

***INGHAM COUNTY FRIEND OF THE COURT***

***2010 BENCH BAR CONFERENCE***



Shauna Dunnings  
Deputy Court Administrator  
Ingham County Friend of the Court

Robert Hotchkiss  
Assistant Friend of the Court/Legal

## Overview of excerpts of the new Legislation amending the Friend of the Court Act and the Support and Parenting Time Enforcement Act

Legislation amending the Friend of the Court Act and the Support and Parenting Time Enforcement Act were recently enacted. See Public Acts 193, 194, and 233-239.

This outline is not an exhaustive overview of the new legislation.

I. **Public Act 233 of 2009 (SB 99), effective 1/8/10:** This bill amends the Friend of the Court Act (MCL 552.501 et. Seq):

1. Added language clarifying that the County may be a recipient of support  
"If The Minor Is In County-Supported Foster Care."

### **MCL 552.502a(e)(iv).**

2. Expanding the Friend of the Court's obligation to provide form motions, responses and orders to include those associated with payment plans and for modifying the domicile and residency provisions of custody and/or parenting time order. The SCAO is required to promulgate the forms.

(d) To make available ~~to an individual~~ form motions, responses, and orders ~~for requesting the court to modify the individual's~~ **TO BE USED BY A PARTY, WITHOUT THE ASSISTANCE OF LEGAL COUNSEL, IN MAKING OR RESPONDING TO A MOTION FOR A PAYMENT PLAN UNDER SECTION 5E OF THE SUPPORT AND PARENTING TIME ENFORCEMENT ACT, MCL 552.605E, OR FOR THE MODIFICATION OF A** child support, custody, or parenting time order, ~~or for responding to a motion for such a modification, without assistance of legal counsel~~ **INCLUDING A DOMICILE OR RESIDENCE PROVISION.** The office shall make available instructions on preparing and filing each of those forms, ~~and instructions on service of process, and on scheduling a modification hearing.~~

### **MCL 552.505(1)(d)**

3. Recognizing case law with regard to custody changes, clarifying that custody change investigations by the FOC can be ordered by the court only if the court first finds proper cause or that there has been a change in circumstances.

(g) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court, regarding child custody or parenting time, or both, ~~if there is a dispute as to child custody or parenting time, or both, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court.~~ **IF CUSTODY HAS BEEN ESTABLISHED BY COURT ORDER, THE COURT SHALL ORDER AN INVESTIGATION ONLY IF THE COURT FIRST FINDS THAT PROPER CAUSE HAS BEEN SHOWN OR THAT THERE HAS BEEN A CHANGE OF CIRCUMSTANCES.** The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. A written report and recommendation regarding child custody or parenting time, or both, shall be based upon the factors enumerated in the child custody act of 1970, 1970 PA 91, MCL 722.21to 722.31.

**MCL 552.505(1)(g)**

4. Added a provision permitting the FOC to recover the actual costs of custody and/or parenting time investigation investigations requested by a party pursuant to State Court Administrative Office or Supreme Court standards. Provisions are made for whole or partial indigence or inability to pay waiver of any imposed assessment. Funds collected go to the FOC Fund for providing custody and parenting time services.

**(3) PURSUANT TO STANDARDS PRESCRIBED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT, THE OFFICE MAY CHARGE THE PARTIES AN AMOUNT THAT DOES NOT EXCEED THE EXPENSES OF THE OFFICE FOR CONDUCTING AN INVESTIGATION AND MAKING A REPORT AND RECOMMENDATION UNDER SUBSECTION (1)(G). IF THE COURT ORDERS A WHOLE OR PARTIAL WAIVER OR SUSPENSION OF FEES IN THE CASE BECAUSE OF INDIGENCY OR INABILITY TO PAY, THE OFFICE SHALL NOT CHARGE THE AMOUNT OR, IF APPLICABLE, SHALL REDUCE THE AMOUNT. AN AMOUNT SHALL NOT BE CHARGED UNDER THIS SUBSECTION IF THE INVESTIGATION WAS NOT REQUESTED BY EITHER PARTY. IF THE COURT DETERMINES THAT A REQUEST BY A PARTY THAT LED TO THE INVESTIGATION WAS FRIVOLOUS, THE COURT MAY ORDER THAT THE AMOUNT BE CHARGED ONLY AGAINST THE PARTY, BUT THE AMOUNT SHALL NOT BE CHARGED AGAINST THE OTHER PARTY. MONEY COLLECTED UNDER THIS SUBSECTION SHALL**

BE DEPOSITED IN THE COUNTY FRIEND OF THE COURT FUND CREATED UNDER SECTION 2530 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2530.

