factors

When deciding a custody matter, the Court considers the following factors as outlined in the Michigan Child Custody Act (MCL 722.73):

- 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 to continue the education and raising of the child in his or her religion or creed, if any.
- 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.
- 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 considers 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 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.

Sole Custody and Joint Custody

In determining custody, the Court must ultimately decide with whom a child shall reside and which parent will determine the child's major life's decisions. Custody can be granted on a sole or joint basis.

The Court determines whether joint custody is in the best interest of the child by considering the following factors:

- A. The factors previously listed from the Michigan Child Custody Act.
- B. Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child.

During the time a child resides with a parent, that parent shall decide all routine matters concerning the child. Joint custody does not eliminate the responsibility for child support. The Court may order support payments for a portion of housing expenses even during a time the child is not living in the home of the parent receiving support. By itself, an order of joint custody shall not constitute grounds for modifying a support order.

Divorced Parents Should Work Together

The Court and the FOC emphasize the importance of parents working together in raising their children. When parents cooperate, children have a better chance for secure and satisfying lives. Studies show that children do poorly when parental conflict continues and when one parent is not a meaningful part of the child's life. Children do best when parents cooperate and co-parent by focusing on their children's needs and best interests rather than on themselves.

Changing Custody

Many parties agree to change custody as the children grow older or circumstances change. A decision to change custody may be made by the sent of the parties or by the court. Children under the age of 18 do not determine custody, but their preference is one factor the court may consider. A private attorney may prepare a stipulation (an agreement between the parties) or the FOC may prepare a consent order provided the parties submit their agreement in writing.

If no agreement can be reached, a petition or motion may be filed with the Court requesting a change of custody. The motion may be brought by an unrepresented person or by the party's attorney. If the party chooses to file this motion without an attorney, a form motion is available at the FOC Office, by mail or online at www.oakgov.com/foc.

Custodial Parents Need Not Be Perfect

The Court can only enforce a reasonable degree of custodial care and supervision and not necessarily, the standard the non-custodial parent would impose. The custodial parent is allowed a range of human failings, and a simple mistake or error in judgment will not result in a change of custody. The same allowance is applied to a non-custodial parent regarding parenting time.

-PARENTING TIME-

The parenting time order spells out the rights of the child to spend time with each parent. During the time a child is with a parent, the parent shall decide all routine matters concerning the child. Parenting time is an opportunity for the children to maintain meaningful relationships with both parents.

Reasonable Rights of Parenting Time

Many orders contain specific parenting time provisions. However, orders may state that parenting time rights are "reasonable." This allows the parties great freedom in working out a comfortable parenting time program. Parenting time should change as the children mature and as the parties move to locations nearer or farther away from each other. Reasonable rights allow the parties to make these adjustments without going before the Court. If you cannot agree on what constitutes reasonable rights, contact your assigned FOC family counselor to work out a parenting time program or order. The FOC cannot enforce "reasonable" parenting time rights. There must be specific language regarding the terms and conditions.

Parenting time programs are usually developed according to an individual family's situation and circumstances.

As with custody, children do not determine if parenting time is to take place. Each parent must adhere to the Court order.

Determining Parenting Time

Parenting time is granted in accordance with the best interests of the child. The child should have a strong relationship with both parents. If the parents agree on parenting time terms, the Court will follow the parenting time terms unless the Court determines on the record, by clear and convincing evidence that the parenting time

terms are not in the best interests of the child. A child shall have 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.

Parenting Time Factors

In determining parenting time, the Court may consider the following factors:

- A. 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 likelihood of abuse during parenting time.
- D. The likelihood of abuse of a parent resulting from the exercise of parenting time.
- E. The burdensome impact of traveling for parenting time on the child.
- F. Whether the parent with parenting time will abide by the order.
- G. Whether the parent with parenting time 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.
- I. Any other relevant factors.

Terms and Conditions

A parenting time order may contain any reasonable terms and may include one or more of the following:

1. Division of the cost and responsibility for transportation.
2. Restrictions on the presence of third persons during parenting time.
3. Requirements that the child be ready for parenting time at a specific time.
4. Requirements about specific times for the pick up and return of the child.
5. Parenting time to occur in the presence of a third party or agency.
6. Requirements that a party post a bond to assure compliance with a parenting time order.
7. Requirements of a reasonable notice when parenting time will not occur.
8. Any other reasonable condition determined to be appropriate.

Parenting Time May Be Changed

Parents can agree to change the parenting time schedule that has been adopted. If parents cannot agree, a parent may file a motion asking that the parenting time be modified. This motion can be brought by a parent or through the parent's attorney. If the parent chooses to file this motion without an attorney, a form motion may be

requested from the FOC at the office, by mail or online at www.oakgov.com/foc.

Vacations Out-of-State & Out-of-Country

Either parent may take the minor child out-of-state for a vacation unless a court order prohibits it. Parents are urged to notify the other parent of a telephone number and the location where the minor child may be reached in case an emergency arises.

When traveling out-of-country, passports for the child will be necessary.

Parenting Time Is For the Parent and Child

Children need a meaningful relationship with both parents. They need significant time with each of the parents when in a parent's care. Too often a parent becomes involved in a new relationship and introduces a new partner before a child has resolved issues about the divorce. A parent should take care before introducing a child to a new boy or girl friend. The child may develop loyalty conflicts or feel the loss of this person if the relationship ends. If a serious relationship exists, the parent should gradually introduce the children to the new partner while always remembering that time and attention to the child is the utmost priority.

Show Up For Parenting Time on Time

If a non-custodial parent tells the children that s/he is coming for parenting time, s/he needs to show up and be on time. The tales of children waiting all weekend for a parent who never appears are disturbingly common. If there is any question about whether or not a non-custodial parent will show up, notice to the custodial parent should be provided as soon as possible.

Both parents are to be timely about the parenting time pick up and return. The custodial parent is to have the children ready at the scheduled time and be available at the return time. The non-custodial parent should arrive within a few minutes of the agreed upon or court-ordered time for both the pick up and return. If a parenting time pick up or return time absolutely cannot be met, a parent has the obligation to telephone the other parent about the delay.

Do Not Use the Child as a Spy

A parent sometimes asks a child a lot of questions about what is going on in the other parent's home – questions about whether mom or dad has a partner, if the new partner is spending the night, if mom/dad asked questions about him or her. Sometimes the questions are to satisfy curiosity, but sometimes they are to hurt the other parent. Sometimes the questions are to help a parent feel better about himself or herself – that the other parent is not doing okay without the relationship.

Enlisting children to play this game complicates and confuses the relationships they have with both parents and is damaging to their emotional well being.

