

Friend of the Court

Washtenaw County Trial Court
Family Division

PREFACE

A divorce or separation is a difficult time for both parents. But divorce/separation through the eyes of a child is not only difficult, but traumatic and confusing. Separating parents' main concern should be the physical and emotional well being of their children. Decision making should be done only in the children's best interest, taking into consideration the inherent rights of each child:

The right to be treated as important human beings, with unique feelings, ideas, and desires and not as a source of argument between the parents;

The right to a continuing relationship with both parents and the freedom to receive love from and express love for both;

The right to express love and affection for each parent without having to stifle that love because of fear of disapproval by the other parent;

The right to know that their parents' decision to divorce is not their responsibility and that they may live with one parent and visit the other parent;

The right to continuing care and guidance from both parents;

The right to honest answers to questions about the changing family relationship;

The right to know and appreciate what is good in each parent without being placed in a position to manipulate one parent against the other;

The right to have the custodial parent not undermine visitation by suggesting tempting alternatives or by threatening to withhold visitation as punishment for the child's wrongdoing;

The right to be able to experience regular and consistent contact with both parents and the right to know the reason for a cancelled visit.

FRIEND OF THE COURT
TWENTY-SECOND JUDICIAL CIRCUIT

Washtenaw County Trial Court

David S. Swartz
CHIEF JUDGE

Family Division

Archie Brown
TRIAL COURT JUDGE

Timothy P. Connors
TRIAL COURT JUDGE

Nancy C. Francis
TRIAL COURT JUDGE

Darlene A. O'Brien
PRESIDING JUDGE

Dan Dwyer
TRIAL COURT ADMINISTRATOR

RELATED COMMUNITY SERVICES

Lawyer Referral Service
Washtenaw County 996-3229
State of Michigan 1-800-968-0738
Child Welfare Law Resource Center 998-9191

Prosecuting Attorney
(Civil Division) 222-6630
Probate Court (Juvenile) 222-6901

Dept. of Human Services 481-2000

Children's Protective Services 481-9110

Community Mental Health
Toll Free 1-800-440-7548

CRISIS ASSISTANCE

Washtenaw County Sheriff 911
SOS Crisis Center 484-4300
SAFE House - Domestic Violence 995-5444
Assault Crisis Center - Sexual Assault 971-3696
Ozone House 662-2222
Psychiatric Emergency Services (U of M) 936-5900

Please refer all tax questions to the Internal Revenue Service. The IRS has a publication #504 entitled Tax Information for Divorced or Separated Individuals. Comments are included on child support payments in this publication. Publication #501 entitled Exemptions also comments on child support.

GRIEVANCE PROCEDURE

If you should have a grievance concerning an employee or procedure of the Friend of the Court Office, you may request a grievance form from the Friend of the Court Office. Your grievance will be investigated and decided as soon as possible.

If you are not satisfied with the disposition of your grievance by the Friend of the Court, you may file an additional grievance with the Chief Judge. Forms for this procedure are also available at the Friend of the Court Office.

IV-D SERVICES

If child support monies that you receive are payable through the Office of the Friend of the Court, you will be asked to sign an Application for Child Support Enforcement Services. This application requests services under the Child Support Enforcement Program of Title IV-D of the Social Security Act. Title IV-D is a program that provides for reimbursement by the Federal Government to Washtenaw County for costs incurred while enforcing and collecting child support. Reimbursement is only available on cases designated as "IV-D" (cases with a signed Application for Child Support Enforcement Services on file or cases involving ADC payment or arrearages). This reimbursement is critical to upgrading and maintaining Friend of the Court Services. Your cooperation in signing the Application for Child Support Enforcement Services will be greatly appreciated.

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FRIEND OF THE COURT

Telephone Number:
(734) 222-3050

Automated Account Information
(734) 994-9261

Web Site
<http://washtenawtrialcourt.org>

To telephone the Friend of the Court, use the general information number, above, or the automated account information number, which will allow you to transfer to the appropriate person.

If the person you are trying to reach is unavailable, you will be automatically connected with their voice mailbox. Please leave a detailed message and your phone call will be returned, generally within 48 hours. The volume of telephone calls we receive is staggering, so please be patient.

The various Friend of the Court units receive telephone calls Monday through Friday, 8:00 am to 4:30 pm, as available.

FOR YOUR CONVENIENCE

MY CASE NAME: _____

MY DOCKET NUMBER: _____

Your case name and case number will not change. Your case name remains the same regardless of your name change. Your case number is like a social security number; you will need it any time you contact the Friend of the Court office. It is required on all correspondence; we encourage you to memorize it.

and, in addition, the parties may agree to abolish all unpaid support provided there are no monies owed to a public agency. This is also done through the Friend of the Court.

Most step-parent adoptions are handled with relative ease and speed if there are no objections from either parent. Thereafter, the former step-parent becomes the child's legal parent. Usually the child is given the new family name, and a new certificate of birth is ordered.

PARENT LOCATOR

The federal government has established the Parent Locating Service and required the establishment of corresponding State agencies. The service can be used to:

- 1) locate a parent for purposes of securing child support.
- 2) locate a parent for the purposes of making or enforcing a child custody determination and in cases of parental kidnapping.

The Friend of the Court is one of the agencies that can utilize these services. The full name, date of birth, and social security number of the person to be located are pre-requisites to using this service.

If you wish to use this service for enforcement purposes, please contact your Friend of the Court Enforcement Officer.

INCOME TAX

How to get a year-end statement from the Friend of the Court...

An individual statement of all child support and/or spouse support payments received through the Friend of the Court during the last calendar year is available upon request. Please send a written request after January 15, and include the names of both parties, your case number and your current address. These statement may also be picked up at the Friend of the Court Office in person; however, the statement must be requested in advance.

of the Court Office with the full name, date of birth, social security number, and the last known address of the absent parent. They will then attempt to locate him/her. An order of income withholding can only be successful when the source of income of the payor is known.

RECONCILIATIONS

Not every divorce action that is begun ends in a Judgment of Divorce. Many parties reconcile their differences and drop their divorce action. An order of dismissal must be filed with the Clerk's Office and the Friend of the Court Office to end enforcement of the court order. If the children have received public assistance, arrangements will have to be made to pay any child support arrearage that accrued while the children were on public assistance. Contact the Friend of the Court Enforcement Officer assigned to your case to arrange a payment schedule.

STEP-PARENT ADOPTIONS

A divorced parent who remarries may wish his/her new spouse to adopt his/her children from the previous marriage. The adopting family should contact the adoption unit of the Family Court in their county of residence. Washtenaw County families should contact the Washtenaw County Probate Court located at 101 E. Huron, Ann Arbor, Michigan 48107. The telephone number 734-222-3072

Some general comments may be helpful at this point. In adoption proceedings evidence of the adopting parent's ability to maintain a stable relationship is required. This generally means a minimum of one year of marriage, however, exceptions may be considered. The court does not require that a family have an attorney unless it is their wish. A nominal filing fee is required for each child's adoption. The non-custodial parent must consent to the adoption, as well as any child who is fourteen (14) years of age or above. If the non-custodial legal parent will not consent to the adoption, a petition to terminate parental rights may be filed.