**MCL 552.505(3)**

5. Indicating that a party not longer has the right to meet with the FOC for support reviews.

(h) To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. . . The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. ~~If requested by a party, an investigation shall include a meeting with the party.~~ The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support.

**MCL 552.505(1)(h).**

6. Added language indicating that if a party applies for Friend of the Court services, the court may direct either the party or the FOC to prepare an order that contains the provisions required by this act and the support and parenting time enforcement act .

(7) If a party to a domestic relations matter for which there is not an open friend of the court case applies for services from the office of the friend of the court or applies for public assistance, the office of the friend of the court shall open or reopen a friend of the court case. If the office of the friend of the court opens or reopens a friend of the court case as required by this subsection, the court shall issue an order in that domestic relations matter that contains the provisions required by this act and by the support and parenting time enforcement act for a friend of the court case. **THE COURT MAY DIRECT THE PARTY MAKING THE APPLICATION OR THE FRIEND OF THE COURT TO PREPARE A WRITTEN ORDER AND SUBMIT IT FOR APPROVAL.**

**MCL 552.505a(7)**

7. Added a paragraph Including medical and food assistance as well as foster care as “public assistance” for purposes of whether or not a domestic relations case shall remain a FOC case.

(9) FOR PURPOSES OF THIS SECTION, A PARTY RECEIVES PUBLIC ASSISTANCE IF THE PARTY RECEIVES CASH ASSISTANCE PROVIDED UNDER THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.1 TO 400.119B, MEDICAL ASSISTANCE, OR FOOD ASSISTANCE OR IF FOSTER CARE IS BEING OR WAS PROVIDED TO A CHILD WHO IS THE SUBJECT OF THE CASE.

**MCL 552.505a(9)**

8. Added a paragraph indicating that the requirement to enforce health care expenses is subject to any minimum threshold established by SCAO or the Supreme Court.

(B) IF THE STATE COURT ADMINISTRATIVE OFFICE, UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT, ESTABLISHES A MINIMUM THRESHOLD FOR THE ENFORCEMENT OF HEALTH CARE EXPENSES, THE HEALTH CARE EXPENSE IS EQUAL TO OR GREATER THAN THE ESTABLISHED THRESHOLD.

**MCL 552.511a**

9. Replacing required Friend of the Court Domestic Relations Mediation of child custody and parenting time disputes with a requirement that each office establish Alternative Dispute Resolution plans in order to assist parties in voluntarily resolving child custody and parenting time disputes. Plans developed by the FOC must be approved by both the Chief Circuit Judge and the State Court Administrative Office and must be in accordance with SCAO standards.

Sec. 13. (1) ~~The~~ **IN A FRIEND OF THE COURT CASE, THE** office shall provide, either directly or by contract, ~~domestic relations mediation~~ **ALTERNATIVE DISPUTE RESOLUTION** to assist the parties in settling voluntarily a dispute concerning child custody or parenting time. ~~that arises in a friend of the court case.~~ **Parties** ~~THE ALTERNATIVE DISPUTE RESOLUTION SHALL BE PROVIDED PURSUANT TO A PLAN APPROVED BY THE CHIEF JUDGE AND THE STATE COURT ADMINISTRATIVE OFFICE. THE PLAN SHALL BE CONSISTENT WITH STANDARDS ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT AND SHALL INCLUDE MINIMUM QUALIFICATIONS AND TRAINING REQUIREMENTS FOR ALTERNATIVE DISPUTE RESOLUTION PROVIDERS AND A DESIGNATION OF MATTERS THAT ARE SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION BY VARIOUS MEANS. A PARTY shall not be required to meet with a~~

~~domestic relations mediator~~ **PERSON CONDUCTING ALTERNATIVE DISPUTE RESOLUTION**. The service may be provided directly by the office only if such a service is in place on July 1, 1983, if the service is not available from a private source, or if the court can demonstrate that providing the service within the friend of the court office is cost beneficial. Any expansion of existing services provided by the court on July 1 1983 shall be provided by an individual meeting the domestic relations mediator minimum qualifications listed under subsection (4).

(2) If an agreement is reached by the parties through ~~domestic relations mediation~~ **FRIEND OF THE COURT ALTERNATIVE DISPUTE RESOLUTION**, a consent order incorporating the agreement shall be prepared by an employee of the office ~~who is a member of the state bar of Michigan; under section 22, by a member of the state bar of Michigan; or by the attorney for 1 of the parties~~ **OR INDIVIDUAL APPROVED BY THE COURT USING A FORM PROVIDED BY THE STATE COURT ADMINISTRATIVE OFFICE, UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT, OR APPROVED BY THE CHIEF JUDGE**. The consent order shall be provided to, and shall be entered by, the court.

