

Washtenaw County FOC Prisoner Release Project

The Washtenaw County Friend of the Court (FOC) has implemented a new program in collaboration with the Michigan Prisoner's Reentry Initiative (MPRI), called the "Washtenaw FOC Prisoner Release Project." The nature of the project, developed by referee Lisa Wenger, involves working with prisoners to address their child support issues when they are released and they reenter society. The program focuses on an FOC-initiated review hearing, which is held immediately upon the prisoner's release.

Wenger says the project has generated surprising and successful results in achieving real-

istic support orders and reducing arrearages. Wenger views the program as an improvement over the "old way" of dealing with prisoners, which historically involved relying on the payer to contact the friend of the court. In the past, notification of release was often given long after the actual release date and was provided by either the payer or the payee — not the prison system.

Under Washtenaw County's program, the FOC is notified by MPRI of a prisoner's release and then initiates a hearing. This procedure pre-

sents support payers (former inmates) an opportunity to talk to referees about their support obligations when they begin adjusting to life outside prison. Often, former inmates are faced with barriers to employment, which frustrate their ability to pay support. Some former inmates were in prison so long that there have been major changes in the laws governing support, such as laws regarding arrearages, surcharges, or withholding limits.

Wenger meets with prisoners and uses MiCSES to identify all

cases and addresses each person's situation accordingly. She shared some of her experiences about the project.

"My expectations when I started the project were minimal," she says. "Our office had a program for abating support when a payer went to prison that worked well because we generally received timely notice when a payer went to prison and abated the support obligation at that time, but we didn't have a process for reinstating support when that payer was released. In most cases payers simply did not notify us upon their release regardless of threatening language in the order that threatened to increase support if we

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Lisa Wenger

Underground Economy Task Force Issues Report

Michigan Supreme Court Justice Maura D. Corrigan delivered the final report of the Michigan Underground Economy Task Force at the National Judicial Child Support Task Force in New Orleans on June 16-17, 2010. During that time, she also held a press conference at the Hall of Justice to officially release the report. The final report includes recommendations made by the task force's subcommittees about enforce-

ment, prevention, and collaboration, and it also marks the end of two years of research into the underground economy and how it effects the establishment and enforcement of child support orders in Michigan.

The underground economy refers to the exchange of goods or services in return for unreported and untaxed income, usually received in cash. The classic

underground economy is made of people who receive compensation from others without reporting the income. Some common wages collected in the underground economy come from construction work, babysitting, unreported tips, and automobile repair. The ability to set an accurate support amount for an individual receiving compensation in the underground economy is diffi-

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Washtenaw County FOC Prisoner Release Project

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found out they failed to tell us of their release. As a result these cases were not reinstated until we received notice from some other source, usually the payee, in many cases a year or more after the actual release of the payer. What we lacked was the ability to obtain the release date, *in advance*, from a reliable source for all payers with support cases in Washtenaw County being released back to our county. This is the valuable information that our office now receives from our connection to the MPRI program and enables us not only to be able to reinstate support obligations in a timely manner, but also to be proactive in our efforts to assist payers with all issues related to their cases in our county."

Part of the program's success comes from the fact that it allows a referee to look at the specific circumstances of each case in order to make a recommendation. In fact, Wenger reports that dealing with each case individually has "worked both ways." While she is able to abate support for those parties who are diligent in their efforts to find employment and make lifestyle changes, she can also recommend that the support obligation be reinstated at the former amount if a party fails to appear at the hearing.

Wenger notes that participation in the program has been increasing. She pointed out that often, information on a payment plan is enough incentive for support payers to utilize the program. The project is also important because it presents an opportunity to re-

establish the relationship between the payer and the child. In addition to reinstating child support, a referee can review parenting time and make recommendations that might allow the parent and child to reconnect. The program has been successful in getting both parents to participate in the hearing and reach agreements regarding support and parenting time.

Wenger reports individual success stories, as well. In one case, the parties' three children were adopted many years ago by their stepfather, so the support obligation would have been terminated had the FOC known about the adoption. The FOC-initiated hearing allowed all those issues to be resolved. In another case, the payer had to pay significant fines before getting a driver's lic-

ense. Not having a license made it difficult for the payer to get a job and therefore pay support. Wenger recommended a temporary reservation of support to give the payer more time to come up with a solution to the problem.

