

18th Judicial Circuit
Family Division
Bay County, Michigan

Friend of the Court
Informational Handbook

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This informational handbook will acquaint you with the services of the Friend of the Court Office. Please read it thoroughly and retain it as it has been designed to be of continuing use in answering your questions.

Many people work to ensure the Friend of the Court Office functions efficiently and effectively. The Bay County Friend of the Court has separate departments to handle specific matters of your case. Your case will be assigned to a Support Analyst and a Custody/Parenting Time Evaluator. The division of the caseload is based on an alpha split.

The assigned Support Analyst can be contacted by mail, fax, and certain phone-in times. In addition, the Support Analyst will be available for certain walk-in times. You will need to contact the Friend of the Court for specific days and times as they are subject to change. Any inquiries regarding custody and/or parenting time **must be submitted in writing** for an appropriate response. No walk-in or phone-in times are available.

Elizabeth A. Roszatycki, J.D.
Director
Bay County Friend of the Court Office

FRIEND OF THE COURT OFFICE HOURS
Monday through Friday
7:30 A.M. TO 5:00 P.M.

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Introduction

Children love both parents and most want their parents to be together. When parents do not live together, children and parents alike may experience anxiety which may cause anger, sadness, and sorrow. Family structure and relationships are different, including the relationship between both parents and the children, especially when changes involve different residences and a loss of family traditions. It is a very difficult time for everyone, which may worsen when parents do or say negative things to each other.

Parents can help by establishing or maintaining children's regular routines, encouraging frequent and regular contact between children and both parents, and by being supportive of the other parent's involvement in the children's day-to-day life through participation in school and other activities, and exchanging information regarding the children's well-being.

While your relationship may end, the responsibility to be co-parents continues forever. Though your legal relationship may end when your children become adults, your relationship as parents continues indefinitely. Your children will always want you both to be part of their lives, to attend high school or college graduation, to be at their weddings, the birth of their children, and other major life events. They want to be able to proudly say that despite what mom and dad may have felt toward one another, they always treated each other with courtesy and respect and never put us (the children) in the middle of their dispute.

Family law matters are difficult and painful. When a family matter arises, the circuit court has the responsibility to assist you to resolve the concerns which affect your family. The circuit court and the Friend of the Court are aware of the many emotions which complicate the legal decisions surrounding you and your children.

Children need both parents. When you as parents cooperate, you reassure your children that change will be positive. You also build the foundation for your new parental relationship and responsibilities.

We will do our best to handle your case quickly and fairly. Please follow the suggestions in this handbook and you will be well on your way to doing your part.

Parties' Rights and Responsibilities

Each party has the right to:

- Request a meeting with the Friend of the Court employee who is investigating custody, parenting time, or support.
- Expect the Friend of the Court office to perform its duties under Michigan laws and court rules.
- Be treated fairly and courteously by Friend of the Court employees.
- File a grievance with the Friend of the Court office concerning an Friend of the Court employee or an Friend of the Court office procedure.

- Hire and consult with an attorney.
- Decline all Friend of the Court assistance (“opt out”) – if both parties agree and the court approves.

Each party has the responsibility to:

- Provide the following information *in writing* to *every* Friend of the Court office that is administering a case involving that party:
 - Current residential and mailing addresses.
 - Current employer’s (or other source of income) name, address, and telephone number.
 - Current residential telephone number.
 - Occupational or driver’s licenses held and the driver’s license number.
 - Social security number, unless exempt by law from disclosing that number.
 - Current residence of children.
 - Current information regarding health care coverage that is available to either party as a benefit of employment, or that either party purchases directly from an insurer.
- Provide other information required by law to help the Friend of the Court carry out its duties.
- Obey all court orders.
- Keep all Friend of the Court appointments.
- Treat the Friend of the Court employees courteously.

As a Citizen using the Court, you have a Right to:

- Be treated with fairness, respect and courtesy.
- Expect court proceedings to begin on time and proceed in an orderly manner.
- Expect un-biased treatment from judges, court employees and attorneys.
- Object to gender or racially biased statements or remarks made by judges, court employees or attorneys.
- Expect that the judge and the attorneys in a case are prepared to hear/try your case.
- Consult with an attorney regarding a legal proceeding.
- Ask questions of your attorney before or after your scheduled court appearance. If you are representing yourself, you may ask the court for clarification on an action or procedure.
- Request that the court provide an interpreter if you are unable to communicate in English or are hearing impaired.

As a Citizen using the Court, you have the Responsibility to:

- Treat the judge, court employees and attorneys with fairness, respect and courtesy.

- Monitor your own behavior, attitudes and comments to ensure that you do not display bias due to race, ethnic or religious affiliation or gender.

Friend of the Court Duties

Michigan law created the Friend of the Court system in 1919. At least one Friend of the Court office serves each circuit court's family division. The Friend of the Court has the following duties:

- When a child's parents can not agree, or when directed by the judge, to conduct an investigation and to make recommendations to the court regarding:
 - Custody.
 - Parenting Time.
 - Child support, medical support, and sometimes spousal support.
- To offer voluntary mediation services to help settle disagreements about custody or parenting time.
- In cooperation with the Michigan State Disbursement Unit (MiSDU), to collect, record, and distribute support payments as ordered by the court.
- To help the court enforce orders for custody, parenting time, and support.
- To inform the parties they may decline Friend of the Court services.
- To make available standardized court forms that parties may use to file motions and responses regarding custody, parenting time, and support.
- To inform the parties of the availability of joint custody.

