



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

May 1, 2014

**MICHIGAN COURT FORMS COMMITTEE**  
**Domestic Relations Committee**  
**Minutes of March 20, 2014 Meeting**

Present: Carol Bealor, 43rd Circuit Court  
Laura Cleland, OCS-DHS  
Hon. Kathleen Feeny, 17th Circuit Court  
Erin Magley, 20th Circuit Court, Family Division  
Carlo Martina, Carlo Martina, PC  
Johanna Peltier, Washtenaw County FOC  
Shelly Spivack, Genesee County  
Ellsworth Stay, 27th Circuit Court  
Hon. Nancy Thane, 54th Circuit Court  
Angela Tripp, Michigan Poverty Law Program  
Amy Yu, Amy Yu, PC  
Bill Bartels, State Court Administrative Office (staff)  
Colin Boes, State Court Administrative Office (staff)  
Amy Garoushi, State Court Administrative Office (staff)  
Stacy Westra, State Court Administrative Office (staff)

Absent: Zenell Brown, 3rd Circuit Court  
Kelly Morse, OCS-DHS

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

1. **Minor Corrections**

**FOC 112, Order to Remit Prisoner Funds for Child Support:** The committee was informed that the Michigan Department of Corrections does not want this form sent to each individual institution, but instead wants it sent to a central unit. The "TO" box on the form will be updated accordingly.

The form was approved as revised.

**Staff note:** In modifying this form, it was determined the address box for the Michigan Department of Corrections should be moved to the bottom of the form. Additionally, the certificate of mailing portion of the form was reworded to remove reference to a copy being served on the warden or supervisor of the facility where the prisoner is incarcerated, now that the order is being sent to the central court order processing unit.

## 2. Instructions for Custody and Parenting Time Forms

The committee discussed a suggestion that the custody and parenting time instructions forms should be modified to comply with MCR 3.206(A)(3), by indicating when a Uniform Child Custody Jurisdiction Enforcement Act Affidavit (MC 416) form needs to be filed. The committee discussed the language of MCR 3.206(A)(3), which provides that: “In a case in which the custody of a minor is to be determined, the complaint or an affidavit attached to the complaint also must state the information required by MCL 722.1209.” MCL 722.1209 requires certain information to be provided in a sworn statement attached to the first pleading in a case involving a “child-custody proceeding.” MCL 722.1209(1). For purposes of the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA), “child-custody proceeding” includes a proceeding “in which legal custody, physical custody, or parenting time with respect to a child is an issue.” MCL 722.1102(d). It was noted that a court can only determine if it still has jurisdiction by obtaining the information on the MC 416. Additionally, an instruction to include the MC 416 would help in situations where the party or attorney is not familiar with the requirements of the UCCJEA. The committee discussed whether this meant that an MC 416 should be filed with any new motion relating to parenting time or custody and, after significant discussion, concluded that it was required. Therefore, the committee determined that an instruction to include MC 416 should be added to the instructions for the motion for parenting time and motion for custody. The instruction pages will indicate that the movant must complete and attach MC 416 to any motion regarding parenting time or custody.

It was also determined that a new item should be added to both the motion regarding custody and the motion regarding parenting time to indicate: “Attached is a signed, notarized, and completed UCCJEA Affidavit (MC 416).” The committee determined this would help ensure that MC 416 is properly completed and filed in every case.

The committee also discussed whether SCAO should continue to maintain instructions pertaining to these forms once Michigan Legal Help has completed instructions and articles pertaining to the forms. The committee considered whether the work in conjunction with Michigan Legal Help meets the statutory requirement in MCL 552.519(3)(k) that the friend of the court bureau “develop . . . [i]nstructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.” The committee generally

agreed that it should remain the duty of the friend of the court bureau to develop the materials, given the clear statutory directive, and that this duty cannot be passed off to Michigan Legal Help.

FOC 65, Motion Regarding Parenting Time, and FOC 87, Motion Regarding Custody, were approved as revised.