(3) Except as provided in subsection (2), a communication between a ~~domestic relations mediator~~ **FRIEND OF THE COURT ALTERNATIVE DISPUTE RESOLUTION PROVIDER** and a party ~~to a domestic relations mediation~~ **PERTAINING TO THE MATTER SUBJECT TO RESOLUTION** is confidential **AS PROVIDED IN COURT RULE**. ~~The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between the parties in the presence of the mediator.~~

(4) **AN EMPLOYEE OF THE OFFICE OR OTHER PERSON WHO PROVIDES ALTERNATIVE DISPUTE RESOLUTION SERVICES UNDER A PLAN APPROVED UNDER SUBSECTION (1) SHALL HAVE ALL OF THE FOLLOWING QUALIFICATIONS:**

(A) **POSSESS KNOWLEDGE OF THE COURT SYSTEM OF THIS STATE AND THE PROCEDURES USED IN DOMESTIC RELATIONS MATTERS.**

(B) **POSSESS KNOWLEDGE OF OTHER RESOURCES IN THE COMMUNITY TO WHICH THE PARTIES TO A DOMESTIC RELATIONS MATTER CAN BE REFERRED FOR ASSISTANCE.**

(C) **OTHER QUALIFICATIONS AS PRESCRIBED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT.**

(5) ~~(4)~~—A domestic relations mediator who performs mediation ~~under this act~~ **PURSUANT TO A PLAN APPROVED UNDER SUBSECTION (1)** shall have all of the following minimum qualifications:  
(THE QUALIFICATIONS WERE NOT MODIFIED)

Sec. 15. An employee of the office who ~~performs domestic relations mediation~~ **PROVIDES ALTERNATIVE DISPUTE RESOLUTION** in a friend of the court case involving a particular party shall not perform referee functions, investigation and recommendation functions, or enforcement functions as to any domestic relations matter involving that party.

10. The review and modification of support orders section MCL 552.517 was renumbered.

MCL 552.517(1)(b) is now MCL 552.517 (F)

MCL 552.517(1)(c) is now MCL 552.517(E)

Additionally the statute allows support to be reviewed if the “order was based on incorrect facts.” MCL 552.517(1)(F)(v)

**II. Public Act 193 of 2009 (SB 100), effective 12/28/09:** This bill amends the Support and Parenting Time Enforcement Act by:

1. Includes a labor organization as a “source of income.”

(BB) ~~(ee)~~—“Source of income” means an employer or successor employer, **A LABOR ORGANIZATION**, or another individual or entity that owes or will owe income to the payer.

MCL 552.602(BB)

2. Clarifying that no further action is needed to reduce support to a final judgment.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter is a judgment on and after the date the support amount is due as prescribed in section 5c, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. **NO ADDITIONAL ACTION IS NECESSARY TO REDUCE SUPPORT TO A FINAL JUDGMENT.** Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or

recipient of support.  
MCL 552.603

3. Added a paragraph clarifying requirements for a dependent health care coverage notice.

**C) NOTICE THAT AN ORDER FOR DEPENDENT HEALTH CARE COVERAGE TAKES EFFECT IMMEDIATELY AND THAT, IN A FRIEND OF THE COURT CASE, A NATIONAL MEDICAL SUPPORT NOTICE WILL BE SENT TO THE PARENT'S CURRENT AND SUBSEQUENT EMPLOYERS AND INSURERS IF APPROPRIATE. THE NOTICE SHALL INFORM THE PARENT THAT HE OR SHE MAY CONTEST THE ACTION BY REQUESTING A REVIEW OR HEARING CONCERNING AVAILABILITY OF HEALTH CARE COVERAGE AT A REASONABLE COST.**

MCL 552.603 (c)

4. Modification of provisions regarding keeping the FOC informed of addresses, licenses, phone numbers, and sources of income. Imposition of fines for failure to provide the information, and relieving FOC of responsibility to provide certain types of notice if mail is returned from the last known address.

These changes are intended to reinforce each party's individual responsibilities and to reduce costs attributed to sending notices and process to known bad addresses and to encourage greater personal responsibility of the parties to comply with statutory requirements.