The adoption unit does not become involved in past or current matters of child support as ordered by the Court. All such money matters are to be handled by the divorced parents or their attorneys, in conjunction with the Friend of the Court. Adoption does end however, all future support responsibilities of the former parent

The jurisdiction of the Circuit Court over the parties to domestic relations matters (divorce, separate maintenance, paternity, custody, visitation, support) starts as soon as the action is commenced and often continues long after the judgment is granted. The responsibilities of each party are many, and failure to comply strictly with the order of the court can lead to costly court appearances and, possibly, to contempt proceedings (see "Enforcement").

The Friend of the Court is an agency of the Court designed to advise and assist the Court in dispute resolution and in the enforcement of court orders. Since the Friend of the Court often makes recommendations to the Court on the content of orders and their enforcement, it is very important for you to know the functions, policies, and procedures of the Office as well as your rights and responsibilities. Please read this handbook thoroughly and follow the procedures outlined. It is designed to answer your questions and concerns.

We understand that a divorce situation can be very disturbing, but your dealings with the 22nd Judicial Circuit Court, Family Division do not necessarily have to be unpleasant. We will do our best to handle your case quickly and fairly. If you follow the suggestions in this handbook, you will be well on your way to doing your part.

The purpose of this booklet is to provide you with information on how to use the Office of the Friend of the Court to monitor your case and resolve disputes. Because our involvement may be requested by you or the court at any time, both parties must keep the Friend of the Court informed of all changes of address. Sections are included that describe common areas of dispute between the parties and indicate the position the court and the Friend of the Court generally take. Other sections attempt to explain domestic relations litigation process and provide some insights from the Friend of the Court staff on the emotional and financial problems you are likely to encounter.

This handbook is a reference volume. It may be read in whole, or particular sections can be consulted. The Table of Contents will direct you to the appropriate subject matter. Information is repeated from section to section where necessary, to provide a complete discussion of an issue.

Please retain this handbook. It has been designed to be of continuing value.

INTRODUCING THE WASHTENAW COUNTY FRIEND OF THE COURT

Michigan law created Friend of the Court offices in 1919, and there is at least one office serving each circuit court's family division.

Friend of the Court offices have the following duties:

1. When parents cannot agree, or when directed by the judge, to conduct investigations and make reports and recommendations to the court regarding:

Custody
Parenting time (which may include transportation)
Amount of child support (including medical support, and in limited situations spousal support)
2. To offer mediation, when both parents agree to participate, as an optional way of settling disagreements over custody or parenting time of children.
3. In collaboration with the State Support Disbursement Unit (MiSDU), To collect, record, and send out all support payments as ordered by the court.
4. To provide enforcement services on all custody, parenting time, and support orders entered by the court.

This handbook also addresses the basic duties of parties when the court has issued an order for custody, parenting time, or support.

Your involvement with us may last many years. Please learn what do.

Visitation is generally not ordered in paternity actions and the Friend of the Court Office cannot petition the court to establish visitation. If the father wishes to have the legal right to visit his child, he must petition the court to amend the Order of Filiation to include visitation rights. Once there is a visitation order the Friend of the Court will enforce the order.

You may have to pay confinement expenses AND support

The first support payment is always due on the date of the order, unless the order specifies another date for payments to commence. Don't wait to be informed that the Friend of the Court has opened an account for you. Start setting aside your support money every week and keep contacting the Friend of the Court to find out if your account is open. Then, send in all support money you have been accumulating.

If the mother and father marry after the Order of Filiation, they should mail a copy of the marriage certificate to the Friend of the Court Office to close the case after arrangements are made to pay all sums due to any public agency.

OUT OF STATE ENFORCEMENT RECIPROCAL ACTIONS

If the parent paying support has left the State of Michigan, he/she can continue to pay support through the Office of the Friend of the Court. If those payments should stop, the parent receiving support has three options:

- 1) request the Friend of the Court to send an interstate order of income withholding to the state where the payor resides;
- 2) request the Friend of the Court to register the support order in, the state where the payor resides;
- 3) request the Friend of the Court in the county where the requesting party resides to begin an action under the Uniform Interstate Family Support Act (UIFSA).

Not all of these options are available in each case. The key to beginning any of these actions is to know the address of the paying parent. If you do not know the address go to the Prosecutor's Office in the county where you reside or to the Friend

OTHER TYPES OF ACTIONS HANDLED
BY THE FRIEND OF THE COURT

FAMILY SUPPORT

A family support action is not an action for divorce or separation. It is merely a court order compelling a parent to provide support. Generally, family support actions are started by the Prosecutor's Office after referral by the Michigan Family Independence Agency. Payments are to begin on the date the order of support is entered. Do not wait for notice from the Friend of the Court that your account is open. Start setting aside the support money and keep contacting the Prosecuting Attorney and the Friend of the Court until you learn your account is open and then send in all due support.

A Judgment of Divorce ends a family support order.

Either party may begin a divorce suit even though the court has ordered payments in a family support order. The family support order terminates upon the entry of a Judgment of Divorce even if there are arrearages due to any public agency. Any arrearages owed to the state will continue to be enforced. Arrearages owed to the custodial parent will be waived unless preserved in the Judgment of Divorce. Be sure to inform the Friend of the Court Office that a Judgment of Divorce has been entered if there is an outstanding family support case.

An order of dismissal or abatement must be filed if the parties wish to have enforcement of the family support order terminated. If you were on ADC, be sure to inform the Prosecutor's Office. Notifying your caseworker of a reconciliation is not enough.

The Friend of the Court Office will enforce the support provisions of the family support order automatically or upon request. Visitation is not ordered automatically in family support cases.

PATERNITY ACTIONS

In paternity actions the Order of Filiation (the order establishing paternity) is the controlling court order. The Friend of the Court receives and disburses payments in the same manner as divorce cases and automatically enforces the support obligation.

Whose FRIEND is the Friend of the Court?

The name of our agency, Friend of the Court, often confuses the public. The word "Friend" seems to imply that we are ready and able to assist the public with all court related problems. Unfortunately, this is not the case. The office of the Friend of the Court is an agency of the Family Division. Our primary purpose is to assist the Court in the resolution of domestic relations disputes which are before the court. Domestic relations cases include: divorce, custody, support, paternity, parenting time and UIFSA (Uniform Interstate Family Support Act). The areas of our responsibility are specifically defined by statute. We will, at all times, try to act in the best interests of your children.

When is the Friend of the Court Office involved in a case?

It is likely that the Office of the Friend of the Court will be involved in your divorce, separate maintenance, paternity, family support, or UIFSA action if your case is before the Washtenaw Trial Court. This involvement will continue at least until your youngest child turns 18 years old and may continue longer until all the court ordered obligations have been met and fulfilled.

