

Contents

- 1 **New Customer Service Clerks**
- 2 **e-OSCAR**
- 3 **Changes to Confinement Policy**
- 4 **Amendments to Michigan Court Rules**
- 5 **Seminar for New Friend of the Court Employees**
- 6 **The Role and Rights of Grandparents**
Article retracted on 3/18/09
- 7 **Update Regarding Feature Article from 2006 Pundit**

FEBRUARY 2009

VOLUME 22, NUMBER 1

New Customer Service Clerks

Megan Smolen recently joined the Friend of the Court Bureau as a part-time customer service clerk. Megan is a second-year law student at Thomas M. Cooley Law School. After growing up in Grosse Ile, Megan attended Wayne State University where she received a bachelor of science degree in Criminal Justice, with a minor in Child Psychology. While at Wayne State, Megan was on the volleyball team and an active member in her sorority Delta Zeta. Currently she is a student extern with the Ingham County Probate Court. Megan enjoys working out and spending time with family and friends. After graduation, she anticipates practicing law in the Detroit area and focusing on family law.

Jamie Baker recently joined the Friend of the Court Bureau as a part-time customer service clerk. Jamie is a third-year law student at Thomas M. Cooley Law School. After growing up in East Jordan, Jamie attended Central Michigan University where she received a degree in Political Science, with a minor in Legal Studies. While at CMU, Jamie worked as a home-help aid for developmentally disabled people and was a member of student government. Jamie has interned with Judge Krause in the 54-A District Court and currently works with the reference librarians at Cooley's Brennan Law Library. Jamie enjoys working out, reading, spending time with her friends and family and traveling. After graduation from Cooley, she will attend Wayne State University to pursue her Master's degree in Library Science. Once her formal education is completed, she hopes to find a position as a law librarian.

We welcome articles from all of our readers!

If you would like to write an article for **the Pundit** or if you have a suggestion for an article, please contact Elizabeth Stomski at stomskie@courts.mi.gov.

e-OSCAR: A New Way to Report Credit Information

The State of Michigan has adopted a new method of reporting child support arrearages to the credit reporting agencies. “e-OSCAR,” an acronym for Online Solution for Complete and Accurate Reporting, is replacing the previous system of paper reporting. e-Oscar is a national database for credit bureau reporting. The three major credit reporting agencies already use e-Oscar to process Automated Credit Dispute Verifications (ACDVs) and Automated Universal Data Forms (AUDs). e-OSCAR uses a standard online computer system to process ACDVs and AUDs.

e-OSCAR is faster and more efficient reporting than the old paper method of mailing forms back and forth between the credit bureau and the FOC. In addition to those advantages, e-OSCAR is now the only way to report. Experian has notified OCS that it no longer will process paper credit reports.

“The State of Michigan has adopted a new method for reporting child support arrearages to the credit reporting agencies.”

MCL 552.512 requires either the FOC or OCS to report to the reporting agency child support payers whose arrearages equal or exceed two months of support payments. MiCSES will typically generate and send the report automatically. Once support payers receive notices of arrearages appearing on their credit reports, they have the right to dispute the report with the credit bureau. When the report is challenged, the credit bureau will send an ACDV to the FOC to verify that the information is correct and that the support payer actually owes the arrearage. When the FOC receives a referral from the credit bureau, the FOC must investigate and respond to the credit bureau within 30 days using e-OSCAR.

At least one employee from every FOC office must enroll with e-Oscar so that the entire FOC office can access the e-OSCAR information. Enrollment for e-OSCAR can be done online at: <http://e-oscar-web.net>.

It is essential that FOC offices respond to all referrals sent to them by the credit reporting companies. Penalties for not responding create future and potentially inaccurate credit reporting problems if a payer later becomes delinquent. When the FOC does not respond promptly, the credit bureau will delete the arrearage from the support payer's credit report. Once a creditor has had an arrearage deleted because the FOC has not responded to the referral, the credit bureau will refuse to list future reported arrearages on that creditor's credit report. In other words, if county X receives a referral from the credit bureau but doesn't respond, and that causes the arrearage to get deleted, that credit bureau will, in the future refuse to record arrearages for that individual reported by any Michigan county.