Do Not Deny Parenting Time to Get Support

Support and parenting time are *not* dependent on each other. Do not deny parenting time even if the payer is not paying support. File a complaint for enforcement of support with the FOC. Similarly, if you are denied parenting time, continue to pay support, and file a written complaint for enforcement of parenting time.

Other Do's and Don'ts

The list of possible sources of friction with parenting time is endless. Avoid as many of the pitfalls as possible.

1. Do not arrive for parenting time with expensive presents when your support is in arrears and necessities (groceries, clothing) are scarce in the custodial parent's home.
2. Do not always take the children to ball games, the circus, or fancy restaurants; do some casual things with them, too. Parents should not try to out-buy each other or buy a child's love. More important to a child is personal time in which a parent is sharing in activities, talking with the child, and providing affection and guidance.
3. Do not tell the children you will have custody of them some day. Petition the Court for a change of custody and do your talking in the courtroom where it counts.
4. Pick up and return the children to their home on time.
5. Remember to spend time with your children. Often children are left with friends or lumped together with the new wife or husband's children. The children need time with you.
6. If you cannot talk to the other parent at all, stick to a rigid schedule. Wait at the front door or in the car for the children, and have as little contact as possible with the other parent.
7. Do not expect the custodial parent to let you have the children if you have been drinking or using drugs.
8. If you do not have a driver's license, a relative or friend must do the driving.
9. If you are the custodial parent, do not forget to supply adequate clothing for parenting time and to inform the other parent of necessary medication and possible illness.
10. Michigan law requires all children under the age of 4 to be properly restrained in an approved child safety seat. Children, ages 4 through 15, must be properly restrained no matter where they are riding in a vehicle.
11. Parents should speak positively to the children about the other parent, or say nothing at all. Speaking negatively about the other parent will do more harm than good.

Follow the Court Orders or Get Them Changed

The following excuses by the custodial parent are **not** valid reasons for denying parenting time:

1. The child is sick (unless the non-custodial parent is provided with the specific nature of the illness and an opportunity to see the child).
2. The child had to go somewhere else.
3. The child is not home.
4. The non-custodial parent is behind in child support.
5. The child wants to stay home.
6. The custodial parent does not want the child to go on parenting time.
7. The weather is bad.
8. The child has no clothes to wear.

Parenting Time Guidelines

For more information regarding parenting time, parenting time violations, and makeup parenting time, please see the FOC Parenting Time Guidelines at www.oakgov.com/foc.

-CHANGE OF DOMICILE- -CHANGE OF LEGAL RESIDENCE-

Obtain the Court's Permission

In most cases, you must get the Court's permission to move your child outside of the State of Michigan or to move more than 100 miles away from the child's current legal residence. When both the custodial parent and the non-custodial parent agree that the custodial parent may move out-of-state or more than 100 miles with the minor children, the FOC can assist parents modify the Court order. The written consent of both parties allowing this move must be provided so the FOC can draft a consent order.

If the parents are not in agreement with the proposed move, the custodial parent must file a motion with the Court asking that s/he be allowed to move with the minor child.

-CHILD SUPPORT-

Determining Child Support

The FOC uses a statewide child support formula when making a recommendation regarding child support. This formula must be utilized by FOC personnel in making a child support recommendation unless following the formula would be unfair in a case. Judges and referees must indicate why they deviate from the formula, if they do so. The child support formula not only takes into consideration the income of the non-custodial parent, it also looks at the custodial parent's income and may even impute income to an unemployed or underemployed parent under certain circumstances. The formula not only

attempts to follow the current case law governing child support, but it also takes into consideration the current reality of divorce and multiple marriages.

The support formula provides that a working custodial parent may request a contribution toward his/her child care expenses. It also includes an apportionment of uninsured ordinary health care expenses of \$345 per year per child. Expenses in excess of \$345 per year per child are considered extraordinary and are apportioned between the parties upon request as described in the following pages.

A copy of the child support formula may be downloaded on the Michigan Supreme Court web page www.courts.michigan.gov/scao/services/focb/mcsf.htm.

Parenting Time and Child Support

Effective October 1, 2008, the revised Michigan Child Support Formula (MCSF) factors parenting time into the calculation of support; therefore, abatement requests for new orders are unnecessary. However, for support orders calculated under the formula used prior to October 1, 2008, the typical child support abatement equals 50% of the obligation after the child/ren spend 6 or more continuous overnights with the obligated parent unless support was calculated under the Shared Economic Responsibility Formula (SERF).

Parenting time abatement requests for child support orders that became effective before October 1, 2008 should be submitted to the FOC in writing within 6 months following the requisite overnights. No abatement is allowed for orders entered under the shared economic responsibility formula.

Termination of Support

Michigan statute provides for child support to continue to age 18 and it may continue to graduation from high school, but no later than age 19½. If your order provides for support until graduation from high school, there are three criteria that must be met:

1. The child must reside with the custodial parent.
2. The child must attend high school full-time with a reasonable anticipation of graduation.
3. The child must be under the age of 19½.

The custodial parent must provide a letter from the school to the FOC if the child is still in high school after turning 18 years of age. The letter must provide the expected date of graduation and state that the child is enrolled on a full-time basis.

Support may terminate before the child turns 18 if s/he dies, marries, or enters the military.

Support is calculated in monthly amounts and will run through the final full month that a child is either eighteen or enrolled in high school if applicable.

Follow the Support Order!

You must comply with the terms of the judgment or order regarding the payment of support. Do not fall into the trap of making private out-of-court arrangements as you will face the same judge who gave the original order if you fail to comply.

Under state law, all support obligations must be charged on a monthly basis. The Michigan Child Support Enforcement System (MiCSES) automatically charges support and spousal support on the first day of each month, but the support is not considered delinquent unless it is not paid by the end of the month.

Charging & Federal Distribution Rules

Child support is calculated as a monthly charge and due the first day of each month. Weekly orders are adjusted and charged accordingly. Support is not considered delinquent until after the end of the month. Once current support is satisfied, any remaining money is applied towards arrearages and then fees.

If the payer has multiple child support cases, payments are distributed to all cases with current support owing before any monies are applied to cases with arrears.

Multiple Cases & Allocation

If a payer pays support on more than one case, even if the case is in another county, then the payment will be allocated between all the cases. The allocation rules may result in payments of differing amounts.

Child Support Arrears Payment Plan

Child support arrearages are not dischargeable in bankruptcy. However, the payer may request that the Court enter an order for an **Arrears Payment Plan** to discharge some or all of the arrears if s/he meets the eligibility requirements. The forms necessary to request a court ordered Arrears Payment Plan are available online at www.oakgov.com/foc. As described in the following pages, there is a **Surcharge Repayment Plan** as well, and it is included in the forms provided on the FOC website.