The Friend of the Court has no authority to do the following:

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

The child support enforcement program was created under Title IV-D (Four D) of the Social Security Act. In Michigan this program is administered by the Office of Child Support in cooperation with the Friend of the Court. The Office of Child Support is part of the Department of Human Services, and has the responsibility to administer Federal child support program funds, coordinate location of absent parents, and manage the process for income tax intercepts. The Office of Child Support may also initiate complaints filed under the Paternity Act, the Family Support Act and other support enforcement actions when more than one State is involved.

Opting Out of All Services Offered by the Friend of the Court

Parties who agree that they do not need the Friend of the Court'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 Friend of

the Court services and acknowledges that the parties have chosen not to use those services.

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

- A party is eligible for (Social Security Act) Title IV-D services (see the glossary at the end of this document for a description of IV-D services) because the party is receiving or has applied for public assistance.
- A party has applied for IV-D services.
- A party has asked the Friend of the Court 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 Friend of the Court has opened a file for that case, the parties may file an opt-out motion requesting the court to order the Friend of the Court 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 Friend of the Court 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 of the parties' child.

Parties who “opt out” must assume full responsibility for administering and enforcing the court’s orders. To assure the proper accounting of support payments and their consideration in future proceedings, the parties may make support payments through MiSDU even after a Friend of the Court case file is closed. At any time, a party can cause the Friend of the Court office to reopen its case file by applying for public assistance or by requesting any service from the Friend of the Court.

Court Procedures

Starting a Case

No court can require a party to use an attorney. However, anyone who wants to start a court case must follow the Michigan Court Rules and Michigan Laws. Because most cases involve difficult legal and factual questions, most people want to be represented by an attorney.

Plaintiff's Complaint

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

- Grant a divorce.
- Order a person to pay child support (including medical support) or spousal support.
- Establish paternity.
- Establish custody of a child with one (or both) parties.
- Establish each party's parenting time with a child.

Service

The plaintiff must arrange for the defendant to be served with a summons and a copy of the complaint. The summons tells the defendant to answer the complaint. Whenever minor children are involved or spousal support is being requested, a Friend of the Court informational handbook (this handbook or one like it) must be given to the defendant, along with the summons and complaint.

Defendant's Answer to Complaint

The defendant is usually allowed 21 days to answer the complaint. If the defendant does not answer within 21 days, the judge may enter an order granting the plaintiff's requests.

Hearings

After a complaint and an answer have been filed, either party may file a motion asking the court to decide the custody, parenting time, and child support issues. Often the Friend of the Court will provide a type of alternative dispute resolution or conduct an evaluation before the court makes a decision regarding custody, parenting time, or child support. The court usually holds a hearing to get the information it needs to decide those issues.

Both parties must be notified of the time and place of a hearing. This advance notice gives the parties an opportunity to appear the hearing and tell the judge or referee what they think the court should do.

Court Orders

When a court makes a decision, it must sign a written order summarizing the decision. Someone must prepare the order. Usually, one of the attorneys prepares the order, but sometimes the judge may prepare it. Either way, an order is not enforceable until a judge signs it and someone files the signed order with the county clerk. A referee can only recommend an order and prepare it; the recommended order does not become enforceable until a judge signs it or until it is entered because neither party objected within a certain amount of time. If you disagree with an order and want to challenge it, your options include filing a motion for a rehearing (by the judge who issued the order) or filing an appeal (to a higher court.) You cannot change an order by filing a grievance or by complaining to other government agencies.

Preliminary Orders

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

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

A judge will enter an ex-parte order without the other party present when the judge believes that serious harm will occur if the judge defers issuing any orders until the opposing party has the opportunity to speak with the judge. Ex-parte orders usually are intended to keep the situation stable until the judge can hear from both parties. A party who disagrees with an ex-parte order may file a written objection to the order or file a motion asking the court to change or cancel the order. Even if an objection or motion is filed, the ex-parte order will remain in effect until it is changed by the court.

When an ex-parte order deals with custody, parenting time, or child support, the order will include a notice that a written objection or a motion to change the order may be filed within 14 days. If a party files an objection, the Friend of the Court will try to help the parties settle the dispute without going to court. If the parties cannot agree, the Friend of the Court will provide the forms and instructions that a party who is not represented by an attorney will need to schedule a court hearing.

Temporary and Final Orders

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

Orders (including judgment orders that deal with custody, parenting time, and child support) can be changed, but only the court can modify an order; the Friend of the Court cannot. Normally, a court will change an order if both parties have agreed to the change. Otherwise, the court will modify an order only after one party (or the Friend of the Court) files a motion and the court holds a hearing on the motion.

The parties' agreement to change a previous court order will be recognized by the court and the Friend of the Court only after the judge signs and enters a new order that approves the agreement. Merely telling or writing to tell a Friend of the Court employee or a Department of Human Services worker that the parties have agreed to something cannot change the court's previous order.

Sometimes, the law requires the Friend of the Court to ask the court to change an order. (See *Parenting Time Enforcement* and *Modification of a Support Order* later in this document).

Referee Decisions

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

A referee hearing differs from a hearing before a judge. The proceeding is usually less formal. A referee's decision in a pre-judgment matter takes immediate effect with a judge's signature. A referee's Recommended Order will have interim effect even if a party files an objection within specific time limits.

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

You should consult an attorney for more information on how to object to a referee's recommendation and how to request a hearing before a judge. Also, some Friend of the Court offices will provide written instructions that explain how to file an objection.

