

## *The Retirement of Marilyn Stephen Director of the Office of Child Support*

*The following is adopted from remarks given by Steven Capps, Friend of the Court Bureau Director, at Marilyn Stephen's retirement party. Marilyn was the Director of the Office of Child Support from 2002-2012.*

Every so often we are fortunate enough to have the right individual step forward at the right time to fundamentally change things for the better. We were lucky enough to have that person when Marilyn Stephen became the Director of the Office of Child Support in 2002.

In 2002, Michigan was struggling to implement a new child support system in time to avoid substantial federal penalties. There was turmoil within the child support program, which often occurs when we as individuals face seemingly unconquerable challenges. Compounding matters, there were external pressures that created apprehension and distrust among Michigan's child support professionals.

We were fortunate that the judiciary's child support professionals maintained solid leadership in the first years of Marilyn's administration. And, as a group, along with the State Court Administrative Office under the leadership of Dan Wright, much was accomplished. Looking back now, this much is clear: none of the group members could have been the leaders they were had Marilyn Stephen not been the leader that she is. From the very beginning Marilyn created an atmosphere in which we all had a voice. As Michael Day, Friend of the Court in Allegan County, put it, "Friends of the Court finally had a chance to sit at the adult table." And, when each of us had a voice—under Marilyn's leadership—we began to speak with one voice. It is a testament to her leadership that the culture of trust that she built has become the standard for our program today—it's an expectation rather than an aspiration.

Marilyn recognized that together we could accomplish so much more than we would if we were acting on our own. Marilyn knew this because she had lived it. Her early years were spent in private practice—as fate would have it, with our present state court administrator's law firm. While she demonstrated great skill in the world of litigation, her heart was somewhere else.

She recognized her true calling when she joined the Jackson County Prosecuting Attorney's Office. In that office, she worked with mothers and fathers to estab-



lish child support orders, doing what she could within that context to enhance the entire family. Her talents as a family advocate were quickly recognized and she became an active member, and later president, of the Michigan Family Support Council where she worked

with friends of the court, support specialists, and prosecutors to promote communication and understanding of our common goals within the program. Her ability to bring people together and her unique problem solving skills were ultimately recognized when she was appointed Michigan's IV-D Director.

When I became a friend of the court in Branch County, Marilyn was among the first to welcome me to the child support family. Marilyn was thrilled to learn that I had actually read the Uniform Interstate Family Support Act and quickly acted to promote me as an "interstate expert" so I would have the opportunity to participate in interstate workgroups and conferences. Time and again, Marilyn repeated this pattern with others as they joined the program, allowing and encouraging each of us to grow. I and so many others are better for having worked with her.

It is a happy occurrence that Marilyn's influence on our program will not end with her retirement. One of her final accomplishments was to convene a strategic planning committee to create a blueprint for the program's future. Fittingly, one thing that she insisted be included in the plan was a commitment both to our staffs and to each other.

And so, Marilyn, on the eve of your retirement, a grateful State Court Administrative Office and a grateful colleague thank you for your service, your encouragement, and your friendship. Congratulations on a job well done, we are going to miss you.

### INSIDE THIS ISSUE

<i>2012 Partner Forum Recap</i>	<i>page 2</i>
<i>The Evolving Role of Fathers</i>	<i>page 3</i>
<i>The Revocation of Paternity Act</i>	<i>page 4</i>
<i>The 30th Annual MFSC Conference</i>	<i>page 5</i>
<i>Employment Verification and Third-Party Providers</i>	<i>page 7</i>
<i>Employment Information Databases for Child Support Professionals</i>	<i>page 7</i>
<i>The Legal Corner</i>	<i>page 10</i>

## 2012 Partner Forum Recap

by Karen Wildrom, OCS Project Manager

The annual Program Leadership Group Partner Forum was held November 1, 2012, at the Michigan Hall of Justice. There were 95 attendees who represented all the child support program partners and other organizations that have an interest in the program.

The forum commenced with remarks by Maura Corrigan, Department of Human Services Director, and Chad Schmucker, State Court Administrator. Erin Frisch, the new IV-D Director, was introduced to the group.

This year, the forum focused on the new five-year strategic plan for Michigan's child support program. Steve Capps, Friend of the Court Bureau Director, began his presentation with a video that highlighted historical events from the onset of the child support program to the current date. Steve's video was supplemented with his introduction of the strategic plan and a description of the goals that the Michigan child support program hopes to achieve in the next five years.

Participants were then asked to break into small groups to discuss several questions and issues related to the strategic plan, including: "When you think about the challenges facing our program, describe how the vision, values, or broad goals outlined in this strategic plan will address those challenges."

The groups were also asked to respond to the question: "Where is the best place to start in order to make the plan actionable? Identify creative ways to move forward with the plan while working toward action planning in the child support program."