Arrears Installment Payments

Under income withholding notices (IWNs), employers are generally directed to withhold one-percent (1%) of the outstanding arrears per week plus current support from the payer's wages. The standard withholding

is limited to no more than fifty-percent (50%) of a payer's net income. If the payer files a written objection to the amount within 21 days of the IWN, s/he is entitled to challenge the arrearage payment amount at a FOC referee hearing.

Surcharge on Arrears

Effective January 1, 2010, surcharge on outstanding arrears is no longer changed unless specifically ordered by the court. The court may not order surcharge on a case to be added before January 1, 2011.

Michigan State Disbursement Unit - MiSDU

With rare exceptions, all payments must be processed through the Michigan State Disbursement Unit (MiSDU) in Lansing. This ensures that all payments are recorded and disputes as to whether payments have been made can be quickly resolved.

Income Withholding

Most payments are made pursuant to an income withholding notice as a deduction from the payer's wages or salary. All income withholding payments are sent to MiSDU for distribution.

If There Is No Income Withholding

If payments are not being withheld from a payer's paycheck, payers must send payment to the Michigan State Disbursement Unit with a payment coupon. Payment coupons are mailed to payers shortly after a support order is entered or modified. Temporary payment coupons are available at the FOC Office, by mail or online at www.oakgov.com/foc. Every check or money order must clearly identify the payer's name, social security number, docket number, county identifier No. 63 for Oakland County, and the dollar amount. Failure to properly identify the payment may cause the money to be applied to the wrong account or held to determine where the money should be applied.

All payments and coupons must be sent to:

Michigan SDU
PO Box 30351
Lansing, MI 48909-7851

(Do not send correspondence to MiSDU.)

Cash is accepted at the Oakland County FOC Office payment window and distributed through MiSDU. Electronic Funds Transfers (EFTs) and credit card payments may be made online at www.MiSDU.com.

Child Support - A Primary Debt

Before paying any other debts or buying a child a gift, the payer is expected to honor his/her child support obligation. The child support provision of the court order defines the payer's obligation. However, a payer may do more for his/her child than the law requires provided s/he first complies with the support order. For instance, giving \$50.00 worth of clothing to the child is not a substitute for a \$50.00 child support payment. Purchasing clothes or other necessities is considered a gift and will not be credited towards a child support obligation.

Modification of Child Support

Payments **must** be made according to the child support order until it is modified by a new order **signed** by the judge. There are three ways to change a support order:

1. If it has been 36 months or if there has been a **substantial change of circumstances** since the support order was granted, modified, or reviewed, either party may make a written request for a FOC administrative review. There is no cost assessed for making this request. A domestic support specialist must complete the review within 180 days. Either party may object to the recommendation and request a FOC referee support hearing.
2. If it has been less than 36 months since the child support order was granted, modified, or reviewed, either party may file a Motion to Change Support Order. If a party wishes to represent him/herself, the necessary form is available at the FOC Office, by mail, or online at www.oakgov.com/foc.
3. If the parties submit a written agreement on a new child support amount, the FOC will prepare a consent order. If the children are receiving public assistance, the support order must follow the Michigan child support formula unless good cause is shown.

- SPOUSAL SUPPORT - (Alimony)

Spousal Support & Child Support Are Not the Same

Spousal support **may be** available if certain criteria are met. Unlike child support, it may be paid for an indefinite period, a limited period, or as a lump sum payment.

- MEDICAL EXPENSES -

Uninsured Costs

Uninsured medical expenses less than \$345 per year per child (ordinary expenses) are automatically apportioned between the parties and included in the support order. Uninsured expenses in excess of \$345 per year per child (extraordinary expenses) are also

apportioned between the parties, but reimbursement must be requested of the other parent within 28 days of the expense being denied by the insurance carrier. A "Request for Health Care Expense Payment" form is available at the FOC Office, by mail, or online at www.oakgov.com/foc.

Reimbursement may be voluntarily paid to the requesting party. If that doesn't happen, the party seeking reimbursement may file a complaint with the FOC for enforcement. Once the party seeking reimbursement submits a request, the FOC will send the other party an administrative notification. If the other party does not pay the requested amount of the health care expenses, then the requesting party may submit a complaint to the FOC. If there is no objection filed, the apportioned amount will be added to or subtracted from the child support account as appropriate. Valid grounds to object are either that the medical expense was not necessary or that the expense was unreasonable. Generally, the FOC will only assist in the establishment and collection of past due extraordinary medical expenses that are less than one year old and submitted within six months of denial of coverage from an insurance carrier.

Each party should keep the other party informed of all health care concerns their child/ren may have. Each party with the right to make medical decisions for the child/ren should notify the other party in advance of all non-emergency special treatment, such as orthodontic, psychological, or psychiatric expenses. All demands for the payment of necessary and reasonable extraordinary medical expenses should be paid promptly and directly to the other party or the expense may be added to or subtracted from the child support account.

All available insurance should be used to keep out-of-pocket health care costs to a minimum. Failure to use available medical insurance without good cause may result in the denial of the extraordinary medical expense claim.

- HEALTH CARE INSURANCE -

Must Be Available at a Reasonable Cost

One or both parties may be responsible for providing health care insurance coverage for the child/ren. If a party that is required to provide coverage has coverage available and fails to provide coverage, the FOC will send a medical support notice to that party's employer. The employer then is required to enroll the children in the health insurance plan and deduct any premiums for the coverage.

If the party required to provide health insurance coverage believes the cost for the coverage is unreasonable, that party may request a review to determine whether the health insurance coverage is available at a reasonable cost. The cost of health care

insurance coverage is considered unreasonable if it exceeds 5% of the party's gross income.

If a noncustodial parent is required to provide health care insurance coverage for the child/ren pursuant to a court order, the noncustodial parent must provide the custodial parent with a health insurance card and benefit information regarding use of the insurance plan.

- PROPERTY SETTLEMENT -

Usually, the parties and their attorneys reach an agreement on how to divide property and debts without a hearing before the judge. Every case is different. In many cases, neither party is completely satisfied and both must compromise. Once it is part of the Judgment of Divorce, the property settlement is final and generally not subject to modification. The FOC is *not* involved in enforcing property settlement issues.

∩ ENFORCING COURT ORDERS ∩

- FOC, ATTORNEY OR IN PRO PER - (WHO DOES WHAT)

Enforcement With or Without an Attorney

Parties may represent themselves. This is called acting *in pro per*. Parties may file their own legal actions or use the services of an attorney. Additionally, parties may use the services of the FOC. In some cases, the Prosecuting Attorney's Office will establish paternity and the initial child support order, but once a judgment is entered that representation ends.