(7) ~~Each~~ **A** support order that is an order in a friend of the court case shall ~~include~~ **REQUIRE EACH PARTY TO PROVIDE** all of the following **INFORMATION TO THE FRIEND OF THE COURT IN WRITING:**

~~(a) A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that individual report the new address and his or her telephone number in writing to the friend of the court.~~ **A SINGLE MAILING ADDRESS FOR THE PARTY, TO WHICH ALL NOTICES AND PAPERS IN THE CASE WILL BE SERVED.**

**(B) THE PARTY'S RESIDENTIAL ADDRESS.**

**(C) THE PARTY'S TELEPHONE NUMBER.**

~~(D) (b) A requirement that both~~ **STATEMENT OF WHETHER** the payer and ~~OR payee notify the office of the friend of the court if~~

~~he or she holds an occupational license, and if he or she holds a driver's license, OR RECREATIONAL LICENSE.~~

~~(E) (c) The name, address, and telephone number **NAMES, ADDRESSES, AND TELEPHONE NUMBERS** of the payer's and payee's current sources of income.~~

~~(F) (d) A requirement that both the payer and payee inform the office of the friend of the court of his or her **THE PAYER'S AND PAYEE'S** social security number **NUMBERS** and driver's license number **NUMBERS**. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.~~

~~(e) Notice that an order for dependent health care coverage takes effect immediately and will be sent to the parent's current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.~~

**(8) A SUPPORT ORDER THAT IS AN ORDER IN A FRIEND OF THE COURT CASE SHALL INCLUDE A REQUIREMENT THAT IF ANY OF THE INFORMATION PROVIDED TO THE FRIEND OF THE COURT UNDER SUBSECTION (7) CHANGES, EACH PARTY SHALL NOTIFY THE FRIEND OF THE COURT OF THE NEW INFORMATION WITHIN 21 DAYS AFTER THE CHANGE AND THAT A FAILURE TO PROVIDE THE NEW INFORMATION MAY SUBJECT THE PARTY TO IMPOSITION OF A FEE UNDER SUBSECTION (12). A NOTICE OF NEW INFORMATION UNDER THIS SUBSECTION SHALL BE IN WRITING OR BY ANY OTHER METHOD ALLOWED UNDER GUIDELINES ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT.**

**(9) EXCEPT AS PROVIDED IN SECTIONS 11 AND 25A, SERVICE OF NOTICES OR OTHER PAPERS UNDER THIS ACT AND UNDER THE FRIEND OF THE COURT ACT SHALL BE MADE BY FIRST-CLASS MAIL, POSTAGE PREPAID. IF MAIL IS RETURNED AS UNDELIVERABLE FROM THAT ADDRESS, THE FRIEND OF THE COURT MAY CHANGE THE ADDRESS PURSUANT TO GUIDELINES ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE OR THE SUPREME COURT.**

**(10) UNLESS FEDERAL LAW OR REGULATION REQUIRES OTHERWISE, IF MAIL SERVED UNDER SUBSECTION (9) IS RETURNED FROM AN ADDRESS AND A NEW ADDRESS HAS NOT BEEN ESTABLISHED WITHIN 21 DAYS AFTER THE MAIL IS RETURNED, THE PARTY WAIVES HIS OR HER RIGHT TO NOTICE AND THE FRIEND OF THE COURT IS NOT OBLIGATED TO**

SERVE ANY NOTICE OR OTHER PAPER UNTIL THE PARTY SUBMITS A WRITTEN CHANGE OF ADDRESS TO THE FRIEND OF THE COURT OR UNTIL THE FRIEND OF THE COURT HAS CHANGED THE ADDRESS PURSUANT TO SUBSECTION (9).

(12) IF A PERSON FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE COURT MAY IMPOSE A FEE SET PURSUANT TO A POLICY ESTABLISHED BY THE STATE COURT ADMINISTRATIVE OFFICE UNDER THE SUPERVISION AND DIRECTION OF THE SUPREME COURT. A FEE ORDERED UNDER THIS SUBDIVISION SHALL BE DEPOSITED IN THE FRIEND OF THE COURT FUND CREATED IN SECTION 2530 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2530.

#### **MCL 552.603(7)**

5. Clarifies that MiSDU and MiCSES records are prima facie authentic in proceedings to enforce support and are thus admissible as evidence without need for further authentication.

13) IN A PROCEEDING TO ENFORCE SUPPORT, A REPORT, RECORD, OR INFORMATION FROM THE MICHIGAN CHILD SUPPORT ENFORCEMENT SYSTEM OR THE SUPPORT DISBURSEMENT UNIT THAT RELATES TO PAID OR UNPAID SUPPORT IS PRIMA FACIE AUTHENTIC AND MAY BE ADMITTED INTO EVIDENCE WITHOUT EXTRINSIC EVIDENCE OF AUTHENTICITY.

