



Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

Amended May 20, 2016

MICHIGAN COURT FORMS COMMITTEE
Domestic Relations Work Group
Minutes of March 17, 2016 Meeting

Present: Carol Bealor, 43rd Circuit Court
Hon. Kathleen Feeney, 17th Circuit Court
Erin Magley, 20th Circuit Court
Edward Messing, 31st Circuit Court
Kelly Morse, (via telephone) MDHHS Office of Child Support
Shelley Spivack, 7th Circuit Court
Ellsworth Stay, 27th Circuit Court
Gail Towne, Lennon, Miller, O'Connor, and Bartosiewicz, PLC
Angela Tripp, Michigan Legal Help
Kent Weichmann, 3rd Circuit Court
Amy Yu, Amy Yu PC
Bill Bartels, Friend of the Court Bureau (Staff)
Amy El Garoushi, Trial Court Services (Staff)
Matthew Walker, Trial Court Services (Staff)
Stacy Westra, Trial Court Services (Staff)

Absent: Amy Billmire, Michigan Legal Help
Laura Cleland, Office of Child Support

Meeting called to order, 9:45 a.m.

1. Minor Changes

FOC 61, Objection to Ex Parte Order and Motion to Rescind or Modify FOC 62, Order Modifying Ex Parte Order (Not Published)

The committee discussed the suggestion to remove the language, “You must pay a \$20.00 motion fee,” from page 3 of FOC 61. Staff explained that a routine question regarding this fee prompted a staff conversation. Staff discussed inconsistent practices among courts in charging a motion fee because of the form’s title. Ultimately, staff concluded that the \$20.00 fee was not applicable for FOC 61 because objection to an ex parte order is a type of “response” allowed by court rule, and there is no filing fee for responses to motions. Members agreed with this logic.

The committee removed item 3 from the motion checklist on page two which states, “Pay the motion fee to the clerk?” Subsequent items in the checklist were renumbered. Members also replaced the language, “You must pay a \$20.00 motion fee. If you can’t afford to pay the motion fee, ask the county clerk for an Affidavit and Order, Suspension of Fees/Costs (form MC 20 not included in this packet) to fill out,” with “There is no filing fee.”

Members discussed the inconsistent practices in the courts and how best to educate court clerks that a filing fee does not apply to this form. The committee added a note to the form below, “Please print or type information,” stating, “Note: There is no filing fee,” for clarification.

Members also discussed the primary cause for inconsistency in charging the \$20 filing fee, which is the language of the court rule and statute. During a discussion to change the title of FOC 61, members reviewed MCR 3.207(B)(5) and MCL 722.27a(12), both of which state that the objecting party may file an objection or motion to rescind or modify the ex parte order. After considerable discussion about the original intent of the design of FOC 61, members stated that the common practice has been that the friend of the court attempts to resolve any objection, and if no resolution is reached, the issue is placed before the judge. Members expressed their desire to update the court rule to be in line with current practice. Members also expressed their desire to clarify MCR 2.119(G) to indicate that a filing fee is not required for responsive pleadings. The committee did not indicate that the SCAO should take action on court rule modifications. Therefore, no follow up is planned.

Members also reviewed the citations in the form footer. On FOC 61, the committee added a citation to MCR 3.207(B). On FOC 61 and FOC 62, the committee changed the citation MCL 722.27a(9),(10) to MCL 722.27a(12), (13).

The forms were approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

FOC 30, Notice of Registration of Out-Of-State Support Order
FOC 30a, Order Vacating/Confirming Registration of Out-of-State Support Order
FOC 55, Statement of Account
FOC 90, Notice of Lien

The committee discussed and agreed with the suggestion to update the citations on these forms to comply with the updated UIFSA statute, 2015 PA 255, which replaced the previous UIFSA code.

On FOC 30, members replaced MCL 552.1621 with MCL 552.2605. On FOC 30a, members replaced MCL 552.1631 *et seq.* with MCL 552.2607 and MCL 552.2608. On FOC 55, members replaced MCL 552.1601(1)(c) with MCL 552.2602(1)(c). On FOC 90, members replaced MCL 552.1603 with MCL 552.2603.