3. **FOC 1a, Friend of the Court Grievance**

The committee considered two suggestions regarding this form:

- (A) The committee first considered whether the reference to a Citizen Advisory Committee (CAC) as an option on the form should be removed. The committee discussed the fact that CAC's are formed by and report to the county board and that while MCL 552.526(3) allows a party to file a grievance with the CAC, nothing requires that it be done on the same form as a grievance filed with the friend of the court office. The committee discussed that following a legislative change that removed the requirement that each county have a CAC, the number of active committees has dropped to two. The committee also discussed that in most counties, where there is no CAC, the form is misleading by implying a CAC complaint is an option, when in reality it is not. The committee concluded it would be best to make the form more appropriate for use in the majority of circumstances and remove the references on the form to the CAC process. The committee determined that the references to the CAC should be removed from the form. This includes removing the reference in the distribution portion of the form, the check box in the heading, and all references in the instruction portion of the form. Additionally, due to the change in use for the form, the committee determined the fourth paragraph of the instructions should be removed. The committee also considered whether the heading "Release of information" and everything under that heading was necessary on the form. After some discussion, it was concluded this information regarding what is confidential was not necessary on the form and there are other types of information that are confidential that are not indicated in the forms or instructions. Therefore, this entire section was removed.
- (B) The committee also discussed a suggestion from a local court administrator and friend of the court that the language on this form indicating that the grievance is about "a decision based on gender rather than the best interests of the child" be removed from the form. MCL 552.526(1) permits grievances about issues with either office operations or employees. The language regarding gender would be something a CAC looks for when it reviews grievances, but only two counties maintain CACs. Several on the committee noted that the gender-based checkbox is frequently inappropriately checked in counties where there is no CAC. In these counties, the statute requires that the grievance indicate that it is relating to office operations or employees. While a complaint about the local FOC office may potentially relate to a decision based on gender, it would still need to be generally categorized as either a complaint relating to office operations or about specific employee(s). The committee determined that the

checkbox option to indicate the grievance is based on gender discrimination should be removed, as that language is only directly applicable to CAC grievances, which this form will no longer be used for.

Additionally, the committee discussed that the “best interests of the child” is not always an accurate standard because not all complaints involve custody and parenting time investigations, which is when the best interests of the child is the standard. However, the committee had already determined that this provision, which only pertains to CACs, should be removed. Therefore, this language with a potentially inaccurate standard will no longer appear on the form.

The form was approved as revised.

4. **FOC 10/FOC 10a (Uniform Child Support Order)**

The committee discussed a number of suggestions regarding modification to these forms:

(A) The committee discussed a suggestion from a friend of the court employee that the language in the deviation paragraph (item 14 on FOC 10 and item 10 on FOC 10a) be modified from: “If there is a deviation, state the amount and...” to “If there is a deviation, state the amount calculated pursuant to the child support formula and...” The issue with the current language is that individuals representing themselves seem to have trouble understanding the “amount” being asked for. The committee discussed the fact that generally instructional language is avoided on orders and that the issue is fairly complicated. The committee also discussed MCL 552.605(2), which requires, when deviating: (a) The child support amount determined by application of the child support formula, (b) How the child support order deviates from the child support formula, (c) The value of property or other support awarded instead of the payment of child support, if applicable, and (d) The reasons why application of the child support formula would be unjust or inappropriate in the case. The committee discussed at some length whether it would be better to include more information to aid the person completing the form, or to cite the statute and require the individual to figure it out. Several on the committee noted that if you do not provide more guidance, the burden would fall to the friend of the court to sort out the resulting incorrect forms and that they would prefer more guidance on the form. The committee determined it would be better to be specific on the form and not leave the issue to the litigant to figure out.

The committee went on to discuss what language would help provide the necessary information to show why there was a deviation and what the basis under the Michigan Child Support Formula. The committee discussed the fact that the court should be the one making the determination. The committee considered the problems that have come up at the appellate level with orders entered without sufficient specificity as to why the judge entered an order deviating, with the result being orders overturned on appeal.