#### **MCL 552.603 (13)**

6. **Effective 12/31/09**, eliminates the AUTOMATIC twice per year surcharge assessment for past due support in all current and future support orders. Instead, a court MAY order a surcharge applied by determination that the payer willfully failed to comply with the support order. Any court ordered surcharge may not begin before 1/1/11.

Sec. 3a. (1) ~~For~~ **SUBJECT TO SUBSECTION (6), FOR** a friend of the court case, ~~as of~~ **IF THE COURT DETERMINES THAT THE PAYER HAS FAILED TO PAY SUPPORT UNDER A SUPPORT ORDER AND THE FAILURE WAS WILLFUL, THE COURT MAY ORDER THAT ON** January 1 and July 1 of each year, a surcharge shall be added to support payments that are past due as of those dates. The surcharge shall be calculated at 6-month intervals at an annual rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer. The amount of the surcharge shall not compound. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 1 month's

support for purposes of assessing the surcharge. ~~A surcharge under this subsection shall not be added to support ordered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the time period to the date of the support order.~~ **EXCEPT AS PROVIDED IN SUBSECTION(5), A SURCHARGE ORDERED BY THE COURT APPLIES UNTIL ABATED BY THE COURT.**

**(5) A SURCHARGE ORDERED UNDER THIS SECTION IN AN ORDER ENTERED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IS TERMINATED ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. ANOTHER SURCHARGE SHALL NOT BE ORDERED IN THE ACTION UNLESS THE SURCHARGE IS ORDERED BY THE COURT UNDER SUBSECTION (1).**

**(6) AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, A COURT SHALL NOT ORDER THAT A SURCHARGE UNDER SUBSECTION (1) BE ADDED BEFORE JANUARY 1, 2011.**

**MCL 552.603a**

7. Added a provision that indicates a support order must specify a specific termination date which must be the last day of a month rather than reference to graduation.

**(3) A SUPPORT ORDER ENTERED UNDER THIS SECTION SHALL INCLUDE A PROVISION THAT THE SUPPORT TERMINATES ON THE LAST DAY OF A SPECIFIED MONTH, REGARDLESS OF THE ACTUAL GRADUATION DATE.**

**MCL 552.605b (3)**

8. Clarifying that, effective 1 year after the effective date of the Act 193 which would be 12/08/10, if a payer is due a refund as a result of an abatement of support and there is undistributed money available, after applying the money to any other past due amount owed by the payer, any remainder is to be refunded to the payer and is not subject to the one month general holding requirement. (M)

**(5) AFTER 1 YEAR AFTER THE DATE THE AMENDATORY ACT THAT ADDED THIS SUBSECTION IS ENACTED INTO LAW, IF A PAYER HAS PAID MONEY THAT HAS NOT BEEN DISBURSED TO THE PAYEE AND THE PAYER IS ENTITLED TO A REFUND OF ALL OR A PORTION OF THE MONEY BECAUSE SUPPORT HAS BEEN ABATED IN WHOLE OR IN PART, THE REFUND SHALL BE APPLIED FIRST TO ANY SUPPORT PAST DUE IN THE**

**CASE AND THEN TO ANY PAST DUE SUPPORT THE PAYER OWES IN ANOTHER CASE. ANY BALANCE AFTER THE APPLICATION OF THE MONEY TO SUPPORT ARREARAGES SHALL BE REFUNDED TO THE PAYER.**

MCL 552. 605c

9. Clarifying provisions relating to assignment and redirection of support in the event of county funded foster care consistent with amendments made to the FOC Act.

**(B) IF A CHILD FOR WHOM SUPPORT IS PAYABLE UNDER THE ORDER IS UNDER COURT JURISDICTION AND IS PLACED IN COUNTY-FUNDED FOSTER CARE, THAT SUPPORT PAYABLE UNDER THE ORDER IS ASSIGNED TO THE FUNDING COUNTY.**

MCL 552.605d

10. Eliminating reference to an amnesty plan which was undertaken several years ago.

**(1) A payer who has an arrearage under a support order may seek relief from the arrearage by complying with the amnesty under section 3b of the office of child support act, 1971 PA 174, MCL 400.233b, or by filing FILE a motion with the circuit court for a payment plan to pay arrearages and to discharge or abate arrearages.**

MCL 552.605e

11. Eliminating sending a copy of the income withholding notice to the support recipient since the recipient is not permitted to object to such notices. This change will reduce processing and mailing expenses plus inquiry phone calls. (M)(S)(Forms)

**(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.**

**MCL 552.607 (2).**

12. Effective **90 days after the effective date of PA 193 which would be 3/28/10** limits employer withholding to a maximum of 50% of the payer's disposable income.