In the final small group activity, participants were asked to prepare a front-page cover story that expressed their hopes, visions, and thoughts for the child support program as realized through the strategic planning effort.

After lunch, each group shared the highlights from their discussions as well as their front-page cover story with the rest of the participants. (Materials and notes from the small group activities will be consolidated and presented to the Program Leadership Group.)

After the forum, a survey was sent to all participants. Preliminary responses indicate an overwhelming amount of enthusiasm for the event in general, and for the discussion groups in particular. When asked if the child support program is on the right track with the strategic plan, the majority (80 percent) said it was, and 93 percent said they now have a better understanding of the plan. When asked about the small group discussions, 93 percent said the content was appropriate. Evaluations/survey responses continue to be submitted and tabulated, so these results may change.

### FORUM WAS A SUCCESS

The partner forum provides an opportunity for child support program partner representatives to meet and share ideas. This year's forum was a success, and participants look forward to attending next year.

**The Pundit provides information on current issues to Michigan child support staff. The Pundit is not intended to provide legal advice and does not represent the opinions of the Michigan Supreme Court or the State Court Administrative Office.**

## THE PUNDIT

### Editor

Elizabeth Stomski

### Editorial Staff

Sally LaCross

Julie Loveless

Nicole Summers

Holland Klar

Samantha Cook

Lisa Hagen

### Friend of the Court Bureau

#### Contacts

Steven Capps, Friend of the Court Director  
cappss@courts.mi.gov

Bill Bartels, Management Analyst  
bartelsb@courts.mi.gov

Daniel Bauer, Management Analyst  
bauerd@courts.mi.gov

Timothy Cole, Management Analyst  
colet@courts.mi.gov

Suzy Crittenden, Management Analyst  
crittendens@courts.mi.gov

Elizabeth Stomski, Management Analyst  
stomskie@courts.mi.gov

### Friend of the Court Bureau

State Court Administrative Office

Michigan Hall of Justice

PO Box 30048

925 N. Ottawa

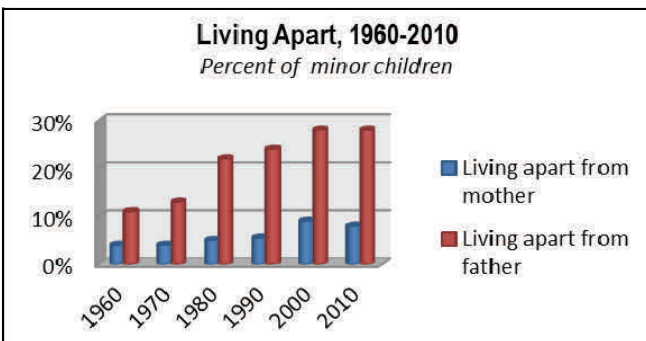
Lansing, MI 48909

Phone: 517-373-5975

Fax: 517-373-8740

## The Evolving Role of Fathers

The definition of family has evolved over time causing roles and expectations of fathers to shift. This new role requires fathers to bear the burden of learning to adapt. The Pew Research Center released a study in 2011 regarding the changing role of a father in America. The study looked at data from 1960-2010 and determined that “more than one-in-four fathers with children 18 or younger now live apart from their



Source: U.S. Census Bureau, Current Population Survey and 1960 Census of Population

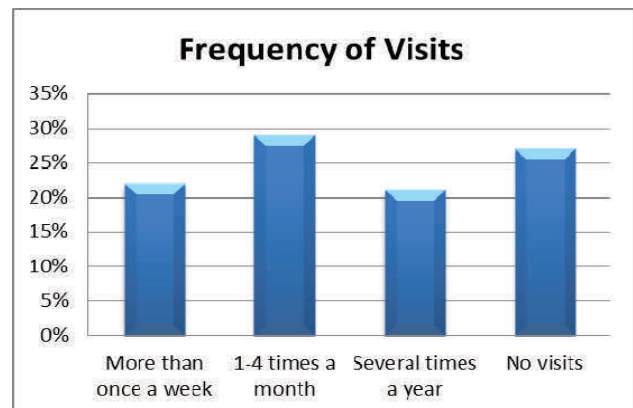
children—with 11 percent living apart from some of their children and 16 percent living apart from all of their children.” The approximately 27 percent of fathers who do not live with their minor children are less likely to meet their children’s everyday needs such as checking homework and taking them to extracurricular events. Fathers who do live with their children are adapting to today’s family dynamics by involving themselves in more of the home and child-rearing duties, especially when both parents work outside the home.

