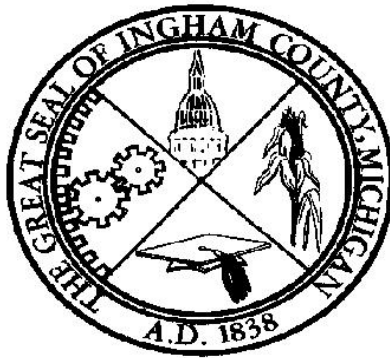


**INGHAM COUNTY  
FAMILY DIVISION  
INGHAM COUNTY CIRCUIT COURT**



**FRIEND OF THE COURT**

**HANDBOOK**  
(3<sup>rd</sup> Edition)

**303 W. KALAMAZOO STREET  
P.O. BOX 40097  
LANSING, MICHIGAN 48901**

**Website: [www.ingham.org/FC/foc.htm](http://www.ingham.org/FC/foc.htm)**

**8/15/06**

**INGHAM COUNTY FRIEND OF THE COURT  
FAMILY DIVISION  
THIRTIETH JUDICIAL CIRCUIT  
303 Kalamazoo Street, P.O. Box 40097**

Lansing, MI 48901  
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**WELCOME!!!**

The Ingham County Friend of the Court first developed this Handbook and web page in 2000 to bring you information about the Ingham County Circuit Court, Family Division and the Handbook operations of the office of the Friend of the Court. It is important for you to understand that basic legal policies governing the Friend of the Court are established by state law. In addition, the Judges of Ingham County have adopted procedures to insure full compliance with the law and help guarantee fairness to the parties.

Domestic disputes are a difficult and challenging time for the parties to the dispute. **BUT AS SIGNIFICANT AS THEIR IMPACT IS UPON THE PARTIES, PLEASE THINK OF THEIR IMPACT UPON YOUR CHILDREN.** It is the children, and the “best interests of the children” that is the major focal point of judicial concern, and the concern of Ingham County Friend of the Court.

This Handbook/Web Site is designed for Ingham County residents. If you are involved in a domestic dispute it is advisable that you review the Ingham County Handbook so that you fully understand the principles that will be applied in your case. It must also be remembered, however, that there is no specific rule that applies to each set of circumstances; ultimately, when the parties are in dispute, the issue must be resolved by some impartial third person. Parties are urged to listen to the advice of their attorneys, their Friend of the Court caseworker or other persons truly knowledgeable about the Circuit Court Family Division system. When the dispute cannot be resolved between the parties, your case may have to be heard by a Referee or a Judge.

We hope that you find this Handbook/Web Site (the web site has been used over 166,000 times over the past six years) helpful to you. If you believe that there is information that needs to be updated or changed, please feel free to contact your caseworker at the Ingham County Friend of the Court.

Sincerely,

**Donald L. Reisig, Deputy Court Administrator/ FOC**

**INGHAM COUNTY  
FRIEND OF THE COURT DIRECTORY**

**Location:**

303 W. Kalamazoo Street  
Grady Porter Building  
Lansing, MI 48933

(Next to the Ingham County Veterans Memorial Courthouse. Must enter through security at 313 W. Kalamazoo)

**Mailing Address:**

Ingham County Friend of the Court  
P.O. Box 40097  
Lansing, MI 48901

**Office Telephone:**

(517) 483-6103

**Office Fax:**

(517) 483-6107

**Telephone Accessed Computer (IVR-Interactive Voice Response):**

(517) 676-5885

**Website: [www.ingham.org/FC/foc.htm](http://www.ingham.org/FC/foc.htm)**

**For Future Reference:**

Your Docket No.: \_\_\_\_\_

Your Assigned Caseworker: \_\_\_\_\_

Your Judge's Name: \_\_\_\_\_

Your Personal Pin #: \_\_\_\_\_

**Family Division Judges and Locations**

Main Circuit Court Switchboard Telephone number: (517) 483-6500

Main Family Division Switchboard Telephone number: (517) 483-6105

Presiding Judge Janelle A. Lawless	313 W. Kalamazoo Street Veteran's Memorial Courthouse, Lansing, Michigan	(517) 483-6436
Judge Laura L. Baird	313 W. Kalamazoo Street Veteran's Memorial Courthouse, Lansing, Michigan	(517) 483-6438
Judge R. George Economy	313 W. Kalamazoo Street Veteran's Memorial Courthouse, Lansing, Michigan	(517) 483-6328
Judge Richard Garcia	313 W. Kalamazoo Street Veteran's Memorial Courthouse, Lansing, Michigan	(517) 483-6339

**Other Circuit Judges**

Judge William E. Collette, Chief Judge	Courthouse, Mason	(517)676-7223
Judge Joyce Dragunchuk	313 W. Kalamazoo Street	(517)483-6432
Judge James R. Giddings	313 W. Kalamazoo Street	(517) 483-6524
Judge Paula J. Manderfield	313 W. Kalamazoo Street	(517) 483-6426
Judge Beverley Nettles-Nickerson	313 W. Kalamazoo Street	(517) 483-6526

**Ingham County  
Friend of the Court  
IVR  
(Interactive Voice Response)  
(517) 676-5885**

Case Information available 24 hours a day, 7 days a week

**HOW TO USE:**

1. Dial the access number listed above.
2. Select 1 for English or 2 for Spanish.
3. Choose Child Support Payment & Enforcement Information, Name & Address Change or Coupons and Direct Deposits section.
4. If Payment & Enforcement Information is selected, enter your Social Security Number.
5. For first time users, set Personal Identification Number (**PIN**). If **PIN** already exists, enter **PIN**.
6. Make selections from the menu.
7. Your inquiry can be ended at any time by hanging up.

**MENU DESCRIPTIONS  
(After selecting English or Spanish)**

**Main Menu**

1. Child support Payment and Enforcement Information
2. General County Information
3. Change Name/Address
4. Coupons, Direct Deposits, Redirect Notices
5. County Option

Docket ID# \_\_\_\_\_

**PIN** \_\_\_\_\_

**PINs** are selected when the first call is made.

If you know the menu path, you may key ahead at any time during the message.

NOTES: \_\_\_\_\_

**Case Specific Information**

**(Must enter SSN and PIN for Access)**

**Child Support Payment and Enforcement Information Menu**

- Payment Information
  - Last Payment & Balance
  - Last 3 payments & Balance
  - Report Lost or Stolen Checks
  - Direct Deposit Sign-up or Changes
  - Last Months Payment Summary
- Request for Forms and/or Hearings
  - Choose from the list of available options.
  - Forms will be mailed in 3-5 business days.

## INTRODUCTION - WHAT WE DO FOR YOU

The Ingham County Friend of the Court would like to provide you with information regarding major changes in our office functions mandated by the State of Michigan through the 2003 conversion to a new computer system, the Michigan Child Support Enforcement System (MiCSES).

These changes were designed to allow us to better serve the needs of parents and children. New technologies required by the federal government and the State of Michigan will allow us to connect with other Friend of the Court offices, as well as the Department of Human Services and the various Prosecutors Offices, and provide us with additional informational and enforcement tools, such as credit agency reporting, employment information, and information about professional, driving and sporting licenses.

From time to time there may be some state-imposed delays in services, such as in mailing forms and other information. Our goal, however, is to do everything we can to make these processes as easy as possible for you.

### HOURS OF OPERATION

Monday through Friday, 7:30 am to 5:30 pm, including the noon hour.

### INTERACTIVE VOICE RESPONSE SYSTEM

**Dial 517-676-5885**

An Interactive Voice Response (IVR) system has been implemented in conjunction with the new computer system. You may access general information about Friend of the Court services available on the IVR line. **This is the easiest and quickest way to get account information.** Please use the IVR line before you contact your caseworker.

You will need to enter your Social Security Number in order to access your case information. The first time that you enter the system, you will be required to set a "PIN" (Personal Identification Number), so that no one else can access your account. You must remember this PIN and use it each time you access your account. Please be sure to write it down. Although no one can change account information on the telephone, if you want to keep your information private you should not share your PIN. If you lose or forget your PIN, the directions are available on the line for resetting the PIN.

WEBSITE: [www.ingham.org/fc/foc.htm](http://www.ingham.org/fc/foc.htm)

The Friend of the Court is the easiest way of accessing general information about our procedures, as well as information regarding how to contact our office, employer information, the FOC Handbook and forms. The forms available for download from our website include:

- \*\* Change of Address
- \*\* Demand for Medical Payment
- \*\* Direct Deposit
- \*\* Request for Appointment
- \*\* Parenting Time Complaint

ADOBE ACROBAT READER is required to access the forms on the website and is available to download from the website FREE OF CHARGE.