The forms were approved as revised.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards. The “FAX no.” was also removed from the masthead of FOC 30a and FOC 90 because of the committee’s 2011 decision to remove “FAX no.” from all FOC forms.

FOC 106, Notice of Redirection or Abatement of Child Support (Not Published)

The committee discussed the proposal to modify the language in item 2 from “legally responsible” to “providing” in light of 2014 PA 380, which amended MCL 552.605d(1)(c)(i). Members agreed and updated the language in item 2 in accordance with MCL 552.605d(1)(c)(i).

While discussing item 2, members noticed that the language in item 1 and in the Certificate of Mailing should also be updated. In addition, members noted that the proposed support recipient’s name and address is a logistical requirement to send redirected support. In addition, a copy of the form should be provided to the current support recipient to notify them of the redirection. Members agreed the support recipients should be identified as current support recipient and proposed support recipient to accurately reflect their statuses and roles.

As a result of the discussion, the committee changed the following:

- A copy was added to the distribution stating, “3rd copy – Current support recipient”
- A copy was added to the distribution stating, “4th copy – Proposed support recipient”
- The language in the masthead, “Person with whom minor child(ren) living,” was changed to, “Current support recipient name and address”
- A new field was added in the masthead to the right of the defendant stating, “Proposed support recipient name and address”
- Item 1 was revised to state, “The friend of the court has been advised that the minor child(ren) named below is/are no longer in the care of _____:
Name
- Item 2 was revised from, “[] Redirection of Support: The current support ordered for the minor child(ren) will be redirected to _____, the person legally responsible for the actual care, support, and maintenance of the minor child(ren),” to, “[] Redirection of Support: The current support ordered for the minor child(ren) will be redirected to _____, the person providing the actual care, support, and maintenance of the minor child(ren),”

The form was approved as revised.

STAFF NOTE: During typesetting, item 1 was modified to state:
The friend of the court has been advised that the minor child(ren) named below is/are no longer in the care of the current support recipient.

Child(ren)’s name(s)

Additional changes were made for grammar, style, and the application of standards.

2. FOC 10, Uniform Child Support Order

The committee considered the suggestion to include a child-care cost field between the field for child’s date of birth and the field for overnights with payer. Staff explained that this request arose from a correction to the MiCSES system. Previously, MiCSES would divide the total amount for any given tier of child support by the number of children covered. This calculation also applied to amounts paid for child care. For example, if child care was listed on the order as \$300 and total support was \$900 for three children, MiCSES would consider each child to be receiving \$100 for child care and \$300 for total support. Once a child reached an age where child care no longer applied (typically age 12), MiCSES would no longer charge \$100 for that child.

Recently, the SCAO Friend of the Court Bureau collaborated with the MiCSES system to rebuild the support calculator. During the rebuild, the calculator was modified to include the actual child-care amount for each child rather than a per capita share. However, FOC 10 does not have a field available for identifying the specific child care amount for each child. Staff also explained that the friend of the court has the authority to administratively modify the support charged when a child exceeds the maximum child-care support age, and the suggestion to modify the form would support this practice. Members remarked that some friend of court offices do not administratively modify child care amounts even though they have the authority to do so. Members responded that, instead of this practice, the friend of the court should conduct a child support review because child-care amounts can vary widely depending on the family and the circumstances. In addition, members stated that the amount ordered by the court should continue until modified by a subsequent order. After discussion, the committee suggested this item be tabled until 2017 to allow the Friend of the Court Bureau time to gather input and change the child support formula, if necessary.

The committee also considered a suggestion to modify the language of the uninsured health-care expenses section to comply with MCL 552.511a(1). Specifically, “All uninsured health-care expenses . . . that are not paid within 28 days of a written payment request may be enforced by the friend of the court. The annual ordinary medical amount is _____,” would be replaced by, “All uninsured health-care expenses . . . may be enforced by the friend of the court. A written payment request must be made by the payee to the payer within 28 days after the insurer’s final payment or denial. If payment is not made within 28 days, a timely request for enforcement may be submitted to the friend of the court. The annual ordinary medical amount is_____.”