Ultimately, after considerable discussion regarding the exact language to be used, the committee determined a new format was necessary for indicating why there was a

deviation. The committee considered whether this should be an attachment or implemented as part of the form and determined it should be part of the form. This is due in part to only wanting to have one signature block, instead of one at the end of the order and one at the end of a potential addendum. This provision will be incorporated into the form and follow the requirements of MCL 552.605(2) to indicate:

**Deviation.** The support provisions  follow the child support formula  deviate from the child support formula as follows:

a. The total child support amount under the child support formula is:

\_\_\_\_\_.

b. This is how the child support order deviates from the formula:

\_\_\_\_\_.

c. The value of property or other support awarded instead of child support is: \_\_\_\_\_.

d. Applying the child support formula is unjust or inappropriate because:

\_\_\_\_\_.

The addition of this language necessitates an additional page, which the committee agreed was appropriate in order to accommodate this change.

**Staff note:** The word “ordered” after the words “the support provisions” was removed, as it was deemed unnecessary to the deviation paragraph.

Further, after internal review and discussion with SCAO staff, it has been determined that the deviation provisions should be on a separate addendum to the form that would be completed only when the court is deviating from the formula. This would prevent the majority of cases, in which there is not a deviation, from having additional unnecessary information pertaining only to deviation on the form. Additionally, it will serve as an additional reminder for courts that deviation requires distinct findings and they must be made specifically.

- (B) The committee next discussed whether FOC 10 and FOC 10a meet the statutory requirements of MCL 552.605(2). Specifically, the committee considered whether it is clear that if there is a child support formula deviation ordered by the court, the court must articulate “the reasons why the application of the child support formula would be unjust or inappropriate in the case.” The committee again discussed that some cases have been overturned on appeal where the record did not demonstrate the court made the required findings and instead relied on stipulations.<sup>1</sup> The committee discussed the fact that the judge should be setting forth on the record or in writing the reasons why application of the child support formula would be unjust or

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<sup>1</sup> For recent cases discussing the importance of making the finding under MCL 552.605(2) and involving some form of consent agreement, see *Snyder v Snyder*, unpublished opinion per curiam of the Court of Appeals, issued February 11, 2014 (Docket No. 313409); *Cook v Bossenbroek*, unpublished opinion per curiam of the Court of Appeals, issued October 9, 2012 (Docket Nos. 297209, 299594). See also *Laffin v Laffin*, 280 Mich App 513, 760 NW2d 738 (2008).

inappropriate, along with the other statutory requirements, consistent with the requirement of MCL 555.605(2). The committee briefly considered a suggestion that a form with all the findings be created, like those used in probate, in order to ensure the proper record is made. However, after considering this possibility the committee determined this was not the best approach at this time. The committee discussed at length how to address the situation where courts are not making proper findings on the record or in writing and how this situation could be addressed. The committee also considered a suggestion that a checkbox option be added to allow the court to specifically articulate that it was finding application of the child support formula to be unjust or inappropriate, but the committee determined this would not resolve the issue because the provisions relating to MCL 555.605(2) are already part of an order of the court.

The committee did not resolve this issue and the item was tabled for a future meeting, which may occur before the next annual forms meeting. It was suggested by some on the committee that this issue be brought to various associations (MJA, FOCA, etc.) to consider how it can best be addressed.

- (C) The committee considered a suggestion from a local friend of the court office that the forms be modified to clarify the provision relating to past-due arrears being preserved (item 13 on FOC 10, item 9 on FOC 10a). Specifically, it was noted that this becomes an issue in support cases where an order is entered, but is voided by the later entry of a judgment of divorce or separate maintenance, as provided for by MCL 552.455. It has been suggested that the paragraph indicating that prior support arrears are preserved be clarified to indicate that it only refers to support orders in the same case. After some discussion, the committee agreed this was an appropriate clarification and added the words “in this case” to each respective item after the words “any prior support order” in order to make this clear.
- (D) The committee next considered a suggestion from the Friend of the Court Bureau that language should be added to both forms pertaining to support ending by a date certain. The question was whether the current language about when an obligation ends, that is on conditions rather than a date, meets the statutory requirement that the support orders issued post-majority of the child contain a “provision that the support terminates on the last day of a specified month, regardless of the actual graduation date.” MCL 552.605b(3).