Parties proceeding *in pro per* are expected to follow the same rules and procedures as attorneys. They should also be familiar with the law that governs the particular issue litigated.

Due to the time, costs and complexities involved in litigation, the decision of how to proceed is often determined by the initial out of pocket expense of filing an action and the anticipated long term result. Given the complexities of family law issues, parties are encouraged to consult legal counsel before representing themselves.

Enforcement by the FOC

The FOC enforces court orders pertaining to custody, parenting time, and child support. Both parties are obligated to follow the court orders as they are written and if they fail to do so, the FOC may take administrative or judicial action to obtain compliance.

-CUSTODY & PARENTING TIME-

Questions, Concerns & Complaints

Custody and parenting time questions or concerns should be directed to the assigned family counselor by mail or telephone. Due to out-of-office responsibilities, family counselors may be seen on an appointment basis only. Complaints must be in writing and provide the specifics of the alleged violation, including the dates, times and individuals involved. Additionally, all complaints must contain the parties' names, addresses, telephone numbers, docket number, name of judge and complainant's signature. A parenting time complaint form is available at the FOC Office, by mail, or online at www.oakgov.com/foc and must be returned to the FOC Office or sent to the mailing address listed on the back cover of this handbook.

Common Enforcement Remedies

When custody or parenting time disputes arise, the parties are encouraged to work out issues on their own. If the parties agree to change the terms and conditions of custody or parenting time, their family counselor may assist them by drafting a consent order that may be entered by the Court. If the parties cannot agree, the family counselor may attempt to informally resolve the dispute by meeting with the parents or by referring the parties to formal mediation or counseling.

Written complaints about a parenting time order must be received by the FOC within 56 days of the alleged violation. In response, the family counselor will contact the alleged offending party in writing within 14 days and request a written response. If the alleged offending party fails to respond within 21 days or admits the denial, the offended party shall receive "make-up" parenting time of the same type and duration as what was denied. For serious or repeated violations, the custodial parent may have to appear in court to show cause why s/he should not be held in contempt. Serious or repeated violations may also result in a license suspension or a change to the parenting time and custody orders.

-CHILD SUPPORT-

Questions & Concerns

Child support questions or concerns should be directed to the assigned domestic support specialist or interstate support specialist as appropriate by mail or telephone. Complaints or requests for enforcement must be in writing and provide the specifics of the alleged violation. A child support enforcement request form is available at the FOC Office, by mail, or online at www.oakgov.com/foc and must be returned to the FOC Office or sent to the mailing address listed on the back cover of this handbook.

Common Enforcement Remedies

If the automated Michigan Child Support Enforcement System (MiCSES) fails to collect child support, the payee may request additional enforcement action. An Order to Show Cause (OSC) may be filed wherein the payer must appear in court and explain why s/he should not be held in contempt of court for failing to pay support. The OSC process is described in more detail in the "Contempt Processing" section of this handbook. The Support Specialist may take no action if a substantial payment was received since the filing of the complaint, the payer is in jail, or the payer contacted the FOC and made satisfactory arrangements.

-HEALTH CARE INSURANCE- & -UNINSURED EXPENSES-

Questions & Concerns

Health insurance and uninsured medical expense questions should be directed to the assigned medical support specialist by mail or telephone. Complaints must be made on the "Medical Expense Enforcement Request" form provided by the FOC after the party who paid the expense has requested reimbursement from the other party. The form is available at the FOC Office, by mail, or online at www.oakgov.com/foc. The form must be returned to the FOC Office or sent to the mailing address listed on the back cover of this handbook.

Enforcement Procedure

The FOC will enforce the Court's order that one or both parents provide health insurance coverage at a reasonable cost. If the cost exceeds 5% of the payer's gross income, the FOC will not require that the insurance be purchased.

A parent's employer may be directed to enroll the parties' child/ren in the available insurance plan and deduct the premiums from the employee's wages.

As to uninsured medical expenses, the FOC will pursue the reimbursement of extraordinary medical expenses (expenses that exceed \$345 per year per child) provided:

- The parent incurring the expense requested payment from the other parent within 28 days of receiving an insurance payment or a determination that the expense is not covered.
- Payment was not made within 28 days of the request to the other party.
- A complaint is filed with the FOC's within one year of the expense, within 6 months of denial of coverage of the expense or within 6 months after the other parent fails to pay the expense as agreed.

Upon receipt of a "Medical Expense Enforcement Request" form (available at the FOC office, by mail or online at www.oakgov.com/foc) the FOC will send a copy of the request to the other party. If the other party fails to respond within 28 days, the requesting party must then submit a complaint for enforcement to the FOC. (A complaint form is mailed automatically to the requesting party upon receipt of the "Medical Expense Enforcement Request" form.) After receiving the complaint from the requesting party, the FOC sends a copy to the other party. The complaint also contains a notice that if no objection is filed within 21 days, the requested amount will become a support arrearage or credit depending on who owes child support. If an objection is filed, the FOC must schedule a court hearing to resolve the health care expenses in dispute. For an uninsured medical expense to be reimbursable, it must be "reasonable" and "necessary."

- CONTEMPT PROCEEDINGS - (ORDERS TO SHOW CAUSE)

Contempt of Court Process

If the FOC determines that there may have been a violation of a parenting time, or child support order, the FOC may petition the Circuit Court for an Order to Show Cause. The Order to Show Cause commands the parties to appear before the Court or the FOC referee at a specified time. The parties must demonstrate why one or both of them should not be found in contempt of court for failure to comply with the court order.

Appearance of Parties at Show Cause Hearing

The alleged violator (respondent) of the parenting time, or support order must appear at the show cause hearing. If the respondent fails to appear an arrest warrant can be requested by the FOC and issued by the Court. The other party should appear at the show cause hearing to assist the FOC in identifying and locating the payer or alleged violator of parenting time. The results of the hearing often depend on the non-respondent party's testimony. If both parties reach an agreement about parenting time or child support, the show cause action may be dismissed. If the requesting party in a parenting time show cause does not appear for the hearing, the show cause may be dismissed.

Resolving an Order to Show Cause

As a rule, an Order to Show Cause for failing to pay child support is dismissed when full payment is made before the court date. If a party makes arrangements with the FOC for the payment of past due and future support, the Show Cause may be dismissed.

Some contempt actions are settled by the assigned FOC referee at the initial review hearing, or at the Order to Show Cause hearing without either party having to appear before the judge. For child support,

settlements are reached by substantial payments on the arrearages, establishing or increasing income withholding, or making other arrangements to comply with the court order. Additionally, the party failing to pay support may be offered an opportunity to participate in a job placement program. For parenting time issues, the parties may agree to change the parenting time, or there may be a determination that there was, or was not, a violation of the court order.