Parties may choose to opt out of all Friend of the Court services by following the procedures describes in MCL552.505a. Opting out means no Friend of the Court services will be provided to the family, including support, medical or parenting time enforcement.

FAMILY EDUCATION PROVIDED BY THE FRIEND OF THE COURT OFFICE

The Washtenaw County Trial Court Family Division is committed to helping separating families achieve the best emotional outcomes possible for their children. The Friend of the Court sponsors the S.M.I.L.E. education program (Start Making It Livable For Everyone). Check the FOC web page for schedules or call the general telephone number.

Research shows that how children survive divorce is due in large measure to how the parents interact during and after the divorce and their relationship with their children. Parents' attitudes and actions make a big difference in how children adjust to the separation. The S.M.I.L.E. program informs parents about children's ability to adjust and how to best facilitate a healthy relationship with both parents.

COMMUNICATION WITH THE FRIEND OF THE COURT OFFICE

Writing the Friend of the Court:

If you want your communication made part of your file, be sure to write. Phone messages are not always included in the court record and if it is something that should be filed, such as information regarding loss of employment, write it.

When writing the Friend of the Court please use full size writing paper (8 1/2 x 11). Include your name, address, case number, identity of the paying party, and your phone number if you can be reached during business hours. Our volume of mail is staggering so be patient if you require a reply.

Our address is:

Washtenaw County Friend of the Court
Washtenaw County Courthouse
P.O. Box 8645
Ann Arbor, Michigan 48107-8645

Telephoning Friend of the Court Office:

When calling, please be brief and to the point. Our telephone receptionist may answer some of your questions, he/she may transfer you to the appropriate person, or he/she may tell you quite honestly, "The Friend of the Court doesn't handle that" (see back cover for related community services).

The Office of the Friend of the Court receives a large volume of telephone calls and because our records are confidential, employees frequently end up telling many callers that they cannot assist them over the phone. Try to understand our procedures and functions before you call. It is probably a fair statement that people are not at their best during divorce proceedings. Try to remember that it may require an extra effort for you to make the kind of impression for which you wish to be remembered.

E-MAILING THE FRIEND OF THE COURT OFFICE:

You may e-mail your general or specific account related questions to intake@ewashtenaw.org

THAT FIRST COURT ORDER

Many domestic relations legal actions begin with the "temporary order." If you file the action, your attorney may prepare an order spelling out who will have temporary possession of the children

1. If child support is direct pay or abated we will not enforce expenses unless specifically directed to do so by the court. (SSA direct pay and some no charge cases are still enforced.)
2. You must keep track of uninsured expenses to determine and prove the annual ordinary amount has been exceeded.

How to Submit Extraordinary Expenses to Friend of the Court

1. You must send the request to the other party within 28 days of incurring the expense. If you do not send bills within 28 days enforcement may be denied by the FOC.
 - Not knowing the other parties address or PPO w/ address restrictions are acceptable reasons for not mailing the request to the other party.
 - The FOC will not accept bills that are more than one year old and have never been submitted.

If you are the party paying child support you must also include proof that you have paid the requested expense. (e.g. credit card receipt matching payments shown on provider statement, signed letter from provider indicating payment they received from you and how the payment was applied.)

MEDICAL FORMS ARE PROVIDED BY SCAO ON WWW.MI.GOV

THE FOLLOWING FORMS ARE ALSO AVAILABLE THROUGH THE FOC:

1. REQUEST FOR HEALTH CARE PAYMENTS (FOC13)
2. COMPLAINT FOR ENFORCEMENT OF HEALTH CARE EXPENSE PAYMENT (FOC13A)

EDUCATIONAL EXPENSES

When educational expenses are ordered payable through the Office of the Friend of the Court, the Friend of the Court Office will enforce this obligation in the same manner as all other support enforcement.

MEDICAL AND DENTAL BILLS

Health care insurance...

Michigan law provides that one or both parents shall obtain and maintain any health care coverage that is available to them at a reasonable cost, as the benefit of employment, for the benefit of the minor children of the parties. If a parent is self-employed and maintains health care coverage, the court must require the parent to obtain or maintain insurance coverage for the benefit of the minor children of the parties, if available at a reasonable cost.

Medical and Dental bills...

Payment of health care expenses will be apportioned between the parents based on the percentage ratio indicated in their court order. Read your judgment of divorce or current court order carefully so that it is clear to you which portion of the medical expense is your responsibility and which portion is the responsibility of the other parent.

Two terms you should be familiar with...

Ordinary Medical Support (MS)

The amount the payor of child support pays as a portion of child support to the payee for the purpose of defraying medical cost, such as copays, office visits, deductibles, prescription, etc. This language is now included in most court orders entered after October, 2003

1. Annual ordinary is determined based on a calendar year.
2. A court order without an annual ordinary amount charging or declared is zero annual ordinary.

Extraordinary Medical Expenses

When extraordinary medical expenses exceed the yearly ordinary support amount, either party may request repayment from other parent. If party's are unable to collect their repayment from the other parent, you may also contact the FOC for assistance.

and perhaps at what level support will initially be set. If you are not the party initiating this lawsuit, you will be served with notice that a lawsuit has been started. The plaintiff and the defendant are NOT in identical situations. You must find out immediately what court order has been entered in your case. A temporary court order is usually entered to provide for possession of the children, support, and other matters during the course of the proceedings. (Support may include: child support, spouse support, medical, dental, other health care expenses, child care expenses, and educational expenses). Any order, temporary or permanent, which provides for support must also provide for an Order of Income Withholding, which may or may not take immediate effect (see "Enforcement-Support").

If you are the defendant you must take action.

Do not come to the Friend of the Court Office to complain about the order. Go directly to your attorney or an agency to get direction in obtaining an attorney. Time is important. If you do not agree with the ex-parte court order you must file objections to the order within fourteen (14) days of the date you are served. If objections are not filed within the fourteen (14) day period the ex-parte order will automatically become the temporary order of the court and cannot be changed without showing a change of circumstances. Please note the Friend of the Court no longer becomes automatically involved in investigating issues of support, custody, and visitation. Do not fall into the trap of waiting for the results before deciding whether to contest an issue.

Who enforces the temporary order?

To enforce an ex-parte or temporary order, contact your attorney or the Friend of the Court. The Friend of the Court cannot enforce ex-parte temporary orders until a proof of service has been received by our office. A request for enforcement can be made in person at the Friend of the Court Office or in a complaint letter that identifies both parties and the case number. Please sign all correspondence.

THE FRIEND OF THE COURT INVOLVEMENT

DOMESTIC RELATIONS MEDIATION

If you are a party to an action and have a dispute that you cannot resolve between you and the other party or parties, you are encouraged to participate in alternative dispute resolution. Typically, when parties go to court, decisions affecting their family are made by the judge, based upon available evidence and according to law. Parties often feel that going to court and having a judge make the decision results in a sense of loss, because decisions are made by someone not directly affected by the outcome. Alternative dispute resolution places the responsibility for settling issues upon parties, without the direct involvement of the court.

