

Changes To Michigan License Suspension Laws

Several aspects of license suspensions in connection with child-support or parenting-time violations have been changed by recent amendments to MCL 552.629, MCL 552.630(2), and MCL 257.321c. The new laws went into effect December 28, 2009.

One change is the removal of the requirement to hold suspensions for 14 days. Friend of the court (FOC) offices should immediately notify licensing agencies when licenses are suspended. Previously, after a notice of proposed suspension was sent and the parent failed to respond, an FOC office petitioned for an order

to suspend the license and, upon entry, attempted to serve the suspension order on the parent 14 days before sending the order to the licensing agency.

Another change allows the Michigan Secretary of State (SOS) to suspend a driver's license upon receiving notification from the FOC that a parent has failed to comply or that the court has ordered a suspension for either child-support or parenting-time violations. Because the SOS will suspend a driver's license based on the notice it receives from the FOC, it is no longer nec-

essary to send the SOS a copy of a suspension order.

"These new statutory changes allow for more immediate action in suspending the license of a parent who does not meet support obligations or violates a parenting-time order," says Steve Capps, director of Trial Court Services at the State Court Administrative Office. "The friends of the court now have a better tool at their disposal to enforce child-support and parenting-time obligations."

The amendments also



This issue of the The Pundit brings a new design and a new focus on editorial content. Please be assured the purpose of The Pundit remains the same — providing information to meet the needs of individuals who work directly with Michigan's child-support system.

change the license reinstatement procedures. If a parent wants a license reinstated, the parent must go to the court or the FOC and set up a repayment plan. When the court orders an arrearage repayment schedule, the court will rescind the suspension within the same order.

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SCAO Offers Court Improvement Assistance

The State Court Administrative Office (SCAO) provides reviews and assessments of local court operations to improve courts' processes and streamline their operations. Operational reviews and assessments are free of charge and can be implemented either remotely or on-site.

Remote assessment provides a review of a court's office. And while the assessment offers minimal recommenda-

tions, it can alert the court to areas in which it is not performing mandatory duties. The SCAO can provide study guides, check lists, surveys, and data analysis.

In an on-site review, SCAO staff will actually visit a court to observe and evaluate its operations. During the on-site assessment, SCAO staff will work with court staff, review records and case files, and ensure the court's compliance with various regulations. The

SCAO and the court can then work together to determine the actions necessary to improve the court's operations.

The SCAO also offers an extensive study and evaluation of organizational operations, providing recommendations and optional implementation assistance. This service provides information to a court about its current structural processes and how to best organize court staff

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Mediation And FOC Training: Working Toward A Better System

Tension and stress are often felt by parties involved in domestic relations cases. It is common for one party to feel dissatisfied and that he or she did not get a fair result. One way to prevent this is through mediation.

MCL 552.513 provides that the Friend of the Court (FOC) can provide alternative dispute resolution to parties who have a conflict with parenting time or custody. If an agreement can be reached, it will become a consent order that may be issued by the court. Use of this option to resolve disputes creates a better relationship between the parties because the process allows both parties to express individual goals and work on

solutions that satisfy everyone involved.

Many times parties have already been through the traditional adversarial process before they have an opportunity to try to resolve their dispute using mediation. The parties have gone before a judge who has issued an order and then a new dispute arises, which is when mediation is suggested to the parties. The question then becomes: If the parties had mediated in the beginning, would there even be a current conflict? When par-

ties spend time in the “adversarial system,” it is often problematic when they are told that, before a judge will decide the case, the parties must try mediation. A possible alternative is to send the parties to a Community Mediation Center at the beginning of the case.

There are currently 20 Community Mediation Centers in Michigan. A list of the counties where centers can be found is at <http://courts.michigan.gov/scao/dispute/odr.htm>. The centers originally used volun-

teer mediators who mediated civil disputes that involved monetary resolutions. In 2005, the centers began to handle domestic relations cases at the request of the volunteer mediators. The mediators who work at the centers are volunteers with previous experience in mediating civil cases and they have attended a 40-hour training program. Before becoming a mediator for any of the centers, the volunteers complete a two-and-a-half-day advanced training program.

Cases are referred by FOC offices in counties where a center is located. Traditionally, the cases are referred postjudgment to resolve parenting-time issues.