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## INTRODUCTION

The purpose of this handbook is to provide persons who have a domestic relations case in the Family Division of the Ingham County Circuit Court with helpful and accurate information regarding **Friend of the Court** duties and responsibilities.

This handbook also outlines the basic responsibilities of parties when the court has issued an order for support, parenting time or custody. Any questions regarding procedures or requirements outlined in this handbook may be discussed with the **Friend of the Court** staff or with the attorney of your choice to assist you in understanding the terminology used. A Glossary of frequently used terms is attached.

### THE OFFICE OF THE FRIEND OF THE COURT

The **Friend of the Court** office was created by Michigan law. There is at least one office for each circuit court. It is the primary mission of the **Friend of the Court** to protect the best interests of the children by assuring a stable custodial environment, enforcing court ordered support, and assisting the children in having appropriate access to **both** parents.

The **Friend of the Court** has the following duties according to the law:

1. To investigate, report and make recommendations to the court on:
  - a) custody
  - b) parenting time
  - c) amount of support
  - d) medical costs and insurance
2. To provide meetings, conferences and conciliation as ways of settling disagreements over custody and parenting time of children.
3. To record all support payments ordered by the court.
4. To enforce all custody orders entered by the court.
5. To enforce parenting time orders entered by the court.
6. To utilize all available legal tools to enforce all support orders entered by the court.
7. To assist in the protection of the children involved in the case.

### FOCUS ON THE CHILDREN

#### “OUR KIDS”

#### Parenting and Mutual Respect = Love

The entire staff of the Ingham County Friend of the Court is dedicated to the protection of the best interests of your children. We need your help in meet this challenging goal.

Children naturally love both parents and most children 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 freely exchanging information regarding the children's well-being. *This means that in addition to the custodial parent not interfering with established parenting time, that the non-custodial parent be regular and timely in exercising parenting time so that the children will not be disappointed.*

While the husband-wife or significant other relationship may end, the responsibility to be co-parents continues forever. Though your legal responsibilities may end when your children become adults, your relationship as parents continues indefinitely. Your children will always want you to be part of their lives, to attend school events and graduations, 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 can be difficult and painful. When a family matter arises, the Family Division of the Circuit Court has the responsibility to assist you in resolving some of the issues you may confront. The Family Division and **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.

### **MiCSES (Michigan Child Support Enforcement System)**

The Michigan Support Child Support Enforcement System (MiCSES) was developed by the State of Michigan to meet federal requirements for a "state wide" support enforcement system (rather than have local county operational support systems). This complex system was put into use commencing on April 1, 2003, and is now utilized throughout the State of Michigan. The MiCSES program is under the direction of the Office of Child Support and the Department of Human Services, which control the numerous record-keeping, policy development, technology use, and forms generation components of the new program.

In conjunction with the MiCSES program, there is also a component called **MiSDU** (Michigan Support Disbursement Unit) which is the central point of collection, as well as the agent for disbursement (distribution) of all funds collected as payment of child support obligations. Thus, unlike in previous years, support is no longer payable through the local Friend of the Court office, nor is it disbursed by the Friend of the Court to the payee - - these now being State and federally mandated functions. Your local Friend of the Court, using information from MiCSES and MiSDU has the daily operational contact with clients who are served within the support system, and has the major responsibility for enforcement of all court orders - - support, parenting time, custody and medical.

MiCSES and MiSDU are complex, interwoven systems which provide for central administration, policy development, and record-keeping, and are being continuously modified and improved.

## **COURT PROCEDURES**

## **Procedures of the Court**

Any individual wishing to start a domestic relations action must file the correct papers according to the specific statutes of this State and the rules (Michigan Court Rules). There may be many complicated issues and legal matters involved in a domestic relations case. Although the court cannot require a party to use an attorney to start or defend an action, it may be advisable to have an attorney to give you advice, file the correct papers and follow the specific court procedures mandated by law.

### **Plaintiff's Complaint**

Every domestic relations matter begins with the plaintiff filing a “complaint” which asks the court to grant an order. For example, a complaint may ask the court to grant a divorce, provide for child or spousal support, start an out-of-state support collection effort, or grant an order for custody of a child. The defendant is the person against whom the complaint is filed.

### **Service of Process**

The court rules provide that the defendant be served with a copy of the complaint and summons. The summons is an instrument used to commence a civil action. The summons notifies a person that an action has been started against them, that they are required to answer the complaint that was filed, and appear on the day named.

The typical way to give notice are (1) for a third party to personally hand the papers to the defendant, or (2) send them by certified mail as may be required by Michigan Court Rule.

### **Defendant's Answer to Complaint**

If the person served does not file an answer to the complaint within the time permitted by Michigan Court Rule, they may lose the right to have their concerns heard by the court. This could result in the court entering an order giving the Plaintiff everything he or she requested in the complaint. It is essential therefore that the defendant make prompt response to the complaint.

## **DOMESTIC RELATIONS PROCEDURES**

### **Divorce**

A person who wants to end their marriage must have a circuit court enter an order ending the marriage. To grant the divorce, the court must find that there has been a breakdown in the marriage relationship to the extent that the objects of matrimony have been destroyed, and the parties cannot live together as husband and wife. At least one of the parties must appear in court to testify that this breakdown really does exist. In Michigan, a divorce can be granted even if one of the parties does not want the divorce. (“No Fault”)

A divorce ends the legal relationship between a husband and wife. The divorce, however, does not end the parties’ relationship, even though the relationship will change.

Many decisions must be made before a divorce is granted. These decisions may include:

1. Who will make decisions, provide daily guidance and take care of the children?

- (custody)
2. What contact will children have with a parent they don't live with? (parenting time)
  3. How should the property gathered during the marriage be divided? (property settlement)
  4. How will financial responsibilities for the children be divided? (child support)
  5. What amount, if any, should one party contribute toward the support of the other, either permanently or temporarily? (spousal support-alimony)
  6. How will the children's medical, dental and other health care expenses be paid? (health care coverage)
  7. Will the wife take back her maiden name? (restoration of maiden name)
  8. Will children be allowed to move from the State of Michigan? (domicile)

Divorce issues may be resolved in the following ways:

1. The parties may be able to reach an agreement by themselves or by talking to their attorneys.
2. Mediation is available through the **Court**, through private attorneys skilled at mediation, or through private agencies to resolve the issues of property and custody.
3. The **Friend of the Court** referee may hear issues of support, custody and parenting time, and make recommendations to the judge when requested to do so.
4. The judge may help in settling a matter by having a pretrial or settlement conference.
5. The judge will hold a hearing or trial on the issues that have not been resolved.

Recommendations on custody, parenting time and child support will be made by the **Friend of the Court** office, if the circuit court orders the office to do so.

### **Conciliation**

In some cases a court may immediately enter a child support, custody and parenting time order upon the request of a plaintiff or defendant. In **Ingham County** this is usually done only after a "Conciliation Conference" at which the parties must appear and present their positions. Whether or not the parties are in agreement, the **Friend of the Court** Conciliator will make a timely recommendation to the Court, which will become a temporary order. Either party may request the court to hold a hearing to change the order by filing objections within 14 days after they receive the order. If objections are not filed within 14 days, the order automatically becomes a temporary order of the Court. Even if an objection is filed, the Court's order remains in full effect until the Court modifies it, so that support, custody and parenting time orders will be legally binding on all parties.

### **Reconciliations and Dismissals**

Not every divorce matter that is started ends in a divorce. If the parties are attempting to work out their differences and wish to have enforcement of their court orders suspended, they must provide the Court and the **Friend of the Court** with written notice of their RECONCILIATION. A reconciliation notice does not dismiss a divorce action, but suspends it.

If the parties have resolved their differences and wish to stop the divorce action, they must file an Order of Dismissal with the circuit court and provide a copy to the **Friend of the Court**.

In either situation, if children have received public assistance, arrangements to pay any back support must be made with the **Friend of the Court** who will continue to enforce previous Court orders until all public assistance is paid to the State.

## **Judgments**

A judgment contains the orders of the court which address support, parenting time, custody, property and other related issues.

There is a minimum 60 day waiting period prior to conclusion of divorce cases without children and a 6 month waiting period for divorces where there are minor children before a final Judgment may enter. If the matter is contested the proceedings will take longer to complete because a trial will have to be held.

At trial, the Judge will hear and determine the issues presented, and a written Judgment will be presented and signed by the Judge. The divorce judgment can thereafter be changed only by the judge. Once a judgment has been entered, parties must comply with its terms. The language in your judgment takes precedence over earlier orders, or over any “guidelines” contained in this Handbook.