The committee discussed whether the form should include an option to end support or clarify that support ends when the child turns age 18, given that the court is not required to order post-majority support. The committee considered two proposals for adjusting the form.

The committee spent a significant amount of time discussing the implications of making a significant change to the form (support terminating at 18 and requiring a motion to continue, as opposed to it being presumptive) and the problems it could cause. For example, a parent who may have been entitled to support for a child who is older than 18, but younger than 19 ½ years of age, but who does not understand the need to file a motion, will be out the money they could have received if they fail to

timely request the support. However, the alternative has the local FOC offices inquiring as to whether the support should continue. This practice via form has shifted the burden from the litigant to local FOC offices for a number of years, but is becoming a resource issue that needs to be addressed. The committee discussed the language in MCL 552.605b(2) and agreed that it seems to require the filing of a “complaint or motion” to continue support beyond age 18, which is inconsistent with current practice. After significant discussion, the majority of committee members agreed a change should be made so that the form more closely follows the statute and shifts the burden back to the litigant.

The committee considered in detail the proposals by the Friend of the Court Bureau and ultimately determined that paragraph 1, as currently numbered, on the form needs to be deleted. The language indicating “Standard provisions have been modified (see item 15)” was retained. The committee replaced the deleted language with a modified version of alternative 2 from the Friend of the Court Bureau proposals. This would appear as item 2 now (with the child support portion of the order renumbered from 3 to 1, as noted below) and read:

**2. Obligation Ends.** The child care obligation for each child ends August 31 following the child’s 12th birthday. The parties must notify each other of changes in child-care expenses and must additionally notify the friend of the court if the changes ends those expenses. Other support obligations for each child end on the last day of the month the child turns 18.

**Post-majority support for the following children who will graduate from high school after turning 18 years of age:**

Obligation for:	Name	Name	Name	Name	Name
	Date:	Date:	Date:	Date:	Date:

(Determined pursuant to MCL 552.605b.)

The committee opted to use the phrase “the last day of the month the child turns 18” because a parent generally has a responsibility for minor children until age 18 and because a monthly support order is not required to be prorated for the last month the order is in effect. See MCL 552.605c(3).

Additionally, the committee also considered the suggestion for rearranging the form numbering in light of a concern that practitioners and litigants would not notice the move away from support presumptively continuing past age 18 where a child is in high school. The committee determined it would be better if the current item 3 became item 1, the modified item noted above became item 2, and the current item 2 became item 3. The committee noted that the significant restructuring of the form should put those familiar with the form on notice that there were major revisions and that the revisions should be considered carefully. The committee also believed bolding language relating to post majority support and putting a checkbox in front of it would also help clarify that such support is not automatically ordered, which alleviated some of the committee members concerns regarding this change coming as a surprise.

**Staff note:** Consistent with the language in MCL 552.605b, the reference to graduating from high school, as it relates to post-majority support, will be modified to “attending high school on a full-time basis.” See MCL 552.605b(2).

- (E) The committee considered a question regarding the items on the uniform support orders relating to health care coverage and expenses (items 4 and 5 on FOC 10; items 3 and 4 on FOC 10a). The committee discussed the question of when the provisions take effect, given that both items are considered a form of support and the child support item has a “support effective date.” Originally, MiCSES interpreted the effective date as the date the judge signed the order. However, in later design meetings it was suggested that the support effective date would apply to both items because of the “support effective date” section and because the statutory definition of support including “payment of the expenses of medical, dental, and other health care.” See MCL 552.602(ee). In light of this question, one issue the committee addressed was situations where monetary support in item 3 on the FOC 10 is set retroactively to the date a notice was provided to the parties, as is allowed under MCL 552.603(2). The problem, as some on the committee confirmed, is that a friend of the court office cannot take automated enforcement actions to enforce coverage before a judge signs an order and insurance cannot be obtained retroactively. Where there is a delay in entering an order and the court directed a parent to get insurance coverage, this causes logistical problems. Some on the committee pointed out that if an individual needed something effective the same day as a hearing, they should ensure they obtain an order signed by the judge that day.