For either parenting time or child support show cause hearings, parties may ask that their respective attorneys accompany them to the show cause hearing. If either party is dissatisfied with the outcome of the review hearing before the referee, that party may request a hearing before the judge.

Arrest Warrants

If the respondent fails to appear at a show cause hearing, a warrant is generally requested by the FOC and issued by the Court for the respondent's arrest.

Outstanding warrants are monitored by the FOC Warrants Unit and executed by Oakland County Sheriff's Department and law enforcement agencies across the state.

Providing information to help the Warrants Unit locate wanted individuals is extremely important to the FOC's operations. Pictures, employment information, and other relevant information should be delivered to the Warrants Unit at the FOC Office or sent to the mailing address listed on the back page of this handbook.

Additionally, the Warrants Unit may be contacted at (248) 858-0444 between 8:30 a.m. and 4:30 p.m.

Incarceration, Fines & License Suspension

If a settlement about parenting time or child support is not reached, the FOC referee may take the parties before the judge and ask to have the party who allegedly violated the Court order found in contempt. Non-payment of child support or failure to allow court-ordered parenting time may mean a jail sentence for contempt of court. A recommendation can be made for immediate incarceration or for specific actions to be taken.

Contempt is punishable by a jail sentence of up to 45 days for the first offense and 90 days thereafter. Additionally, sanctions, including a fine and court costs may be awarded. Furthermore, the offender's driver's, occupational, professional or recreational licenses may be suspended for failing to pay child support or denying parenting time.

If a party is jailed, a condition on the jail sentence will be included. By complying with the condition, the party will be released from jail.

- OTHER ENFORCEMENT TOOLS -

Income Withholding

The primary enforcement tool and source of child support collections is income withholding. All child support orders must have a provision addressing income withholding. Income withholding is implemented through an administrative notice known as an Income Withholding Notice (IWN).

An IWN requires an employer to deduct child support from the payer's check and mail it to the Michigan State Disbursement Unit (MiSDU). An IWN is subject to the payer's objection only concerning the amount of current support, overdue support, or the identity of the payer.

Generally, an employer may not withhold more than 50% of a payer's net income. If more than 50% is being withheld and the employer refuses to reduce the withholding, the payer may contact his/her assigned support specialist for assistance.

Employers may not discriminate against employees with income withholding and many payers find that if they never see their money, they can balance their budgets more effectively.

Income Tax Refund Intercepts

The Federal and State Income Tax Refund Offset Programs intercept delinquent child support payers' income tax refunds. After a payer's name is submitted to the taxing agency, a notice is sent to the payer indicating that s/he must contact the FOC to make arrangements to avoid interception. If the payer is not entitled to a refund or fails to file a tax return, there can be no interception. As with most of the collection remedies, it is important that the payee provide the full name of the payer, as well as date of birth and social security number. Regular updates regarding arrearages are provided to Michigan Treasury and the IRS.

In the cases involving joint tax returns, claims by the payer's injured spouse may delay disbursement of the intercepted refund.

License Suspension

Suspension of occupational, recreational, and driver's licenses is available to enforce child support and parenting time orders.

Passport Denial

The U.S. State Department will not issue or renew a passport for anyone owing more than \$2,500 in past due child support until all support arrears are paid. A

payer must make arrangements with the FOC to bring his/her child support account current before traveling outside of or returning to the United States.

Credit Reporting

Child support payment histories are submitted to credit-reporting agencies. This may affect the payer's ability to secure loans. It is important that payers keep their payments current to avoid a negative impact on their credit report.

Additionally, the FOC is able to conduct credit checks to help determine a payer's source of income and ability to pay child support.

All credit information is confidential and not available to either party.

Parent Locator

The FOC has several resources for finding parents and their assets to collect support and enforce custody or parenting time orders. The largest resource is the Federal Parent Locator Service (FPLS) that maintains the Federal Case Registry and the National Directory of New Hires.

All requests for locate services should be made to the FOC in writing and include the parent's full name, social security number, date of birth, race, and sex.

Liens

Liens may be filed against the payer's personal property, real property, and potential lawsuit or inheritance proceeds to collect past due child support. Liens are filed against worker's compensation settlements. For a lien to be filed against the payer's home or other real property, the payee must provide the address, legal description, assessed value, and payer's approximate equity.

Criminal Complaint Referrals

The FOC may refer cases with substantial child support arrears to the County Prosecuting Attorney, the State Attorney General or the U.S. Attorney.

Delinquent payers convicted of criminal non-support of their children may be incarcerated for up to one year or more and still be required to pay ongoing and back child support.

◆ FINANCIAL ISSUES ◆

-ECONOMICS OF SINGLE PARENTING-

The Costs of Separation & Divorce

Typically, separation and divorce do not solve money problems. Once a divorce or other court order has been entered, both parties may have to deal with new financial problems. Only in a very few cases can the parties immediately resume their old lifestyle. Financial problems are often severe after a divorce. Both parties should do everything possible to reduce expenses at this time and carefully consider their economic health before making new plans.

Payers should be very cautious about taking on the support of a new spouse and perhaps more children. Their child support obligation is a primary obligation and should be given top priority.

Bankruptcy and bill consolidation are sometimes necessary to meet the crush of expenses that accompany a divorce. However, child support and most spousal support obligations are not dischargeable through bankruptcy.

-PAYMENTS-

Michigan State Disbursement Unit (MiSDU)

All child support payments must be made through the Michigan State Disbursement Unit (MiSDU). Cash payments are accepted by the FOC, but they are processed through MiSDU before being sent to the payee.

After the FOC receives the written order, an account is opened on MiCSES, payment coupons are mailed to the payer (provided the FOC has a verified address). If income withholding is in effect, no coupons will be sent. **Not receiving payment coupons is not an excuse for failing to pay child support.**

The payer should not wait until s/he receives payment coupons before making a support payment. Temporary coupons are available online at www.oakgov.com/foc.

Every check must include the case docket number and payer's social security number, and be sent with a coupon to:

Michigan State Disbursement Unit (MiSDU)
P.O. Box 30351
Lansing, MI 48909-7851

No correspondence or any other information should be sent to MiSDU. All correspondence and new information must be sent to the Oakland County FOC.

Pay Per the Court's Order

Neither party should pay or accept payments from the other party. An out-of-court agreement between the payer and payee does not make it acceptable to ignore a court order. If the order requires payments to be made through the FOC or MiSDU, but the payer pays the custodial parent directly instead, no credit will be given by the system for these direct payments. Additionally, automatic enforcement procedures, surcharges, and court costs may be triggered.