The most reliable indicator that children will have regular, constant interactions with their fathers is whether the father lives in the home. Statistics show contributing factors that make the depth and consistency of the interactions more or less likely. Some of the factors that are indicative of a father’s level of (regular) involvement in their child’s life include: race, socio-economic status, and education. For example, African-American fathers are twice as likely (44 percent) as Caucasian fathers (21 percent) to live apart from at least one of their biological children. Hispanics fall in the middle with 35 percent. A father who did not graduate from high school is nearly six times more likely to live apart from his minor child than a father who graduated from college. Family income is inversely related to the percentage of children living without their father in the home.

Today’s families often have both parents working outside the home, which has, in turn, placed a greater expectation on live-in fathers to contribute more to the daily activities involved in child rearing. The average time a father spends with his child has nearly tripled in the last 50 years. Even though active fathering places a greater burden on fathers, 1 in 4 fathers today believes that fathers are doing a better job as a parent than fathers 40 years ago. Interestingly, nearly half of

all fathers believe they personally are better than fathers in the past.

The public remains steadfast in the belief that children need their fathers and, in order to provide children with consistent and regular contact, fathers should live in the home with the children. Statistics support this belief by showing the stark decline in involvement in everyday social interactions for fathers who do not live with their children. More than 90 percent of fathers who live with their children talk with their children about the events of their day compared with only 31 percent of fathers who do not live with their children. Race factors into these statistics, with half of African-American non-live-in fathers reporting they speak with their children several times a week. Comparatively, Hispanics only report 22 percent and Caucasians 30 percent. Fathers who live in the home consistently report in the 60th percentile or above in regards to sharing meals with their children more than once a week and helping children with their homework. These statistics drop to below 20 percent for fathers who do not live in the home.



Notes: Based on fathers who are living apart from at least one child 18 or younger. Frequencies are for the prior year. “Don’t know/ Refused” responses not shown.

The number of fathers who live with at least one of their minor children is declining. Forty-six percent of children are born to unwed parents, increasing the likelihood that fathers will not live in the home. This is also combined with the fact that more fathers are having children with multiple women. Nonetheless, there are fathers who do not live in the home with their children who continue to make a concerted effort to remain involved in their children’s lives. Twenty percent of fathers who live apart from their children report interaction with the child more than once a week and 41 percent of fathers outside of the home are communicating with the child by e-mail or phone several times a week.

<sup>1</sup>Pew Social & Demographic Trends (2011) *A Tale of Two Fathers, More Are Active, but More Are Absent*. <http://www.pewsocialtrends.org/2011/06/15/a-tale-of-two-fathers/>.

(continued on page 6)

## The Revocation of Paternity Act

By Jennifer Granzow, Assistant Prosecuting Attorney, Kalamazoo County Prosecutor's Office

The Revocation of Paternity Act (RPA) was signed into law June 12, 2012. It created a legal right for a presumed father, "a man who by his actions could have fathered a child," to be able to establish his paternity for a child. Since the inception of Lord Mansfield's Rule in 1777, there was no right for a husband or wife to challenge parentage of a child born in wedlock. In 1977, the case of *Serafin v Serafin*, 401 Mich 629, 258 NW2d 461 (1977) changed that and either a husband or wife were able to testify to lack of access, to determine that a child was not a product of a marriage. However, there was still no right for a third party to assert his parentage. With the RPA, that has changed.

Many versions of the act have been introduced in the Legislature over the past eight years. However, in 2011 there was a surge of interest in getting an act passed that would address the legal standing of an alleged father to assert his parentage. There were many interested parties brought to the table to take on the task of drafting the act.



### NEW LEGAL TERMINOLOGY

The act provided important new legal terminology that courts should understand, which includes:

- "Acknowledged father"—a man who has affirmatively held himself out to be the child's father by executing an acknowledgment of parentage under the Acknowledgment of Parentage Act.
- "Affiliated father"—a man who has been determined in a court to be the child's father.
- "Alleged father"—a man who by his actions could have fathered the child.

### FIVE MAJOR SECTIONS OF THE ACT

There are five major sections of the act. Sections 7, 9, and 11 address each type of established parent and what is required to have standing under the act. Section 13 is the guidance section of the act detailing jurisdiction for filing, generally by motion in an existing action, whether closed or pending. It sets forth the authority of the court to revoke an Affidavit of Parentage, set aside an Order of Filiation, to make a determination that a child was born out of wedlock, and to enter an Order of Filiation under the Paternity Act.

If paternity is revoked by the court, the act specifies that the court's finding does not eliminate arrears incurred before the action was filed. Nor does it permit reimbursement of support already paid. The court may refuse to revoke paternity if it finds that such an order would be contrary to the best in-

### THE FIRST STEP TO REVOKE AN AFFIDAVIT OF PARENTAGE

The first step to revoke an affidavit of parentage is that the moving party must file an affidavit of facts that constitutes one of the following:

- Mistake of fact.
- Newly discovered evidence that by due diligence could not have been found before the acknowledgment was signed.
- Fraud; misrepresentation or misconduct, duress in signing.