Confinement-Expense Reimbursement Policy Changes

Michigan's IV-D program has had a long history of collecting confinement expenses (birthing costs for the mother and child) in paternity and family support cases. Generally money collected from fathers reimburses either Medicaid (when the state originally paid the confinement expenses) or private individuals (when the mother's parents or other private individuals originally paid the confinement expenses). For many years, Michigan courts have relied on the Michigan Child Support Formula Manual (MCSFM) to provide methods to divide confinement expenses between the parties on the basis of their ability to pay. MCL 722.712 describes how reimbursement for confinement expenses is calculated using the Child Support Formula.

On the basis of federal guidelines used in Medicaid cases, the Michigan Office of Child Support recently has requested a slight change in the MCSFM's method used to determine and apportion confinement expenses. The new method sets a maximum confinement obligation that is based on the payee's ability to pay. In all other aspects, the MCSFM calculation method remains unchanged and continues to meet the statutory requirements.

Beginning June 9, 2009, prosecutors will use the new formula to calculate confinement expenses in paternity and family support cases. Courts will be required to use the new method or risk losing federal funding for their friend of the court offices. However, there are instances when courts may deviate from the formula if they follow the deviation requirements that are set out in the Michigan Child Support Formula.

Courts can find the new calculation method in the Office of Child Support's policy titled "Confinement Obligation Formulas" (Action Transmittal 2008-024), and also on-line at: <http://www.mfia.state.mi.us/ChildSupport/policy/#C>. Questions or comments about this change should be directed to Timothy Cole at 517-373-5975 or colet@courts.mi.gov.

**The Friend of the Court Bureau's New
Legislator Training is being held at the
Hall of Justice on February 23, 2009
from 1 p.m. to 3 p.m.**

**For more information, contact Elizabeth
at stomskie@courts.mi.gov .**

Recent Amendments to Michigan Court Rules

The Michigan Supreme Court recently adopted amendments of MCR 3.204, *Proceedings Affecting Minors* and MCR 3.212, *Postjudgment Transfer of Domestic Relations Cases*. The amendments took effect September 1, 2008. This article summarizes the changes.

MCR 3.204

Both the title and text of this rule now will refer to “child” or “children” instead of the previously used term “minor”. This makes it clear that the rule applies to children who are over age 18.

New Action Involving Same Child: As amended, this rule states that when: (1) two parents already are parties to a case involving one (or more) of their children; (2) one of the parents decides to file a subsequent action involving the same child; and (3) the new action involves support, custody or parenting time, then the new action should be heard by the same judge in the same court as the original action. It almost always will serve the best interests of the parties to have the same judge hear the additional issues. However for good cause, a court may depart from this and the other new requirements in amended MCR 3.204.

If the relief sought in the new action could have been requested in the original action, then the amended rule will require that the new action be filed as *motion*. In contrast, a *supplemental complaint* (still in the original case) must be filed in those comparatively rare situations where the newly requested relief could not have been requested previously.

New Action Involving a Different Child of the Same Parents: When two parents already have a case involving their child (or children) in common, and one of the parents decides to file a new action regarding a different child in common, the new action almost always should be filed as a *supplemental complaint* in the original action. This will allow the same judge to make all the decisions regarding the family’s arrangements for custody, child support, and parenting time.

New Action for Divorce, Annulment, or Separate Maintenance: These types of new actions should not be treated as ancillary to an existing custody, child support, or parenting time action. But, assuming that the statutory and court-rule provisions on jurisdiction and venue allow it, these new actions must be filed in the same circuit court and assigned to the same judge as a previous action that involves any of the couple’s children in common. As amended, MCR 3.204 will allow the court to administratively consolidate the two actions. This will save judicial resources and benefit the parties by reducing the expenses that are associated with a consolidation hearing.