Members commented that the statute is the friend of the court’s authority to enforce uninsured health-care expense obligations and that courts are not required to specifically order this enforcement—enforcement happens by operation of law. The committee concluded that the suggested language is an unnecessary instruction and that the current language of the form is adequate.

The committee also reviewed the minutes of the 2015 Domestic Relations meeting, which included changes to FOC 10 that were recommended but held until the form was changed for other substantive reasons. In 2015, the committee changed item 8 to state, “who is providing” instead of “legally responsible for” because of an amendment to MCL 552.605d. To track the statute and mirror the language adopted on FOC 106, Notice of Redirection or Abatement of Child Support (agenda item 1), members changed the 2015 revision from “who is providing” to “who is providing the actual care, support, and maintenance.”

The form was approved as revised.

3. FOC 22, Employer's Disclosure of Income and Health Insurance Information

The committee discussed the suggestion to relocate items 14-25 of this form. The suggestion arose because these items are below the insurance coverage section, which results in the items being overlooked.

Members agreed that items 14-25 should be combined with the rest of the income information but preferred that it be consolidated to the front side. Members added a statement in bold to the notice to employer section stating, "Complete both sides" to indicate that employers should complete both sides. Members then removed the statement, "Return this completed form to the friend of the court at the address on the other side" from the back page because it is repeated on the front page.

The form was approved as revised.

STAFF NOTE: During typesetting, additional changes were made to correct internal references, grammar, style, and for the application of standards.

4. FOC 23, Verified Statement

The committee discussed a suggestion to remove the checkbox at the foot of the form which serves as the Title IV-D application. Staff explained that this suggestion was made because an Office of Child Support work group determined that this checkbox does not meet the federal requirements for Title IV-D applications. In addition, because the application is contained on FOC 23, and it is one of the first forms filed in a domestic case, some friend of the court offices were not meeting federal processing timelines. Members understood the reason for the policy change and agreed that the checkbox should be replaced with a statement indicating how to request Title IV-D services. Staff also explained that the Department of Health and Human Services (DHHS) created a new Title IV-D application for domestic relations (form DHS 1201-D).

Members also discussed the possibility of incorporating form DHS 1201-D as a second or back page to FOC 23. Staff stated that incorporating DHS 1201-D on the back of FOC 23 would be inappropriate because (1) it would require the State Court Administrator to approve a form from a different branch of government, and (2) each form would require updating if the other form was updated. Staff expressed that it would be more appropriate for local friend of the court offices to copy or staple DHS 1201-D to either FOC 23 or FOC 100, depending on local practice for processing IV-D applications. The committee agreed it would be inappropriate to incorporate a DHHS form with a SCAO

form and also remarked it was best to allow friend of the court offices flexibility in processing.

The committee also discussed a suggestion to add a column in items 42 and 43 to indicate the sex of the child. Members explained the MiCSES case management system contains a field for indicating the sex of a child, which cannot be easily determined from the name alone. Although this data is not required, providing information about the sex of a child reduces errors in identification. Members agreed that a field for entering the sex of a child should be added to the form and discussed how to add the column given the limited space available. Members suggested deleting the age column because the birth date is listed and the age can be calculated. Staff, however, pointed out that age is required by court rule MCR 3.206(B)(1)(g). Members acknowledged the rule requirement but chose to replace the column for the age of the child with a column for the sex of the child. Members desired a modification of the court rule to eliminate the age requirement. The committee did not indicate that the SCAO should take action on court rule modifications. Therefore, no follow up is planned.

The committee also discussed changing “Mother” and “Father” to “Parent” and “Other Parent.” Staff pointed out that limited statutory changes have been made regarding same-sex couples in relation to procedures pertaining to children (child support, parenting time, adoption, etc.) and that caution should be taken in making comprehensive changes to the forms based on the federal case law. Members responded that other states allow same-sex couples to adopt and that Michigan courts must recognize that both people are parents. For that reason, members changed the form.