If you are dissatisfied with your judgment, you may wish to contact an attorney. Once an order has been entered, a party has 21 days in which to file an appeal with the Court of Appeals.

## **Modification of a Judgment or Order**

After a judgment or order has been entered in a divorce action, there are some orders that can be modified (changed). These include: custody, parenting time, support, and change of domicile provisions. A change can only occur if: (1) both parties have signed an agreement (stipulation and consent agreement), which, if approved by the court, will be entered as an order or Amended Judgment; OR (2) a motion has been filed, a hearing has been held and the court enters a written order granting a change. *Note: Only a Judge can sign orders or judgments.*

The **Friend of the Court** has a responsibility to make recommendations to the Court in certain circumstances for child support, custody and parenting time modification. (See child support, custody and parenting time sections of this Handbook).

## **FAMILY SUPPORT ACTIONS**

A party who is separated from his or her spouse with no divorce pending and who has a minor child living with them, may seek to establish a family support order under the Family Support Act (an Order of Support). Generally, family support actions are started by the Prosecuting Attorney's office after a referral by the Michigan Department of Human Services (DHS). The Michigan DHS makes referrals whether or not a party receives public assistance. In addition, a party can contact a private attorney to file an action. In 2002 the law was amended, and a Family Support Action may also provide for parenting time or custody.

The **Friend of the Court** has the responsibility to enforce all orders of support. If the parents get back together and decide to end the family support order, they must contact either the Prosecuting

Attorney or their attorney to obtain an Order of Dismissal. Notifying a Department of Human Services (DHS) or **Friend of the Court** caseworker does not end the court's support order. If the parties have received public assistance, arrangements to pay any back support must be made with the **Friend of the Court**.

Either parent may begin a divorce action even though the court has ordered support in a family support action. The duty to pay support under the Family Support Order may end upon entry of a support order or a divorce judgment. However, if delinquent support is owed either to DHS or the other party under the Family Support Action, arrangements to pay the back support must be made with the **Friend of the Court**.

If the parties have a Family Support Order and have also filed for divorce, and decide to stop the divorce action, they must file an Order of Dismissal. Filing an order to dismiss the divorce will not end the family support action unless it is also dismissed.

### **PATERNITY ACTIONS**

Paternity is a legal determination that identifies the father of a child born out of wedlock. Either parent can request the court to establish paternity if the parties have not executed and filed an acknowledgment of paternity with the State Department of Community Health.

Generally, paternity actions are started by a Prosecuting Attorney's office after a referral by the Michigan Department of Human Services (DHS). The DHS makes referrals whether or not a party receives public assistance. A party has the right to contact a private attorney to file the paternity action.

Once paternity has been established, the court will order child support, reimbursement of medical expenses for the birth of the child and on-going health care expenses of the child.

Parenting time (provision for the father or mother to see the child) is not automatically ordered in paternity cases. However, a parent who is party to a paternity action may commence a custody action to establish either custody or parenting time. The **Friend of the Court** cannot help with parenting time problems until a court order for parenting time has been established by the court.

If the mother and father marry after the court enters the paternity order, they must give a copy of the marriage license to the **Friend of the Court** to end the support order. Arrangements must be made to pay all money owed to any public agency.

### **INTERSTATE ACTIONS**

If the parent required to pay support leaves the State of Michigan, he or she must continue to pay support through the **Friend of the Court**. If the child support payments stop, the parent receiving support has the following choices:

A) Contact the **Friend of the Court** to register the Michigan support order in the state where the payer is residing under the Uniform Interstate Family Support Act (UIFSA) for enforcement only. This registration enables the state the payer is residing in to enforce Michigan's order as its own but does not allow modification of Michigan's order.

B) Contact the **Friend of the Court** to do an income withholding order in the state the payer

resides in if employment is known. If that other state, or the employer, will not honor Michigan's income withholding order, the **Friend of the Court** can ask the other state to register the income withholding order in their state. If this action becomes necessary, registering the order for enforcement only is the best avenue as that state can then enforce as well as enter an income withholding order.

If both parties are out of state, Michigan cannot modify the child support and medical portions of the order as Michigan no longer has Continuing Exclusive Jurisdiction (CEJ) over these issues. (Spousal support, custody and parenting time enforcement stay with Michigan). Either party can contact the **Friend of the Court** and obtain a certified copy of the Michigan order which can then be registered in the state of the non-moving party. This then gives that state continuing exclusive jurisdiction over support issues.

If you never had a Michigan order but have an order from another state and now reside in Michigan, the **Friend of the Court** can do the following for you if you are not receiving your support:

- A) The **Friend of the Court** can register your home state's order in the state the payer is now residing in for enforcement only. If you wish a modification, we would register the order for modification and enforcement.
- B) If the payer is still in your original home state, but that state refuses to send payments directly to you, you can contact the **Friend of the Court** to do an Interstate Redirection of Child Support which allows the collecting state to send payments through this office. The **Friend of the Court** cannot enforce on these cases, but we can ask the home state to enforce. You will be asked to do this by DHS if you are receiving welfare payments.

If you never had a child support order in any state, you would have to contact DHS for referral to the Prosecutor's office to establish a child support case in the state where the payer resides.

## **RIGHTS AND RESPONSIBILITIES OF THE PARTIES**

Each party has the right to:

1. Expect the **Friend of the Court** to perform the statutory duties set forth in this **Handbook**.
2. Request the **Friend of the Court** office to explain procedures you do not understand as set forth in this **Handbook**.
3. Be treated with courtesy by **Friend of the Court** employees.
4. File a grievance with the **Friend of the Court**, or the Chief Judge, concerning an employee or an office procedure you believe to be unfairly biased. Grievances do not include complaints concerning judicial decisions or what the court has ordered the parties to do.
5. Consult an attorney regarding any procedural questions or concerns.

Each party has the responsibility to:

1. **Treat the other party with respect and dignity!**

2. **Remember that the children have the right to the love and attention of both parents! Start by attending the “FOCUS on the Children” required presentation.**
3. Inform the **Friend of the Court**, in writing, of any changes which affect your status, such as:
  - a) Current address and any change of address;
  - b) Change in income status, sources of income (employment changes), and name and address of employers;
  - c) Changes in children's residence/custody;
  - d) Current information regarding all health care coverage.
4. Provide other information as requested by the **Friend of the Court** to assist it in carrying out our duties as required by law.
5. Obey all orders of the court unless and until changed in writing by order of the court.
6. Keep appointments made with the office, or take the time to cancel an appointment and make a new one.
7. Treat **Friend of the Court** employees with courtesy. Remember, Friend of the Court personnel are agents of the Family Division Circuit Court, and are directed by law and court order to enforce support, parenting time, custody and medical provisions.
8. Listen to the advice of counsel!

## **DUTIES OF THE FRIEND OF THE COURT**

### **CUSTODY INVESTIGATIONS/RECOMMENDATIONS**

A custody order, or that portion of your divorce judgment pertaining to custody, specifies with who the child shall live, and other conditions surrounding custody. A number of custody arrangements are possible. The most common are:

Joint Legal Custody: Means that 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. Most Judges grant joint legal custody, unless there is some compelling reason not to do so such as child abuse or non-involvement in the life of the child.

Joint Physical Custody: Means that children live with one parent part of the time and the other parent part of the time. This time does not have to be equal. The parent who has care of the children at any given time is responsible for routine daily decisions regarding the children.

Primary Physical Custody: Means that the children live primarily with one parent.

Sole Custody: Means that the children live with one parent and that parent is responsible for making the major decisions regarding the children.

Parents are encouraged to reach their own agreements regarding custody. When parents cannot agree, the Judge must decide by considering all of the factors enumerated under the Michigan Child Custody Act [MCL 722.21]. In a disputed custody case the **Friend of the Court** will be making

recommendations in writing to the Court.

## **Custody Factors**

All decisions affecting children are made on the basis of the best interest of the child. The factors enumerated under the Child Custody Act governing child custody decisions are as follows:

- A) *The love, affection and other emotional ties existing between the parties involved and the child.*
- B) *The capacity and disposition of the parties involved to give the child love, affection and guidance and to continue the education and raising of the child in his or her religion or creed, if any.*
- C) *The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.*
- D) *The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.*
- E) *The permanence, as a family unit, of the existing or proposed custodial home or homes.*
- F) *The moral fitness of the parties involved.*
- G) *The mental and physical health of the parties involved.*
- H) *The home, school, and community record of the child.*
- I) *The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.*
- J) *The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.*
- K) *Domestic violence, regardless of whether the violence was directed against or witnessed by the child.*
- L) *Any other factor considered by the court to be relevant to a particular child custody dispute.*

## **CUSTODY QUESTIONS AND ANSWERS** *(Frequently Asked Questions)*

### ***1. How do I get an order for custody?***

A petition requesting the court to grant you custody of your children must be filed with the court. (Usually this is included in the initial complaint in a divorce case, or in the answer). If both parents agree and sign an agreement (stipulation and consent agreement), that agreement, if approved by the court, may be entered as a custody order.