The committee considered at length how best to address this issue and what the implications were. Some on the committee suggested a different effective date for the insurance and health-care expenses provisions, to make it distinguishable from the monetary child support. The committee discussed that this was especially important with respect to insurance because an employer cannot be required to provide insurance before an order is signed by a judge. However, others on the committee noted that the same issue would not arise with respect to uninsured health-care expenses and an effective date. After further discussion, the committee generally agreed that the child support provision and uninsured health-care expenses could be retroactive to the date of the notice and set by the support effective date, whereas the insurance provision could only be effective prospectively from the date the judge signs the order. After discussing the best way to make this clear on the form, the committee determined that the provision relating to uninsured health-care expenses should become part of the child support provision. The committee believed this would make it clear that these two may have an effective date other than the date the order is signed and distinguish them from the insurance provision. This change results in the renumbering of the items following the uninsured health-care provision.

The committee also discussed at length whether the insurance provision should specifically indicate it is effective upon entry of the order. While some on the committee believed this would help clarify the confusion, others noted that there is no reason to specify a provision of an order is effective on entry when all provisions not

otherwise specified are generally effective on entry. The committee determined no additional language should be added to 4, but specifically noted that the determination that the insurance provision (currently item 4 on FOC 10 and item 3 on FOC 10a) is effective the same date as the date the judge signs the order and that this is the way MiCSES should apply this provision for purposes of data entry.

The form was approved as revised.

5. **FOC 39e, Child-Care Verification**

The committee considered a suggestion made by a local friend of the court employee that modifications should be made to this form so that it is completed properly. Specifically, the committee considered a suggestion that the portion of this form relating to contributions from a federal or state agency, under both the parent and provider sections, be bolded and amended. The amendment suggested was that the form should also ask whether payment has been made by some other third-party source.

The committee considered the language in the Michigan Uniform Child Support Formula which indicates that the calculation should include both public and private payments for child care. See MCL 552.519(3)(a)(vi) (noting that the child support formula shall consider child care costs of each parent); see also Michigan Child Support Formula Manual, 3.06(B) (the actual cost of child care is to be determined by deducting any child care subsidies or similar public or private reimbursements from the cost used in the formula). In light of this language, the committee spent a considerable amount of time debating how the form could best be modified to make it clear what information should be provided and when the source of a payment needs to be indicated. The committee ultimately determined that the language on the form should more closely track the language in the Michigan Child Support Formula, which states: “Figure the actual cost of child care by deducting any child care subsidies, credits (including federal tax credits), or similar public or private reimbursements.” The committee went on to discuss what is meant by “similar public or private reimbursements,” and after some discussion determined the form should be worded broadly in order to try to cover all circumstances where the payment might need to be incorporated in the child support formula calculations.

Ultimately, the committee determined the language reading, “Are you receiving financial assistance for child care from any federal or state agency” should be removed. Instead, this line will say, “Does a federal or state agency or public or private entity contribute all or a portion of these child these child-care services?” A date and signature line will also be added to the top of the form so that both the parent and provider can individually sign the portion of the form pertaining to them. The committee determined that this was important in circumstances where the parent might know where the money is coming from because they are being paid directly, but the child care provider would have no way of knowing the source of the payment. Additionally, the committee noted that now the parent is at least the doing something, by signing the form, to indicate this information is accurate. In order to accommodate the changes to the form, the committee agreed that

some of the lines for listing the names of the children would be removed.

The form was approved as revised.