Multiple Previous Actions: It occasionally happens that two parents already have more than one existing action (possibly in more than one court) involving their children in common, and those parents later have another child and need to file an action involving that child. As amended, MCR 3.204(B) now includes a “decision tree” for determining where to file the supplemental complaint for the new action. Please refer to the text of the amended rule if you encounter a case with those facts.

continued on page 8

Seminar for New Friend of the Court Employees

On September 3 and 4, 2008, Michigan Judicial Institute held its annual Friend of the Court New Employee Orientation Seminar. The two-day seminar included speakers and presenters from the State Court Administrative Office's Friend of the Court Bureau (FOCB) and from others in the Friend of the Court system. Participants were provided an overview of Friend of the Court functions, a description of the duties and responsibilities of FOC employees, and some resource materials to enable new FOC employees to succeed in their local offices.

The presentations included segments regarding general areas in which friend of the court employees must be familiar when performing their duties, for example, customer service to the public, personal ethics, issues concerning custody/parenting time, and change of domicile, the Michigan Child Support Formula, and the role of the Office of Child Support. One highlight was SCAO-FOCB Senior Management Analyst William Bartels' presentation on how to succeed in the Friend of the Court "business." Bartels emphasized ways that new employees can find their own answers to problems and become "rock stars" in their new positions. "I think in this business, anyone with a motivation to do the right thing and find the right answers can be a rock star," said Bartels. "I wanted to give the best advice on how someone can be successful in this business, and give them the tools to succeed."

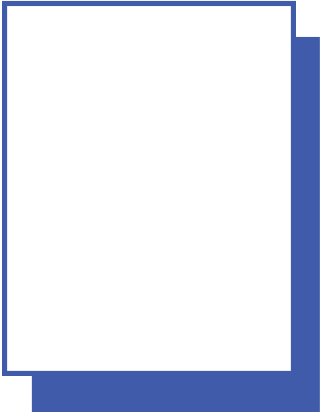
SCAO-FOCB Management Analyst Daniel Bauer conducted a presentation on ethics, confidentiality, and access to records. Bauer focused on the recently adopted Model Code of Conduct for Michigan Court Employees, including the "10 Canons" for employee conduct. Bauer emphasized that good ethics reflect "personal choices" that demand individual responsibility and actions that assure the impartiality and integrity of the Friend of the Court.

Thirty-eight participants attended the two-day seminar, including new employees from several circuit courts and county FOC offices. Julie Loveless, an FOCB customer service clerk hired in July, commented, "I felt that the FOC new employee orientation seminar was very informative. All the speakers were knowledgeable and enthusiastic about their topics. The resources and the materials that we received are extremely beneficial in answering litigants' concerns."

For friend of the court employees who were unable to attend the seminar and wish to obtain information about the presentations or the new-employee resource materials, MJI may be able to provide copies of the materials that were distributed to participants. To inquire, please contact MJI at (517) 373-7171. New employees can also request a "Rock Star Resources" sheet by emailing FOCB at focb-info@courts.mi.gov.

The Role and Rights of Grandparents

This article was published on February 10, 2009 and retracted on March 18, 2009. See the June, 2009 edition for details.



Update Regarding Feature Article From 2006 Pundit: Wayne County Friend of the Court: “Reducing Paternity Defaults with E’s”

In August 2006, the Pundit featured an article about Wayne County’s Friend of the Court pilot project called “Reducing Paternity Defaults with E’s.” The article sparked interest about whether a paternity awareness program that is based on better communication between FOCs and potential fathers could produce positive involvement of fathers. The premise of earlier and better communication between the FOCs and fathers was established using the following “E’s” fundamentals: **E**xplaining to the potential father what a paternity case is about, **E**ducating him as to what can happen, and **E**ncouraging his participation in the case. The final report on the project, and statistical analyses of the report data, indicate considerable success.