### ***2. How do I change an existing order for custody?***

A petition to modify a custody order must be filed with the court, or the parents can sign a written agreement changing custody (stipulation and consent agreement), which if approved by the court, will change custody. The Friend of the Court cannot file a petition for you.

### ***3. Do I need to have an attorney to get custody?***

It is not required that you have an attorney to file a petition for custody. However, there are many

complicated issues involved in a custody case. Therefore you may want to have an attorney represent you. The **Friend of the Court** cannot file a petition for custody for you.

***4. Is there any way the court can assist us in reaching an agreement on custody?***

The **Friend of the Court** provides Domestic Relations Conciliation. (See page 4 of this Handbook). Conciliation is a process where a neutral third party assists in settling a custody dispute. (The parties may also agree to a private mediation service offered by people with skills and special training in domestic matters who are paid a “fee for service” by the parties).

***5. After a petition for custody has been filed, and we cannot reach our own agreement, what does the Friend of the Court have to do?***

The **Friend of the Court**, at the request of the Court, is required to:

- (1) Offer conciliation services to the parties.
- (2) Conduct an investigation and file a written report and recommendation to the court based on the factors listed in the Michigan Child Custody Act.
- (3) Conduct a full evidentiary hearing before a trained referee.

***6. Do I have the right to receive a copy of the Friend of the Court report and recommendation on custody?***

Before the court takes any action on a **Friend of the Court** custody recommendation, the **Friend of the Court** must provide to each party, or their attorney, a copy of the report, recommendation and any supporting documents, or a summary of the documents prepared or used by the **Friend of the Court**.

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

You have several choices:

- (1) You may contact your attorney to bring a “show cause” or contempt proceeding against the other party; or
- (2) You can file a written complaint with the **Friend of the Court** and request that they enforce your order; or
- (3) You can contact the Prosecuting Attorney and request that a kidnaping charge be initiated if you have reason to believe that the other parent intends to keep the child.

***8. Does the Friend of the Court have a responsibility to investigate alleged abuse and/or neglect of a child?***

Allegations of abuse or neglect should be reported to the Protective Services unit of your local Department of Human Services office, phone number (517) 373-2035. The **Friend of the Court** has a responsibility to conduct an investigation when ordered by a Judge. All allegations of abuse or neglect should be communicated to Protective Services and to the **Friend of the Court** during the investigation process.

**UNIFORM SUPPORT ORDERS**



domestic violence, and by agreement of the parties where neither party is eligible for IV-D services (on public assistance). The Court must specifically order that child support will not be payable through the Friend of the Court, and that the parties are not eligible to receive any future services to be rendered by the Friend of the Court. (See MCL 552.505a). In the rare cases where such an “opt out” order is entered by the Court, the parties themselves shall have responsibility for administering and enforcing the obligations imposed by the Court in any judgments or orders entered by the Court.

### **Collection of Support**

Support payments and disbursements are now handled through the Michigan State Disbursement Unit (MiSDU). All questions concerning payments and disbursements should be directed to MiSDU by calling (517) 676-5885. The Ingham County Friend of the Court acts only as a “record keeper”, and as a “enforcer” when support payments are in arrears.

When support is received by the MiSDU and is sufficiently identified concerning who is paid the support, and the persons for whose benefit the support is paid, the support must be forwarded within two days of receipt.

Support is normally paid through income withholding; however, if you are paying directly because you are self-employed, or have no regular source of employment income, when you remit your payments to MiSDU, please include your case number on the payment voucher provided by MiSDU. Do not send cash through the mail.

### **Direct Deposit**

Direct deposit of your child support into your checking or savings account is available and encouraged! This process of electronic transfer of funds to your account is the fastest and safest way to receive child support money. Once you are signed up, your support check will be directly deposited, eliminating your need to go to the bank to cash or deposit your check. A direct deposit form is attached to this Handbook (Attachment F) or is available at the Friend of the Court office, our web site: [www.ingham.org/FC/foc.htm](http://www.ingham.org/FC/foc.htm), or from the IVR (Interactive Voice Response) line.

### **Debit Cards**

After September 1, 2006 in Ingham County, if you do not have your child support payments directly deposited (above) into your bank account, your payments will be made only through a “debit card”. Child support will be automatically sent to your debit card account. The debit cards may be used at stores, business & restaurants the same way a bank card may be used - - if the business accepts Visa. In some cases there may be a transaction fee for use of your Debit Card. (See Attachment G).

## **SUPPORT ENFORCEMENT**

### **Rules for Distributing Child Support Payments**

The new Michigan Child Support Enforcement System allocates payments to cases based on federal law. This means that child support payments are “shared” among all of a payer’s cases in the state, in proportion to unpaid current support and arrearage balances, even if a payment is designated for only one case by an employer or an individual.

When payment is received from a payer or an employer, the computer system looks at the amount

owed on all cases and determines the distribution of the payment according to federal law. If a payer has more than one case, distribution can become quite complicated.

Here are some common ways that child support can be distributed:

**1. A payer has ONE case and sends LESS than the current support owed**

If the family is not receiving public assistance, the money is distributed to the family for current support. Nothing is sent to the state or for fees.

**2. A payer has MORE THAN one case and sends the current support owed or LESS**

The system looks at all of a payer's open cases and money is distributed among the cases proportionately.

Example: A payer is ordered by the court to pay \$60/month on Case 1 and \$40/month on Case 2.

- If the payer makes a \$10 payment, it will be allocated proportionately across both cases: 60% (\$6) to Case 1 and 40% (\$4) to Case 2.
- If the payer makes a \$70 payment, it will be allocated 60% (\$42) to Case 1 and 40% (\$28) to Case 2.

**3. A payer has MORE THAN one case and sends MORE than the current support owed**

Current support is paid first to all cases. Arrears owed to families not on public assistance are paid next. Monies are then paid on state arrearages. Fees are paid last.

Example: A payer is ordered to pay \$60/month on Case 1 and \$40/month on Case 2. The family in Case 1 is on public assistance. The family in Case 2 is not receiving public assistance. There is an arrearage on Case 1 of \$100. There is an arrearage on Case 2 of \$75. The payer makes a \$200 payment.

- \$60 is paid to the state for current support on Case 1 (because the family in Case 1 is on public assistance); \$40 is paid to the family for current support on Case 2 (because the family in Case 2 is not on public assistance).
- \$75 is paid to the family for arrears on Case 2 (because the family in Case 2 is not on public assistance).
- \$25 is paid to the state for arrears on Case 1 (because the family in Case 1 is on public assistance).

***FOR A FURTHER EXPLANATION OF SUPPORT DISTRIBUTION, SEE "ATTACHMENT B" TO THIS HANDBOOK***

**Enforcement of Support Orders**

The **Friend of the Court** has many options available to enforce support orders. These options include:

**1. Income Withholding Orders**

Based upon requirements of Federal (U.S.) Law, an income withholding order requires the payer's (person required to pay support) employer (or other source of income) to withhold support from the payer's paycheck. All support orders issued in the State of Michigan must provide for an order of income withholding which takes effect immediately unless MCL 552.604(3) is complied with exempting the order from withholding.

## 2. **Interstate Actions**

When a payer can be located and lives out of state and is behind in his or her support payments, the **Friend of the Court** may begin an interstate income withholding action.

In order for a **Friend of the Court** office to start an interstate income withholding action, it must have the following information:

- (A) Name, address and social security number of payer.
- (B) Name and address of payer's employer or other source of income.

## 3. **Show Cause Hearings/Contempt**

If an order for income withholding is not effective and support is not paid on time, the **Friend of the Court** may begin a civil contempt proceeding by filing a petition with the court for an Order to Show Cause. An employer who fails to deduct and remit sums from the payer's paycheck may also be found in contempt of court.

A Show Cause hearing held in the matter is initially heard by a Referee or other representative at the office of the **Friend of the Court**. If arrangements satisfactory to the Friend of the Court are not made by the payer, the matter will be taken to the Judge, who will decide whether the person is in contempt and what action should be taken. The Judge may order immediate or future payment, or the payer may be incarcerated until a stated sum of money is paid, and costs may be ordered.

## 4. **Bench Warrants**

If the show cause hearing is held and the payer does not appear, the Judge will issue a bench warrant for the payer's arrest.