Friend of the Court Mediation:

The Friend of the Court provides mediation services whenever there is a dispute regarding custody or parenting time. These services will be provided by a Friend of the Court employee.

Who is eligible?

Friend of the Court mediation is available to persons involved in both pending or post-judgment litigation relative to the issues of child custody and/or parenting time. It is not required that motions be pending before the court to be eligible. Persons in dispute over custody or parenting time may seek the assistance of the mediator to help them reach a mutually agreeable solution to their problems without going to court.

When is mediation appropriate?

Friend of the Court mediation is a service available only to those parties who voluntarily seek a joint resolution of their differences. Both parties must consent to mediation before it can occur. Mediation is not required. When a party to a pending or post-judgment court action or custody/parenting time dispute contacts the Friend of the Court, the alternative of mediation will be offered. If both parties desire mediation they will be scheduled for an appointment with the mediator. Both parties will meet together with the mediator at a mutually agreeable time. Attorneys may not be present during any mediation session.

the visitation dispute either through the Friend of the Court visitation unit or through domestic relations mediation. If the dispute cannot be resolved, or if there is no response to the letter within fourteen (14) days, an order to show cause will be requested if it appears circumstances warrant such action. If the judge finds either parent in contempt, conditions will be set to enable that parent to clear himself/herself of contempt. If that parent is sentenced to jail he/she will be released from custody as soon as the judge has reasonable cause to believe that the parent will comply with the visitation order, even though the term of the sentence may not have expired.

Make-up Visitation Policy

In some cases the Friend of the Court visitation unit may determine that it is appropriate to apply the Make-up Visitation Policy.

This policy provides that if the custodial parent wrongfully denies the non-custodial parent court-ordered visitation, the custodial parent may accumulate a visitation arrearage. Wrongfully denied visitation may be made up at a later date with the same type of visitation that was denied, i.e. weekend for weekend, week day for week day, holiday for holiday, and summer visitation for summer visitation.

Within seven (7) days of an alleged, wrongfully denied visitation, the non-custodial parent must write to the Friend of the Court Office, stating the dates and circumstances of the alleged, wrongfully denied visitation. The Friend of the Court Office will send a notice concerning the alleged denial within five (5) working days of the receipt of the complaint. If there is no response from the custodial parent within seven (7) days of the date of the notice, this will be considered as an agreement that visitation was wrongfully denied and the Friend of the Court Office will establish a visitation arrearage. If the custodial parent does reply within the seven (7) days, a hearing will be scheduled before a referee or the visitation unit staff to determine whether visitation was wrongfully denied. Either party can appeal the decision to the court within fourteen (14) days of the decision. After a final determination that visitation was wrongfully denied, the Friend of the Court Office will establish a visitation arrearage. The wrongfully denied visitation must be made up within one year of the denial.

The non-custodial parent will receive a copy of all notices. Either party may ask his/her attorney to accompany him/her to any hearing.

CREDIT BUREAU REPORTING

Payers with a support arrearages of two or more months will have their debt automatically reported to the credit bureau each month.

PASSPORT DENIAL

Payers with support arrearages of \$2,500 or more will be denied a passport.

Effective June 1, 2009, all Americans will need to present a U.S. passport, passport card, NEXUS card, Enhanced Drivers License or other Western Hemisphere Travel Initiative (WHTI)-compliant document in order to enter the U.S. by land or sea, this includes travel to and from Canada.

FRAUDULENT CONVEYANCES

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

PARENTING TIME (VISITATION) ENFORCEMENT

If you are being denied visitation, a written visitation enforcement request should be filed with the Friend of the Court Office. The request should include the case name and case number and should address the following items:

1. The date of the last visitation.
2. Documentation of efforts to visit.
3. Description of the circumstances surrounding the current denial of visitation.
4. Signature, address, and daytime telephone number of the party being denied visitation.

Upon the receipt of a written complaint, a letter will be sent to the custodial parent. The parties will be given an opportunity to resolve

What about confidentiality?

Communication between a domestic relations mediator and a party participating in domestic relations mediation is confidential. The communication may not be admitted into evidence in any court proceeding. The same protection is given to communication between the parties in the presence of the mediator. The Friend of the Court mediator will not be involved in any other Friend of the Court functions relative to your case, unless both parties agree to allow this.

What if we reach an agreement?

If an agreement is reached by the parties through domestic relations mediation, a consent order incorporating the agreement will be prepared by the Friend of the Court or by one or both of the parties' attorneys. The consent order will be presented to, and signed by, the court.

Mediation fees:

Mediation services provided directly by the Office of the Friend of the Court or by an outside agency as a result of a direct referral from the Friend of the Court are available at no direct charge. Persons who choose to obtain mediation through an outside person or agency, or through their attorney, will be wholly responsible for any fees incurred.

INVESTIGATION AND RECOMMENDATION PROCESS

The Friend of the Court will investigate and make a recommendation to the court if:

- (a) (pre-judgment) the parties are unable to agree on the issues of custody or visitation, and mediation is either unsuccessful or undesirable;
- (b) (pre-judgment) the parties are unable to agree on the issue of support;
- (c) public assistance is involved;
- (d) (pre or post-judgment) the court orders an investigation and recommendation on an issue.

Appointments for interviews:

If the Friend of the Court is conducting an investigation on your case it is YOUR RESPONSIBILITY to arrange for an appointment with the Friend of the Court Office. Do not wait for the Friend of the Court to contact you or for your attorney to schedule the appointment. An appointment can be scheduled by calling the Casework Clerk at: (734) 222-3341. Be sure to have your case number available when calling. Be prepared to explain to the receptionist the reason for the appointment (pending divorce, motion or petition to modify the judgment of divorce, support action, custody, paternity, mediation, etc.), so that your appointment will be scheduled with the appropriate staff person. Interviews are often scheduled jointly, so both parties can be present to hear each other.

Why am I being interviewed?

Information gathered at the interview is used in preparing Friend of the Court recommendations in the areas of support, custody, and visitation. Come prepared to discuss these issues at the time of your interview. Bring with you verification of your income, assets and liabilities, as well as documentation of any child care expenses incurred. You should provide the other party with a copy of any document you provide to Friend of the Court.

Your attorney may wish to accompany you to the interview—please advise him/her of the date of your interview as he/she will not receive separate notice of your appointment. The Friend of the Court Caseworker will not give legal advice. A decision as to what the recommendation will be is not made at the time of the interview.

If the issues of custody, parenting time, and support are not in dispute, a Friend of the Court interview may be unnecessary.

REFEREE HEARINGS

A referee is an attorney employed by the Friend of the Court, whose function is three-fold:

- 1) to hold formal hearings on orders of income withholding (see “Enforcement”);
- 2) to hold formal hearings on support modifications;

and hearing notices. Copies of notices will also be sent to the original attorneys of record prior to judgment. Either party may ask his/her attorney to accompany him/her to any hearing.