**Staff note:** After review, it was determined that FOC 39e is not the correct form for asking the parent for information about possible sources of help with child care expenses. Instead, it was designed only to elicit information from the child-care provider and verify the amount being paid to the provider. It has been determined that FOC 39 should be modified to add a similar item as that discussed asking for the parent to list any federal or state agency providing assistance or public or private entity contributing toward the child care expenses. This will be added as a new last line as part of item 54. This will result in the removal of the line of FOC 39e asking for information from the parent relating to others helping with childcare expenses and no signature line for the parent being added to the form.

6. **FOC 65, Motion Regarding Parenting Time**

The committee considered a comment indicating that the form and/or instructions may not be clear enough regarding the fact that if an unrepresented individual believes the requested change in parenting time would also warrant a change in support, a separate motion regarding support should be filed in conjunction with this form. The committee discussed this issue in light of the fact that some individuals realize this after this form has been filed and are required to pay another motion fee because the two motions were not filed together and treated as one motion for purposes of the fee. The committee agreed this was an issue and that it would be better if there was something to clarify that both motions needed to be filed, if that was the individual's intent.

The committee again briefly discussed whether the custody, parenting time, and support motions should all be combined into one form, with separate pages for each part. The committee noted this issue had been considered in the recent past and that it still did not seem to be a good idea, given how confusing one form would be.

After some discussion, the committee determined that the instructions on the first page should indicate the following: "If you want the court to change support, use form FOC 52. If you want to change custody, use form FOC 87." The committee determined that the individual should only be put on notice a separate motion is required, not encouraged to file an additional motion, which may or may not be warranted.

The form was approved as revised.

7. **FOC 71, Notice of Child Support Review**

The committee considered a number of suggestions regarding modification of this form:

(A) The committee first considered a suggestion that item 5 on the form should be

updated. The form currently indicates the FOC office will make available supporting documents used to make the recommendation. However, the committee discussed the fact that MCL 552.507a(1) only requires supporting documents *or* a summary of supporting documents. Additionally, the committee discussed the concerns of the Office of Child Support that releasing tax documents violates IV-D confidentiality. Despite the statute still allowing copies of said documents to be provided, it was suggested the language state “a summary of supporting documents” instead. Alternatively, it was suggested the form could track the statutory language more closely and between supporting documents and the comma, insert, “or a summary of supporting documents.” After discussing this issue, the committee agreed the language on the form should track the language of the statute more closely. To this end, item 5 was modified, in relevant part, to indicate, “Upon your request, the friend of the court office will make available to you copies of supporting documents, or a summary, prepared or used by the office in making its recommendation.” The words “which were” were removed from the sentence, as the committee determined they were not a necessary part of the item.

- (B) The committee was informed that the reference on this form to a 30-day period for objecting will be corrected. MCL 552.517(7) provides that the objection must be made within 21 days of the order determining there should be no review. The reference to the 30-day period has been on the form since its inception, but PA 207 of 2004 modified the applicable time frame from 30 days to 21 days. The committee approved this revision.
- (C) The committee next considered a suggestion from the Friend of the Court Bureau that changes should be made to the form in light of a number of possible inconsistencies between the form and MCL 552.517 and MCL 552.517b.

The committee first discussed item 1 on the form. This item indicates that the review was denied because the last request was within 36 months but fails to recognize exceptions to this principle. The committee discussed the fact that MCL 552.517b(9) may require more frequent reviews of the support order “upon presentation by a party of evidence of a substantial change in circumstances as set forth in the child support formula guidelines.” The committee discussed how item 1 could be changed so that other reasons for denying the request might be indicated in item 1. After some discussion, the committee determined that there should be a checkbox in front of the language: “The last review conducted at your request was completed less than 36 months ago” and that the following language should be added to the end of this option stating, “and there is no evidence of a substantial change in circumstances.” The committee also added another checkbox item 1 to indicate “Other: \_\_\_\_\_.” This would allow other proper reasons for denial to be indicated on the form.