Once the court issues a bench warrant, the responsibility for the payer's arrest lies with law enforcement agencies. When arrested, the payer will be required to post bond and to pay costs associated with the issuance of the bench warrant.

## 5. **Court Service Officer**

The Ingham County **Friend of the Court** has a Court Service Officer whose major duty is to work with law enforcement agencies to locate and arrest persons who have outstanding bench warrants. In 2005, the Court Service Officer and Friend of the Court, with the assistance of local law enforcement, arrested over 400 persons.

## 6. **Tax Intercepts**

If back child support is owed, the State Child Support Enforcement System (MiCSES) will automatically request an income tax intercept. A tax intercept is where any tax refund (federal and state) owed to a payer is sent to MiSDU and applied to back child support. (Note: There are often delays in this process due to the federally imposed confidentiality of tax information).

## 7. **Liens**

In some cases, the **Friend of the Court** may be able to obtain a lien on a payer's property, or upon an "expectation" the payer might have, i.e. lawsuit, workers compensation claim, estate of a deceased relative, etc. As of August of 1988, Michigan law provides that a lien in the amount of past due support shall automatically exist against the support obligator's real and personal property if it can be identified and located. If you have information about property or a claim, contact the **Friend of the Court**.

## 8. **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, sporting, or drivers licenses suspended. A payer can avoid a license suspension by showing that there is a mistake regarding the amount of the arrearage, or by entering into an agreement accepted by the Court for the payment of the arrearage.

## 9. **Consumer Reporting**

The **Friend of the Court** must report to a consumer reporting agency the arrearage amount for each payer with two or more months of support arrearage. Lenders will often obtain a credit report from a consumer reporting agency when deciding whether to extend credit. If the credit report shows a history of untimely support payments or a large arrearage, the report may result in a denial of a loan or other credit.

The State of Michigan may also make support information available to a consumer reporting agency if requested by a support payer/payee.

## 10. **Felony Prosecution**

Intentional failure to pay child support is a felony under Michigan criminal law. Cases of willful failure to pay support when there is ability to pay, will result in referral for prosecution. Both the Ingham County Prosecuting Attorney and the State Attorney General's Office have active programs of felony child support enforcement! This is an extremely undesirable alternative for a payer, and can be avoided by making and keeping an agreement to make appropriate payments.

## 11. **Cash Bonds**

In some cases where there has been a pattern of non-payment and the payer has assets, the Friend of the Court may obtain an order from the Court requiring a cash bond be posted for future payments.

## **12. Fraudulent Conveyances**

If a support arrearage has accrued and there is reason to believe that the payer transferred title or ownership of real or personal property without fair consideration, the Friend of the Court may obtain an order requiring payment of the arrearage, or may initiate proceedings to have the transfer set aside and the assets seized.

### **Statutory Service Fees**

Michigan law requires that **Friend of the Court** charge the payer of support a fee on all child support orders to partially off-set administrative costs. The current fee is \$42.00 per year, \$24.00 of which is payable to the **Friend of the Court**, and the balance payable to the State Court Administrative Office and the Office of the Attorney General. The fee is not allocated against the payee, and must be paid separately by the payer. Starting in 2007, however, congress has provided for a new fee of \$25.00 per year for anyone who receives more than \$500 per year in support.

### **Surcharge on Over-Due Support**

Until July 1, 2005, the State levied an annual surcharge of 8% on all support payments that were past due as of January 1st and July 1st of each year. Since 7/1/05, the surcharge is fixed at the "prime interest rate" plus 1%, as determined by the State Treasurer.

Any amounts due the State of Michigan for any period of time that the children and custodial parent received TANF (see Glossary) or FIP benefits, will also incur a surcharge payable to the State.

### **Automatic Support Enforcement**

The **Friend of the Court** is required to automatically begin enforcement action against a parent paying support who owes support in an amount equal to four weeks of payments. This is to be done without waiting for a complaint or request for enforcement from the person receiving support.

### **Modifications of a Support Orders**

The **Friend of the Court** is required by state law [MCL 552.517b(1)] to review support orders as follows:

1. Not less than once every three years if the children for whom support is being paid are receiving public assistance.
2. When, on its own finding or initiative, the **Friend of the Court** office determines that the amount of the child support order should be changed.
3. Upon a written request from a party, made not more than once every three years.
4. When a party files a Motion alleging a substantial change in circumstances.

The office must complete its support review within 60 days, when feasible, and make a copy of its

recommendations available to the parties or their attorneys.

If the office finds that an increase or decrease is appropriate, the **Friend of the Court** will petition the court for a change in the child support amount.

## QUESTIONS AND ANSWERS REGARDING SUPPORT

### *1. How do I get an order for support?*

A petition requesting the court to grant an order for support must be filed with the court. If both parties agree and sign an agreement (stipulation and consent agreement), that agreement will be entered as a support order if it is approved by the court.

### *2. Do I need to have an attorney to get an order for support?*

It is not required that you have an attorney to file a petition for support in a divorce action. However, an attorney may be helpful when filing papers and following specific rules. For paternity and family support actions, the Prosecuting Attorney can assist you with the filing of a petition for support.

### *3. Does the Friend of the Court and the Judge have to use the Child Support Formula or the Friend of the Court recommendations when setting support orders?*

The Child Support Formula and the **Friend of the Court** recommendation are used to assist the Judge in making a decision concerning support amounts. The **Friend of the Court**, your attorneys, and the Judge must follow the guidelines unless they establish a clear reason why the child support formula is unjust or inappropriate, and that a “deviation” therefore best meets the needs of the child.

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

Yes, parenting time and support are separate orders of the court, with separate enforcement procedures (See parenting time enforcement section).

### *5. The non-custodial parent is not paying support. What can I do?*

Contact the Friend of the Court, preferably in writing, and request enforcement if the back support equals payments of four weeks or more. You may also contact an attorney to file an enforcement action.

### *6. The payer of support is self-employed and not making his or her support payments. What can the Friend of the Court do?*

Income withholding orders are not usually effective when a payer is self-employed. In these cases, the **Friend of the Court** may seek enforcement using one or more of the following options.

- (1) Petitioning the court for a show cause hearing.
- (2) Submitting the payer's name for tax intercept.
- (3) File a lien on the payer's property.

Contact your **Friend of the Court** office for further information concerning these options.

7. *My court order states that I am to pay support through the MiSDU. Can I pay the support to the custodial parent directly.*

NO! Support is paid through the MiSDU in order that an official record of payments is maintained. It is done for the protection of both parties and the children. After 10/1/04 credit will not be given for child support paid directly, except for periods before the support order is signed by the Judge.

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

The Michigan Child Support Guidelines require the **Friend of the Court** to consider both parent's income when making child support recommendations.

If either party has had a large increase or decrease in income, they may wish to contact the **Friend of the Court** to request a review of the support order (see Support Modification Section). Either party may also file a motion with the Court if there has been a significant change in circumstances.

If the payer and payee can mutually agree to a change in support order, and sign a written agreement (stipulation and consent agreement), that agreement will be entered as an order, if approved by the court.

9. *If I am receiving public assistance, do I still get child support?*

No. All child support payments paid while you are receiving public assistance must be sent by MiSDU. If the payer is making payments, you are entitled to receive from DHS up to the first \$50.00 of any child support paid each month. If you have questions about this program, contact your local DHS support specialist.

10. *Is the Friend of the Court responsible for making sure that child support money is being spent on the child?*

The law does not give the **Friend of the Court** the right to question how child support payments are spent. It is presumed that the custodial parent is making reasonable efforts to meet the child's needs.

## MEDICAL ENFORCEMENT

### Medical Insurance

The Friend of the Court enforces the orders of the Court. If your order does not require one or both parties to carry health insurance, then contact the Friend of the Court Medical Department for inclusion of a health insurance clause. The only exception would be if your order is not a final order. If that is the case, you should contact your attorney for inclusion of a health insurance clause in the final court order. Each party is required by law to keep the Friend of the Court informed of any health care coverage that is available to them as a benefit of employment or that is maintained by them, the name of the insurance company, health care organization or health maintenance organization; the policy, the certificate, or contract number; and the names and birth dates of the persons for whose benefit they maintain health care coverage under the policy, certificate or contract.

The Friend of the Court does not determine the level or amount of health care coverage or the insurance company. The Friend of the Court only assists in obtaining health insurance on the minor child(ren).

Health insurance may become a problem when the parent that carries the insurance wants to change the insurance company. Many problems can be prevented by the parent notifying the custodial parent of any proposed changes, and the dates thereof. Discussions between the parents are encouraged to determine if the change is best for the child(ren) and if the current health care provider(s) will accept the proposed insurance. If the health insurance for the child(ren) is changed, new insurance cards and information must be forwarded immediately to the custodial parent.