Reconciliations and Dismissals

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

If the parties wish to stop all further action on a case, they must file a proposed order of dismissal with the court and provide a copy to the Friend of the Court. In that situation, when the state of Michigan has provided financial assistance to the parties' children or spouse while the case was pending, the support payer must pay any previously-ordered child or spousal support to the state of Michigan. This reimbursement may be less than the amount of assistance, but it cannot be more. The exact support amount will depend on how much support the court's order required. Finally, before the case may be dismissed, the support payer must pay any amounts owed to the court or the county. If those requirements are met, the court will sign an order dismissing the case.

Enforcing Orders When One Parent Leaves Michigan

The obligation to pay child support does not end when a parent leaves Michigan, even if it is the custodial parent and the parties' children who move. Both parents must tell the Friend of the Court whenever they move. The support payer must continue to pay support and the Friend of the Court must continue to enforce the court order.

If a support payer leaves Michigan and stops paying as ordered, there are laws that allow Michigan courts to have their support orders enforced in other states. For example, every state has passed the Uniform Interstate Family Support Act (UIFSA), a law that allows one state's court to set and enforce support obligations when the parents live in or earn an

income in different states. Under UIFSA, a court in another state may be required to use its laws to withhold the payers' income, enforce the order, set or modify a support order, or assist with finding the payer's assets. For more information, see *The Uniform Interstate Family Support Act* (UIFSA)(PSA 29) located at: [http://www.courts.mi.gov/scao/resources/publications/pamphlets/FRIEND OF THE COURTb/psa29.pdf](http://www.courts.mi.gov/scao/resources/publications/pamphlets/FRIEND_OF_THE_COURTb/psa29.pdf).

Alternative Dispute Resolution

When parties go to court, the judge makes decisions affecting the family. If you are a party to a domestic relations case, you are encouraged to participate in alternative dispute resolutions (ADR), which may allow you to settle your case without further court proceedings.

Mediation is the most common type of ADR. Mediation allows the parties to settle the issues without the court's direct involvement. Parties often find this rewarding because they make the decisions, instead of the court. However, even if you participate in ADR, the court must ultimately enter an order. Many times the court order will reflect the agreement reached by the parties during mediation. The next few sections summarize the kinds of ADR that are available in domestic relations cases. Contact an attorney or the Friend of the Court to determine which methods are available in your area.

Friend of the Court Domestic Relations Mediation

The Bay County Friend of the Court offers mediation services to help parents resolve custody and parenting time disputes. The Bay County Friend of the Court does not charge for providing mediation services.

In certain circumstances, if you reach an agreement during mediation, the mediator can put it into writing. You may review this agreement with your attorneys. The agreement can be made part of a court order.

Court Rule Domestic Relations Mediation

The court may refer family matters to non-binding mediation under the Michigan Court Rules, specifically MCR 3.216. This may happen by agreement of the parties, on the motion of one party granted by the judge, or on the court's own initiative.

Unlike the Friend of the Court mediation summarized earlier, court rule mediation is not necessarily voluntary and is not limited to only custody and parenting time issues. The court may order mediation for any disputed issue. The parties may agree to have the case mediated by any person who has the qualifications specified in the court rule. If the parties can not agree on a mediator, the court's ADR clerk will assign one from a list of qualified mediators. The person who performs court rule mediation is entitled to a reasonable fee. The parties usually share that expense equally.

Once ordered, court rule mediation is mandatory. The parties must attend the mediation sessions. They may be accompanied by their attorneys. Any information shared with the mediator is considered privileged. The mediator may not disclose this information to

anyone. If the parties reach an agreement during mediation, the agreement must be put in writing and be signed by the parties. The parties must then take the necessary steps to have the mediation agreement as a court order.

If the parties do not reach an agreement, the mediator may prepare a report to the parties setting forth the mediator's own recommendations on the issues. If both parties accept the mediator's recommendations, the parties must then take the necessary steps to have the recommendations entered as a court order. If either party rejects the mediator's recommendation, even in part, then all issues in the case must go to trial. The judge who conducts the trial will not know what the mediator recommended or which party rejected the mediator's recommendation.

Information about Custody, Parenting Time, and Support Payments

Custody

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

- **Joint Legal Custody**: This means that the parents will communicate and cooperate with one another and attempt to reach mutual decisions regarding major issues affecting their children. This decision making process includes, but is not limited to: major medical decisions, educational decisions, and religious upbringing, if any.
- **Joint Physical Custody**: This means that the children live with one parent part of the time and the other parent part of the time. This time does not have to be equal. The parent who has care of the children at any given time is responsible for routine decisions regarding the children.
- **Primary Physical Custody**: This means that the children live primarily with one parent.
- **Sole Custody**: This means that the children live with one parent and that parent is responsible for making major decisions regarding the children.

Parents are encouraged to reach their own agreements regarding custody. When parents can not agree, the judge must decide by considering all of the following factors of the Michigan Child Custody Act. (MCL 722.23; MSA 25.312(3))

- (a) The love, affection and other emotional ties existing between the parties involved and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and the continuation of the educating and raising of the child in its religion or creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care and other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.

- (f) The moral fitness of the parties involved.
- (g) The mental and physical health of the parties involved.
- (h) The home, school, and community record of the child.
- (i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent.
- (k) Domestic violence, regardless of whether the violence was directed against, or witnessed by the child.
- (l) Any other factor considered by the court to be of relevance to a particular child custody dispute.

Custody Questions and Answers

❖ How do I get an order for custody?

A petition must be filed requesting custody. If parents agree, they may sign an agreement (stipulation and consent agreement), and obtain the judge's approval. That agreement can then be entered as a custody order.

❖ Can a custody order be changed if both parents agree?