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SCAO Offers Court Improvement Assistance

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without making major changes in policy or procedure. The SCAO can review office policies, procedures, and staff workflow, and then SCAO staff can recommend changes in operations. These recommendations may then be implemented internally by the court or with the SCAO’s assistance.

The SCAO also offers a facilitated court improvement project service. The objective of this service is to work with a court to develop and implement an improvement plan.

The SCAO assists in both project planning and implementation of the plan, while staff also presents strategies and work plans for review and approval.

Court Improvement Assistance (CIA) projects have been conducted in many of the state’s courts, including friend of the court offices. Friend of the Court Bureau staff can assist courts in creating workflow processes that are more efficient. The SCAO can further help courts meet federal performance factor requirements, which may lead to increased fund-

ing. Past recommendations include consistently using MiCSES for all child-support calculations, encouraging effective support collection methods, and providing guidance regarding methods to expedite custody and parenting-time recommendations without sacrificing quality.

The chief judge initiates these services. The SCAO and the court then work together on project preparation and planning. CIA projects help improve court operations at no charge to the local office.

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If your court or FOC office would like CIA services, your chief judge should contact your regional administrator.

Region I: Deborah Green at 313-972-3300

Region II: James Hughes at 517-373-9353

Region III: Bruce Kilmer at 989-772-5934

Region IV: James Covault at 989-732-3311



FOCB PROFILE: JACKSON COUNTY'S 'PAY OR STAY' PROGRAM

Jackson County has recently developed a program to help parents who owe child support make regular payments. The program, called "Pay or Stay," is targeted at parents who continually fail to make regular child-support payments. It requires those parents to pay a specific weekly amount by Friday or face the consequences of being held in the holding tank at the local jail for as long as the judge decides, which is usually longer than just a weekend.

The manager of the program, Sara Hodits, states that although the program may seem strict, there is some flexibility in that if payers fail to make their Friday payments and fail to report to the jail, the court will wait two weeks to issue a bench warrant.

The idea for the program originated with Circuit Court Judge Thomas Wilson and was implemented in April

2008.

Hodits says the program is a success. She says the program has been effective in getting chronic nonpayers to regularly make payments, even if the amount actually paid is less than what should be paid for child support. The court is trying to have more empathy toward parents facing economic hardship, and Hodits finds that most people in the program have a much easier time paying a smaller, weekly amount. In addition, the program is having a positive effect on how chronic nonpayers view themselves, which she feels contributes to the program's success. Hodits says that those who participate in the program enjoy the fulfillment of making a weekly payment.



SARA HODITS,
PROGRAM MANAGER

"They walk out proud," she states. "A lot of the payers take pride in going down to the court and making their weekly payment." She says that some payers who have been successfully discharged from the program have asked to be put back on the program because it helps them live within their budgets.

Hodits wants people to know the program is practical because of the way the "stay" portion operates. Those who are unable to pay and must stay in the jail are not placed in regular jail cells. The jails are currently overcrowded as it is, and giving cells to those who do not pay is not a viable option. Instead, the program places nonpayers in a holding tank. The tank is a

large cement room intended for more than one person. This holding tank is often used to house intoxicated people on drunk and disorderly charges until they are sober. Because the program uses the tank instead of jail cells, the program runs effectively without adding to the burden of jail overcrowding.

Hodits says the program has been effective at achieving its main goal, which is to get habitual nonpayers to make consistent payments toward their child support and, also, giving the other parent a reliable source of income to be used to support the child. Because of the program's success, other counties, such as Ingham, are looking at implementing the program.

For more information on the "Pay or Stay" program, contact Hodits by e-mail at SHodits@co.jackson.mi.us.

The Child-Support And Parenting-Time 'Link'

Numerous studies show there is a positive relationship between parenting time and compliance with child-support obligations. Oftentimes there is a disconnect in parenting time, which can lead to nonpayment of support and can create huge arrearages for states and local friends of the court.

In Michigan, these concepts

are being explored in Genesee County through the Parents and Children Together (PACT) program. A federal grant is currently being used to expand the program to include community service referrals and support programs for participating families.

Judge Michael Theile oversees the PACT program in Genesee County.