Each parent is obligated to comply with the Court's Order and provide the other parent with:

1. An insurance card;
2. Copies of insurance information and forms necessary to submit claims;
3. Copies of all determinations made as to the claim previously submitted.

If there is a dispute over coverage, either party may request that the **Friend of the Court** conduct a hearing before a referee. Please contact the Medical Department if you have any questions in this area.

### **Uninsured Medical Expenses**

The Friend of the Court can help you in collecting uninsured medical expenses if your court order requires one of the parties to reimburse the other party for uninsured medical expenses. Over-the-counter medications are expenses that are not enforced by the Friend of the Court. These costs are included in the weekly child support amount. Other expenses not enforced by the Friend of the Court are those expenses not diagnosed or provided by medical personnel. For example: special reading classes or learning programs that may have been recommended by a medical person, but are administered by educational personnel, are not covered.

Insurance premiums are generally not considered expenses that can be collected through the Friend of the Court unless your court order requires specifically that the other party pays all or part of health insurance premiums.

The following have been determined to be professions whose bills for services can be enforced as medical expenses through the Friend of the Court: chiropractors, dentists, oral surgeons, orthodontists, prosthodontists, periodontists, endodontists, pedodontists, dental hygienists, dental assistants, medical doctors, physician's assistants, registered professional nurses, licensed practical nurses, trained attendants, optometrists, osteopaths, pharmacists, physical therapists, physiotherapists, psychological assistants, psychological examiners, clinical social workers and providers of prosthetic devices.

Many times enforcement is not necessary by the **Friend of the Court** if the custodial parent discusses with the non-custodial parent the need for medical treatment. The sooner the non-custodial parent becomes involved in the decision process, the less enforcement is necessary, and the less cost, in dollars, time and effort for all parties. The **Friend of the Court** and the **Ingham County Family Division Judges** always require the parents to talk together about their childrens' health related issues.

The parent who requests payment of uninsured medical costs should present (send copies of the bills) expenses to the other parent within 30 days of the bills being incurred. If there is no response within a reasonable time, or if the response from the responding parent indicates an unwillingness to honor the bills, you should contact the **Friend of the Court** Medical Department to receive a Demand for Medical Payment form. The **Friend of the Court** will send you a Demand for Medical Payment form with instructions. The **Friend of the Court** will only collect on uninsured medical costs that are less than one (1) year old. Please carefully check the dates that the medical bills were incurred. Don't wait to submit Demands.

The **Friend of the Court** Medical Department will process Demands for Medical Payment to insure compliance with the court order. This may include contacting each parent to see if an agreement can be reached, contacting insurance providers, contacting medical providers and/or scheduling a hearing. If a hearing is scheduled, please have copies of your Demand for Medical Payment and accompanying bills with you to explain the reasonableness and the necessity of the medical treatment.

This is not intended to be all inclusive of the Friend of the Court's Medical enforcement. It is, however, intended to give you direction in securing health insurance for your children and obtaining reimbursement for uninsured medical costs. Please contact the Friend of the Court Medical Department by calling (517) 483-6103 if you have any questions concerning health related enforcement of a court order. **Demands for Medical Payment or requests for health care coverage enforcement must be made in writing.**

## **PARENTING TIME ORDERS** **REASONABLE RIGHTS OF PARENTING TIME**

It is presumed in each case that it is in the best interest of the child(ren) to have a strong relationship with both parents. If your court order or judgment does not set forth the parenting time rights and obligations of the parties, the parties are encouraged to reach agreement on parenting time, using the “**Reasonable Rights of Parenting Time**” (set forth in Attachment D) as a guideline for agreement. If unable to reach an agreement, either party may file a motion to establish parenting time, which will be referred to the Ingham County Friend of the Court for resolution and recommendation to the Court. Assistance in preparing motions for, or objections to, parenting time may be obtained through private counsel or by attendance at the monthly FOC General Informational Meeting. (See page 30).

### **Parenting Time Enforcement**

The **Friend of the Court** normally initiates enforcement proceedings when it receives a written complaint stating specific facts (including dates, times and reasons given), about an alleged denial or abuse of parenting time, and when the **Friend of the Court** determines that there is reason to believe the court's order has been violated. This includes the failure, without adequate notice, of a parent to exercise parenting time. A copy of your complaint should be sent to the other party.

Parenting Time Complaints – The parent who has been denied parenting time must submit a written parenting time complaint in the form of an affidavit to the Friend of the Court within 56 days of the date of denial. The Friend of the Court will review the complaint and court order prior to sending it to the alleged offending parent for a response. The other party has 21 days to respond to the

allegations regarding denial. Parenting time affidavit forms are available at the Friend of the Court office or on the website.

If the **Friend of the Court** has reason to believe that the parenting time order has been violated, and if the parties do not resolve their differences with the assistance and direction of the **Friend of the Court**, the **Friend of the Court** may do one or more of the following:

- (A) Hold a parenting time conference with the parties;
- (B) Apply the local make-up parenting time policy (contact the **Friend of the Court** for more information about its policy);
- (C) Begin a civil contempt proceeding by filing a petition for an order to show cause.
- (D) Recommend sanctions against a party for the violation.

## Supervised Parenting Time

Sometimes when a parent has been physically or emotionally separated from a child, it is necessary for there to be a degree of “supervision” in helping to rebuild the closeness and trust that needs to exist in a parenting/child relationship. The Ingham County Family Division Judges have provided programs to assist in their endeavor. Please see the options contained in Attachment E, and/or discuss with your caseworker or Parenting Time Advocate.

## QUESTIONS AND ANSWERS REGARDING PARENTING TIME

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

This means the parents have the responsibility for setting up a mutually agreed upon schedule for parenting time, which is reasonable under the circumstances. If you cannot mutually agree to a parenting time schedule, the **Ingham County Family Division Judges** have adopted the Reasonable Rights of Parenting Time policy attached to this Handbook as Attachment D.

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

If you need a temporary change in your parenting time schedule, first contact the other parent to discuss making other arrangements.

If you need to make a permanent change,

- A) See if you and the other parent can agree to a change (stipulation and consent agreement). Remember -- mutual accommodation for the sake of the children should always be the rule!
- B) The **Friend of the Court** can provide parenting time/conciliation services, if both parties agree to participate.
- C) File a petition with the court clerk for a change in the court order on your own behalf or contact an attorney to help you file the petition.
- D) Attend an Informational Meeting to learn how to file a petition for modification.

**3. *If the parent exercising parenting time is not making regular child support payments, do I have to allow parenting time?***

**YES!** Parenting time and support are separate orders of the court, with separate enforcement procedures (see support enforcement section).

**4. *The other party is not following the parenting time order (i.e., children not ready for parenting time on time; children are picked up and/or returned late.) What can I do?***

Discuss issue with the other party. If no improvement, file a written complaint with the **Friend of the Court** office, sending a copy to the other parent. If the **Friend of the Court** determines that either parent has violated the parenting time order, they have the responsibility to proceed with enforcement (see Parenting Time Enforcement Orders). Most Judges would consider anything more than one-half hour tardiness to be a violation of the court order, unless excused because of special circumstances.

**5. *Clothing is not sent for or returned from parenting time. Is there anything the Friend of the Court can do?***

Unless your court order states each parent's responsibility for clothing, the **Friend of the Court** does not have any enforcement power. Suggestion: Most judges will indicate that clothing belongs to the children, not the parents. Older children are responsible for their own clothing.

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

Any denial of parenting time is a violation of the order. You may be ordered to explain to the Judge at a contempt hearing why you disobeyed the court order. Full substantiation of your allegation of substance or other abuse will be essential. If you believe that the health and safety of your children require that parenting time should not be taking place as ordered then it is your responsibility to petition the court for a change in your order to restrict the parenting time.

**7. *I am concerned about the other parent discussing changes in the court order with the children. What can the Friend of the Court do?***

Unless your court order forbids such discussions, the **Friend of the Court** has no enforcement power. (However, see "Our Kids" section, above, Page 1).

**8. *The Friend of the Court has refused to enforce my parenting time order. What can I do?***

The law requires the **Friend of the Court** to enforce parenting time orders where there is clear evidence of violation. (But the parties must bear the responsibility of cooperating.) If the Friend of the Court refuses to take appropriate action, you may file a Motion and be heard by the Court.