Income Withholding Is Mandatory

Income withholding is mandatory for all child support orders. Income withholding occurs when an employer is notified by an Income Withholding Notice (IWN) to deduct support from the payer's paycheck and send it to MiSDU.

If an IWN has not taken effect yet or is not applicable for some reason (e.g., the payer is self-employed), it is the payer's responsibility to make the support payments to MiSDU. See the preceding section for more information.

Payment Process

Unless payments are being deducted from the payer's paycheck, all support payments should be mailed to MiSDU with a payment coupon and case identification information. If payments are mailed to FOC, the payments are forwarded to MiSDU, thus delaying payment processing. After posting, the funds are electronically transferred to the payee's designated bank account or a debit card. If the children are receiving public assistance from the State of Michigan, the payee's rights to support are assigned to the State and child support will be forwarded to the Department of Human Services or Department of Community Health as appropriate.

Charging & Federal Distribution Rules

Child support is calculated as a monthly charge due the first day of each month. Orders entered in weekly amounts are adjusted and charged monthly. Support is not considered delinquent until after the end of the month. Once current support is satisfied, any remaining money is applied towards arrearages and then fees.

The only time current support is not satisfied first is when money is collected as the result of an interception of federal income tax refund. Federal refunds are applied to child support arrears assigned to the state as the result of the child/ren receiving public assistance.

If the payer has multiple child support cases, payments are distributed to all cases with current support owing before any monies are applied to cases with arrears.

Direct Deposit or Debit Card

MiSDU no longer sends checks to payees except under rare circumstances. All payments are directly deposited into the payee's bank account or credited to a debit card issued to the payee by MiSDU. An application is required for direct deposit. Monthly statements from the bank or financial institution will show deposits.

A direct deposit application, along with the answers to some frequently asked questions about direct deposits, is available at MiSDU by telephoning 1-800-357-4507 or 248-858-1565 and following the prompts. Applications are also available online at www.oakgov.com/foc.

Payees who do not sign up for direct deposit will receive a debit card and payments will be automatically entered on the debit card. Debit cards are a good option for payees who do not have a bank account. Some fees may apply for use of the debit card. Be sure to investigate your options so that an informed choice can be made between direct deposit and the debit card.

-UNDERSTANDING PAYMENT RECORDS-

Support Orders

Support orders stated in periodic amounts other than monthly are converted to monthly amounts using a formula developed by the State Court Administrative Office (SCAO).

Verifying Payments & Balances

Take the following steps before contacting the FOC about discrepancies:

- Request a full payment history/statement of account by calling the IVR at 1-248-858-1565 or 1-800-357-4507 and selecting "payment record."
- Total all payments from income withholding, personal checks, money orders, and/or cash.
- Compare your records to the payment history.
- Review for common errors as noted below.

Common Errors by Parties:

1. **Not understanding the payment cycle.** In determining child support, the Michigan Child Support Enforcement System (MiCSES) assumes there are 4.35 weeks in every month. When only four weekly payments are made per month, four payments are missed per year. Prior to June 30, 2003, accounts charged weekly based on the number of Mondays in the year, usually 52 per year, 53 every six years. Effective July 1, 2003, support obligations are stated in monthly amounts that are charged on the first day of each month, but any

missed payments are not considered delinquent until the end of the month.

- 2. Not considering pay-periods.** To ensure that the withholding payment amount is correct, use the following formula: Take the monthly support amount times 12 (number of months in the year) and divide the result by the total number of pay periods per year. For example: A \$100.00 per week order equals \$435.00 per month [(\$100.00 x 4.35 weeks per month) x 12 months/pay periods per year]. The withholding payment amount per pay period breaks down as follows:

Weekly.....	52 payments of \$100.38
Biweekly.....	26 payments of \$200.77
Semimonthly.....	24 payments of \$217.50
Monthly.....	12 payments of \$435.00

- 3. Not accounting for missed payments.** Sometimes payments are not made during vacations or other periods such as layoffs or strikes.
- 4. Not paying during parenting time.** Failing to pay support when the children are with the paying parent (parenting time). The support order may or may not include a provision that allows for an abatement of support for extended parenting time. (Usually 50% for 6 or more overnights.) If the support order does provide for abatement, it is necessary to advise the FOC in writing of the dates of parenting time. The FOC will then send a written acknowledgement of any abatement. If the support order does not provide for abatement, no credit will be applied without the consent of the payee (the person entitled to support).
- 5. Direct payments received by the custodial party.** Unless the court allows the parties to “opt out” of FOC services, all support payments must go through FOC/MiSDU. The judge **MAY** grant credit for direct payments upon proper proof, but this is solely at the judge’s discretion.
- 6. Expecting facts to be considered when they are not addressed in the judgment or order.** Sometimes credits or arrears owing are not reflected in the final **Judgment of Divorce**. For example, if the parties attempted reconciliation, temporary support must be ordered suspended for that period.
- 7. Confusing withholding with the receipt of payment.** The final judgment and subsequent court orders determine the support obligation, not the income withholding notice (IWN). The IWN is merely a mechanism to collect the support obligation. The payroll withholding date indicates the date of the withholding. Payments are credited when received by the MiSDU, not when withheld from the payer’s paycheck.

Resolving Accounting Disputes

If a party's records do not match the statement of account or payment history, s/he may call the FOC account specialist assigned to the case. If the issue cannot be explained over the telephone, the party may schedule an appointment for an office conference. To prepare for the conference, the party should obtain copies of all the court orders and bring receipts of cancelled checks or other proof of payment to assist the accountant review the records. If any of the children have married, died, or entered the armed services, there must be appropriate proofs and verification of the dates.

If an accounting dispute cannot be resolved with the assistance of the account specialist, a motion may be filed with the court to determine the arrears.

-STATUTORY FEES-

Fees are Mandatory

In the State of Michigan, monthly service and processing fees are payable semiannually in January and July. An income withholding notice or payment coupon may include fees; however, these fees are paid after all other obligations are satisfied.

Effective October 1, 2008 and retroactive to October 1, 2007 under federal law, Michigan must charge every custodial parent a yearly fee of \$25.00 per case if his or her case meets all of the following requirements:

- The custodial parent never received cash assistance (Family Independence Program) for a child named in the support order.
- The custodial parent does **not** currently receive food assistance (stamps) for a child named in the support order.
- The custodial parent received a total of at least \$500.00 in support payments during the fiscal year (Oct. 1- Sept. 30).