"We have a number of well situated community partners on the advisory board," Judge Theile states. "Their perspective, along with the much needed grant funding, has reignited the court and caseworkers' approach to one of the most frustrating issues that we deal with, in one form or another, on a daily basis. We are and will continue to make significant

and positive changes in the lives of the children whose parents appear before us."

One of the goals of the Genesee PACT program is to further study the link between child support and parenting time, and to develop methods to best use that link within the friend of the court office.

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For occupational and sporting licenses, the FOC sends a rescission order to the licensing agency to lift the suspension.

When reinstating a driver's license, the parent must also pay a \$45 clearance fee to the clerk of the court and go

to the FOC for a compliance certificate. By working with SOS staff, the State Court Administrative Office has been able to develop forms

and instructions for FOC offices to use when they communicate with SOS. FOC staff can access the forms and instructions by going to the MiSupport website and searching for "DSI." As of

March 1, 2010, the SOS has indicated that offices will only recognize suspension notices and compliance certificates that are based on these forms.

Compliance certificates remain valid for only 10 days. Any parent attempting to reinstate a license more than 10 days after the certificate was issued will need to get a new

certificate. Because the parent already paid the \$45 clearance fee for this suspension, the FOC should issue a replacement certificate without requiring the fee to be paid again, provided that the parent remains in compliance with the court order.

Because the certificates only remain valid for 10 days, it is important the issuance of the certificate and fee payment to SOS occur quickly. To expedite the process, the FOC may

use means other than first-class mail such as fax, e-mail, or expedited delivery (FedEx, UPS, etc.). If a parent cannot appear at an SOS office within 10 days, the parent may fax or overnight mail an "Application for Driver's License Reinstatement" form, along with the clearance certificate, to the SOS. The "Application for Driver's License Reinstatement" form is available at: http://www.michigan.gov/documents/BDVR-162_09-03_74850_7.pdf.

There have been many questions about handling license suspensions that were rescinded before the new law's effective date. Parents who have a suspended license before December 2009 may attempt to get their license reinstated several months after the suspension was rescinded.

The SOS has clarified this issue by instructing field offices to honor rescission orders that were made before

December 28, 2009, and not requiring the parent produce proof of payment of the \$45 clearance fee or a compliance certificate from the FOC. But anyone who attempts to reinstate a license based on a rescission after the effective date must provide a current compliance certificate and must have paid the clearance fee.

Questions regarding statutory license suspension changes can be directed to the Friend of the Court Bureau at 517-373-5975 or FOCB@courts.mi.gov.

"The friends of the court now have a better tool at their disposal to enforce child-support and parenting-time obligations."

~ Steve Capps, Trial Court Services director, State Court Administrative Office

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Test Your Knowledge: Tax Refund Offset Program

The 2010 tax season recently ended, and with its passing comes many questions about the Federal and State Tax Refund Offset Program (FTRO).

The FTRO was enacted by Congress in 1981 and was originally restricted to child-support debts owed in public-assistance cases. It was expanded in 1984 to include child-support debts in non-assistance cases. The FTRO

remedy is mandatory and must be used when a case meets specific criteria.

The following questions will test your knowledge about the program. The answers are at the bottom of page 6.

1. State and federal tax refunds are intercepted automatically when there is an arrearage.

A. True B. False

2. Tax offset can never be avoided if the threshold amount is met.

A. True B. False

3. Yearly notice of the tax offset to the person who owes support is not required.

A. True B. False

4. Both federal and state interception will be applied to monies owed the state for past assistance.

A. True B. False

5. A person's tax refund can be intercepted even though the parent does not have an arrearage.

A. True B. False

6. The First-Time Home Buyers Grant may be intercepted.

A. True B. False

7. Only past-due support may be collected from a payer's refund.

A. True B. False

The Child-Support And Parenting-Time ‘Link’

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So far, PACT caseworkers are busy enrolling new participants and working with local community service providers and employment experts. The hope is that the children affected by the PACT program will experience an increase in emotional and financial support.