Wenger believes the model that Washtenaw County has developed can be used with great success throughout the state. In fact, she is speaking about the program at the Friend of the Court Association Conference on July 15. Wenger welcomes other opportunities to share her experiences. Anyone interested in learning more can contact her at wengerl@ewashtenaw.org.

Underground Economy Task Force Issues Report

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cult because any imputed income without proof of the value of the work is likely to be inaccurate. Once a support amount is established, the FOC may find it difficult to collect the support amount, because there is no obvious source of income.

The white-collar underground economy allows some payers to hide income in successful mid-size and larger businesses by receiving stock shares in lieu of a salary, or by being classified as an independent contractor yet receiving company bene-

fits. Payers may conceal assets that are undetectable outside an audit of company records. Others hide in the illegal underground economy of drug dealers, thieves, and other criminals. Everyone involved in the underground economy, employers and employees alike are hindering the collection of child support and defrauding the government of millions of dollars each year.

In Michigan, there is a gap between child support due and child support paid of \$9 billion. In 2008, Justice Corrigan created the Underground Economy Task Force to examine this discrepancy. The task force

included representatives from the state and federal governments, economists, academic community members, and a local friend of the court (FOC) director. The task force's primary goal was to provide recommendations about how to discover and collect unreported and underreported income to ensure that appropriate child support orders are established and enforced.

The prevention subcommittee focused on preventing the child support obligor from accruing such a large debt that he or she felt

forced into the underground economy. This prevention occurs when courts can identify methods to obtain earlier and increased communication with both the custodial and noncustodial parents to proactively prevent payment delinquencies. The collaboration subcommittee learned that other governmental agencies have information that may be beneficial to the FOC in combating the underground economy problem. The committee's main focus was determining what information needs to be shared for support enforcement,

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New Policy On Credit Balances In Support Cases

Child-support amounts often change throughout the life of a case. These changes may create overpayments or credits in friend of the court (FOC) cases. The FOC offices can take various steps to prevent or correct a credit balance in a child support case. The ideal option is to prevent balances, and a new memorandum issued by the State Court Administrative Office on June 10, 2010, has outlined how to accomplish this. SCAO Administrative Memorandum 2010-03 (*Credit Balances on Friend of the Court Cases*) provides FOC offices with guidance on handling an overpayment of support.

The following is an overview of SCAO Administrative Memorandum 2010-03.

A payer should only pay a monthly amount that is equal to the current support obligation. If a payer chooses to pay an additional amount above the amount that is due for the next month's obligation, that additional amount must be returned to the

payer unless there are arrears in the case or unless the payer has specifically designated the overpayment as additional support. If there has been an overpayment of support received by the FOC through income withholding, the FOC must return the overage amount immediately.

An overpayment can also be used to pay future support obligations or, in limited situations, the overpayment can be applied to other support cases involving the payer. However, the FOC may not apply a designated additional support payment to future current support if it will create a credit balance. If a voluntary overpayment is not designated as an additional support payment, the FOC would only apply the overpayment toward the next month's future support obligation. Any amount that exceeds the next month's future support obligation should be refunded to the payer. If there are circum-

stances in which the FOC would like to retain this excess amount, the FOC must obtain a court order to retain the amount. If a payer receives credit for a direct payment above the court-ordered payment, only an amount up to the amount owed in arrears should be credited.

If the FOC has collected an overpayment through a case-specific enforcement action, the overpayment should not be allocated to other cases. The involuntary overpayment should be returned to the payer.

If a credit balance has already occurred, the FOC and the courts may take steps to correct it. First, the FOC should determine that there are no other agencies attempting to recover an overpayment. Once this is accomplished, the FOC should do the following.

- Send a written request to the recipient and request the return of the funds. If there is no response from

the recipient within a reasonable time, the FOC should send a second letter again asking for the funds to be returned. If there is no response from the recipient to the second request, a final letter should be sent that states that, unless the recipient denies permission for recovery by a specific date, the FOC will administratively recoup the overpayment. If the recipient agrees to allow recovery of the overpayment, the terms should be in writing. If the recipient does not respond or refuses to allow recoupment, the FOC may file a motion with the court seeking direction to adjust the overpayment.

- May advance money to correct inadvertent misapplication of funds by the FOC. The FOC should begin recovery proceedings by asking a court for options to collect these advanced funds.