If the court finds as a preliminary matter that the affidavit is sufficient, then the court shall order DNA testing.

Once there is clear and convincing evidence that the man is not the child's father, then the court is directed to make a determination whether or not the equities of the case would warrant a setting aside of the Affidavit of Parentage. In the case of *Sinicropi v Mazurek*, 279 Mich App 455, 466, 760 NW2d

520 (2008), the Michigan Court of Appeals likened this to a best interest analysis, stating that traditional equitable principles applicable in family-law cases, like the best interest of the child, the fitness of the competing parents, and the past relationships of the parties are to be applied. *Id.* at 466. Under the RPA, the court is provided a list of eight factors to consider in making a decision about revocation and the court still has leeway to consider other equitable factors that are not delineated in the act. These factors direct the court's focus to the best interests of the child. The court may also appoint a guardian ad litem to represent the child's interests under the act. This weighing of interests applies to any revocation proceeding under this act.

### COURT IS REQUIRED TO ORDER DNA TESTING

The court is required to order DNA testing in accordance with the mandates of the paternity act. While the court is required to order DNA testing, the results of DNA testing are not binding on the court in making a decision regarding revocation.

Time limits for filing apply to a revocation of paternity. A motion or action for revocation must be filed within one year of the entry of the Order of Filiation, the signing of an Affidavit of Parentage or entry of a judgment of divorce, or before the child's third birthday. There are catchall provisions in the act that give the court the ability to extend the right to file upon a showing of good cause. The time limits for filing an action or claim have been suspended for one year from June 12, 2012, to June 11, 2013.

(continued on page 8)

## The 30th Annual Michigan Family Support Council Conference

The Michigan Family Support Council (MFSC) celebrated its 30<sup>th</sup> anniversary from October 3-5 at the Boyne Highlands Resort in Harbor Springs, Michigan. Representatives of the State Court Administrative Office, various friend of the court (FOC) offices, the Office of Child Support, the Michigan Judicial Institute, and prosecuting attorneys, among others, conducted numerous workshops and presentations on family law issues. In these sessions, issues were explained and information was provided to advance the council's stated mission of "supporting, protecting, and promoting the rights of minor children by providing information and services to those officials responsible for the investigation and recommendation of custody, parenting time, and the establishment and collection of child support."

The conference opened on Wednesday with sessions on intergovernmental basics, workplace violence, Supreme Court and Court of Appeals custody and parenting time decisions, innovative collection techniques, and determination of biological relationships. A session titled "Playing Well with Others" addressed working with the interwoven agencies involved in a child's life, and "Nowhere to Run, Nowhere to Hide" presented ideas on how to conduct locate activities. A session titled "MiSACWIS is your SACWIS" addressed the upcoming two-way interface between the Michigan Statewide Automated Child Welfare Information System (MiSACWIS) and the Michigan Child Support Enforcement System (MiCSES) that will improve handling of foster care and juvenile justice cases. Marilyn Stephen, past IV-D Director, Steve Capps, Director of the Friend of the Court Bureau, Jennifer Granzow, Kalamazoo County Assistant Prosecutor, and Jack Battles, Genesee County Friend of the Court presented the Program Leadership Group's strategic plan. Sally Baskey closed the session with a spirited presentation entitled "Laughter, My Drug of Choice."

"How to Make Your BO Work for You – Cleaning Up Your Act" discussed Business Objects (BO) and how to improve office and worker performance. "What the Heck...? Here Comes the Judge," instructed attendees on the legal basis and requirements of an administrative hearing. "One Way or Another, We're Gonna Getcha" taught attendees how to use technology to help with FOC caseload. The Revocation of Paternity Act, judicial data warehouses, and FPLS were also session topics.

On Friday, the conference concluded with a plenary session and a mock trial. The mock trial simulated how caseworkers could respond to certain questions presented by attorneys and judges. The trial was well attended by conference participants, and was a great learning tool for the audience and trial "actors" alike.

### **SESSION TOPICS INCLUDED**

- Intergovernmental issues
- Special child support dockets
- Domestic violence and child abuse screening for FOC
- Interviewing techniques
- Litigation and social media
- Court action referral basics
- Arrears management
- Prior court notification and its impact on out-of-home placements
- LEIN access and appropriate use
- Legal updates
- MiCSES and Bridges interaction
- Tribal IV-D concerns
- Parenting time problems
- Prosecuting attorney forum and elections
- MiCase's position now and in the future
- Measuring FOC performance IV-D confidentiality and security

The conference wrapped up with presentation of the MFSC's annual awards for excellence in the Michigan Child Support Program. The awards and their winners are:

### **MFSC'S ANNUAL AWARDS** *Excellence in the Michigan Support Program*

- ◆ Office of Child Support—Manager Award: John Stoll
- ◆ Office of Child Support—Field Staff Award: Anita Bilek
- ◆ Prosecuting Attorney—Supervisor Award: Steve Willis, Shiawassee Co.
- ◆ Prosecuting Attorney—Staff Award: Monica Morris-Moats, Calhoun Co.
- ◆ Friend of the Court—Supervisor Award: Dawn Rogers, Grand Traverse Co.
- ◆ Friend of the Court—Staff Award: Janice Detmer, Arenac Co.
- ◆ Judicial Award—Judge John Hamilton, Iosco Co.
- ◆ Lifetime Achievement Award—Andy Crisenbery, Friend of the Court Director, Jackson Co.
- ◆ Lifetime Achievement Award—Marilyn Stephen, former Office of Child Support Director

(continued on page 7)

## The Evolving Role of Fathers

(continued from page 3)

The majority of out-of-home fathers exercise contact at least once a month. One-in-three fathers who do not live with their children report communicating less than once a month.

Recent census data shows that fathers retain custody over their children in almost 18 percent of new custody filings. While the Pew Study focused on a noncustodial father's participation in his child's life, studies are emerging about the effect of a noncustodial mother's involvement in her child's life, and the results are staggeringly similar to the Pew Study's results.

The 2010 census data show that, while placement with fathers is steadily increasing in custody determinations, the amount of parenting time a father exercises when custody is with the child's mother is steadily increasing. The implication of this data appears to show a slight but steady trend of fathers remaining active in their children's lives.



Though many fathers try to remain part of their children's lives, there are also fathers who have no contact with their children. Because the child support formula relies on the number of days the noncustodial parent spends with the child, it is essential that the number of days *actually* spent with the child be accurate. As noted above, while 27 percent of fathers report having no contact with at least one of their minor children last year, some of those fathers are being assigned parenting time they are not using. When unused parenting time offsets the amount of child support owed, the system is not operating effectively. Bill Bartels, SCAO's point person for the Michigan Child Support Formula, notes, "We can't afford to be wrong in over 20 percent of the cases." Mr. Bartels offers a simple solution to avoid this pitfall, "it is essential that the Friend of the Court ask at least one of the parents what the visitation pattern is." Taking the extra time to ensure that the formula is tailored to the case will ensure all parties are being provided with their accurately calculated benefits.

<sup>2</sup>Custodial Mothers and Fathers and Their Child Support, United States Census Bureau, December 2011 <http://www.census.gov/prod/2011pubs/p60-240.pdf>.

---

## The 30th Annual Michigan Family Support Council Conference

(continued from page 5)

### WORKSHOP VARIETY WAS OUTSTANDING

The conference coordinator, Pam Sala of the Oakland County FOC, said that feedback on the conference was positive. Attendees found that the "workshop variety was outstanding" and that it was "one of the best in recent years."

Conference attendees had the opportunity to participate in a silent auction, horseback riding, Segway tours, ski lifts, and zip lines while enjoying the northern Michigan scenery. For information on how to participate in the Michigan Family Support Council, contact the current officers on regional or state boards, or visit its public website at [www.MiFSC.org](http://www.MiFSC.org).

**The Pundit is a publication of the Friend of the Court Bureau,  
State Court Administrative Office, Michigan Supreme Court.  
The Pundit is published quarterly and is paid for with IV-D funds.**

## *Employment Verification and Third-Party Providers*

Many friend of the court (FOC) offices have encountered issues with companies that provide payroll services for employers from whom FOCs are seeking information. Some employers refer FOCs to these companies to verify employment and wage and benefit information. When the FOC contacts the company to request employment data, the company, in turn, attempts to charge the FOC to pay for the service provided. Even though under state and federal law, FOCs are entitled to receive this information from the employer at no charge, there is no such restriction on charges for information from third parties.

Third-party payroll providers encourage employers to join their database to capitalize on the few companies that have payroll departments. By joining, the employer receives payroll and verification requests, background checks on prospective employees, and other benefits. Government agencies and others needing employment verifications can access the payroll provider's database for a nominal fee.

One of the larger third-party payroll provider companies is The Work Number. It covers over 2,000 employers and claims to have information for over 36 percent of the U.S. employed population. Using its databases, The Work Number provides not only payroll services, but also verifies employment, income information, and social security numbers.

Some agencies contract with payroll service providers for the sole purpose of obtaining information that the service providers have in their databases. As a result, it is sometimes confusing for payroll service providers to know whether requests from FOCs are for discovery purposes for which a fee can be charged, or a request that is covered under their service agreement with the employer. Some providers even require the FOC to sign a contract to obtain information.