Numerous Studies Conducted

According to one study, 23 percent of noncustodial parents (NCP) who were behind in their support payments cited a lack of visitation as a main reason.¹ Understanding this connection is important. According to the 1999 census, almost 30 percent of America’s children live in single-parent homes. Children who live in single-parent homes are more likely to live in poverty. Providing consistent early education to parents about the need to financially support their children can have a positive effect on decreasing poverty.² An un-

derstanding of the barriers that prevent parents from paying and receiving child support can also lead to better compliance overall.

In addition to the longstanding idea that improved parenting time increases child-support compliance, a growing number of studies show the correlation goes both ways. In other words, NCPs who make their child-support payments are more likely to use their parenting time in a meaningful way. Theorists agree that the enforcement of child support helps create a parental identity, which then carries over into the nonfinancial parenting roles. Some studies have also found a positive association between the amount of support that NCPs pay and their children’s behavior and school achievement.³

Studies that have found child support to influence stronger

parental involvement generally recommend that parenting-time programs should be designed as NCP “involvement programs.”

Authorities actively involved in these studies recommend development of partnerships with local organizations to provide more services, as opposed to simply placing the focus on disputes over parenting time. These studies recommend involving the NCP at the earliest possible stage.⁴

Inventive Ideas

Some ideas include the following.

- Reaching out to fathers, whether married or not, to foster better emotional connections and more financial support of their children.

- Supporting NCPs with community services like job training or parenting classes to enable these parents to ass-

ume financial responsibility and emotional support of their children.

- Maintaining a steadier schedule for parenting time, because more infrequent contact and ongoing conflict between the parents is detrimental to the children.

1 Laura Wish Morgan, “The Link Between Visitation and Support Compliance” Available at: supportguidelines.com.

2 Stacey R. Bloomer, “Child Support Payment and Child Visitation: Perspectives from Nonresident Fathers and Resident Mothers.” *Journal of Sociology & Social Welfare*, June 1, 2002.

3 See footnote 1.

4 See footnote 1.

Mediation And FOC Training: Working Toward A Better System

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But according to Doug Van Epps, Director of the Office of Dispute Resolution, centers would like to see parties enter into mediation earlier in the case, preferably at the first contested motion, during discovery, or at any point when issues arise.

The centers also allow the parties to use as much time as they need during mediation to resolve all the issues that have arisen, in order to make sure that all issues are

addressed and resolved. By getting parties involved in mediation earlier, less time is spent in court and more time is spent reaching an agreement to benefit all the parties. If the parties begin resolving their dispute by mediating, the parties won’t be surprised when mediation is ordered to resolve issues that arise later. According to Van Epps, statistics show that parties will reach agreement in about 75 percent of the cases that are referred to the centers.

Funding for the centers for domestic relations cases comes from the Access and Visitation Grant (42 USC 669b). The centers receive \$75 for each FOC case they assist.

Because of the funding that is provided by the grant, mediation at the centers is either free or low cost to the parties, and the mediation process can usually begin within two weeks of contacting a center.

For more information on ADR and FOC cases, go to <http://courts.michigan.gov/scao/dispute/odr.htm>.

A special thanks to Doug Van Epps, director of the Office of Dispute Resolution, for his assistance in drafting this article.



THE LEGAL CORNER A summary of new legislation, recent Court of Appeals decisions, and Michigan IV-D memoranda.

LEGISLATION — SEE [HTTP://WWW.LEGISLATURE.MI.GOV/](http://www.legislature.mi.gov/)

SB 1200: A bill to amend 1939 PA 288, entitled “Probate Code of 1939.” If a paternity action is brought under the Paternity Act and the child is involved in an adoption petition, the adoption proceeding shall be stayed until paternity is determined.

SB 1201: A bill to amend 1956 PA 205, entitled “The Paternity Act.” If the child is the subject of an adoption action and if a default is entered against the mother for failing to file and serve a responsive pleading, on motion by the plaintiff a court in the paternity action shall enter an order of filiation declaring the plaintiff to be the father of the child.

SB 1203: A bill to amend 1982 PA 294, entitled “Friend of the Court Act.” At the request of a putative father of a child who is the subject of proceedings under the Michigan Adoption Code, Chapter X of the Probate Code of 1939, 1939 PA 288, MCL 710.21 to MCL 710.70, the friend of the court for the county where the child resides shall open an account to collect child-support payments from the putative father.