**9. *Does the Friend of the Court have a responsibility to investigate alleged abuse and/or neglect of a child?***

The **Friend of the Court** does not have responsibility to investigate child abuse or neglect. Allegations of abuse or neglect should be reported to the Child Protective Services unit of your local DHS. However, if the **Friend of the Court** gains evidence of child abuse, it must report it to Child Protective Services.

**10. *I have a parenting time order, and my child does not want to follow the parenting time order. What can I do?***

The parents of the child are bound by the court order. However, you may consider one or more of

the following:

- A) You may want to see if you can work out a different parenting time arrangement with the child and the other parent.
- B) You can file a petition with the court clerk requesting a change in your parenting time order, or requesting enforcement of the order.
- C) You can request that the **Friend of the Court** enforce your parenting time order (See Parenting Time Enforcement Section).

### **PARENTING TIME GUIDELINES**

\* Children are to be packed and ready to go for parenting time at the appropriate time, and they are to be returned on time with clothing intact.

\* Failure to pick up the children within one half hour of the scheduled time can be considered forfeiture of that parenting time, unless prior arrangements have been made for a later or earlier pick up time. Parenting time lost due to your own neglect can never be regained. Don't disappoint your children or leave them waiting for you.

\* Parenting time is to be between the parent exercising parenting time and the child(ren). It is the responsibility of the parent exercising parenting time to provide child care should the parent have to work or have other appointments, etc.

\* During a person's parenting time, that parent is responsible for all routine decisions affecting the child(ren).

\* Children have the inherent right to know and appreciate what is good in both parents without one parent degrading the other or being placed in a position to manipulate one parent against the other.

\* If parenting time is wrongfully denied or abused the **Friend of the Court** must be notified in writing within fifty-six (56) days of the denial or abuse if make-up parenting time is requested.

### **ALTERNATIVE DISPUTE RESOLUTION SERVICES**

#### **Conciliation**

The Ingham County **Friend of the Court** offers a procedure called **Conciliation**. It is a conference that is held with the parties and a trained conciliator from the Friend of the Court office. It is designed to help parties more quickly resolve disputes of child custody, parenting time and support issues. The trained conciliator first attempts to use mediation techniques to help the parties resolve disputes. Unlike mediation, however, conciliation is not a voluntary process, but is required by the Court. If the parties reach an agreement, the conciliator will prepare an order reflecting that agreement. In the event the parties cannot reach agreement on the disputed issues, the conciliator will prepare a recommendation to the Court on the disputed issues.

If this is a new case, the Court will immediately enter the conciliator's recommendation as a temporary order. If either party objects to that recommended order, they may have a referee hearing by filing objections within 14 days after they receive the order.

If there already is a court order in the case prior to the conciliation, the Court will not immediately enter the recommended order. The Court will wait at least 21 days before entering the order to give the parties an opportunity to file objections to the recommended order. If objections are filed within the 21 days, a referee hearing will be held. **Even if an objection is filed, the Court's most recent order remains in full effect until and unless the Court modifies it so that support, custody and parenting time orders continue as legally binding on all parties.**

### **Court Rule Domestic Relations Mediation**

The Court may refer family matters to mediation under Michigan Court Rule MCR 3.216. This referral may occur when the parties agree to mediation, upon written motion of one of the parties, or upon direction of the Court. In Ingham County all domestic relations cases involving property issues are referred to mediation; however, formal mediation is not usually utilized for resolving custody and parenting time issues, unless the parties agree to such a procedure.

Mediation under the court rule must be conducted by an attorney who has at least five years of experience in law, and a great deal of experience in family law matters. Mediators in Ingham County are respected and well-trained, and this is a most useful process for resolving domestic disputes.

Parties must attend the mediation sessions, and may be accompanied by their attorneys. Any information shared with the mediator is considered privileged, and the mediator may not disclose this information during any future proceeding or trial.

If an agreement is reached during the course of the mediation, that agreement will be reduced to writing and signed by the parties and their attorneys. The parties must then take the necessary steps to have the mediation agreement entered as an order of the Court.

If no agreement is reached during mediation, then within 21 days the mediator may prepare a report to the parties, their attorneys and the mediation clerk summarizing the essential facts and include any recommendations on the issues. The mediator may not make a recommendation on custody, unless the parties resolve the custody issue during mediation.

If the parties are not able to reach an agreement, or either party rejects the mediator's recommendation, the case will go to trial. The Court may not take the mediator's report and recommendation into consideration at trial.

**AN INDIVIDUAL WHO PERFORMS COURT RULE MEDIATION IS ENTITLED TO REASONABLE FEES, WHICH ARE USUALLY DIVIDED EQUALLY BETWEEN THE PARTIES.**

### **Arbitration/Binding Mediation**

The parties may agree to binding mediation, or arbitration, which may be conducted either by an individual or by a panel. The arbitrator(s) will consider the parties' issues and may consider the input of witnesses. If the parties cannot agree on issues, the arbitrator will make a determination based upon the information available. That determination is binding upon the parties, unless the Court vacates the arbitrator's decision based upon evidence the arbitrator was biased, exceeded his

or her power, refused to hear evidence or was otherwise prejudiced. The arbitrator's decision will be submitted to the Court and entered as a final order of the Court. If the arbitrator's decision is not vacated it will be enforced by the Court in the same way as any other order of the Court.

## MISCELLANEOUS

### Access to Friend of the Court Records

Pursuant to Michigan Court Rule 3.218, a **Friend of the Court** file is not a matter of public information. Parties, or their attorneys will, however, be given needed access to all information in the **Friend of the Court** records that is not confidential. Confidential information is defined by the Michigan Rules of Court to mean staff notes, DHS Protective Services reports, formal mediation records, communications from minors, Friend of the Court grievances filed by the other party, and all information classified as confidential by Title IV-D of the Social Security Act. A parties' address or other information is not confidential unless the release is prohibited by a court order because there is a history of domestic violence in the case. (See provisions hereafter). The Friend of the Court may charge reasonable costs for copying any records; however, you have a right to have access to a payment history at least once per year if the State controlled MiCSES system can produce such a document.

### Access to Other Records

Michigan law provides that a parent who has legal or joint legal custody has the right to access certain records or information about his or her child regardless of the physical custody arrangements. Records or information which may be accessed include medical, dental and school records, day care provider records, and notification of meetings regarding the child's education.

The **Friend of the Court** has no authority to enforce this law against schools or health care providers who refuse to provide the records. You may wish to contact an attorney if you are denied access to this information.

### Citizens Advisory Committee

Ingham County has a Citizens Advisory Committee created by law. The Committee is required to meet at least six times per year, and to advise the County Board of Commissioners and the Chief Judge about the performance of the duties of the office of **Friend of the Court** and the Community needs related to **Friend of the Court** services.

The Citizens Advisory Committee may review any grievance filed which complains about the **Friend of the Court's** office operations. The Citizens Advisory Committee role is advisory only, and it cannot decide the grievance. However, it can review, investigate and hold hearings on the grievance for the purpose of reporting its findings on the performance of the Friend of the Court to the Chief Judge and the County Board of Commissioners. A grievance may be filed by mailing it to the attention of the Citizens Advisory Committee Chairperson, c/o Friend of the Court.

### Domestic Violence/Personal Protection Orders

Domestic violence or abuse will not be tolerated in Ingham County. Both statutes and court rules prohibit assaultive conduct, threats, harassment, intimidation and stalking of domestic partners (or

former partners). Ingham County provides a Personal Protection Office, currently located on the 3<sup>rd</sup> floor (3R) of the Grady Porter Building, 303 W. Kalamazoo Street, Lansing, Michigan, phone number (517) 483-6545) where the victim of domestic violence can receive assistance.

See the list of Community Resources (Attachment I).

Other agencies offering assistance are:

- \* Legal Aid of Central Michigan, 3490 Belle Chase Blvd, Lansing, Michigan 48910, phone number (517) 394-3121 or toll free (800) 968-0044
- \* Council Against Domestic Assault, phone number (517) 372-5572
- \* Ingham County Prosecuting Attorney's Office, (517) 483-6108
- \* Your Local Police Department

### **Child Abuse**

Allegations of child abuse -- either physical or sexual -- are very serious allegations under Michigan law, and are not to be made lightly. However, if you believe that you have an appropriate factual basis, preferably with medical support or other witnesses, then allegations of physical or sexual abuse should be made to: a) your local police department, and b) Child Protective Services, phone number (517) 887-9450.

## **QUESTIONS REGARDING MISCELLANEOUS ISSUES**

### **Change of Domicile**

1. *My order states that I cannot move my children from the State of Michigan without approval of the Court. How do I get the court's approval?*

If the parties mutually agree to a change of domicile, they can request a form called "Order Allowing Change of Domicile" from the **Friend of the Court**. Both parties must sign the form and return it to the **Friend of the Court**. We will forward it to the Court for approval.