When the Friend of the Court Bureau contacted *The Work Number*, the company stated that *The Work Number* would not charge a fee for simple employment verification.

Ultimately, state law provides that the employer is responsible for providing employment information to the FOC. If an FOC determines that the employer's payroll provider refuses to provide the information on the employer's behalf, the FOC should contact the employer directly and explain the problem it is having obtaining the information. The employer can then take the matter up directly with the payroll provider.

*If an FOC or court has any questions, please contact Elizabeth Stomski at [stomskie@courts.mi.gov](mailto:stomskie@courts.mi.gov) or at 517-373-5975.*

## *Employment Information Databases for Child Support Professionals*

Another article in this edition of the PUNDIT reported on difficulties that FOCs were having with some payroll providers when the FOCs requested employment information. The article reported that these third-party payroll providers want to charge FOCs for information because the providers maintain databases that have valuable information that could be used by government agencies to perform their duties. FOCs and prosecuting attorneys can also contract for those services that would allow them to find employment history for payers and payees, and also income and address information. (See article entitled *Employment Verification and Third-Party Payroll Providers*.)

But there are also other government-funded options to access employment records for child support professionals, as noted below.

### **NEW HIRE DATABASE**

The Office of Child Support Enforcement (OCSE) introduced the "National Directory of New Hires" in 2011. Child support professionals can access the directory via an Internet link. This directory consists of employment and unemployment insurance information that assists IV-D agencies to locate noncustodial parents, establish child support orders, and enforce child support orders. Employers are required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 453A (b)(1) and 42 USC 653a(b)(1)(A) to report information on newly hired employees to a designated state agency within 20 days of the date of hire, or, if done electronically, within 12-16 days. The employer must report this information to its State Directory of New Hires (SDNH), which will upload the information to the federal Directory of New Hires within five days. 42 USC 653a(e). Each New Hire report contains the following information: (1) Employee name, (2) Employee address, (3) Employee social security number (SSN), (4) Employee's date of hire - the date an employee first performs Services for pay, (5) Employer name, (6) Employer address, and (7) Employer Federal Employer Identification number (FEIN).

*(continued on page 9)*

(continued from page 4)

## The Revocation of Paternity Act

The standing provisions of each section provide the right to bring a claim to a mother, presumed father, alleged father or the Department of Human Services if the child is being supported in whole or in part by public assistance.

### THE MOST COMPLEX SECTION OF THE ACT

By far the most complex section of the act deals with the right to determine a child to be born out of wedlock. MCL 722.1441 governs out-of-wedlock determinations. Section 11(1)(a) and (b) address the requirements for a mother of a child to bring an action. Section 11(2) provides for a presumed father to file. Sections 11(3)(a) and (3)(b) provide for an alleged father to file. The requirements for a mother or an alleged father to file mirror one another. For a mother to file:

- She must identify the alleged father by name in the complaint.
- There must be a demonstrated mutually and openly acknowledged biological relationship between the alleged father and the child by mother, husband and alleged father.
- The court must be able to determine the paternity of the child under Michigan law or that of another jurisdiction.

If there was no openly acknowledged relationship, the other alternative that the mother must show, along with the naming of the alleged father and the ability to establish paternity, is that the presumed father had the ability and yet failed to support the child or comply with a child support order for a period of two years before the action was filed. An alleged father may also show either of the above fact patterns, but he has the additional burden of showing that he did not know or have reason to know that the mother was married at the time of conception. This provision increases the hurdle of an alleged father. The court has not yet determined what will satisfy the requirements of this section which was added to the bill as a floor amendment.

Section 2 allows a presumed father to file a claim to determine that a child is not a product of the marriage. He must file within three years after the birth of the child, or at any time in an action for divorce.

Section 722.1443 is best described as the “guidance provision” of the statute. It directs that the court has the authority to revoke an Affidavit of Parentage, set aside an Order of Filiation, to determine a child to be born out of wedlock, make a determination of paternity and enter an Order of Filiation under the Paternity Act. It tells you where to file; generally, this will be in the same court as an existing action or if there is none, as an original action where the mother or child resides or the county where the child was born. The statute also expands the law to include the right to file in a pending neglect proceeding, but tempers this right by indicating that

you may not file if a termination petition is pending unless the court finds it would be in the child’s best interests to permit the action to proceed.

The statute clarifies that a judgment under the act does not relieve a man from a support obligation for the child or mother that was incurred before the action was filed. Nor does it preclude someone from seeking relief under MCR 2.603(D), governing motions to set aside a default or MCR 2.612, motion for relief from judgment.