If a credit balance occurs in two cases that are in different jurisdictions, the FOCs in those jurisdictions should coordinate

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Underground Economy Task Force Issues Report

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what information can legally be shared, and determining how information could be accessed by encouraging government agencies to share information. The enforcement subcommittee researched available enforcement tools in Michigan to determine the effectiveness of enforcement techniques that are currently used and

also reviewed the barriers to enforcement remedies that are available but not currently used. The enforcement subcommittee also looked at enforcement tools and best practices that are used by other states in an effort to discover new techniques to uncover unreported or underreported income of Michigan parents, and to determine the feasibility of putting those practices

in place.

The final report was made available on June 16, 2010 and can be found on the FOCB's website at: <http://courts.michigan.gov/scao/resources/publications/reports/UETF-2010.pdf>.

For more information about the task force, contact UE_Taskforce@courts.mi.gov.

The Pundit is a quarterly publication of the Friend of the Court Bureau, State Court Administrative Office, Michigan Supreme Court.

The Pundit is paid for with IV-D funds.

New Policy On Credit Balances In Support Cases

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efforts to resolve the credit balances. When a court attempts to correct a credit balance, the court order should ensure that the payee will be able to meet the child's ongoing financial needs. A court order should not suspend enforcement of current support. If the court chooses to deviate from the Michigan Child Support Formula by reducing monthly

payments because of the overpayment, the current support payments required under the support order should remain high enough to meet the child's needs.

The court may also choose to establish terms

SCAO Administrative Memorandum 2010-03 (Credit Balances on Friend of the Court Cases) provides FOC offices with guidance on handling an overpayment of support.

for direct repayment between the parties without FOC involvement or the court may order a payee to repay misapplied funds from another case.

These options are an overview of the alternatives discussed in the new policy.

comprehensive look at the policy, go to <http://courts.michigan.gov/scao/resources/other/scaoadm/2010/2010-03.pdf>.

For questions regarding the policy, contact the Friend of the Court Bureau at 517-373-5975.

New 'Issue Tracker' Helps Identify Concerns, Improve Response

The Friend of the Court Bureau (FOCB) recently implemented a new system called "Issue Tracker." The system allows the FOCB to compile information on phone calls, e-mails, and letters it receives. Issue Tracker allows FOCB staff to identify trends in constituent issues and improve responses. Issue Tracker will help the FOCB improve service to local friend of the court (FOC) offices. Using Issue Tracker, the FOCB can log each call, e-mail, or letter it receives and track the county, issue topic, and the action or referral that is made.

From January to May, 2010, FOCB customer service clerks handled more than 1,330 phone calls, approximately 200 e-mails, and approximately 50 letters from parties who have cases in the FOC system. The most common topics during that time period were child support (which is separated into several subtopics, including enforcement, establishment,

modification, and tax offsets), issues with local FOCs, and custody concerns (which are typically separated into establishment or modification subtopics).

NO ACCESS TO FILES OR MICSES

The FOCB is an administrative agency that was created to set guidelines for local FOC offices to use in implementation of their policies and procedures. FOCB staff can answer general questions about statutes, policies, procedures, or the grievance process, but does not have access to MiCSES or case files.

But because the FOCB does not have access to individual case files, the customer service clerks often have to refer callers to other offices, primarily to local FOC offices or the Office of Child Support (OCS).

Often, parties who contact the FOCB explain they have already contacted their local FOC but were told to "call Lansing," leading them to contact the FOCB. Because

there are several offices in Lansing that may handle a child support or IV-D case, local FOCs should provide callers with a specific phone number, rather than referring the parties simply to "Lansing." This would be beneficial because parties are often dealing with a frustrating issue and become even more discouraged when they have trouble reaching the appropriate office.

CONTACT LIST

FOCs should find the following phone numbers helpful in assisting parties.

- **Office of Child Support** - OCS is the state agency that administers the federal Title IV-D child support program in Michigan. OCS can assist a caller in establishing a child-support case and OCS has access to MiCSES information. OCS support specialists can be reached at **1-866-540-0008** (if paternity has been established) or **1-866-661-0005** (if paternity needs to be established).