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

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

FEDERAL AND STATE TAX REFUND OFFSET

The Friend of the Court may collect past due support from Federal and State income tax refunds in both TANF and non-TANF IV-D cases. There are current eligibility requirements that must be met for a case to be submitted for a tax offset. Based on the eligibility requirements, submission of arrearages is done automatically by the SCAO.

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.

LIENS

A lien is a claim against real or personal property. Once a person holding property is informed of the lien, that person must not allow the property to be transferred until the lien is released.

As of August 1998, Michigan law provides that a lien in the amount of past due support exists against the support obligor’s real and personal property.

ENFORCEMENT

FRIEND OF THE COURT AND THE CHILD SUPPORT ENFORCEMENT PROGRAM.

The child support enforcement program was created under Title IV-D (Four D) of the Social Security Act. In Michigan this program is administered by the Office of Child Support in cooperation with Friend of the Court offices. The Office of Child Support is part of the Family Independence Agency (formerly called the Department of Social Services), and has the responsibility to administer Federal child support program funds, coordinate location of absent parents, and manage the process for income tax intercepts. The Office of Child Support may also initiate actions to have support orders entered under the Paternity Act or the Family Support Act, and to have support enforcement actions taken in another state.

Enforcement will automatically begin when support arrearages exceed the standard established by law.

If income withholding is inappropriate or unsuccessful, an order to show cause hearing will be requested. At this hearing, the judge may be requested to find the delinquent payor in contempt of court for failure to obey the court's order. If the judge finds the payor in contempt, conditions will be set to enable the payor to clear him/herself of contempt. If the delinquent payor is sentenced to jail, he/she will be released from custody immediately upon compliance with the conditions set by the judge, even though the term of the sentence may not have expired. Incarceration does not cancel accumulated arrearages — they must still be paid. The payor MUST be at the hearing.

Both parties are encouraged to attend the show cause hearing. A warrant will be issued for the arrest of the parent paying support if he/she fails to appear. The custodial parent should appear to inform the Friend of the Court of the resources held by the paying parent and to assist in identifying and locating the paying parent. Little patience will be shown the custodial parent who fails to appear at the show cause hearing and then complains about the result.

The custodial parent will receive a copy of all delinquency notices

- 3) to hold formal hearings on domestic relations matters specifically referred by the court.

The referee may administer oaths, compel the attendance of witnesses and the production of documents, and question witnesses and parties. After evaluating the information and evidence presented, the referee makes a written report to the court. The report contains a summary of the findings and a recommendation. Copies of the referee's report are sent to both parties and their attorneys. A referee's recommendation will become a court order if neither party files an objection within specific time limits.

If a party disagrees with a referee's recommendation (s)he has the right to a de novo (new) hearing before the judge. The objection to the referee's recommendation, and a request for hearing, must be made within 21 days from the time the recommendation is served (a request for hearing on an income withholding order must be made within 14 days).

THE JUDGMENT OF DIVORCE (or OTHER FINAL COURT ORDER)

This document details your court-ordered obligation to your children and to your ex-spouse. Both parties have obligations and both should read the Judgment of Divorce.

The Judgment of Divorce is a court order.

Almost from the beginning of the court action the parties to the action will be operating through court orders which cover a variety of matters. This may be the only time in your life you are controlled by a court order and you should understand that the order is binding. Failure on your part to comply can result in contempt of court proceedings being brought against you (see "Enforcement"). It is the intent of the court to provide firm guidelines that will aid and assist the parties and protect the interest of the minor children.

When the judge grants your divorce a court order must be drawn up by someone, usually your attorney or your spouse's attorney, and presented to the judge for signature. The order is called a Judgment of Divorce. The Friend of the Court suggests both parties carefully read the Judgment of Divorce as it affects many areas of your life for years to come.

The sections of your judgment:

The Michigan Court Rules require the Judgment of Divorce to be divided into distinct paragraphs with each paragraph having a title. The paragraphs that are mandatory are those covering:

1. Custody
2. Child Support and related issues
3. Parenting Time (Visitation)
4. Change of Domicile
5. Spouse Support (Alimony)
6. Property Settlement and Provision in Lieu of Dower
7. Income Withholding

Some sections can be amended and some cannot...

Each of the mandatory paragraphs will be discussed generally and the role of the Friend of the Court in each is detailed. There is great variety among judgments of divorce and the facts of your case will influence the precise nature of your judgment. Some sections of the Judgment of Divorce, as they affect custody, visitation, child support, and spouse support (in some instances), are subject to amendment. These areas are considered "continuing matters" and can be amended as conditions change. Property provisions in the judgment generally are not subject to change.

How to amend a section of the judgment:

A party who wishes the court to review one of the "continuing matters" must file pleadings (a petition or a motion) to bring the matter before the court. Generally, this is done through private counsel. While the Friend of the Court does not represent either party, to protect the welfare of the children it may seek modification in selected cases, and the court may, on its own motion, amend an order.

The Friend of the Court will enforce the judgment as detailed later in this booklet.

4. Remember the Friend of the Court will accept any amount, either more or less than the ordered support, but you are still responsible for any sum not paid and it will show on the Friend of the Court records as an arrearage and must be made up.

Payee (party receiving payments)...

Record each Friend of the Court check as received and note the date, amount, and check number of each check. Without this information, it is impossible for us to determine if you have received all checks.

The common source of errors on the part of payors are:

1. Making four payments per month (48 per year), and failing to consider that this will mean four missed payments per year;
2. Failure to include extra sums for the semi-annual service fees.
3. Making support payments other than through the Friend of the Court Office/MiSDU; if payments are ordered payable through the Friend of the Court Office, it is the only way payments should be made. Credit may be given for direct payments upon letter from payee; however, in the event of a dispute, granting credit is solely within the judge's discretion.
4. Failing to account for distribution of payments to payors on other cases.

Payment and/or arrearage information can be obtained by calling our Voice Response Unit at: (734) 994-9261. You must select a Personal Identification Number (PIN) on your first call. However, if you feel that the payments and arrearage figures shown by the Friend of the Court records are incorrect, you can come into the Friend of the Court office between 8:00 am and 5:00 p.m. to speak with a case manager. It is always advisable to call ahead and arrange for an appointment. You must be prepared to show why you feel that the Friend of the Court record is inaccurate. Without proper preparation by you prior to your arrival, nothing of significance can be accomplished.

How to prepare for a case manager appointment.

1. Try to get copies of all court orders issued in your case. The Friend of the Court is to receive copies of all orders from the attorney drafting the order, but occasionally an attorney will forget to send copies to the Friend of the Court.
2. Request statements of account from the Friend of the Court and verify with your records. Bring in your receipt or canceled checks. Know ahead of time the amounts you have paid into the Friend of the Court total your checks by years, have the yearly totals at hand.
3. Compare with the Friend of the Court records and note which year has the discrepancy. If any of the children have married, died, graduated from high school, or entered the Armed Services, bring in the appropriate proof and dates.