If the parties cannot mutually agree on a change of domicile, they have the following options:

- A) Contact the other party to see if he or she will agree to private mediation.
- B) File a petition on your own behalf or contact an attorney to help you file the petition. The matter may then be referred to the **Friend of the Court** for either a conciliation or referee hearing, prior to a judicial hearing.

Notification to the **Friend of the Court**, or filing a petition, does not allow you to move from the state prior to a court order being entered.

Note: A recent amendment in Michigan law provides that a party moving more than 100 miles from the child's legal residence at the time of the commencement of the divorce action, shall only do so with permission of the Court, unless the parties otherwise agree. (See MCL 722.31).

### **Written Orders Only**

2. *Why won't the Friend of the Court enforce what the Judge said in court, even if it not in the written order?*

The Court speaks only through written orders. The **Friend of the Court** enforces only the written orders. If you feel that the written order is incorrect, you may want to order a transcript of the hearing from which the order was established. If you feel the order does not agree with the transcript, bring your concerns to the attention of the person who prepared the written order and request a change. You can also file a motion with the Court asking the court to correct the written order.

### **Property Settlement**

3. *Can the Friend of the Court enforce the property settlement provisions contained in my Judgment of Divorce?*

NO! The **Friend of the Court** enforces custody, parenting time, medical and support orders. The **Friend of the Court** does not have the power to enforce property settlement orders.

### **Referees**

4. *What is a Friend of the Court referee and what can they do?*

A referee is a person who takes testimony, makes findings and decisions based upon facts, and makes recommendations to the Court. A referee can be either the **Friend of the Court** or an attorney employed by the **Court**.

The Chief Judge of a circuit court may appoint a referee to hear any domestic relations matter (except an increase or decrease of spousal support).

The findings of a referee are recommendations to the Court, and are not final until signed and approved by a Judge. These recommendations may be immediately effective subject to later judicial determination if a party files an objection. State law requires that any written report and recommended order made by a referee must be immediately sent to the parties and their attorneys.

If a party disagrees with a referee's recommendation, he or she has the right to a hearing before the Court. This hearing must be requested in writing within 21 days after receiving the referee recommendation (request for a hearing on an income withholding order must be made within 14 days).

### **Parent Locator**

5. *What can the Friend of the Court do to find a missing parent?*

The state and federal government have set up a parent locating service which can be used to:

- A. Locate a parent to collect child support;
- B. Locate a parent for deciding or enforcing a child custody matter;
- C. Locate a parent in cases of parental kidnapping.

The **Friend of the Court**, Prosecuting Attorney and DHS support specialist can ask to use this service. The full name, date of birth, social security number, and last known address of the parent to be located are required. The process, however, can take time and does not guarantee a result.

## Adoptions

### 6. *What happens to my child support order and any support that may be owed when children covered by an existing support order are adopted by another person?*

Adoptions take place in Family Division Circuit Court. The **Friend of the Court** must be provided copies of all adoption orders. The child support order stops only when the Judge signs the adoption order. The **Friend of the Court** is required to collect all support owed at the time of the adoption. Contact the **Friend of the Court** to make arrangements to pay any sums owed.

## COMPLAINTS AND GRIEVANCES ABOUT THE DOMESTIC RELATIONS LEGAL SYSTEM

### MiCSES – Complaints

Anyone having a complaint concerning the operation of the MiCSES system, or other state-wide services of actions that should be performed by the State of Michigan Office of Child Support (not your local Friend of the Court), may send the complaint to:

Michigan Department of Human Services  
Office of Child Support  
Attention: Complaint Review Department  
235 S. Grand Avenue, Suite 1215  
P.O. Box 30478  
Lansing, MI 48909-7978

### Friend of the Court - Complaints

If you have questions about the enforcement of support, parenting time or medical payment provisions of your divorce judgment, you may inquire either in writing or orally concerning your questions. A “complaint” concerning lack of enforcement of any of the Court’s orders, is not a formal grievance; however, your written complaints will be answered promptly by the appropriate staff of the **Friend of the Court**. Please give them time to respond!

### Grievances

#### *How do I file a grievance against the Friend of the Court?*

The law provides a grievance procedure that a party can use when they have a serious concern about **Friend of the Court** operations or employees. A grievance may not be used to disagree with a decision of a Judge or referee, or to object to a **Friend of the Court** recommendation.

- A. You can grieve an issue in three ways:
  - (1) by filing a grievance form, which you can get at your **Friend of the Court** office;
  - (2) by stating your concerns in writing to the **Friend of the Court** in which you clearly identify your letter as a grievance.
  - (3) by filing a grievance with the Citizens Advisory Committee.

- B. The **Friend of the Court** must investigate and answer your grievance within 30 days.
- C. If you do not agree with the **Friend of the Court** answer to your grievance, you can file a further grievance, in writing, with the Chief Circuit Court Judge.
- D. The Chief Circuit Court Judge must investigate and answer your grievance within a reasonable period of time. The **Friend of the Court** Grievance Procedure ends with the response of the Chief Circuit Court Judge.

## **Court Orders - Appeals**

### *How do I file a complaint about my court orders?*

Court orders are not covered under the **Friend of the Court** Grievance Procedure. Contact your attorney to discuss your legal options, such as a motion for re-hearing or the filing of an appeal with the Michigan Court of Appeals.

## **Judges**

### *How do I file a complaint about the conduct of the Judge?*

The Judicial Tenure Commission was constitutionally created to review grievances about alleged misconduct of a judge. Anyone who has serious concerns about the conduct of a judge can contact:

Judicial Tenure Commission  
Cadillac Place Building  
3034 W. Grand Blvd, 8<sup>th</sup> Floor, Ste. 456  
Detroit, MI 48202

Telephone: (313) 875-5154

Complaints concerning your court orders should not be sent to the Judicial Tenure Commission. The Judicial Tenure Commission is not an appellate court and cannot change the content of a court order.

## **Attorneys**

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

The Attorney Grievance Commission was created to investigate alleged misconduct of Michigan attorneys.

Anyone who has serious concerns about the behavior of an attorney can contact:

Attorney Grievance Commission  
Marquette Building, Ste 256  
243 West Congress Street  
Detroit, MI 48226-3259  
Telephone: (313) 961-6585

## **SPECIAL SERVICES OFFERED BY THE INGHAM COUNTY FRIEND OF THE COURT**

### **Circuit Court Family Counseling Service/Evaluation**

Under certain circumstances the Family Division and the **Friend of the Court** utilize the services of private therapists as impartial examiners to conduct psychological evaluations, which may provide the Court with information so that a decision can be made as to what type of custody or parenting time arrangement is in the best interest of the child(ren).

### **Counseling**

The Court sometimes orders parties to participate in counseling. The role of the **Friend of the Court** is to monitor compliance with those orders and, if necessary, bring the matter back before the Court for enforcement action.

### **Substance Abuse Assessment**

The Court sometimes orders the parties to undergo substance abuse assessment and/or substance abuse testing. Such orders are mandatory, and the failure to follow the court's order can effect the parties' status before the Court. The **Friend of the Court** is to monitor compliance with these orders, and if necessary bring the matter back before the Court for enforcement action.

### **FOCUS ON CHILDREN**

The **Friend of the Court** provides a parent education program called **FOCUS ON CHILDREN**. This program explores some of the dynamics of divorce, separation, co-parenting, and the challenge of raising children in two households. It is intended to help parents better understand how divorce and/or separation affects both their children and themselves. The program is conducted by Family Court Judges, experienced **Friend of the Court** staff, psychologists, and local practicing attorneys. Attendance is mandatory for all parties, and notification is sent to the Family Court Judge to whom your case is assigned advising that you have attended the program. Sessions are held on two Wednesdays each month, one at noon and one at 6:00 pm.

### **GENERAL INFORMATIONAL MEETINGS**

Twice a month, the **Friend of the Court** hosts a general informational meeting. These meetings provide forms and instructions to parties seeking to establish or modify court orders on issues of custody, parenting time and child support. Simplified instructions on how to complete and file the forms are provided. The **Friend of the Court** staff will not provide legal advice on specific case situations. A schedule of the meeting dates is available at the Friend of the Court office. Those attending the class are requested to bring a copy of their last court order, and paper and pencil.

### **AVAILABILITY OF OTHER HUMAN SERVICES**

A current list of local human service organizations may be requested at the **Friend of the Court** office. There are also helpful materials on various domestic relations topics placed in the lobby/waiting area. Please also see "Attachment I" for a listing of Community Resources.