- **Michigan State Disbursement Unit (MiSDU)** - MiSDU is responsible for the receipt and distribution of all child-support payments in Michigan. Often, callers are trying to determine why a payment has not yet been made, or why the payment is a different amount than usual. MiSDU can be reached through the County IVR Line. A complete listing is available at: <https://www.misdu.com/secure/GeneralInformation/IVRPhoneNumbers/tabid/64/Default.aspx>. Parties can also call **1-800-817-0632** for general MiSDU information.
- **Department of Treasury Tax Intercept Division** - The Tax Intercept Division works with FOC offices to withhold state tax refunds in order to pay past-due support. Parties who have specific questions about a tax offset in their case can call the Department of Treasury at **517-373-2932**.

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The Grievance Audit Process

The Friend of the Court Bureau (FOCB) recently began its semiannual grievance audit.

The grievance audit is an important function of the FOCB because it identifies trends among friend of the court (FOC) offices across the state. The grievance audit is a powerful tool that allows the FOCB to anticipate and respond to the needs of the FOC offices.

Data collected by a grievance audit is useful because:

- it helps FOCs efficiently address common issues.
- it assists the FOCB in its development of relevant and effective FOC policies.
- it identifies and helps resolve recurring concerns.

One function of the FOCB is collection of data regarding operations of county FOC offices. Twice a year, the FOCB analyzes data on grievances filed with county FOCs and the FOCs' responses to those grievances.

The formal process of reviewing the grievance data is called a "grievance audit."

After a chief judge or FOC office has reviewed a grievance and issued a response, responses are forwarded to the FOCB. FOCB management analysts and clerks read every grievance and the response.

If there are issues within a grievance that require further inquiry, an analyst will contact the appropriate FOC or agency to resolve the issue. Each grievance is then logged in a spreadsheet that records the grievant's name, county, the date the griev-

ance was filed, and a brief description of the issue and FOC response. Copies of grievances are saved in the FOCB's database, known as "Issue Tracker," in case the issue needs to be revisited.

Each January and July, the FOCB conducts a grievance audit. The primary goals of the audit are to 1) identify the grievance issues, 2) analyze whether the FOC's grievance

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New 'Issue Tracker' Helps Identify Concerns, Improve Response

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▪ **Attorney General's Office** - The Attorney General's Office deals with cases that have large support arrearages. Parties who need assistance can contact the Attorney General's Child Support Division by calling **517-373-1111**.

ONLINE INFORMATION

In addition to phone numbers for various offices, parties may also find online information useful. FOCB staff often use these websites to provide more information to

callers. FOC staff should also find the information helpful when assisting parties.

▪ **MISDU's** website provides recent news, links to other offices, county IVR numbers, direct deposit information, and online payment information. Parties can visit <http://www.misdu.com> for more information.

▪ **MiCase** is another website that is helpful to parties. Parties who register with MiCase have 24/7 access to their case information. In fact, FOCB staff has noticed that more people are asking

available online ... and it is! Within 10 calendar days of registering with MiCase, parties receive a temporary user ID and password in the mail, which they can use to log in to the site. Parties can visit MiCase at <http://www.michigan.gov/micase>.

▪ The **Michigan courts** website at <http://www.courts.mi.gov> can assist parties in numerous ways. The site has information on grievances, a directory of court forms, and self-help pages that deal with a number of domestic relations

issues. The FOC portion of the site has links to the Michigan Child Support Formula, FOC Model Handbook, some local Parenting Time Guidelines, and also the state sample Parenting Time Guidelines.

The FOCB will continue using Issue Tracker as a way to streamline and improve service to the circuit courts, FOC offices, and the general public. For more information on Issue Tracker, contact Elizabeth Stomski at stomskie@courts.mi.gov.

IMPORTANT CONTACT NUMBERS

Office of Child Support - 1-866-540-0008 (if paternity has been established) or 1-866-661-0005 (if paternity needs to be established)

Michigan State Disbursement Unit (MISDU) - Via the County IVR Line or 1-800-817-0632 for general information

Department of Treasury Tax Intercept Division - 517-373-2932

Attorney General's Office - 517-373-1111

The Grievance Audit Process

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response addresses the issues and otherwise complies with laws and policies, and 3) help the FOCB identify systemic concerns or trends.

The FOCB program assistant randomly selects 60 grievances for review that have been filed in the time that has passed since the last audit was performed. The number of grievances reviewed from each SCAO region approximates the state caseload percentage of each region.