A court has the right to deny relief under this act if it determines that it would not be in the best interest of the child to permit a revocation. In making this determination, the court is directed to consider:

- Whether the presumed father is estopped from denying parentage because of his conduct.
- The length of time the presumed father was on notice that he might not be the father of the child.
- The facts surrounding the presumed father’s discovery that he might not be the child’s father.
- The nature of the relationship between the child and the presumed or alleged father.
- The age of the child.
- The harm that may result to the child.
- Other factors that may affect the equities arising from the interruption of the father-child relationship.
- Any other factor that the court determines appropriate to consider.

The court is given a great deal of latitude to consider not only traditional equitable factors, but can also look at factors specific to the interests of the child, not the parent. This is in keeping with the court’s determination in *Sinicropi v Mazurek*, where the Michigan Court of Appeals rejected the constitutional challenge of the “termination” of Sinicropi’s parental rights. The Court of Appeals made a statement that will likely be quoted many times:

The due process principles discussed in *Santosky v Kramer*, 455 US 745 (1982)] derive from the liberty interests inherent in a parent’s already established custodial relationship with a child. The United States Supreme Court has specifically rejected the notion that biological parenthood standing alone, or even in conjunction with some additional relationship, suffices to establish a liberty interest. [*Sinicropi* at 466, citing *Michael H v Gerald D*, 491 US 110 (1989).]

(continued on page 9)



## Employment Information Databases for Child Support Professionals

(continued from page 7)

42 USC 653a(f) requires the “ . . . SDNH to compare new hire reports to the state’s IV-D registry and provide matching information to the state IV-D agency.” Data Warehouse performs this task and sends new hire report information to MiCSES on a daily basis.

FOC offices automatically receive information from the federal Directory of New Hires through MiCSES on the EHIS screen. For information on the display of new hire information on EHIS, please reference the *Michigan IV-D Child Support Manual, Section 3.10- New Hire*.

### STATE SERVICES PORTAL

As of June 2012, all child support employees have access to the State Services Portal (SSP). At the current time, the SSP has the following three free features for IV-D Child Support professionals:

1. Employer Search
2. Federal Collections and Enforcement
3. Query Interstate Cases for Kids (QUICK)

When new services become available, OCS will notify FOC offices. As of May 2012, 250 employers participated in electronic income withholding (e-IWO). Only those employers participating in e-IWO are available on the Employer Search feature, but employer participation in e-IWO increases daily. To determine if an employer is active for e-IWO, a caseworker can reference the OTHP or OTHX[*again, it is necessary to know what these stand for?*] screens in MiCSES. A “Y” value in the Electronic IWN field indicates that the employer is activated for e-IWO’s. For more information on the OTHP and OTHX screens, please reference *IV-D Memorandum 2012-007*.

**If an FOC or court has any questions, please contact Elizabeth Stomski at [stomskie@courts.mi.gov](mailto:stomskie@courts.mi.gov) or at 517-373-5975.**

---

## The Revocation of Paternity Act

(continued from page 8)

The Court of Appeals ruled that because *Sinicropi*’s relationship to the child is biological, rather than parental, and otherwise wholly undeveloped, he has no constitutionally protected rights in the substance or procedures of the hearing conducted.

Retaining this analysis, the RPA states unequivocally that DNA test results alone are insufficient to undermine the established relationship between a child and a parent, and the court may deny relief.

Finally, if in fact the court were to revoke parentage, the court would have to determine the child’s paternity or paternity would have to be established under the law of Michigan or another jurisdiction.

What does this mean in terms of legal practice? Must the other potential parent be identified and located? Can the court exercise jurisdiction over the person? Questions remain with regard to how these dynamics will be achieved. The overall goal was to not only create a pathway to permit the establishment of paternity, but to ensure that some further action is required to ensure that a child is not left without a legal father.

If the case is a IV-D case, the court may appoint an attorney approved by the Office of Child Support (OCS) to represent this state’s interests with respect to an action or motion under this act. This appointment raises more questions. Will this be a perfunctory action of the court? How does this issue get raised? Does private counsel get the right to object to the appointment? What is the state’s interest? What are the IV-D policy implications, ethical implications, cost implications, what will the increase in caseload be for the IV-D program and establishment workers? At this time, the Program Leadership Group is working with OCS policy analysts to answer these questions. In light of the limited time available for filing, persons who wish to go to court to address parentage should be advised to seek advice from an attorney about their claim. IV-D policy memorandum 2012-026 states: “The RPA does not require OCS or other IV-D funded staff to provide parents with expanded services under Title IV-D of the Social Security Act (e.g., paternity disestablishment services). However, OCS’s review of the RPA will involve weighing it against the federal IV-D laws and regulations. This review will take some time and will include discussions with the Program Leadership Group, legal counsel, and other subject matter experts.” Michigan Office of Child Support IV-D Memorandum 2012-026, Revocation of Paternity Act (2012).

With this change in the law, many decisions are looming about the role of the IV-D program going forward. We are hopeful that the change will affect children and their families positively.