Occasionally, it is necessary to order an audit of the account. Upon completion, a copy of the audit will be provided to the requesting party.

To insure that the Friend of the Court handles your account correctly, keep your own records.

Payor (party making payments)...

1. Make all payments through the Friend of the Court Office/MISDU.
2. Include your name and case number with all payments.
3. Keep a list of each payments made to the Friend of the Court. Include date and amount of each payment.

CUSTODY

This paragraph of the Judgment of Divorce dictates which person or agency will have the responsibility for the minor child and make the day-to-day decisions regarding this child. One of the parents of the child is usually designated as the custodial parent or joint custody may be awarded; however, the court can decide that another individual or agency should be the custodian in unusual situations.

Custody is contested when a dispute exists regarding the custodial arrangement and the matter is brought before the court through a petition. In disputes between parents and third parties (e.g., grandparent, step-parent) or agencies, the court will determine custody on the basis of the "best interests" of the child. The Friend of the Court may prepare a report to assist the judge in his/her determination. The report is prepared following an investigation of all parties.

Factors the court MUST consider in determining custody:

In disputes between a parent and an agency or third party, there is a presumption in favor of the parent. Michigan has abandoned the presumption favoring the mother as the custodial parent. The court will consider the following factors as outlined in the Michigan Child Custody Act (MCLA 722.23):

- “(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 continuation of the education and raising of the child in its religion or creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care 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 deems the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent.
- (k) Domestic violence, regardless of whether the violence was directed against, or witnessed by the child.
- (l) Any other factor considered by the Court to be relevant to a particular child custody dispute.”

JOINT CUSTODY

Joint custody is described in the statute quoted below. In essence joint custody is what the parents define it to be. It can take the form of shared possession but it doesn't always. Often it means joint decision making (particularly on major issues involving the child). Joint custody always means joint/shared responsibility. Candidates for joint custody must be willing to communicate with each other and work together to provide consistency in discipline and in all aspects of child rearing.

Joint custody does not cancel or suspend a parent's obligation to pay child support. Child support is based on both parents' responsibility to provide for the child. A joint custody arrangement may provide circumstances that require special consideration.

The court will consider the following factors in joint custody in accordance with MCLA 722.26a.

- (1) In custody disputes between parents, the parents shall be advised of joint custody. At the request of either parent, the Court shall consider an award of joint custody, and shall state in the record the reasons for granting or denying a request. In other cases joint custody may be considered by the Court. The Court shall determine whether joint custody is in the best inter-

is completely satisfied and both must compromise to complete the proceedings. Once included in a Judgment of Divorce, the property settlement is final and generally not subject to modification. The Friend of the Court Office does not enforce property settlements.

INCOME WITHHOLDING

The law says that all support orders must have a statement requiring an Order of Income Withholding. Income Withholding is a court order requiring the payor's (person required to pay support) employer (or anyone else who owes the payor money) to withhold child support from his/her check. This money is then forwarded to the Friend of the Court Office.

ECONOMICS OF DIVORCE

Once your divorce has become final, both parties will have to deal with a new economic situation. In very few cases can the parties immediately resume their old life style. Money problems are often severe after divorce. Both parties should do everything possible to reduce expenses at this time and even more important, carefully consider their economic situation before making new plans.

Many parties marry within short periods of time after their divorce. If you are paying support, be very cautious about taking on the support of a new spouse and perhaps more children in the future. We are constantly asked by hard-pressed paying parents, "Don't I have the right to live my life too?" The answer is, "Yes, you do, but..." You can live whatever life style you wish after you meet your court-ordered obligations.

ACCOUNTING

A statement of account may be obtained at the Friend of the Court Office. Each party is entitled to receive one statement of account for the current year without charge. Prior year statements may be obtained for a fee of \$1.00 per statement. Please allow two business days to obtain the computerized statement of account.

recently struck down as unconstitutional and have not yet been replaced. So there are not, at present, any enforceable grandparent rights.

POST JUDGMENT MODIFICATION VISITATION

Visitation order can be modified to meet the changing situations of the parties or the children. Either party may, at any time, petition the court for modification of a visitation order through private counsel. If there is a dispute as to visitation which is not resolved by the parties through a meeting with the Friend of the Court or through domestic relations mediation, the Friend of the Court may petition the court for a modification for the visitation order.

SPOUSE SUPPORT

Spouse support (previously known as alimony) has become less common in recent divorce cases. Both parties are considered responsible for supporting themselves and for contributing to the support of the minor children. For those who are unable to work for physical reasons, or who have not been in the job market for extensive periods of time, spouse support is still a valid concept. Spouse support can be monthly payments for an indefinite period, or a limited period, or a lump sum payment. Spouse support is for the support of the ex-spouse, and it is distinct from child support, which is for the minor children. Spouse support and child support are not interchangeable terms.

The Friend of the Court will automatically enforce spouse support when it is payable through the Friend of the Court. Spouse support may be subject to an order of income withholding (see "Enforcement-Support").

PROPERTY SETTLEMENTS

The Friend of the Court will occasionally be ordered to conduct a referee hearing on how property is to be divided. The usual practice is for the parties and their counsel to reach agreement on how to divide the property without a hearing before a referee or judge. It should be understood that every case is different. Despite your friend's or neighbor's claim that his/her divorce is just like yours, no two are alike. In many cases, neither party

est of the child by considering the following factors:

- (a) The factors enumerated in MCLA 722.23 (see "Custody").
 - (b) Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the minor child.
- (2) If the parents agree on joint custody, the Court shall award joint custody unless the Court determines on the record, based on clear and convincing evidence, that joint custody is not in the best interest of the child.
 - (3) If the Court awards joint custody, the Court may include in its award a statement regarding when the child shall reside with each parent, or may provide that the physical custody be shared by the parents in a manner to assure the child continuing contact with both parents.
 - (4) During the time a child resides with a parent, that parent shall decide all routine matters concerning the child.
 - (5) If there is a dispute regarding residency, the Court shall state the basis for residency award on the record or in writing.
 - (6) Joint custody shall not eliminate the responsibility for child support. Each parent shall be responsible for child support based on the needs of the child and the actual resources of each parent. If a parent would otherwise be able to maintain adequate housing for the child and the other parent has sufficient resources, the Court may order modified support payments for a portion of housing expenses even during a period when the child is not residing in the home of the parent receiving support. An order of joint custody, in and of itself, shall not constitute grounds for modifying a support order.
 - (7) As used in this section 'joint custody' means an order of the Court in which one or both of the following is specified:
 - (a) That the child shall reside alternately for specific periods with each of the parents.
 - (b) That the parent shall share decision making authority as to the important decisions regarding the welfare of the child."

Whatever the custody arrangement divorced parents MUST still work together for the benefit of the children.