~~Sec. 8. The total amount of income withheld under this act under all orders to withhold income for current support, past due support, fees, and health care coverage premiums effective against a payer shall not exceed the maximum amount permitted under section 303(b) of title III of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1673~~ **50% OF THE**

**PAYER'S DISPOSABLE EARNINGS AS THAT TERM IS DEFINED IN 15 USC 1672.**

MCL 552.608

13. Requiring that labor organizations that assign a member to work shall forward a copy of an income withholding notice served on them to the actual employer.

Sec. 9. (1) A notice of income withholding entered under this act shall be served on sources of income as provided in section 11. ~~The~~ **A LABOR ORGANIZATION THAT ASSIGNS A MEMBER TO WORK SHALL FORWARD A COPY OF AN INCOME WITHHOLDING NOTICE SERVED ON THE LABOR ORGANIZATION TO THE ACTUAL EMPLOYER.**

MCL 552.609

*14. Updating license suspension process to reflect the notice and objection process applicable to support review and imposition of other non incarceration sanctions. Provides for FOC issuance of a "compliance certification" to payer which permits reinstatement of a suspended license without the payer having to petition the court and obtain an order. MCL 552.628, 629, 630, 631, 633.*

Sec. 28. (1) For a friend of the court case, ~~the office of the friend of the court may petition the court for an order to suspend~~ payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, **MAY BE SUSPENDED** if all of the following circumstances are true:

(a) An arrearage has accrued in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

~~(b) The payer holds an occupational license, driver's license, or recreational or sporting license or the payer's occupation requires an occupational license.~~

(B) ~~(c)~~ An order of income withholding is not applicable or has been unsuccessful in assuring regular payments on the support obligation and regular payments on the arrearage.

**(2) ~~An~~ BEFORE SEEKING THE SUSPENSION OF A LICENSE DESCRIBED IN SUBSECTION (1), AN** office of the friend of the court shall ~~not file a petition as authorized under subsection (1) unless the office sends~~ **SEND** the payer a notice that includes all of the following information:

(a) The amount of the arrearage.

(b) That the payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, may be subject to ~~an order of~~ suspension.

(c) That ~~the~~ A suspension order **OR NOTICE** will be ~~entered and~~ sent to the licensing agency unless the

payer responds by paying the arrearage or requesting a hearing within 21 days after the date of mailing the notice.

(d) That, ~~at the~~ IF A hearing **IS REQUESTED**, the payer may do either of the following **AT THE HEARING**:

(i) Object to the proposed suspension based on a mistake of fact concerning the overdue support amount or the payer's identity.

(ii) ~~Suggest to~~ **ASK** the court **TO ORDER** a schedule for the payment of the arrearage.

(e) That, if the payer believes that the amount of support ordered should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

Sec. 29. (1) Within 21 days after the date on which ~~the~~ A notice described in section 28 is mailed to a payer, the payer may request a hearing on the proposed suspension. If the payer requests a hearing within that time, ~~entry of the~~ A suspension order shall ~~be delayed~~ **NOT BE ENTERED AND A SUSPENSION NOTICE SHALL NOT BE SENT** pending the outcome of the hearing.

(3) If, **AFTER A HEARING UNDER THIS SECTION**, the court determines that the payer has accrued an arrearage on his or her support order and that the payer has, or could by the exercise of due diligence have, the capacity to pay all or some portion of the amount due, the court shall order the payment of the arrearage, **AS REASONABLE**, in 1 or more scheduled installments of a sum certain.

(4) After 21 days after the date on which ~~the~~ A notice described in section 28 is sent, the **FRIEND OF THE COURT SHALL NOTIFY THE SECRETARY OF STATE IF THE PAYER HAS FAILED TO REQUEST OR ATTEND A HEARING ON THE PROPOSED SUSPENSION OR PAY THE ARREARAGE IN FULL. ON RECEIVING THE NOTICE FROM THE FRIEND OF THE COURT, THE SECRETARY OF STATE SHALL SUSPEND THE PAYER'S DRIVER'S LICENSE AS PROVIDED IN SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.321C.**

(5) **THE** court may order the suspension of the payer's occupational license, ~~driver's license~~, or recreational or sporting license, or any combination of the licenses included in the notice under section 28, under either of the following circumstances:

(b) The **COURT DETERMINES AFTER A HEARING THAT THE** payer ~~fails~~ **HAS FAILED** to comply with an arrearage payment schedule ordered under this section.