Because of the above discussions, members changed the following:

- In item 1, “Mother” was replaced with “Parent.”
- In item 2, “mother” was replaced with “parent.”
- In item 16, “Maiden Name” was removed.
- Items 20 and 21 were combined to state, “Did this parent apply for or receive public assistance? If yes, please specify kind and case number.”
- In item 22, “Father” was replaced with “Parent.”
- In item 23, “father” was replaced with “parent.”
- Items 40 and 41 were combined to state, “Did this parent apply for or receive public assistance? If so specify kind and case number.”
- In item 42, column c was retitled from “Age” to “Sex.”
- In item 43, column c was retitled from “Age” to “Sex.”
- The language, “[] I request support services under Title IV-D of the Social Security Act” was replaced with, “If you want child support services, complete form DHS 1201-D, available at friend of the court offices or Michigan.gov/ChildSupport.” **STAFF NOTE:** After discussing the web link

further with DHHS, SCAO will provide webhosting for form DHS 1201-D. The form will be located at <http://courts.mi.gov/Administration/SCAO/Forms/courtforms/domesticrelations/generalfoc/dhs1201d.pdf>.

- The title of the form was modified from “Verified Statement and Application for IV-D Services” to “Verified Statement.”

The committee also discussed the recommendation from Attorney Rebecca Sanford to combine FOC 23 and FOC 100. Members remarked that forms FOC 23 and FOC 100 cannot be combined because they have distinct functions under separate court rules, and they are filed at different times.

The form was approved as revised.

STAFF NOTE: SCAO staff declined to adopt the committee’s recommendation to replace columns 42c and 43c for “Age” with “Sex” because the age of the child is a required by MCR 3.206(B)(1)(g). However, staff retained the field for identifying the sex of the child by incorporating it into the field for the name of the child in both item 42a and item 43. The captions for the items were amended respectively as follows: “42. a. Name and sex of each child in the case,” and “43. a. Name and sex of other minor child of either party.” A subcolumn was added at the end of the field with the header “M / F” for indicating the sex of the child.

In addition, a field for the gender of each parent was added because it is required by MCR 3.206(B)(1)(e). The field was unnecessary before the change was made from mother and father to parent. All subsequent items were renumbered.

**5. FOC 87, Motion Regarding Custody
FOC 88, Response to Motion Regarding Custody
FOC 89, Order Regarding Custody and Parenting Time**

The committee discussed the suggestion to include an instruction and/or reference to the change of domicile forms to help a parent who is asking to change custody and move outside of Michigan. The committee agreed that an instruction to file an additional motion would help unrepresented individuals.

Members considered adding the suggested language to the form but decided in favor of an explanation in the instructions. Members added “; or” to the end of “family support, or paternity.” Members also added a third bullet stating, “to change domicile of the children to another state or more than 100 miles (if you want to change custody and domicile, you must use this form and form FOC 115, Motion to Change Domicile).”

FOC 87 was approved as revised.
FOC 88 and 89 were not changed.

STAFF NOTE: During typesetting, additional changes were made for grammar, style, and the application of standards.

6. FOC 100, Domestic Relations Judgment Information

The committee discussed the suggestion to include DHHS form 1201-D on the back of FOC 100. The committee declined to include the form on the back of FOC 100 for the same reasoning as stated in FOC 23.

The committee also discussed the suggestion to include checkboxes indicating whether the judgment was entered by consent or after hearing. This suggestion arose from a committee member for purposes of future data collection. After an explanation of the intent of the data collection, members responded that the requested indicators would not provide the desired data because: (1) the data would need to be collected over a period of years to produce an accurate set of criteria, and (2) the information on FOC 100 is confidential form and would not be accessible to public data collectors. Therefore, the suggestion was not adopted.

7. FOC 104, Request to Reopen Friend of the Court Case

The committee discussed the suggestions to remove the checkbox that serves as the Title IV-D application and to include the DHHS form 1201-D on the back of FOC 104. The committee agreed and removed the checkbox for the Title IV-D application. However, the committee concluded that the DHHS form 1201-D should not be included with FOC 104 for the same reasoning discussed in FOC 23.