-PAYMENT PROCESSING DELAYS-

Basic Oversights:

- Mailing a check to the FOC instead of MiSDU.
- Not providing sufficient identifying information on the check to MiSDU (docket and social security numbers).
- Failure to use a coupon.

Bad Checks

If the payer's check (or an employer's check resulting from income withholding) is returned from the bank because it "bounces," a bad check hold is placed on the account. MiSDU will send a letter notifying the payer

(or employer) that the bank has returned his/her check. Consequently, all future payments must be made by cashier check or money order. If a payer's employer bounces a check, the payer still owes the support even though the money was withheld.

Unknown Address

The parties receiving payment are responsible for keeping the FOC informed of their correct address. This can be done in person or by mail. Changes of address are not accepted from persons other than the parties themselves.

No Support Order

Payments received on accounts for which no support order has been entered will be held and cannot be disbursed until a support order is entered.

Overpaid Accounts

If there are no support arrears, payments received over the current monthly support amount are held until the beginning of a new month and are released when additional charges are applied to the account. Payments in excess of one future month charge are refunded to the payer.

-INCOME TAXES-

Income Tax Refund Interception

State and federal income tax refunds are subject to interception and application towards child support arrears. If arrears are assigned to the state, federal income tax refunds are distributed to the state and then the payee once the assigned arrears are paid in full.

Notice is sent to payers regarding how to avoid interception of their returns. For married couples filing joint returns, the non-payer spouse may file a claim for his or her portion of the refund. The procedure for filing a claim is provided with the notice of the intercept by the taxing authority.

Income Tax Questions

The FOC cannot answer your tax questions. Please refer all tax questions to the Michigan Department of Treasury, Internal Revenue Service, an accountant or tax attorney. IRS Publication #504, **Income Tax Deductions for Alimony Payments**, includes comments on child support payments. Publication #501, **Your Exemptions and Exemptions for Dependents** also comments on child support.

-STATEMENT OF ACCOUNT-

Each party is entitled to request one free statement of account once a year or when a statement is necessary to prepare for court. Requests may be submitted in writing by including the names of both parties, the docket number and requesting party's address. A statement may also be obtained at the FOC payment window or front counter.

Current payment information may also be obtained online through the State of Michigan website at: <https://apps.michigan.gov/MiCase/public/Home.aspx>.

-COLLEGE EXPENSES-

Michigan's domestic relations laws do not provide for college expenses. However, the parties may agree to include the responsibility for these expenses in their judgment.

Enhances Child's Success

Parents are encouraged to plan for college expenses. The intense emotional atmosphere that surrounds separation and divorce, combined with the increased expenses of two households, makes cooperation and financial planning difficult.

Cooperation Required

Parents may have to disclose assets and earnings years after separation as a child applies for financial aid. Unfortunately, many students are not even able to apply for aid because their parents refuse to reveal their financial information.

◆ OTHER FOC SERVICES ◆

-PARENT ORIENTATION PROGRAMS-

Early Intervention Conference (EIC)

At the start of all divorce cases, the parties and their respective attorneys are required to attend an Early Intervention Conference (EIC) that is held at the FOC Office by the referee assigned to the case. The EIC provides an overview of the divorce process as well as the FOC's services and operations. Additionally, the conference assists the Court to identify contested issues, settled matters, and cases that may involve domestic violence. Lastly, the EIC is used to schedule the parties' SMILE Program session.

The goal of the EIC is to ease the parties' transition through divorce and encourage them to cooperate whenever possible and access the FOC's services when they do not.

Given the importance the Court places on EICs, monetary sanctions may be imposed on a party failing to appear even if the divorce is uncontested.

SMILE Program

SMILE – “Start Making It Livable for Everyone” – is a two-hour educational program for divorcing parents with children under the age of 18. The program assists parents in understanding the effects of divorce, the needs of their children, and how to promote a conflict-free zone.

SMILE is a nationally recognized program that is sponsored by the Oakland County Circuit Court. The program is held at the Friend of the Court immediately following the Early Intervention Conference. Parents who have a pending divorce in Oakland County are required to attend. Other parents interested in attending SMILE may register by writing the FOC or telephoning (248) 858-0453.

-INVESTIGATIONS- (CUSTODY, PARENTING TIME & CHILD SUPPORT)

Jurisdiction

The Circuit Court maintains continuous jurisdiction in domestic relations cases that involve minor children until they reach the age of 18, and in some cases longer. When custody, parenting time, and child support are at issue, the FOC may be directed by the Court to conduct an investigation and make a recommendation to the Court.

Types of Investigations

When **custody or parenting time** is at issue, the nature and scope of the FOC investigation depends on the circumstances or allegation in each individual case. Parties are asked various questions by the assigned family counselor regarding the welfare of the children. Parties are encouraged to raise any additional factors that they feel are significant.

When **child support** is at issue, financial information is requested from both parties and used by the assigned domestic support specialist to calculate child support based on a statewide formula.

Types of Information

For custody and parenting time investigations, a family counselor may ask parents to release school or medical records. If a home visit is necessary, parents may be asked to show the areas where the child sleeps and plays.

For child support investigations, the domestic support specialist will ask for income information such as paystubs, tax returns, etc. A party's failure to provide the

requested information could result in his/her income being imputed at a higher amount than the actual income.

The Friend of the Court may charge a fee for an investigation based on a schedule approved by the State Court Administrative Office.

Investigation Report

A FOC domestic support specialist or family counselor releases the findings and recommendations from the investigations to the Court and parties or their respective attorneys if represented. Custody/parenting time reports and recommendations are not made part of the public record.

Child support worksheets and recommendations are provided to each party or attorney for their review before a new order is entered.

-DISPUTE RESOLUTION-

Custody and Parenting Time Disputes

The FOC provides dispute resolution services to parents interested in working out their own custody and parenting time disputes. A child's best interests are better served when a mother and father reach a mutually agreeable solution to the difficult problems of child custody and parenting time. By actively participating in the decision-making process with the aid of a trained domestic relations expert, the parties are more inclined to live by the agreements and avoid disputes. Most formal mediation requests are referred to the Oakland Mediation Center for assistance at no cost to the parents on the case.

Informal or Formal Mediation

The FOC employees assigned to your case may hold a joint meeting to assist in resolving custody and parenting time disputes. The resulting agreement or recommendation may become a court order. As an alternative, either party may request formal mediation, in which case a FOC employee or, more frequently, the Oakland Mediation Center is assigned to assist you. With formal mediation, all discussion is confidential, and both parties must consent to this process. The mediator cannot impose a decision on the parties. A decision can only be reached by agreement of the parties.