After a customer service clerk analyzes each griev-

ance, a short narrative is drafted, outlining the findings, suggestions, and policy and procedural concerns identified during the grievance review.

The management analysts review each grievance, response, and narrative and determine whether the response to the grievance was adequate.

After the analyst's review, the FOC will receive a letter that identifies the cases that were selected for the audit and the outcome of the au-



dit. If more information is required regarding a particular grievance response, the FOCB will request that the necessary information be provided.

The summary is included in the FOCB's "Annual Grievance Report to the Michigan Legislature." The audit summary is also used to determine whether issues exist within an FOC office or statewide that require policy modification. Past versions of the FOCB's "Annual Grievance Report to the Michigan Legislature"

can be found at <http://courts.michigan.gov/scao/resources/publications/reports/summaries.htm#focr>.

If a court has a question regarding the audit process or about responding to a grievance, contact Management Analyst Elizabeth Stomski at 517-373-5975 or at focb@courts.mi.gov.

The Pundit editorial staff encourages the submission of articles, ideas for articles, and responses from readers. For more information, contact Elizabeth Stomski at stomskje@courts.mi.gov.

Intergovernmental Work Improvement Team

The Intergovernmental WIT is a collaborative effort of the Office of Child Support (OCS) and the State Court Administrative Office (SCAO), and is co-led by Kelly Morse of OCS and Bill Bartels of the SCAO. The purpose of the Intergovernmental WIT is to improve the process in which child support is handled in Michigan when one of the parents does not live in Michigan. Currently, there are five different WITs under the Program Leadership Group charter: Case Management, Enforcement, Establishment, Financials, and Intergovernmental. The Intergovernmental WIT follows the same policies, approach, and processes as the flagship WITs. Membership is comprised of partners from all

functional areas. applicants were selected on the basis of their geographical locations, subject-matter expertise, daily work responsibilities, past membership experiences on other WITs, and diversity of skills.

According to Bartels, historically the areas of interstate, intergovernmental, and tribal relations have not received much attention at the state level. The Intergovernmental WIT attempts to resolve this problem by devoting an entire team to problems that occur in these

Specific types of cases. The Intergovernmental WIT is working to develop better business practices statewide, mainly by providing resources that focus on training. For example, the Intergovernmental WIT is examining the requirement regarding an interstate

The Intergovernmental WIT is doing well, mostly because of good direction, fantastic participation by local offices, and a good prosecutorial staff helping the team.

- Bill Bartels, SCAO

pay history record. All states require that an interstate pay history record be sent to the other state when a child support case is registered in a new state. However, some states will reject the pay history record if it is not provi-

ded using a format that the particular state prefers. The Intergovernmental WIT is tackling this problem by looking at the federal law requirements of states and trying to develop a uniform format that will be accepted in any state.

There are also other projects on which the Intergovernmental WIT is working. One project involves determining which states have policies that interfere with Michigan sending cases to those states. The Intergovernmental WIT is also planning to provide educational sessions at the fall 2010 Michigan Family Support Council Conference to train Michigan IV-D employees to look at the "big picture" in enhancing interstate business practices.

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Prisoner Reentry Initiative

BY ELAINE BLACKMAN,
OFFICE OF CHILD SUPPORT
ENFORCEMENT

When OCSE awarded grants to seven state child support agencies last September, it became an important team player with the U.S. Department of Justice (DOJ) and Department of Labor (DOL) in the quest to reduce recidivism.

The OCSE Section 1115 grants went to Florida, Iowa, Kansas, Minnesota, Ohio, Oklahoma and Tennessee — states already operating grant projects funded by the DOJ and DOL Prisoner Reentry Initiative (PRI). The PRI grants help offenders who are newly released from prison find work and access other critical services in their communities. The PRI grantees provide incarcerated individuals with skills in a prison “pre-release setting” to help prepare them for employment. Under the PRI, the DOL partners with local faith-based and community organizations “because these are the organizations that can best meet needs of incarcerated individuals by helping to connect them not only with employment, but other critical support services such as housing and transportation,” says OCSE’s Karen Anthony.