The committee also discussed the suggestion to replace the Title IV-D application checkbox with the language, "I understand that in order to receive full child support services through the friend of the court office, I must complete an application for IV-D child support services. If I would like IV-D services, I will complete an application for IV-D child support services (on the reverse side of this form)," at the bottom of the form. Members pointed out that because the checkbox serving as the Title IV-D application is being removed, some language about the application should still be included. After discussion, members agreed with the language, "Attached is a completed application for Title IV-D child support services (form DHS 1201-D)," to replace the application checkbox.

Staff pointed out the number on the form was unnecessary because there is only one item. The committee removed reference to "1." accordingly.

The form was approved as revised.

STAFF NOTE: During typesetting, the language regarding a completed Verified Statement and application for Title IV-D child support services were combined for grammar, style, and clarity. The statement now says, "I have attached a completed Verified Statement (form FOC 23) and a completed application for Title IV-D child support services."

8. MC 01, Summons and Complaint

The committee discussed the suggestion to revise MC 01 to include information required by MCR 3.206(A)(2), which states that the complaint should indicate whether any Michigan court has prior continuing jurisdiction of any minor children involved in the case. Members discussed whether this requirement is different from MCR 3.206(A)(4), which requires the complaint to state if there is or is not a pending or resolved action in the family division of the circuit court involving the family or family members who are the subject of the complaint.

Members remarked that although the requirements of MCR 3.206(A)(2) are different from MCR 3.206(A)(4), any case listed in compliance with MCR 3.206(A)(4) would cover the MCR 3.206(A)(2) requirements. Despite this, members expressed a desire to include a space to list minor children and any continuing jurisdiction as required by MCR 3.206(A)(2). Because there is no space for this additional information, staff suggested that the domestic relations information be removed from MC 01 and a separate domestic relations summons and complaint be created. Members agreed with this suggestion. Staff will draft a new form for review in 2017.

The form was not changed.

9. MC 09, Dismissal MC 26, Notice of Intent to Dismiss for No Progress

The committee discussed the suggestion to include the following language on forms MC 09 and MC 26, "For domestic relations cases, if you applied for IV-D child support services under Title IV-D of the Social Security Act and your court action is dismissed, your request for services will close 60 days after the date of this notice. If you do not want your request for IV-D services to close and need child support services, please contact the Office of Child Support at 866-540-0008." Staff stated that this language was intended to act as the notice of the Title IV-D case closure under 45 CFR 303.11 and would assist Title IV-D agencies with closing cases in a timely manner.

Staff remarked that 45 CFR 303.11(c) states that the notice cannot be sent until the case is eligible for closure. Staff thought it would be inappropriate to include the language on form MC 26, as the form is only a notice of possible case closure and not a dismissal. Some members remarked that the Office of Child Support interprets the regulation differently and believes MC 26 to be an appropriate form on which to include the case closure language. Members added the suggested language below the date and signature lines on MC 26.

Members discussed where to place the suggested language on MC 09 but concluded that the design of the form cannot accommodate the language in a manner that would be clear. Members suggested and agreed with creating a separate domestic relations dismissal. Staff will provide a draft of the domestic relations dismissal for review with the other forms typeset as a result of this meeting.

MC 09 was not changed.
MC 26 was approved as revised.

STAFF NOTE: During typesetting, the language of the Title IV-D closure notice was modified for purposes of clarity to state, “**NOTE:** For domestic relations cases, if you applied for IV-D child support services and your case is dismissed, your services will stop 60 days after the date of this notice. If you do not want your IV-D services to stop and you need child support services, please contact the Office of Child Support at 1-866-540-0008.”- This language was applied to both MC 26, Dismiss and the new form, FOC 120, Dismissal (Domestic Relations).

10. Should the FOC address appear in the masthead of the form in place of the court’s address?

The committee discussed a suggestion to replace the field for court address with friend of the court address in the masthead of friend of the court order forms. This suggestion arose after the correction of a MiCSES error that had been inadvertently using the friend of the court address in order forms instead of the court address.

Members agreed that orders produced by the friend of the court are court orders and should contain the court’s address. Members briefly discussed adding a separate field for the friend of the court’s address but decided that it could result in more confusion than clarity.

The forms were not changed.