**(6) IF A COURT DETERMINES THAT A PAYER HAS FAILED TO COMPLY WITH AN ARREARAGE PAYMENT SCHEDULE ORDERED UNDER THIS SECTION, THE COURT MAY DIRECT THE FRIEND OF THE COURT TO NOTIFY THE SECRETARY OF STATE OF THE FAILURE. ON RECEIVING THE NOTICE FROM THE FRIEND OF THE COURT, THE SECRETARY OF STATE SHALL SUSPEND THE PAYER'S DRIVER'S LICENSE AS PROVIDED IN SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.321C.**

Sec. 30. (1) If the court orders a suspension of an occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, under section 29, 33, 35, or 45, the order shall indicate

that the licensing agency shall suspend the license within 7 business days after receipt of the suspension order, **OR SOONER IF REQUIRED BY THE ACT THAT AUTHORIZES THE LICENSING AGENCY TO SUSPEND THE LICENSE.** The office of the friend of the court shall send a copy of the suspension order to the licensing agency. ~~If the payer is the subject of a suspension order under section 29 and has failed to respond in any manner to the notice given under section 28, the office of the friend of the court shall not send the suspension order to the licensing agency until at least 14 days after the date the office first attempts service of a copy of the order on the payer by personal service or by registered or certified mail, return receipt requested, with delivery restricted to the payer.~~

(2) After ~~entry of~~ a suspension order **IS ENTERED OR AFTER A SUSPENSION** under section 29, a payer may agree to and the court may order a **REASONABLE** schedule for the payment of the arrearage. If the court orders a schedule for payment of the arrearage, the **COURT OR THE FRIEND OF THE COURT, AS APPLICABLE, SHALL DO THE FOLLOWING:**

(A) **THE** court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, ~~section 321e of the Michigan vehicle code, 1949 PA 300, MCL 257.321e,~~ or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. If a suspension order has been sent, within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

(B) **THE FRIEND OF THE COURT, ON VERIFICATION BY THE CLERK OF THE COURT THAT THE DRIVER'S LICENSE CLEARANCE FEE REQUIRED BY SECTION 321C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.321C, HAS BEEN PAID, SHALL PROVIDE A CERTIFICATE TO THE PAYER STATING THAT THE PAYER IS IN COMPLIANCE WITH THE SUPPORT ORDER.**

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court shall do 1 or more of the following:

- (a) Find the payer in contempt for failure to appear.
- (b) Find the payer in contempt for the reasons stated in the motion for the show cause hearing.
- (c) Apply an enforcement remedy authorized under this act or the friend of the court act for the nonpayment of support, **INCLUDING SUSPENDING THE PAYER'S OCCUPATIONAL LICENSE, DRIVER'S LICENSE, OR RECREATIONAL OR SPORTING LICENSE.**
- (d) Issue a bench warrant for the payer's arrest requiring that the payer be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.
- (e) Adjourn the hearing.
- (f) Dismiss the order to show cause if the court determines that the payer is not in contempt.

**(G) ENTER AN ORDER THAT A LAW ENFORCEMENT AGENCY RENDER ANY VEHICLE OWNED BY THE PAYER TEMPORARILY INOPERABLE, BY BOOTING OR ANOTHER SIMILAR METHOD, SUBJECT TO RELEASE ON DEPOSIT OF AN APPROPRIATE BOND.**

**(H) PLACE THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR MORE OF THE FOLLOWING:**

**(i) PARTICIPATING IN A PARENTING PROGRAM.**

**(ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.**

**(iii) PARTICIPATING IN A WORK PROGRAM.**

**(iv) SEEKING EMPLOYMENT.**

**(v) PARTICIPATING IN OTHER COUNSELING.**

**(vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING TIME ORDER.**

**(vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT PLAN.**

(3) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, **THE** issuance of the warrant, **THE** arrest, and ~~further~~ **ANY LATER** hearings. Those costs and costs ordered for failure to appear under section 32 or 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order ~~doing~~ **THAT DOES** 1 or more of the following:

(a) ~~Committing~~ **COMMITTS** the payer to the county jail **OR AN ALTERNATIVE TO JAIL.**

(b) ~~Committing~~ **COMMITTS** the payer to the county jail **OR AN ALTERNATIVE TO JAIL** with the privilege of leaving the jail **OR OTHER PLACE OF DETENTION** during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.