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

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

You may file the motion on your own, and the Friend of the Court will provide the forms and instructions that you will need. However, the court will expect you to follow the same rules that an attorney must follow. There are many complex issues in a custody case and most people prefer to have an attorney represent them. The Friend of the Court cannot file a motion for you, nor can that office provide you with an attorney or tell you what to say in the motion.

❖ Can the Friend of the Court assist parties in reaching an agreement regarding custody?

Yes. The Friend of the Court provides domestic relations mediation when there is a custody dispute and both parties agree to participate in mediation.

❖ If a motion for custody has been filed, and the parents cannot reach an agreement on their own, what will the Friend of the Court do?

The Friend of the Court must:

- Offer mediation services to the parties.
- If directed by the judge, investigate the custody issue and file a written report and recommendation based upon the "best interests of the child" factors listed in the Michigan Child Custody Act.

❖ **May I receive a copy of the Friend of the Court's custody report and recommendation?**

Upon request, and before the court acts on the recommendation, the Friend of the Court must give each party or that party's attorney a copy of the report, including the custody recommendation and a summary of the information used in making the recommendation.

❖ **What happens if I have custody according to the court's order, but the other parent does not return the child to me as required by the order?**

- You may contact the Friend of the Court and request that the order be enforced.
- You may contact your attorney.
- If you believe the other parent will refuse to return the child, you may contact the police or the prosecuting attorney and ask either to file a parental kidnapping charge.

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

When a child who is a U.S. citizen is illegally kept outside of this country, the U.S. State Department's Office of Children's Issues will work with the local U.S. embassy and the other country's government to assist the child and the lawful custodial parent. However, because child custody disputes are private legal disputes between the two parents, the State Department has no jurisdiction to force the other parent to obey a court order. If the parents cannot reach an agreement, this kind of child custody dispute often must be resolved by judicial proceedings in the country where the child and the other parent are living. The State Department will help the lawful custodial parent file the appropriate documents with the foreign authorities. It will also monitor and report on the foreign judicial or administrative proceedings.

❖ **How do I contact the Office of Children's Issues at the U.S. Department of State?**

You can write to: Department of State, Office of Children's Issues, SA-29, 2201 C Street, NW; U.S. Department of State, Washington DC, 20520-2818. You may also call 1-888-407-4747, fax 202-736-9080, or go to the State Department's internet website for foreign travel at http://travel.state.gov/family/family_1732.html.

❖ **Is the Friend of the Court allowed to investigate child abuse or neglect?**

No, the Friend of the Court does not have that authority. Abuse or neglect should be reported (in the county where the custodial parent and children live) to the Department of Human Services' (DHS) Child Protective Services Division.

A judge will consider allegations of abuse or neglect when making a decision on custody or parenting time. The Friend of the Court office has a duty, when ordered by the court, to conduct custody or parenting time investigation. Concerns about abuse or neglect should be disclosed to the Friend of the Court during this type of investigation. However, both the judge and the Friend of the Court will rely on Child Protective Services to investigate and evaluate the abuse or neglect allegations.

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

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

Parenting Time

A parenting time order specifies when a child will spend time with each parent. During parenting time, that parent is responsible for all routine decisions affecting the child. The Michigan Child Custody Act states:

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

That statute also lists factors that the judge may consider when determining the frequency, duration, and type of parenting time (MCL 722.27a[6]):

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

General Provisions Regarding Parenting Time

No matter which form of parenting time occurs in a given case, there are general issues regarding the parenting time that occur to a greater or lesser extent in each of the forms. The issues must be addressed by one party or the other in order to provide for the child's needs during parenting time or for the parting time to occur. The following issues are those that were identified as the most frequently occurring issues concerning parenting time:

a) **Clothing**

Each parent should be responsible for providing adequate clothing for the child sufficient for the weather and events in which the child engages. When occasional need or cost issues favor having only one item, such as seasonal clothing, snow boots, or swim wear, these items should be transported back and forth with the child. This can be extended to particular toys or items for which a child has a special fondness (a blanket, toy, etc.). Any clothing that is with the child at the beginning of parenting time should be returned clean, with the child.

b) **Transportation**

Unless otherwise agreed or ordered by the court, the responsibility for transportation is shared by each parent. The parent who is receiving the child is responsible for that transportation. Transportation can be provided by the parent, a member of the parent's immediate family, or any other individual known to the children. All transportation shall be provided by a properly licensed individual who has a properly licensed and registered vehicle. All legally required restraints must be present and used.

When a parent has parenting time supervised by a third party, it is the responsibility of that parent to ensure that transportation is supervised as well. When supervised parenting time involves an agency or therapy, it is the custodial parent's obligation to transport the children.

c) **Contamination of Parenting Time**

Neither parent should use the parenting time exchanges as an opportunity to exchange bills, discuss support issues, discuss parenting time, or to behave disrespectfully toward the other parent.

d) **Child's Medical Needs**

A parent should provide all necessary medication and doctor's written instructions to the parent exercising parenting time. The parent exercising parenting time should administer all medications according to the doctor's written instructions. If the child requires medical attention during parenting time, the noncustodial parent should obtain treatment for the child and notify the custodial parent as soon as possible.

In the event special equipment is necessary for the child's health, the parent exercising parenting time should make arrangements to learn the use of the equipment and arrange for the equipment's transfer. When a parent has supervised parenting time, the supervisor should receive adequate training and instruction concerning any special needs the child may have and receive all necessary medication and doctor's written instructions.