Parties should continue to work together in raising the minor children. When disputes arise the custodial parent will decide where the child will live (provided it is not outside the State of Michigan; otherwise court approval is required), which school to enroll the child in, what religious instruction the child will have, what disciplinary measures will be used, how long the hair will be, how the child will dress, and with whom the child will associate. These decisions can be made without notification or consultation with the non-custodial parent and are limited only by specific language in the orders of the court. If the parties have joint custody they must work together to provide consistent guidance and direction for the children. The Friend of the Court stresses cooperation.

SUPPORT

Support includes child support, child care, spouse support, medical, dental, education, and confinement expenses.

One of the main functions of the Office of the Friend of the Court is to enforce the support obligations spelled out by the judgment of divorce. Both mothers and fathers have been required to pay support in Washtenaw County. All support orders will be enforced automatically unless the court orders otherwise and provided public assistance is not involved. The Friend of the Court will enforce on all cases involving public assistance. Every support order by law now includes authorization for income withholding (see "Enforcement").

The provision of the judgment as to support should be complied with as it is written. Do not fall into the trap of making private arrangements; automatic enforcement may result. The Friend of the Court enforces orders on a non-complaint basis, but welcomes written complaints to alert us to cases needing attention.

6. Remember to spend your time with your children. Too often children are dumped with girlfriends or lumped together with a wife's or husband's children. The children need time with you. Regular visitation cannot be stressed enough.
7. If you can't talk to your ex-spouse at all, stick to a rigid schedule; wait for the children at the front door or in the car and have as little contact as possible with your ex-spouse.
8. Don't expect the custodian to let you have the children if you have been drinking, using drugs or have an outstanding bench warrant for your arrest.
9. If you do not have a drivers license, a relative or a friend must do the driving.
10. Don't bring up unresolved issues of the divorce or child support during times meant for exchanging the children for visitation.
11. Parents who transport their children for purposes of visitation must provide car seats, as required by law.
12. Parents should not use the children as sources of information as to activities of the other parent.
13. Parents should speak positively to the children about the other parent, or say nothing at all. Speaking negatively about the other parent will do more harm than good.

Don't deny visitation to get support.

Support and visitation are not dependent on each other. Visitation should continue even if support is not being paid. File a complaint for enforcement of support with the Friend of the Court; don't try the self-help remedy of denying visitation. The converse is also true, if you are being denied visitation continue to pay support and file a complaint for enforcement of visitation (see "Enforcement-Visitation"). A Friend of the Court enforcement officer cannot advise a custodial parent as to whether or not it is appropriate to deny visitation under any circumstances.

Grandparent visitation.

The Michigan laws governing grandparent visitation rights were

- (f) Whether the visiting parent can reasonably be expected to exercise parenting time in accordance with the court order.
- (g) Whether the visiting parent has frequently failed to exercise reasonable parenting time.
- (h) The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or from a third person who has legal custody. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.
- (i) Any other relevant factors.

The list of possible sources of friction with visitation is endless. Please avoid as many of the pitfalls as possible.

1. Don't arrive for visitation with lavish presents when your support is in arrears and necessities (groceries, clothing) are scarce in the custodial parent's home.
2. Don't forget to supply adequate clothing for visitation and to inform the visiting parent of necessary medication and possible illness.
3. Don't always take the children to ball games, the circus, or fancy restaurants; do some casual things with the children—the custodial parent on welfare or limited budget just can't compete and friction will result.
4. Don't keep telling the children you will have custody of them some day. Petition the court for a change of custody and do your talking in the courtroom where it counts.
5. Be prompt, pick up the children and return them on time. The Friend of the Court policy is to allow a thirty minute grace period for both custodial and non-custodial parents. Please phone a few days ahead if there is any question of your coming or not coming.

CHILD SUPPORT

How support is determined:

By statute the issue of support is not a subject for mediation. However, the Friend of the Court will not object to a support amount that has been agreed to by the parties provided public assistance is not involved and that the provisions of the statute have been complied with. When the parties cannot agree on a child support amount, the Friend of the Court will conduct an investigation and make a recommendation based on the State of Michigan Child Support Manual and Schedules.

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

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

To purchase a copy of the Michigan Child Support Formula Manual, send your request, along with a check or money order for \$5.00 payable to the "State of Michigan" to:

Department of Management and Budget
Office Services Division
Materials Management Section
P.O. Box 30026
Lansing, MI 48909

The manual may also be available at your local library and is on the Michigan Supreme court's web page at: www.courts.mi.gov/scao look under publications, handbooks & manuals

Child support abatement due to extended Visitation.

As of October 1, 2008 the Michigan Support Formula takes into account the number of overnights the child(ren) spend with each parent in calculating the payor's baseline support obligation. Accord-

ingly, orders of support based on the new formula will not contain a parenting time abatement provision.

Support orders entered before October 1, 2008 typically provide for the payor to receive credit against his/her support obligation for periods of parenting time/visitation in excess of six (6) consecutive overnights. In the absence of such a provision, an abatement of support for extended periods of visitation will be granted only upon written consent of the parties. The payee must provide the Friend of the Court with a letter saying that child support is to be abated. The letter must specify what dates the child was in the other parent's possession and whether they are requesting partial (50%) or full abatement of support for that period.

For Judgments of Divorce and other support orders entered before May 1, 1987 the previous Friend of the Court policy regarding visitation abatement remains in effect. This policy is as follows: unless otherwise noted in your court order, a visiting parent will receive a fifty (50) percent abatement in his/her child support obligation for any period of visitation in excess of five (5) overnight days. It is the responsibility of the visiting parent to notify the Friend of the Court Office of the dates of visitation. Notification of dates must be submitted within one year after visitation.

Payments through the Friend of the Court:

In most cases, payments are ordered through the Friend of the Court system by way of the MISDU (Michigan State Disbursement Unit). In this manner all payments are recorded and disputes as to whether payments are current can be resolved quickly.

Support payments may be made by check, money order, or in cash. DO NOT SEND CASH THROUGH THE MAIL. All monies received as a payment for release from jail must be in cash. The Friend of the Court will only accept cash or credit card payments. ALL payments must include the case number.

Payors are encouraged to arrange for withholding from their paycheck or mail payments to the Friend of the Court office at:

MISDU
P.O. Box 30354
Lansing, MI 48909-7854

allows the parties the greatest flexibility in working out a comfortable parenting time program. Parties schedules and responsibilities should change as the children mature and as the parties move to locations nearer or farther away from each other. "Reasonable" rights allow the parties to make these adjustments without going through the court. If the parties cannot agree on what constitutes "reasonable" rights of visitation or if the visiting parent is denied visitation without a good reason he/she should file a written complaint with the Friend of the Court visitation department. (see "Enforcement-Visitation)

The Michigan Child Custody Act (MCL 722.27a, MSA 25.312(7a)) states:

"[Normally], parenting time shall be granted to a parent in a frequency, duration, and type to promote a strong relationship between the child and the parent granted parenting time. If the parents of a child agree on parenting time terms, the court shall order the parenting time terms unless shown that . . .the parenting time terms are not in the best interests of the child. A child shall have a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that the parenting time would endanger the child's physical, mental, or emotional health."