The project intended to decrease the number of child support orders entered by default. Two main designs of the project were: (1) to provide specialized training and professional development for process servers, and (2) to use hotline telephone representatives to make follow-up contacts with served defendants.

While serving court papers, the process servers remained with defendants to explain the importance of appearing in court and participating in cases that involved them. Within two weeks after service of process, hotline representatives would call defendants to further **E**xplain, **E**ducate, and **E**ncourage.

Within the time that elapsed during the pilot program, a total of 2,749 nondefault orders were entered out of 5,206 total orders. Fifty-three percent of the defendants, many who would not have appeared for a paternity hearing without the enhanced communications, instead appeared and had their paternity issues resolved. Although Wayne County had hoped to get two-thirds to appear it was nonetheless a significant achievement to get over one-half of the defendants to appear.

Nondefault orders that entered for cases in which hotline representatives made phone contact with defendants totaled 1,383 out of 1,749 or 79 percent. At this point, the compliance percentage for personal-contact “nondefault” cases is 61.2 percent, while the corresponding rate for a control group made up of paternity cases not involved in the project is only 47.7 percent. Considered together, these statistics are the most significant evidence of the program’s success.

While the pilot project operated, Wayne County courts entered 3,483 support orders in “experimental” cases and 1,285 orders in “control” cases. In the *experimental* cases, nondefaulted payers paid 61.2 percent of their current support as opposed to only 31.9 percent for defaulted payers. In nondefaulted *control* cases, payers paid only 47.7 percent of their total yearly support order compared to a mere 17.8 percent among defaulted payers. Contrasted to general compliance rates, these nondefaulted control cases validate the concept that payers who appear in their cases are more inclined to pay support than those who do not appear.

continued on page 9

“Overall, this project achieved its goal to reduce default orders by communicating with alleged fathers and encouraging them to appear for their paternity cases.”

Recent Amendments to Michigan Court Rules, continued from page 4

Filing Supplemental Pleadings: Until now, parties who wanted to file a supplemental pleading first had to get the court's permission. The newly amended rule dispenses with that requirement in the cases to which MCR 3.204 applies.

MCR 3.212

The amendments of MCR 3.212 are comparatively minor and serve to complement the more extensive MCR 3.204 amendments summarized above. Newly added MCR 3.212(C) provides that if an FOC learns that a court in another county has issued a more recent final judgment in a domestic relations case that involves the same family, the FOC should review the other county's newer case to determine whether the FOC must file a motion to transfer the older case to the court that has issued the newer judgment. In the event that neither of the parents, nor any of the older case's children, nor any other party to the older case still resides in the county, the FOC *must* initiate a transfer of the older case to the county with the newer case. This will ensure that the matters are handled together. But if the court presiding over the older case finds good cause not to transfer its case, it may deny the transfer motion.

If the case is ultimately transferred, the older case will then be assigned to the same judge presiding over the newer case.

After a transfer mandated by amended MCR 3.212(C), the FOC in the transferee county must review the transferred file to determine whether it contains orders specific to the transferor court (e.g., a bench warrant that would require bringing a party before the transferor court, or an order to obtain services from an agency in the transferor court's vicinity). If necessary the FOC should take the steps required to modify the existing orders so that they will no longer tie the parties to the original circuit. This may involve the FOC obtaining ex parte orders so as to expedite the transfer of responsibilities.

Update Regarding Feature Article for 2006 Pundit, continued from page 7

Other findings showed favorable results that fathers who were involved in the project paid a total of \$1,294,490.49 toward their current support order overall, compared to \$746,199.15 total support payments of fathers who were not involved in the program.

Overall, this project achieved its goal to reduce default orders by communicating with alleged fathers and encouraging them to appear for their paternity cases. Results proved that if FOCs talk to putative fathers early in a paternity case—that is if FOCs **E**xplain, **E**ducate, and **E**ncourage—the alleged fathers will take the opportunities presented to them by this type of program.

For more detailed information, visit www.3rdcc.org or contact the Friend of the Court Bureau at focbinfo@courts.mi.gov.