In 2008, Anthony, and others in the Administration for Children and Families, approached the two

departments with the idea of “linking our prisoner reentry work to theirs. We knew we could be a team player by helping to manage child support cases in the prison setting and then following individual cases. By managing the cases, we can ensure child support orders are set appropriately so the parent can realistically meet his or her obligation and the custodial parent can reasonably count on child support as a reliable source of income.”

CHILD SUPPORT’S GOALS

The overarching goal of the child support grantees is to provide child support services to supplement the PRI projects in their states. They also hope to develop business practices and procedures that will stay in place long after the three-year grant funding expires. These might include identifying which inmates have child support matters to address, early in the stages of incarceration.

In addition, a point person from each OCSE regional office participates in the conference calls and planning. “The goal of having a point person in each region is to have more federal staff conversant about incarceration and reentry issues as they coordinate with

other agencies,” says Anthony. “These regional staff members are quickly becoming national experts in the child support program community about incarceration and reentry issues.”

DOMESTIC VIOLENCE FACTOR

Although the PRI grants are designed for nonviolent prisoners, the OCSE grantees are



required to develop domestic violence protocols. To help the grantees and their partners with this aspect of their project, national domestic violence experts Anne Menard (Director, National Resource

Center on Domestic Violence) and Dr. Oliver Williams (Director, Institute on Domestic Violence in the African American Community, University of Minnesota) presented web-based training to the grantees this March about the role of managing domestic violence risks related to child support, especially in their work with fathers.

Several of the OCSE grantees have developed their domestic violence protocols and will train not only the child support workers, but their partners in DOJ and DOL. Anthony adds, “We are fortunate

to have Allison Randall of ACF’s Family Violence and Prevention Service Program as part of our national team working to help these grantees succeed.”

THE CASE FOR ENGAGING INCARCERATED PARENTS

Why should child support agencies develop programs to help incarcerated and recently released noncustodial parents to better meet their family responsibilities?

- The majority of inmates in state and federal prisons are parents with children under 18, and half of these incarcerated parents have open child support cases. Although the proportion of incarcerated noncustodial parents in state prisons is roughly 3 to 5 percent of the child support caseload at any one point in time, the cumulative impact is much higher. For example, almost 25 percent of Baltimore, MD, cases involve noncustodial parents with a history of current and prior incarceration. (See *The Intersection of Incarceration & Child Support: A Snapshot of Maryland’s*

- These parents are accessible in prison settings and respond positively to outreach efforts by child support personnel. About half of state child support programs have undertaken at least one collaboration with prisons and jails, often funded initially with OCSE grants.

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Prisoner Reentry Initiative

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- Many ex-offenders reentering their communities face limited employment options due to a range of laws, attitudes and other limits within certain occupations.
- Limits on access to public assistance programs for

some offenders and to subsidized public housing also inhibit ex-offenders from successfully reintegrating into the community.

- Ex-offenders also tend to have multiple personal barriers to employment, including limited work experience, lit-

tle education and illiteracy, and substance abuse and mental health problems.

- Ex-offenders with child-support obligations also are faced with fines, fees and restitution associated with their offense.
- Providing services to non-

custodial parents re-entering society can help them overcome some of these barriers and improve their chances of remaining in the community and meeting their child support obligations.

(Reprinted from "Child Support Report," Vol. 32, No. 6, June 2010.)

Intergovernmental Work Improvement Team

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Bartels says that the Intergovernmental WIT is doing well, mostly because of good direction, fantastic participation by local offices, and a good prosecutorial staff

helping the team. He says the Intergovernmental WIT is meeting important needs and making advancements by providing leadership, which will improve training throughout Michigan. The

Intergovernmental WIT is enhancing interstate procedures in Michigan, as well as increasing collaboration among other states that will ultimately improve interstate practices.

If you would like more information about the Intergovernmental WIT, go to <http://m-support.cses.state.mi.us/partneractivities/WorkImprovement/Int/>.



2010 MICHIGAN FAMILY SUPPORT COUNCIL ANNUAL FALL CONFERENCE

October 6-8, 2010
Boyne Highlands Resort

GUEST SPEAKER: Michigan Supreme Court Justice Maura D. Corrigan
MOTIVATIONAL SPEAKER: Harvey Alston

- Sessions include:**
- BRIDGES interface
 - Intergovernmental issues
 - New court innovations
 - FOCA bill package analysis

*** SCHOLARSHIPS AVAILABLE ***

For conference and registration information, please visit
<http://www.mifsc.org/Conference>


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/)

HB 5940: A bill to amend 1939 PA 280, entitled "The Social Welfare Act." Noncustodial parents who are currently under obligation to pay child-support arrearages will not be eligible to receive food assistance benefits. To facilitate enforcement of the bill, each Friend of the Court office must report the names of persons who have a current support arrearage to the Office of Child Support.