HB 5715: A bill to amend 1971 PA 174, entitled “Office of Child Support Act.” This statute permits the Office of Child Support to impose a \$25 fee on an individual if the state has collected \$500 or more in child support for the individual.

COURT OF APPEALS DECISIONS — SEE [HTTP://COA.COURTS.MI.GOV/](http://coa.courts.mi.gov/)

Carthew v Carthew, unpublished opinion per curiam, issued March 4, 2010 (Docket No. 289365). If there was possible misconduct on the part of the payer of child support, but an absence of a finding of contempt by the court, MCL 600.1721 will not justify an award of attorney fees to the recipient of child support.

Lemmen v Lemmen, unpublished opinion per curiam, issued February 9, 2010 (Docket No. 279832). It is not unjust or inappropriate to follow the Child Support Formula standard (as opposed to deviating from the formula) and to take into consideration the needs of the child and the actual resources of each parent, despite the fact that the custodial parent estimated the budget for the child as less than what the child would receive under the formula.

Ellsworth v Smith, unpublished opinion per curiam, issued February 23, 2010 (Docket No. 294002). When determining parenting time, the court need only consider the best interest of the child under MCL 722.27a(1) because the issue of parenting time is different from a change in custody and when the sole custodial parent petitions the court to relocate with the child, the factors in MCL 722.31(4) do not apply.

In re Beck, unpublished opinion per curiam, issued March 4, 2010 (Docket No. 293138). Absent adoption, an order terminating a parent’s parental rights does not terminate that parent’s obligation to support his or her minor children. *The Michigan Supreme Court granted leave to appeal the ruling on 5/28/10.

Woodward v Woodward, unpublished opinion per curiam, issued March 4, 2010 (Docket No. 294441). When determining whether the legal residence change has the capacity to improve the quality of life for both the child and relocating parent, the court may consider whether denying the relocation could result in detrimentally affecting the child’s quality of life.

Chizmadia v Chizmadia, unpublished opinion per curiam, issued March 9, 2010 (Docket No. 294395). When considering whether a drastic change in the child’s custodial environment is in the best interests of that child, the court may consider the preferences of the child as a dominant factor when all the other best interest factors are equal.

MICHIGAN IV-D MEMORANDA

Data Processing/Cooperative Reimbursement Program 2010-001: This memorandum is an update to the current Data Processing (DP) cost policy. It includes which DP costs may be charged to the Title IV-D Cooperative Reimbursement Program (CRP) contracts. It also explains the allowable billing methods for DP purchases, how to request the approval of equipment, and PC allocation guidelines. This IV-D Memorandum replaces Action Transmittal (AT) 2007-040.

- Answers To Page 4 Tax Offset Program Quiz:**
- 1. False** - To have taxes intercepted, the arrearages must meet a required threshold amount. If a child receives public assistance, the FOC will automatically request federal and state tax refund offsets if the arrearage exceeds \$150. If a child does not receive assistance, the threshold amount is \$500 for federal and \$150 for state.
 - 2. False** - The payer, after receiving a preoffset notice, may request an administrative review hearing to prove a mistake of fact or mistake of identity. It is the payer’s responsibility to show there is an error in accounting or he/she is not the person named in the order.
 - 3. True** - Obligors must be notified, in writing, before their cases can be submitted for offset. This written notification, know as Pre-Offset Notice (PON), must be issued for all new cases within the program. How often to issue PONs is a state policy decision. Once a PON is received, that is the payer’s lifetime notice until the arrearage amount falls below the required amount.
 - 4. False** - Only federal tax refunds will apply an arrearage owed to the state for past assistance. Any excess will be returned to the payer. State tax refunds will be applied to arrearages owed to the payer first, and remaining monies will be applied to arrearages owed to the state.
 - 5. True** - If a tax return is filed jointly and one party has an arrearage, the return will be eligible for a tax offset, even though one of the parties does not owe child support. The offset will be held for six months to allow the nonowing party time to submit an “injured spouse” claim to collect his/her share of the tax return.
 - 6. True** - The First-Time Home Buyers Grant is a refundable tax credit, thus qualifying for the tax offset.
 - 7. True** - The tax refund offset procedure may not be used to collect current or future support.