-REFEREE HEARINGS-

Recommended Orders

The FOC referee may conduct hearings on all requests for relief referred to the referee by the assigned judge, except those pertaining to an increase or decrease in spousal support (alimony). Following the hearing, a recommended order will become a court order unless a party files a timely objection and schedules a judicial

hearing with the Court. Every recommended order explains how a party may object.

Recommended orders establishing or modifying child support, concerning child care and concerning medical support are given interim effect, which means they are considered enforceable unless objections are filed and the court enters a new order.

-JOB PLACEMENT-

Onsite Employment Referrals

Unemployed or underemployed child support payers can volunteer or be court ordered to participate in the Job Placement Program located within the FOC office. Onsite counselors provide daily job training and employment referral services to those struggling to comply with a child support order.

The Job Placement office can be reached directly by telephoning (248) 858-0590.

-GRIEVANCE PROCEDURE-

Formal Process

Parties are encouraged to voice their concerns about FOC services in writing. Grievance forms with specific instructions are available at the FOC office, on the website at www.oakgov.com/foc or by mail.

Limited Issues

Grievances involving a FOC employee, office operations or a decision believed to be based on gender rather than the best interests of a child may be submitted to the FOC.

However, the grievance procedure **may not be used** to challenge issues that must be addressed through the Court or other forums. Examples of **non-grievable** issues include:

- A decision by a referee or a judge.
- The provisions in a statute or a court rule.
- An investigation or the resulting recommendation.
- The professional conduct of a judge.
- The conduct of non-FOC agencies, such as the Sheriff's Department or the Department of Human Services.

Response Time

Within 30 days of receiving the grievance, the FOC will investigate the allegations and send a written response to the person who filed the grievance. Additionally, copies of all grievances and a summary report will be filed with the State Court Administrative Office - Friend of the Court Bureau in Lansing.

Challenging the FOC's Response

If the person filing the grievance is not satisfied with the disposition of the complaint by the FOC, s/he may file an additional grievance with the Chief Judge of the Oakland County Circuit Court.

Citizen Advisory Committee

A grievance may also be filed with the Oakland County Citizen Advisory Committee. The committee was established to advise the County Board of Commissioners and Chief Judge about the duties and performance of the FOC and the community's needs relating to office services. However, the Citizen Advisory Committee may only review grievances regarding FOC office operations or decisions alleged to be based on gender rather than the best interests of a child.

Since the committee's role is advisory only, it cannot decide the grievance. However, it can review, investigate, and hold hearings on the grievance for the purpose of reporting its findings on the performance of the FOC to the Chief Judge and the County Board of Commissioners.

Grievances may be submitted directly to the Citizen Advisory Committee at the following address:

FOC Citizen Advisory Committee
1200 N. Telegraph Rd.
County Service Center
Building 12 East
Pontiac, MI 48341-0421

Opting Out of All Services Offered by the FOC:

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

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

- A party is eligible for services under Title IV-D of the Social Security Act because the party is receiving or has applied for public assistance.
- A party has applied for IV-D services.
- A party has asked the FOC to open a case file.
- There is evidence of domestic violence or bargaining inequality, coupled with evidence that the opt-out request is against the best interests of a party or the parties' child.

Even after the court case has been started and the FOC has opened a file for that case, the parties may file an opt-out motion requesting the court to order the FOC to close its file. The court will issue the order unless one or more of the following are true:

- A party objects to the closure.
- A party is receiving public assistance.
- Within the previous 12 months, a support arrearage has existed or a custody or parenting time violation has occurred.
- Within the previous 12 months, a party has asked the FOC to reopen its case file.
- There is evidence of domestic violence or bargaining inequality coupled with evidence that the request is against the best interests of a party or the parties' child.

Parties who "opt out" must assume full responsibility for administering and enforcing the court's orders. At any time, a party can cause the FOC office to reopen its case file by applying for public assistance or by requesting any service from the FOC. However, the FOC will not enforce any arrears that accumulated prior to reopening the case in the absence of a court order or stipulation.

◆ PARENT PROGRAMS ◆

-COMMUNITY SERVICES-

Counseling & Mental Health Services

Often the parties of minor children involved in a divorce action experience problems requiring specialized services. The FOC provides dispute resolution, attempts to resolve parenting time and custody conflicts, and appraises the parties of their legal alternatives. The FOC does not provide counseling or mental health services. A list of community service agencies to which parties and their minor children can be referred is available at the FOC office or by mail. The list primarily includes nonprofit public agencies. The costs of services vary from agency to agency and must be paid by the parties. The list is not exhaustive and does not attempt to cover the many private agencies located in Oakland County.

-ADOPTIONS-

Stepparent Adoptions

When a divorced parent remarries or a single parent marries, his/her current spouse may wish to adopt the children from the previous relationship. The adopting family should contact the Family Division, Adoption Unit, in the county where they currently reside or consult an attorney.

Residents of Oakland County can contact the Family Division, Adoption Unit, at (248) 858-0030.

-DOMESTIC VIOLENCE-

Issues & Help

Domestic violence occurs among families of all cultural backgrounds, races, religions, and incomes. Its effects are serious for everyone involved and often results in severe physical and psychological injury to the victim, emotional damage to the children and even death when the victim attempts to fight back or leave. Children who have grown up in a violent home may encounter associated problems when they become adults.

Domestic violence can be an issue or it may escalate at the time of divorce and afterward. When there are minor children involved the victim and assailant must continue to deal with one another about custody, parenting time, and child support.

The realities of coping with domestic violence are often too overwhelming to deal with alone. In Oakland County, help is available to those who have been abused or threatened as well as to those who have or may resort to abusive behavior. If you want to change your responses to events or persons that may result in abuse, men or women may contact HAVEN at (248) 334-1284, 8:30 a.m. to 5:00 p.m., for information about counseling resources. If you believe that you and your children are in immediate danger, you may contact HAVEN on its 24-hour line at (248) 334-1274. HAVEN can provide a safe place to stay for women and their children and information on legal rights for protection and counseling.

For a free copy of the Oakland County Domestic Violence Handbook, write:

Oakland County Coordinating Council
Against Domestic Violence
c/o Common Ground
853 Woodward Avenue
Pontiac, Michigan 48341

Personal Protection Orders

An individual can seek the protection of the court when faced with threatening conduct. These protective orders can prohibit a person from "stalking" another party or prohibit other conduct.

For residents of Oakland County, a Personal Protection Order (PPO) may be obtained by contacting the County Clerk's Office at the courthouse in Pontiac, Michigan. PPOs can be used to restrain a spouse, a former spouse, a person who has resided in your home or a person with whom you have had a child.

Although the Clerk's Office cannot give legal advice the staff will provide the necessary forms and direct the person seeking protection where to obtain further assistance.