Parents need to discuss the general health care needs of the child and to advise each other illness and treatment requirements. It is imperative that all knowledge of medical treatment be shared, for example, in a situation where follow up treatment may have to be provided by the parent who did not take the child initially to the doctor.

e) **Preparing Child for Parenting Time**

The custodial parent should offer encouragement to prepare the child emotionally for the parenting time. Neither parent should use the parenting time as an occasion to cause concern or anxiety to the child. The custodial parent should use all reasonable means to ensure that the parenting time occurs provided that no excessive force is used. In general, the following are **not** appropriate reason for denying the parenting time:

- The child has a minor illness.
- The child had to go somewhere else.
- The child was not home.
- The noncustodial party is behind in support.
- The custodial parent did not want the child to go.
- The weather was bad.
- The child had no clothes to wear.
- The children refused to go.
- The other party failed to meet preconditions unilaterally established by the party allegedly denying parenting time.
- Religious reasons.

f) **Extracurricular Activities**

The parties should cooperate with each other when enrolling the child in extracurricular activities to ensure that the activities do not interfere with the ability of the child to exercise parenting time. Neither the custodial parent nor the noncustodial parent should enroll the child in excessive activities which serve to interfere with the other's ability to spend time with the child. When supervised parenting time is ordered, the child should not be enrolled in activities that would interfere with the supervised schedule.

As children grow, they are involved in different activities. As their developmental needs change, both parents need to be flexible with their parenting time schedule and allow room for adjustment. Because continuity in activities is important, parents must be willing to alter the parenting time schedule.

Parents should keep one another apprised of all the child's activities so the other parent has the opportunity to attend or participate in the activity, even if the activity occurs during the parent's off schedule.

g) **Safety Issues**

Each party is responsible to ensure the safety and well being of the child. All written doctor's instructions including those concerning exposure to plants, animals, smoke, and other elements should be followed. When supervised parenting time is ordered, the supervisor should also follow such precautions.

h) **Time for Parenting Time Exchange**

An exact time for exchange should be established and agreed upon by all parties. Neither parent should do anything to inconvenience the other in the exchange of the child. Arriving late by no more than 30 minutes may be acceptable in exceptional circumstances, but should never become the norm. A parent should be late, only when a legitimate, unavoidable reason exists for being late. A parent who anticipates being late should contact the other parent as soon as possible.

Additionally, a parent should not be early for parenting time as this may cause undue disruption for the child and the other parent.

When supervised parenting time is ordered at an agency or at a therapist's office, both parents should appear early for parenting time. There may not be a grace period for parenting time in a supervised setting. This is dependent upon the individual policy of the agency. However, arriving late for supervised parenting time may adversely affect the time frame for progressing to an unsupervised parenting time schedule.

Parenting Time Enforcement by the Friend of the Court

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

The Friend of the Court starts enforcement proceedings by sending a copy of the written complaint to the accused party after the Friend of the Court office receives the complaint. If it finds that the court's order has been violated, the Friend of the Court may suggest "make-up" parenting time, start an action requiring the party to show cause why the court should not find the party in contempt, file a motion to modify existing parenting time provisions, schedule mediation, or schedule a joint meeting with the parties.

Parenting Time Modification Motions

A party may file a motion to change the parenting time order. The Friend of the Court office has printed forms and instructions for filing this type of motion. You may want to hire an attorney to assist you with the motion.

If both parents agree to change the parenting time arrangement, they may sign an agreement to that effect and ask the judge to modify the current order. It is important to remember that, even though the parties have agreed to a change, the current order remains in effect until the judge signs a new order and it is filed with the county clerk.

Parenting Time Questions and Answers

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

An order that grants “reasonable” parenting time assumes that you and the other parent will agree to a parenting time schedule that is convenient for both of you and the child. If you and the other parent cannot agree on a “reasonable” parenting time schedule, you may:

- Request in writing a joint meeting with the Friend of the Court to establish a specific parenting time plan. The Bay County Friend of the Court does have a standard parenting time schedule absent an agreement of the parties to the contrary.
- Ask the Friend of the Court to determine whether the order is specific enough to allow the office to offer assistance.
- File a motion on your own or contact an attorney.

❖ **My order lays out a specific parenting time schedule. I would like to change that schedule. What can I do?**

First, ask the other parent to agree to a change. If you agree, then both of you should sign the agreement, or otherwise prove to the court that you agree. The judge usually will sign an order that is based on the parents’ agreement. Remember that the agreement by itself is not enforceable; it must first be converted into a new court order.

If no agreement is possible, you may file a motion asking the court to order a new parenting time schedule. You may file the motion on your own, or have an attorney file it for you.

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

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

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

The Friend of the Court can only enforce the court’s written orders. If your court order does not say anything specific about transferring clothing or other personal items, try to work it out with the other parent directly or with help, such as Friend of the Court mediation services. If that is unsuccessful, you may file a motion requesting a new court

order that will require that clothing or other personal items be transferred along with your child before and after parenting time.

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

File a written complaint with the Friend of the Court. (See *Parenting Time Enforcement*.)

❖ **If I think that the other parent is under the influence of alcohol or drugs, do I have to let our child go with that other parent for scheduled parenting time?**

That is your decision as a parent. If you violate the court order in such a situation, you may have to explain your decision to the court at a “show cause” hearing held to decide whether you should be held in contempt of court for disobeying the parenting time order. That will be your opportunity to explain why your decision was in the best interests of the child. If the judge agrees, you will not be held in contempt or otherwise punished.

❖ **The other parent will not let me telephone my child. What can the Friend of the Court do?**

The Friend of the Court can only enforce the written orders of the court. If your court order does not provide for telephone calls, try to negotiate an agreement with the other parent. You may request Friend of the Court mediation or other methods of resolution. In addition, you may file a motion asking the court to modify the order to require that you be allowed to call your children.