- (D) The committee next considered item 3 and the use of this form pursuant to MCL 552.517(6)-(7). The committee discussed how the form should be modified so that it

is clearer what will actually happen and what the form is being used for. The committee discussed the fact that even though the form is generally for a notice of child support review, the statute allows the form to be used as a petition. However, after further discussion, the committee determined it is not that it needs to be clarified for use as a petition, but instead needs to be clarified to inform a party what will occur if no further action is taken in accordance with MCL 552.517b. The committee noted that the structure of item 3 appeared to be antiquated and needed to be updated to clarify what might occur. The committee agreed that item 3 needed to be clarified so that it was clearer that the proposed modifications to the uniform child support order will result in an order if no objection is timely filed. The committee also discussed that there is some lack of clarity with respect to the language in MCL 552.517(5) and (6) and MCL 552.517b regarding whether or not a hearing is required to be scheduled. After further discussion, the committee concluded MCL 552.517b(3) clarifies that a hearing need not be scheduled unless an objection is filed.

Ultimately, the committee determined that item 3 should be reworked to make it clearer what occurs. Item 3 will now read as follows:

- 3. A review of your uniform child support order has been completed.
  - a. Your uniform child support order should be changed. The recommended uniform child support order is attached. If neither party objects to the recommended order within 21 days of the date this notice was mailed, the order will be entered. (Proposed changes attached.)
  - b. No change in the uniform child support order should occur. Either party may object to this determination.
  - c. A hearing will not be scheduled unless you object in writing to the friend of the court office within 21 days after the date of this notice. You can write your objection on a form available from the friend of the court. Upon receiving your written objection, the friend of the court will schedule a hearing and will notify you of the time and place of the hearing. You must attend the hearing.

The form was approved as revised.

**Staff note:** Upon further review, it has been determined the form also needs to be clarified in new proposed item 3.a. that the notice shall serve as the petition with the court for purposes of determining when notice was provided that support may relate back to the date of “the notice of petition.” MCL 552.603. Therefore, it is important that it be made clear that this form is used as a petition, pursuant to MCL 552.517(6), for this purpose, and that support could be made retroactive to the date the notice is used as the petition, under item 3.a. as modified above.

8. **FOC 89, Order Regarding Custody and Parenting Time**

The committee considered two suggestions regarding this form:

- (A) The committee first considered a suggestion from a local friend of the court that this form be modified to include signature lines for plaintiff and defendant. The committee discussed the fact that the form order and packet instructions allow the parties to consent/stipulate to entry of the order. On page 5 of FOC 10/10a/FOC 89 packet, item 3 of the instructions indicates that both parties may sign the order, but there is no place on the FOC 89 to sign, instead only on the FOC 10. Some on the committee questioned whether FOC 89 would ever be used without FOC 10. Others on the committee noted there might be times where the FOC 89 is not used in conjunction with the FOC 10 and that there should be a line on both forms for parties to sign and indicate consent. The committee decided a signature line should be added at the end of FOC 89, similar to how it appears on FOC 10, to avoid any potential confusion and to allow for flexibility in use.
- (B) The committee also considered the use of this form with respect to certificates of mailing. The committee discussed the fact that there was a certificate of mailing at the end of FOC 10 but not on FOC 89. The instructions, on page 4, indicate, "Then fill out the Certificate of Mailing on the front of the remaining three copies. Keep one for your own records." On page 6 it says, "On the date you serve a copy on the other party, write the date and sign your name on the remaining three copies. Return to the county clerk with two copies." The committee discussed whether FOC 89 should be modified to also include a certificate of mailing at the bottom and, after some discussion, concluded that it should. A certificate of mailing, similar to that appearing on the bottom of FOC 10, will be added to the bottom of the form. This is necessary, in part, for the same reason as the additional signature lines are needed, which is that the orders are sometimes used separately.

The form was approved as revised.