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

Brancher v Peters, unpublished opinion per curiam, issued April 13, 2010 (Docket No. 294998). A motion to revoke acknowledgment of parentage should be granted if defendant is not the child's biological father, even if the motion to revoke was not filed until three years after defendant was confirmed not to be the child's biological father.

Williams v Chavez-Williams, unpublished opinion per curiam, issued April 13, 2010 (Docket No. 293536). A Michigan court may transfer jurisdiction of a custody case to another state for convenience of forum when the children and custodial parent live in the other state, even if all records and witnesses are in Michigan. The court should conduct a review of the court record before making a decision on the transfer.

Bombrys v Zecchini, unpublished opinion per curiam, issued April 20, 2010 (Docket No. 293276). Where a trial court erred in concluding that an established custodial environment did not exist with plaintiff, the error was harmless when an evaluation of best-interest factors set forth in MCL 722.23 revealed clear and convincing evidence that awarding defendant physical custody was in the child's best interests.

Greer v Greer, unpublished opinion per curiam, issued April 20, 2010 (Docket No. 293817). A trial court did not err in awarding joint legal and physical custody to parties when the court determined the willingness of the parties to cooperate as the deciding factor in the ruling after evaluation of the 12 best-interest factors did not favor either party.

People v Likine, per curiam opinion issued April 20, 2010; approved for publication June 8, 2010 (Docket No. 290218). The inability to pay child support is not a constitutionally-required defense in a felony nonsupport case. Because the ability to pay is not an element of a felony nonsupport case, the fundamental due process right to present the defense is not implicated.

People v Parks, unpublished opinion per curiam, issued April 20, 2010 (Docket No. 291011). The felony nonsupport statute is a strict liability statute for which the inability to pay is not a defense. The statute does not violate the due process clause because there is no inability to pay defense to the felony of failure to pay support.

Murray v Murray, unpublished opinion per curiam, issued April 20, 2010 (Docket No. 281077). The 10-year statute of limitations period to enforce a child-support order for the entire arrearage amount starts to run on the day the last child support payment is due. However, if the youngest child in a support order for multiple children turned 18 before 1997, each separate support payment triggers its own separate 10-year limitations period rather than the full arrearage amount being enforceable until 10 years after the day the last payment was due.

Toal v Toal, unpublished opinion per curiam, issued April 20, 2010 (Docket Nos. 289435, 291267). The Michigan Child Support Formula specifically permits imputation of additional, unearned income to one or both parties when a party has a present, unexercised ability to earn far more than he or she currently earns because of a voluntary reduction in income.

Weber v Weber, unpublished opinion per curiam, issued April 22, 2010 (Docket No. 293002). An established custodial environment may exist with the mother and the father if the child looks to both parents for care, discipline, love, guidance, and attention. A finding that one parent is the primary caregiver does not preclude a finding that an established custodial environment exists with the other parent.

Brown v Kavanagh, unpublished opinion per curiam, issued April 27, 2010 (Docket No. 293956). An established custodial environment does not depend on the duration of a custody order but should be evaluated on the basis of the existence and duration of a custodial relationship between the parent and the child.

McQuillan v Sanback, unpublished opinion per curiam, issued May 11, 2010 (Docket No. 289380). A child's grandparent may seek a grandparenting time order in accordance with MCL 722.27b if the child's parent, who is the child of the grandparents, is deceased. A fit parent's decision to deny grandparenting time is treated as a rebuttable presumption that can be overcome by proving that the denial of grandparenting time creates a substantial risk of harm to the child(ren).

Morse v Morse, unpublished opinion per curiam, issued May 18, 2010 (Docket No. 295175). A parent's failure to give medication, failure to consult the other parent before starting counseling with the child, and the parents' poor communication do not demonstrate changes in circumstances sufficient to change an existing custody order.