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

Report your concerns to the Department of Human Services’ Child Protective Services Division in the county where the custodial parent and the child live. The Friend of the Court does not have the authority to investigate abuse or neglect allegations, nor can it remove children from the home of a person who commits or allows mistreatment. Only Child Protective Services can do that.

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

Parents must obey the court orders regardless of the child’s age and preferences. Each parent must try to promote a positive relationship between the child and the other parent. You may want to try the following:

- Work out a different arrangement with the other parent.
- Seek counseling for your child, yourself, or the other parent.
- Contact the Friend of the Court and request mediation.
- File a motion asking the court to change your parenting time order.

❖ **The other parent refuses to see our child. What can the Friend of the Court do?**

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

Support

A “support” order is any court order that requires a parent or ex-spouse to pay:

- Child support.
- Spousal support (formerly called “alimony”).
- Medical, dental, and other health care expenses.
- Confinement expenses (the mother’s childbirth costs and medial bills).
- Child care expenses.
- Educational expenses.

All support orders state an amount that is due on the first day of each month. Support is past due if not paid by the last day of the month. When an order takes effect on a day other than the first day of a month (or ends on a day other than the last day of the month), the support amount must be prorated for the partial month.

Support Investigations and Reports

The Friend of the Court is required to periodically review and order’s child support provisions, including health care. The Friend of the Court will ask the court to modify the order is a change is warranted. (See *Modification of a Support Order*.) As part of this periodic support review, the Friend of the Court may request information from a parent’s employer. That includes things like the parent’s address, social security number, date of birth, and the details of any dependent health care coverage that is available as a benefit of employment. If a court so directs, the Friend of the Court will, in addition to the periodic reviews summarized above, evaluate the current order’s support provisions and submit a written report and recommendation to the parents (or their attorneys) and the judge.

Child Support Formula

Michigan law requires that the child support formula be used by the Friend of the Court when recommending, and by judges when ordering, child support amounts. The Friend of the Court’s recommendation and the judge’s determination can only vary from the formula when there is clear reason, either in writing or on the court record, stating why use of the formula would be unfair or improper.

In Michigan, the child support formula considers both parents’ incomes when establishing or changing support.

Support Payment Procedure

Unless otherwise ordered, support payers must make their payments to the Michigan State Disbursement Unit (MiSDU).

When a payment received by the MiSDU sufficiently identifies the person to whom the support should be paid, the MiSDU will forward the money to the recipient within two business days.

In most cases, support payments are automatically withheld from a payer's wages. If you pay MiSDU directly, please write your case number on your check. Do not send cash through the mail.

Once a year, on written request, the Friend of the Court will give the parties a free statement of their support account.

Statutory Service Fees

Michigan law requires the Friend of the Court to charge the support payer an annual service fee, currently \$42 per year.

Surcharge on Overdue Support

Surcharges are added on January 1 and July 1 each year. The surcharge equals the average interest rate on money judgments, plus one percent. If the support payer has paid 90 percent or more of the support that was due in the previous six months, no surcharge will be assessed. The court can also order that no surcharge be assessed, but a motion must be filed first.

Enforcement Methods

The Friend of the Court has several methods of collecting past due support. They include:

- **Immediate Income Withholding**

The Friend of the Court can require the support payer's employer (or other income source) to withhold some of the support payer's income and send the money to MiSDU. The payer will be notified before the income withholding starts. The payer has a right to challenge the income withholding at an administrative hearing. Also, the Friend of the Court can administratively adjust (usually by increasing) the income withholding, but the Friend of the Court office must first send the payer a notice of arrearage. The payer can object to the adjustment after receiving the notice of arrearage.

Most support orders entered or changed after December 30, 1990 must provide for income withholding even without showing that the support payer has missed payments or is likely to do so. A judge who does not want to require income withholding must find "good cause" for departing from the general rule. Good cause exists when:

All of the following exists:

- The court makes a specific written finding that income withholding is not in the best interests of the child;
- All previously ordered support has been paid on time; and
- The payer agrees to keep the Friend of the Court informed of the name, address, and telephone number of his/her current source of income, and about any health care coverage offered by the payer's employer or coverage that the payer purchases directly from a health insurer.

Or:

- Both parties and the court agree that income withholding will not take effect immediately because a satisfactory alternative payment arrangement has been made. Even in this situation, the payer must keep the Friend of the Court informed of the name, address, and telephone number of his/her current source of income, and about any health care coverage offered by the payer's employer or coverage that the payer purchases directly from a health insurer.

- **Contempt of Court (Show Cause Hearing)**

If support is not paid on time, the Friend of the Court or a party may begin a contempt action against the payer. The court will order the payer to appear in court and “show cause” why the court should not find the payer “in contempt of court.”

If the court finds the payer in contempt, the court may require a payment toward child support or commit the payer to jail.

If a payer does not appear for a “show cause” hearing, the judge may issue a bench warrant for the payer's arrest so that (s)he may be brought before the court. Effective January 1, 1997, in most cases the court may order the payer to pay costs associated with the issuance of the bench warrant, including those of arrest and further proceedings.

Once a bench warrant is issued, the duty to arrest usually lies with local law enforcement agencies. A bench warrant issued for failure to appear for a contempt of court hearing is only valid within the state of Michigan.

- **Income Tax Intercept**

If child support is overdue and the case otherwise satisfies certain statutory requirements, an income tax “intercept” automatically occurs by the statewide Child Support System. In such cases, any tax refund to which the support payer is entitled will be applied to pay past due support. For more information about tax intercepts, see “*Tax Refund Offset Program*” (PSA 13) at:

[http://courts.michigan.gov/scao/resources/publications/pamphlets/Friend of the Court/psa13.pdf](http://courts.michigan.gov/scao/resources/publications/pamphlets/Friend%20of%20the%20Court/psa13.pdf).