The Michigan Child Custody Act states that the judge may consider the following factors when determining the frequency, duration, and type of parenting time to be granted:

- (a) The existence of any special circumstances or needs of the child.
- (b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.
- (c) The reasonable likelihood of abuse or neglect of the child during parenting time.
- (d) The reasonable likelihood of abuse of a parent resulting from the exercise of parenting time.
- (e) The inconvenience to, and burdensome impact or effect on, the child of traveling to and from the parenting time.

unemployment compensation, or workers' compensation. A change in the child support schedule does not constitute "changed financial conditions."

The Office of the Friend of the Court may also investigate a case on its own motion to determine if child support should be increased or decreased due to the following: a temporary or permanent change in physical custody of a child which the court has not ordered, or increased need of a child. If warranted by the investigation, the Friend of the Court may file the appropriate petition with the court.

Non-Retroactive Modification of Support

Michigan law seldom allows for retroactive modification of child support. This means that once child support is ordered, it generally cannot be changed once it is due and payable.

If your financial situation changes significantly, for example, you lose your job or are incarcerated, you should immediately file a motion for a change in the support amount. A motion may also be filed when either party receives a substantial increase in pay. The court may adjust the support amount back to the date that the motion was filed. Simply notifying the Friend of the Court of a change in either party's financial situation does not change the court order.

Effective January 1, 1997, Michigan law created an important exception to the rule that support cannot be retroactively modified. The court now may modify support retroactively where a party knowingly and intentionally fails to report, refuses to report, or knowingly misrepresents income that was required by the court to be reported to the Friend of the Court.

PARENTING TIME (VISITATION)

This section of the judgment defines the rights of the non-possessing parent to see the child. Parenting Time/Visitation is generally the area that presents the greatest emotional problems for the parties, their children, their relatives, their new significant others, and new spouses.

What are "reasonable" rights of visitation?

Most judgments state that visitation rights are "reasonable." This

Because many names are similar, payments that do not include the case number will be returned. If you have more than one support case, your payment will be distributed among all your cases by MISDU under state guidelines. The only way payments can be directed to a particular case is if the payment is made at the Office of the Friend of the Court and you present the cashier with a court order directing the payments to a particular case. Under state guidelines, payments will be directed, in order, first to current child support (divided pro rata among all cases), then spousal support, then arrears (including medical or educational), then statutory fees.

How the payments are handled:

Child support, child care, spouse support, dental, medical and educational payments paid to the MISDU are received by the cashier and deposited. After payments are deposited, a check is written and mailed or electronically transferred to the appropriate person or the Michigan Family Independence Agency (if the children are receiving public assistance), or divided between various custodians and public agencies. The checks are drawn on a MISDU account from the funds deposited with the MISDU by the individual required to pay support. Monies are usually forwarded to the custodial parent or appropriate agency within a two to three day period. Large checks may take longer to process since the monies are held in escrow to allow the check to clear the bank.

Payment of support with non-sufficient funds in your account could result in future payment only by cash, certified check or money order.

Michigan law requires that the Office of the Friend of the Court charge a fee for services. The amount of the fee is established by the Michigan Legislature at the rate of \$3.50 per month. (The amount and terms are subject to legislative change). If service fees are delinquent they are deducted in increments until all are paid, however, this procedure may vary in some instances.

A surcharge will be added to support payments that are past due as provided by law (MCL 552.603a). The surcharge will be assessed twice a year on January 1 and July 1 at an annual rate based on the money judgment interest rate (currently 4.35% per year)

If you have more than one support case, your payment will be

distributed among all your cases by MISDU under state guidelines. The only way payments can be directed to a particular case is if the payment is made at the Office of the Friend of the Court and you present the cashier with a court order directing the payments to a particular case. Under state guidelines, payments will be directed, in order, first to current child support (divided pro rata among all cases), then spousal support, then arrears (including medical or educational), then statutory fees.

Receiving Support Checks from the Friend of the Court

If you are the recipient of support checks, you must be sure to keep us advised in writing of your current address.

All recipients should arrange for automatic electronic fund transfer. This convenience will allow the Friend to deposit your support directly into your bank account. Electronic deposit saves the delay in mailing and assures you the most prompt and efficient service.

Pay support BEFORE you buy gifts.

The child support provision defines the payor's legal obligations. You can do more for your children, but you first must comply with the terms of the order. Make all payments through the Michigan State Disbursement Unit (MiSDU). There may occasionally be delays, but they can be reduced by proper care on your part, and all payments can be accounted for quickly if the payor and the payee use some simple bookkeeping to allow them to double-check on the Friend of the Court (see "Accounting").

Thirty dollars worth of clothing given to the children is not a substitute for a thirty dollar child support payment. If you wish to buy clothes they will have to be in addition to child support.

The children should not be moved from parent to parent without court approval. The Friend of the Court must continue to charge support pursuant to the courts order until the court order is modified.

When should I see my attorney and when should I see the Friend of the Court for enforcement? When does support stop?

Prior to entry of the judgment of divorce, your own attorney may wish to handle the enforcement of the ex-parte order or you may request the assistance of the Friend of the Court. The Friend of the Court cannot enforce ex-parte or temporary orders until a proof of service has been received by our office. After the judgment of divorce, you have the same option of going to your own attorney; however, the Friend of the Court will automatically enforce all support orders unless the court order provides for "direct" payments. In cases involving public assistance, the Friend of the Court will enforce all support orders.

The Friend of the Court attempts to automatically remove children from the child support account when they turn 18 years of age; however, it is advisable to bring this to the attention of your bookkeeper, in writing. The parties should notify the Friend of the Court of any children who marry, enter the armed services, graduate from high school, or die before turning 18. The Friend of the Court will continue to monitor and enforce any monies owed unless the arrearage is specifically waived in writing by the payee.

POST JUDGMENT MODIFICATION SUPPORT

Child support orders may be increased or decreased to meet the parties changed financial conditions. However, recent legislation prohibits a retroactive decrease in child support. Either party may petition the court at any time, through private counsel or they may obtain a petition from the Friend of the Court office to assist them in representing themselves in the request for an increase or decrease in support. The Friend of the Court will assign a Referee to hear and decide petitions for modification when both parties represent themselves. The forms can be obtained from the Friend of the Court office or from the Web site. A back-log usually exists of about three months. If you can not wait, you should seek private counsel.

Please note that the Friend of the Court is not required to investigate more than one request from each party every two years. Such a request must be made in writing. The Office of the Friend of the Court will then investigate the case to determine if child support should be increased or decreased due to "changed financial conditions."

"Changed financial conditions" means an increase or decrease in the resources available to either party. "Changed financial conditions" includes, but is not limited to, receipt of public assistance,