(c) ~~Committing~~ **COMMITTS** the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.

(d) If the payer holds an occupational license, driver's license, or recreational or sporting license, ~~conditioning~~ **CONDITIONS** a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

*15. Adds as permissible additional sanctions for failure to appear for a show cause hearing the following: suspension of occupational, driver's and/or recreational/sporting licenses; "booting" of a vehicle owned by payer; ordering the respondent to be under the supervision of the FOC office with certain conditions enumerated in the law.*

*MCL 552.631*

**(G) ENTER AN ORDER THAT A LAW ENFORCEMENT AGENCY RENDER ANY VEHICLE OWNED BY THE PAYER TEMPORARILY INOPERABLE, BY BOOTING OR ANOTHER SIMILAR METHOD, SUBJECT TO RELEASE ON DEPOSIT OF AN APPROPRIATE BOND.**

**(H) PLACE THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR MORE OF THE FOLLOWING:**

**(i) PARTICIPATING IN A PARENTING PROGRAM.**

**(ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.**

**(iii) PARTICIPATING IN A WORK PROGRAM.**

**(iv) SEEKING EMPLOYMENT.**

**(v) PARTICIPATING IN OTHER COUNSELING.**

**(vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING TIME ORDER.**

**(vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT PLAN.** (g) Except as provided by federal law and regulations, ~~ordering~~ **ORDERS** the parent to pay a fine of not more than \$100.00. A fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

**(H) PLACES THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR MORE OF THE FOLLOWING:**

**(i) PARTICIPATING IN A PARENTING PROGRAM.**

- (ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.
- (iii) PARTICIPATING IN A WORK PROGRAM.
- (iv) SEEKING EMPLOYMENT.
- (v) PARTICIPATING IN OTHER COUNSELING.
- (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING TIME ORDER.
- (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE PAYMENT PLAN.

16. Adds the following additional permissible sanctions for contempt for non payment or a custody/parenting time order violation: placing a payer or respondent under FOC "supervision" with conditions of supervision; committing a payer to the county jail or "alternative to jail" to permit use of jail alternatives other than those operated by a county community corrections program. MCL 552.633.

(g) Except as provided by federal law and regulations, ~~ordering ORDERS~~ the parent to pay a fine of not more than \$100.00 fine ordered under this subdivision shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

(H) PLACES THE PAYER UNDER THE SUPERVISION OF THE OFFICE FOR A TERM FIXED BY THE COURT WITH REASONABLE CONDITIONS, INCLUDING 1 OR MORE OF THE FOLLOWING:

- (i) PARTICIPATING IN A PARENTING PROGRAM.
- (ii) PARTICIPATING IN DRUG OR ALCOHOL COUNSELING.
- (iii) PARTICIPATING IN A WORK PROGRAM.
- (iv) SEEKING EMPLOYMENT.
- (v) PARTICIPATING IN OTHER COUNSELING.
- (vi) CONTINUING COMPLIANCE WITH A CURRENT SUPPORT OR PARENTING TIME ORDER.
- (vii) ENTERING INTO AND COMPLIANCE WITH AN ARREARAGE

**PAYMENT PLAN.**

*17.. Clarifying that if a respondent is arrested on a bench warrant in a custody or parenting time order violation proceeding, he/she may be released on bond if a hearing cannot be held immediately after arrest. MCL 552. 644 thru 646.*

(5) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and ~~further~~ **ANY LATER** hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31. **IF THE HEARING CANNOT BE HELD IMMEDIATELY AFTER THE PARENT'S ARREST, THE PARENT MAY BE RELEASED IF A BOND IN THE AMOUNT OF THE FINES, COSTS, AND SANCTIONS IMPOSED UNDER THIS SECTION AND ANY ADDITIONAL AMOUNT THE COURT DETERMINES IS NECESSARY TO SECURE THE PARENT'S APPEARANCE IS DEPOSITED WITH THE COURT.**

# Resources

Michigan Courts

<http://www.courts.michigan.gov>

Domestic Relations Forms

<http://courts.michigan.gov/scao/courtforms/domesticrelations/drindex.htm>

Friend of the Court Bureau Resources and Services

<http://courts.michigan.gov/scao/services/focb/focb.htm>

Michigan Statutes

<http://www.legislature.mi.gov>

Ingham County Friend of the Court

<http://www.ingham.org/fc/foc.htm>