<sup>1</sup> <http://mi-support.cses.state.mi.us/policy/memos/2012/2012-026.pdf>

**THE LEGAL CORNER**

A summary of recent Michigan Court of Appeals decisions, Michigan IV-D memoranda, and SCAO administrative memoranda.

**COURT OF APPEALS DECISIONS** – SEE [HTTP://COA.COURTS.MI.GOV/RESOURCES/OPINIONS.HTM](http://coa.courts.mi.gov/resources/opinions.htm)

**Lingam v Lingam**, unpublished opinion per curiam, issued September 11, 2012 (Docket No. 310012). Trial court did not err by denying plaintiff's motion to convert his divorce case to a custody complaint when the party's India divorce was entitled to comity; changing the entire nature of the action would be prejudicial to defendant.

**Wagner v Rebbie, Jr.**, unpublished opinion per curiam, issued September 18, 2012 (Docket No. 309676). The court cannot modify parenting time without first finding that proper cause or a change of circumstances exists.

**Cook f/k/a Bossenbroek v Bossenbroek**, unpublished opinion per curiam, issued October 9, 2012 (Docket No. 297209). An order providing for child support as a contingency or for modified support must meet the requirements of MCL 552.605(2).

**Summers v Summers**, unpublished opinion per curiam, issued October 11, 2012 (Docket No. 309086). The court should use a "preponderance of evidence" standard when a request to change parenting time does not change the child's custodial environment and the "best interest factors" found in MCL 722.23 do not apply.

**Gaudreau v Kelly**, 297 Mich App \_\_\_ (2012). A trial court can use comity instead of the Uniform Interstate Family Support Act to enforce a foreign child support order if the factors in *Dart v Dart*, 460 Mich 573 (1999) are met.

**Almutawa v Meyers**, unpublished per curiam, issued October 16, 2012 (Docket No. 306853). When there was insufficient proof of allegations that there had been a significant change in circumstances, there was no need to consider whether the court erred in its consideration of the best interest factors.

**Hollis v Miller**, unpublished per curiam, issued November 8, 2012 (Docket No. 306090). Evidence that a child has a close and continuous relationship with a grandparent alone is not sufficient to prove that a child is suffering a substantial risk of emotional harm to merit court-ordered grandparenting time.

**Barden v Barden**, unpublished per curiam, issued November 20, 2012 (Docket No. 307477). When setting spousal support, the court can consider unreported income even though the parties cooperated in concealing the income from taxing authorities.

**Fuller v Howe**, unpublished per curiam, issued November 27, 2012 (Docket No. 309379). Biological father lacked standing to file paternity case even though the legal parents' rights were terminated and they admitted in child protective proceedings that the legal father was not the child's father because there had never been a prior judicial determination excluding the legal father (in a case before the Revocation of Paternity Act was enacted).

**People v Stanley**, unpublished memorandum opinion, issued November 27, 2012 (Docket No. 305027). The restitution order on a second felony nonsupport charge should supersede any earlier restitution order for the same support.

**Michigan IV-D Memorandum (Office of Child Support)**

IV-D Memorandum 2012-032: *Invitation to Participate in Pilot: Retooling Michigan Child Support Enforcement Program Grant (Retooling Grant)* (November 13, 2012). The memorandum provides information about and invites participation in the Retooling Grant pilot programs (pilots). The goals of the Retooling Grant pilots are to increase the number and amount of current support collections and to reduce arrearages.



## Announcements

- \* Visit the new Michigan Supreme Court One Court of Justice [website](#).
- \* The Michigan Judicial Institute is hosting three archived webcasts regarding the Michigan Child Support Formula. The webcasts can be accessed through [MJI Seminars and Webcast page](#), or from the [MCSF webpage](#). The topics for the webcasts are:



- 2013 Michigan Child Support Formula and Uniform Support Order Changes
  - Michigan Child Support Formula Basics
  - Michigan Child Support Formula Intermediate Concepts
- \* There is a new [Uniform Support Order](#) (USO) that **must** be used as of January 1, 2013. There are two significant changes in the USO, as indicated below:
    - Rather than just reporting the average time that all children spend with each parent, the overnights the payer spends with each child are recorded following the child's name and date of birth.
    - The provision for prior orders is changing. **All** support provisions must be written in the current USO. If a support provision is not written in a USO entered after January 1, unchanged provisions no longer continue.
  - \* SCAO will not be printing or distributing hard copies of the [2013 Michigan Child Support Formula](#). The formula is available for download and self-printing at the Friend of the Court Bureau website.

**All issues of The Pundit can be accessed at  
[http://courts.michigan.gov/scaoresources/publications/  
focbnewsletters/focbnews.htm](http://courts.michigan.gov/scaoresources/publications/focbnewsletters/focbnews.htm)**