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

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Wilber v Carter, unpublished opinion per curiam, issued May 20, 2010 (Docket No. 293804). An order granting joint legal custody of the parties' minor child was reversed because the trial court did not determine that a change of circumstances occurred, that just cause existed, that an established custodial environment existed, and did not consider the best-interest factors when awarding custody.

Dewald v Dewald, unpublished opinion per curiam, issued May 25, 2010 (Docket No. 294094). A default judgment of filiation, custody, parenting time, and child support is void when plaintiff makes a misrepresentation to the trial court that plaintiff could not serve defendant because plaintiff does not know defendant's address.

Douglas v Eaton, unpublished opinion per curiam, issued May 25, 2010 (Docket No. 294177). To establish "proper cause" necessary to revisit a custody order, a party must prove by a preponderance of evidence the existence of an appropriate ground for legal action to be taken by the trial court. The appropriate ground should be relevant to at least one of the 12 statutory best-interest factors and must be of such magnitude to have a significant effect on the child's well-being. When a party has demonstrated such proper cause, the trial court can then engage in a reevaluation of the statutory best-interest factors.

MICHIGAN IV-D MEMORANDA

Final Judgment or Order Fees as IV-D Program Income 2010-002: Provides information on how staff must report certain final judgment or order fees on monthly Cooperative Reimbursement Program (CRP) billing statements. Provides instruction to Prosecuting Attorney (PA) and Friend of the Court (FOC) staff about when to report final judgment fees as income in IV-D and non-IV-D cases. Replaces Action Transmittal (AT) 2006-019.

Repeal of the Child-Support Bench Warrant Enforcement Fund (BWEF) 2010-003: Provides notification of the repeal of the BWEF and provides instructions regarding the process of disbursing the final BWEF funds collected by the Office of Child Support (OCS) to FOCs. Provides restrictions on how the BWEF funds may be used by FOC offices. Replaces IV-D Memorandum 2009-016.

Michigan IV-D Child Support Manual Section 5.75, "Surcharge" 2010-006: Clarifies that Medical Support – Medicaid (MD) and Payee Confinement (PC) debt types became ineligible for surcharge assessment in January 2009. Recent revisions of MCL 552.603a(4)-(6) eliminated the automatic surcharge for all cases but allow courts to require surcharge calculation in specific cases starting January 1, 2011. Replaces Action Transmittal (AT) 2005-036.

Michigan IV-D Child Support Manual Section 6.06, "Medical Support" 2010-007: Announces modifications to Section 6.06 ("Medical Support") of the *Michigan IV-D Child Support Manual* and clarifies that, after the update, FOCs are no longer required to retain an image or copy of the *National Medical Support Notice (NMSN)* response for data reliability.

Income Withholding Amount Limitation and Allocation for Multiple Income Withholding Notices 2010-008: Announces changes in the statutory income withholding limit and changes in the Office of Child Support (OCS) income withholding forms. Provisions of 2009 PA 193 amended income withholding sections of Michigan law to change the income withholding amount limitation to 50 percent of the payer's disposable earnings regardless of the payer's arrearages or family status. The amendments also provide allocation instructions where there are multiple income withholding notices against a single payer.

Income Withholding for Michigan Unemployment Benefits 2010-009: Clarifies situations in which FOC staff must manually mail, fax, or generate an income withholding notice to the Michigan Child Support Enforcement System (MiCSES) or directly to the Michigan Unemployment Insurance Agency (MUIA) in cases of unemployment income withholding.

State Cooperation with the Sovereign Nation of the Keweenaw Bay Indian Community (KBIC) and Tribal IV-D Programs 2010-010: Introduces *Michigan IV-D Child Support Manual* section 7.20, "Tribal", and explains the data sharing agreement between the State Court Administrative Office (SCAO), the Office of Child Support (OCS), and KBIC regarding Tribal IV-D plans. Replaces IV-D Memorandum 2005-045.

SCAO MEMORANDA

SCAO Administrative Memorandum 2010-03: Credit Balances on Friend of the Court Cases: Provides policies and procedures to help FOC offices correctly process payments when more money has been disbursed than was due under the order. (For more information, see "New Policy on Credit Balances in Support Cases" on page 3 of this newsletter.)

THE PUNDIT can be accessed online at:
<http://courts.michigan.gov/scao/resources/publications/focbnewsletters/focbnews.htm>