11. New Forms: Commitment and Supervision Orders

Last year the committee considered revisions to FOC 6, Support Enforcement Order, and asked the SCAO to draft proposed commitment and supervision orders for discussion at the 2016 meeting. A draft supervision order was provided to the 2016 work group. A draft commitment order was not provided.

The committee discussed the draft supervision order and made a number of changes. Members added a checkbox for “[] Respondent” in the fields for plaintiff and defendant names to indicate which party is the respondent. Members removed the checkbox from item 1 because item 1 should always be ordered. Members changed the language of item 1a from, “The respondent is placed under the supervision of the friend of the court office for ____ days, and either of the following applies,” to “The respondent is placed under the supervision of the friend of the court office.”

Members also removed the checkbox for item 1a. The language of item 1a was modified from, “The respondent shall participate in the services listed below. Unless a provider is named, the respondent may choose a provider from the court approved list available from the friend of the court office,” to “The respondent shall participate in the services listed below. Unless a provider is named, the respondent may choose a provider from the friend of the court’s approved list.” Members also corrected missing periods at the end of several sentences in item 1a.

Members added a new item 1b stating, “_____ is responsible for paying the costs of supervision.” This item was added to allow the court to specify who should pay for the services associated with supervision.

Members removed the checkbox and language related to adjournment, review, and recommendation. Members agreed that adjournment, review, and recommendation language is not needed because the court has the option to adjourn the matter in FOC 6, and there is no need to include that option in this form.

Members removed items 2a and 2b and changed the language of item 2 to state, “The friend of the court shall monitor the terms of this order, including the respondent’s compliance with the current support order and arrearage plan.”

Members changed the language of item 3 from, “Respondent must report to the friend of the court on a _____ basis, at the request of the friend of the court, or whenever there is a change in employment or contact information,” to “The respondent must report to the friend of the court _____, or at the request of the friend of the
Frequency (weekly, monthly, etc.)

court."

Members remarked that there is no need to order the respondent to notify the friend of the court when there is a change in employment or contact information because that order is included on FOC 6, and the order for supervision will be attached to FOC 6.

Members also changed the language of item 4 from "If respondent fails..." to "If the respondent fails... ."

Members discussed the commitment order, and decided that a separate commitment order is not needed because the commitment order is contained within item 25 of FOC 6

The form was approved as revised.

STAFF NOTE: During typesetting, this form was further refined. The masthead was shortened to allow the form to be placed on one page. The language of the form reads as follows:

1. Respondent is placed under the supervision of the friend of the court. Respondent shall participate in the services checked below. Unless a provider is named, respondent may choose a provider from the friend of the court's approved list.

- a. _____ parenting program.
- b. A parenting-skills program, sponsored by _____.
- c. _____ work program, sponsored by _____.
- d. _____ job-skills program.
- e. A public-service program, sponsored by _____.
- f. Job referral at the friend of the court.
- g. A work detail program operated by the county sheriff.
- h. Life skills training, sponsored by _____.
- i. _____ counseling (specify credit, job, anger, drug, alcohol, etc.)
- j. A community corrections program, sponsored by _____.
- k. A drug and alcohol assessment, sponsored by _____. If a recommendation is issue as a result of the drug and alcohol assessment, the respondent shall comply with the recommendation.
- l. Other:

2. _____ is responsible for paying the costs of supervision.
Name

3. The friend of the court shall monitor the terms of this order, including the respondent's continued compliance with the current support and arrearage plan.

4. The respondent must report to the friend of the court _____, or at the
request of the friend of the court. Frequency (weekly, monthly, etc.)

STAFF NOTE: A citation to MCL 552.601 *et seq.* was added to the footer.

12. Should new forms be created for use under MCR 3.210 in default situations?

In 2015, the committee considered a proposal to create forms for defaults occurring under MCR 3.210. The committee decided to wait and see whether there are requests for the forms and whether they are needed. Therefore, the item was tabled for 2015.

The 2016 committee discussed whether forms should be created for use under MCR 3.210. Members stated that new forms are not needed under this rule and current forms are adequate.

No forms will be created.

Respectfully submitted,

Matthew L. Walker