9. **FOC 94, Order Correcting Omission in Order**

The committee next considered whether FOC 94 should be modified to include, as an option, the addition of language regarding the Hague Convention, similar to the language that appears in item 15 of FOC 89, which says: "Except as provided in item 16, neither parent shall exercise parenting time in a foreign country/nation that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction." Item 16 on FOC 89 allows for an exception to this provision, based on a written agreement of the parties. The committee considered whether this would be useful to have this on this form where a court is correcting an omission in an order, it could also correct a parenting time order that did not include such language, as required by MCL 722.27a(9). After a brief discussion, the committee concluded this was appropriate and that this should be added to FOC 94 in the following format: "**HAGUE CONVENTION:** Neither parent shall

exercise parenting time in a foreign country/nation that is not a party to the Hague Convention on the Civil Aspects of International Child Abduction.” The committee determined it was not necessary to include any language regarding the exception to this requirement by written agreement and that if a party needed to enter into such an agreement, they would have the submitted order expressly state this exception.

The form was approved as revised.

#### 10. **FOC 100, Domestic Relations Judgment Information**

The committee considered two suggestions relating to this form:

(A) The committee first considered a suggestion made by staff from the Friend of the Court Bureau that the checkbox at the top of the form and the instructions following it be modified. It has been suggested the wording is confusing. After discussing this issue at length, the committee agreed that the way it is currently formatted is confusing and determined it should be modified as follows:

The information previously provided  is changed  is unchanged.  
(Complete only the fields that have changed)

The committee believed this would help clarify what information should be provided and why that information is being provided.

(B) The committee also considered a suggestion from the staff from the Friend of the Court Bureau. MCR 3.211(F) requires the use of this form where: it involves “first temporary order awarding child custody, parenting time, or support and the party submitting any final proposed judgment awarding child custody, parenting time, or support.” The rule further requires the judge, before signing the judgment or order awarding child support or spousal support, to determine that this form has been submitted to the friend of the court. The committee considered whether something should be added to custody, parenting time, and support orders to indicate this form was submitted. The committee determined this was not necessary, as the court will know by other means whether or not this form was completed as required. The committee also determined no change was necessary to any of the instructions at this time to indicate when this form should be filed. No change was made with respect to this suggestion.

The form was approved as revised.

#### 11. **New Form for Consolidating Cases**

The committee revisited this issue, which was previously considered at the 2013 meeting of the domestic relations forms work group, where it was determined that a form should be considered for development that would consolidate cases pursuant to MCR 3.204. The

committee considered a draft prepared by SCAO staff and discussed whether a standard form should be created and maintained by the SCAO. Some on the committee noted local courts have developed their own forms for use in these circumstances and, after some discussion, the committee concluded a uniform statewide form was not needed. Instead, local courts can continue to use their own forms and methods for complying with MCR 3.204.

The committee declined to develop a new form at this time.

## 12. **Revocation of Paternity Act Forms**

The committee considered whether forms should be created for use under the Revocation of Paternity Act (RPA), PA 159 of 2012, MCL 722.1431 *et seq.* The committee was informed that in the existing interview for a pro se divorce on Michigan Legal Help (MLH), it allows either party to ask the court to exclude a child from the marriage, such as by way of a *Serafin* hearing, see *Serafin v Serafin*, 401 Mich 629; 258 NW2d 461 (1977); see also *Bergan v Bergan*, 226 Mich App 183, 185; 226 Mich App 183 (1997). During the interview process there are several screening questions about excluding a child from the marriage, and the judgment of divorce that is ultimately generated allows for the possibility of excluding the child from the marriage if the husband is not the biological father. However, the new RPA may affect the process and require modification to the interview process. The RPA took effect June 12, 2012, but preserved common law actions (such as a *Serafin* hearing) for two years after the effective date of the act. MCL 722.1443(10). Such actions will no longer be available after June 12, 2014, pursuant to MCL 722.1443(10).

The committee briefly discussed how this should be approached and determined forms should be developed. The committee agreed a separate meeting should be held to develop draft forms. Several committee members indicated they may be able to procure draft versions of forms other groups have already started to prepare and would provide those to SCAO staff for distribution to the committee before the next meeting should such forms be obtained.

Meeting Adjourned at 4:20 p.m.

Respectfully submitted,

Colin Boes