- **License Suspension**

For payers with an arrearage of two or more months of support, the Friend of the Court may initiate action to have occupational or drivers' licenses suspended. A payer can avoid a license suspension by showing that there is a mistake regarding the amount of arrearage or entering into an agreement accepted by the court for the payment of the arrearage.

- **Criminal Nonpayment of Support**

Under federal and Michigan law, failing to pay child support may be a felony criminal offense. The Friend of the Court does not have the authority to bring felony charges. Charges based on Michigan law are filed and prosecuted by county prosecutors or the Attorney General. Federal charges are filed and prosecuted by the United States Attorney's Office.

- **Health Care Enforcement**

The court may order one or both parents to provide health insurance coverage for the children. If the court orders a parent to obtain available health insurance coverage from an employer and the parent fails to do so, the Friend of the Court will send as medical support notice to the parent's employer. The employer then must enroll the employee's children in the employer's plan and deduct the premiums from the employee's wages.

Some health care expenses are not covered by typical health care plans. Therefore, the court's support order will also require each parent to pay a percentage of those "noncovered expenses." As of October 1, 2004, some support orders will require that some of the noncovered health care expenses be included with the child support payment and paid in advance. Those noncovered expenses are often referred to as "ordinary health care expenses." Ordinary health care expenses include things such as co-payments, deductibles, and over the counter expenses. The Friend of the Court will help collect the other parent's share of those noncovered medical expenses if the following four conditions are satisfied:

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

If the Friend of the Court receives a parent's request that meets those four requirements, the Friend of the Court will notify the other parent that, if no objection is filed within 21 days, the unpaid amount will become a support arrearage and subject to any of the enforcement processes summarized earlier. If an objection is filed, the Friend of the Court must schedule a court hearing to decide who is responsible for the amount that the health insurer did not pay.

Modification of a Child Support Order

The Friend of the Court will review child support orders automatically every 36 months if the child or one of the parents is receiving public assistance. In other cases, the Friend of the Court will conduct a review on written request by a party, but not more than once every 36 months. If you need an immediate change in the support amount because of a change in your income or the other party's income, you should file a court motion requesting the change. Simply notifying the Friend of the Court that one parent's financial situation has changed cannot automatically change the ordered support amount.

Threshold for a Friend of the Court Motion to Modify the Support Order

The Friend of the Court will ask the court to change the required monthly support payment if the difference between the current support amount and the amount determined by the standard child support formula (using the parties' most recent income data) is at least 10 percent or \$25 per month, whichever is less. If the difference between the current support amount and the current formula amount is less than that minimum threshold, the Friend of the Court is not required to request a change.

Party's Motion to Modify the Support Order

A party may file a motion to change the support order. The Friend of the Court will provide forms and instructions to any party who wishes to file this type of motion without the assistance of an attorney. Alternatively, a party may hire an attorney to file a modification motion.

Agreement to Modify the Support Order

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

Non-Retroactive Modification of Support

Michigan law seldom allows for retroactive modification of child support.

If your financial situation changes, you should immediately file a petition for a change in the support amount. Simply notifying the Friend of the Court of a change in either party's financial situation does not change the court order.

The court may modify support retroactively where a party knowingly and intentionally fails to report, refuses to report, or knowingly misrepresents income that was required by the court to be reported to the Friend of the Court.

Child Support Questions and Answers

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

Child support can continue up to age 19 ½ if the child attends high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate and the child continues to reside on a full-time basis with the person who receives the support payments.

❖ **If I have been paying child support as required by the court's order but the custodial parent will not allow me the parenting time required by that order, do I have to keep paying support?**

Yes. An order's parenting time and child support provisions are enforced separately. (See *Parenting Time Enforcement*.)

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

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

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

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

❖ **If I am receiving TANF or Family Independence Program (FIP) public assistance, may I also receive child support?**

No. In that situation, the MiSDU must send any support payments that it receives from the other parent to the Department of Human Services to offset the public assistance that you received.

❖ **Will FRIEND OF THE COURT make sure that child support money is spent on the child?**

No. The law does not authorize the Friend of the Court to investigate how the custodial parent spends child support payments. However, the court may change the custody or support arrangements if you can show that the custodial parent has neglected the child's needs.

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

The support amount is determined by the standard child support formula, which considers the parties' incomes. The Friend of the Court is required to initiate a review within 14 days of receiving notice that a parent has been incarcerated or released from incarceration.

Miscellaneous Issues

Change of Domicile/Change of Legal Residence

- **How do I get the court's approval to change the child's residence to a place not allowed by my current order?**

Parties may agree to a change of residence (domicile) by signing an agreement (stipulation). This stipulation must be put in the form of an order and signed by the judge. If then becomes an order of the court. If you and the other parent cannot agree on the proposed change of domicile, you may:

- Try mediation through the Friend of the Court; or
- File a motion that asks the court to enter an order approving the change.

Notifying the Friend of the Court that you intend to move the children (or merely *filing* a motion requesting the court's approval) does not allow you to move your children. You must obtain a court order approving the move.

Enforcement of Judge's Oral Ruling

- **Why won't the Friend of the Court enforce what the judge said in court, even if it's not in the written order?**

The Friend of the Court's authority is limited to enforcing *written* orders.

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

Property Settlement

- **Can the Friend of the Court enforce property settlement provisions in my judgment of divorce?**

No. The Friend of the Court has no authority to enforce the court's property-division order. The court itself will enforce that order. If the other party does not comply with an order, you may file a motion asking the court to enforce the other.

Access to Friend of the Court Records

- **I want to review my Friend of the Court file. How can I request this?**
A Friend of the Court file is not a matter of public information. Parties, or their attorneys, must be given access to all information in their Friend of the Court records that is not confidential.

Confidential information is defined by the Michigan Rules of the Court. “Confidential Information” means:

- a) Staff notes from investigations, mediation sessions and settlement conferences;
- b) Department of Social Services protective services reports;
- c) Formal mediation records;
- d) Communications from minors;
- e) Friend of the Court grievances filed by the other party;
- f) A party’s address or other information if release is prohibited by court order; and
- g) All information classified as confidential by Title IV-D of the Social Security Act.

The Friend of the Court charge for copying any record is \$1.00 per page.

If the Friend of the Court denies you access to records regarding your case, you may file a motion with the court for an order of access.

Access to Other Records

- **May I see my child’s school, medical, and other records if my child lives with the other parent?**
Michigan law gives both parents the right to see certain records, regardless of the custody arrangement, including medical, dental, school, and day-care records. In addition, both parents are entitled to receive advance notice of meetings that concern their child’s education. However, the Friend of the Court cannot enforce that law. You may wish to consult an attorney if you are denied any of those rights.

Adoptions, Marriages, and Military Enlistments: How They Affect Child Support

- **What happens to my child support order if my minor child is adopted, marries, or enters the military service?**
When any of those “emancipating events” occur, the court will grant a motion ending the obligation to pay further child support. Copies of adoption orders, marriage records, or military service records should be provided to the court. Any overdue support must still be paid.

Parent Locator

- **Will the Friend of the Court help find a missing parent?**

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

- Collect child support.
- Obtain a court order on child custody or parenting time matters, or enforce an existing order of either type.
- Enforce state or federal law prohibiting the unlawful taking or restraint of a child.

When using the parent locator service, the following information is very helpful:

- The missing parent's full name, date of birth, and social security number.
- The missing parent's last known address.

Complaints

Friend of the Court

- **How do I file a complaint about the Friend of the Court?**

The Friend of the Court Act provides a grievance procedure for complaints about the Friend of the Court operations or employees. A grievance cannot be used to object to a Friend of the Court recommendation, or to disagree with the decision of a judge.

You can file a grievance by:

- a) Filing a grievance form, which you can get from your Friend of the Court office; or
- b) Stating your concerns in a letter to the Friend of the Court and clearly identifying your letter as a grievance.

Within 30 days, the Friend of the Court must investigate and respond or issue a statement explaining why a response is not possible within that time.

If you are not satisfied with the response of the Friend of the Court, you may file the same grievance with the chief circuit court judge.

The chief circuit court judge also is required to investigate and respond to your grievance within 30 days unless a statement is issued explaining why a response is not possible within that time.

Court Order

- **How do I file a grievance about my court order?**

Court orders are not covered under the Friend of the Court Act grievance procedure.

If you are represented, discuss your legal options with your attorney. Options include filing a motion for a rehearing or filing an appeal.

Judge

- **How do I file a complaint about the conduct of a judge?**

The Judicial Tenure Commission reviews complaints about judges.

Complaints concerning your court orders should not be sent to the Judicial Tenure Commission. It is not an appellate court and cannot change the content of a court order. If you have a complaint about the conduct of a judge, contact:

Judicial Tenure Commission
1410 Comerica Building
211 West Fort Street
Detroit, Michigan 48226
(313)256-9104

Attorney

- **How do I file a complaint about my attorney?**

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

Attorney Grievance Commission
Marquette Building, Suite 256
243 West Congress Street
Detroit, Michigan 48226
(313)961-6585

Other Local Human/Social Services Agencies

A list of local human service and social service organizations is published in the local telephone directory.

Glossary of Frequently Used Terms

Adjournment- Postponing a hearing until a later time or date.

Affidavit- A person’s written statement of fact verified by that person’s oath or affirmation sworn before a notary public.

Alimony- See spousal support.

Arrearage- The total of support payments that is overdue.

Bench Warrant- A court order to arrest a person and bring that person before the court that issued the bench warrant.

Chief Judge- In courts with two or more judges, one judge is selected as chief judge. The chief judge administers the court.

Department of Human Services (DHS)- The state agency that provides public assistance to families. The Child Protective Services and the Office of Child Support are divisions of DHS.

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

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

Evidence- The testimony of a witness, documents, or other items presented to a court to prove a fact.

Family Division of Circuit Court- The division of circuit court that hears domestic relations and juvenile cases.

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

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

- **Joint Legal Custody:** The child lives primarily with one parent, although both parents participate in major decisions affecting the child.
- **Joint Physical Custody:** The children live with each parent for extended periods.

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

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

Order- The written and signed decision of the court.

Party- A lawsuit's plaintiff or defendant.

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

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

Petition- See motion.

Pleadings- Papers filed with a court by a party to a lawsuit. Pleadings state claims against the other party or state the other party's defenses to claims.

Reconciliation- When parties to a domestic relations action work out their differences and decide to remain together as a family unit.

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

Spousal Support- The money paid to support a spouse or former spouse. Formerly known as "alimony."

State Disbursement Unit- The state office that receives and distributes the support payments required by court orders.

Statute of Limitations- The statute that sets the time limit for seeking relief from a court. Different types of claims are subject to different statutory deadlines for starting a lawsuit.

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

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

Waive- To give up a right, claim, or privilege.