



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

March 11, 2015

TO: Michigan Court Forms Committee, Domestic Relations Work Group

FROM: Colin F. Boes, Forms and Manuals Analyst

RE: Agenda and Materials for **March 19, 2015 Meeting**

PLACE: **Michigan Hall of Justice**, 925 West Ottawa, downtown Lansing (map enclosed)

Below is the agenda for the March 19, 2015 meeting of the Michigan Court Forms Committee, Domestic Relations Work Group. The meeting starts at 9:30 a.m. and ends at approximately 3:30 p.m. Lunch reservations have been made for you. **If you cannot attend, please contact me at least two days before the meeting.** Please note that our office is located at 925 W. Ottawa in Lansing. A map and directions are provided.

Please bring these agenda materials to the meeting. Although documentation is provided with the agenda, it would also be helpful to bring a copy of the Michigan Court Rules and any other resources you believe are necessary.

1. **Review of Changes Necessary as a Result of 2014 PA 378, Relating to Civil Contempt in Support Cases**

2014 PA 378 modified a number of statutes as they pertain to civil contempt in support cases. These include changes to MCL 552.603, MCL 552.631, MCL 552.632, MCL 552.633, MCL 552.637, MCL 552.644, and MCL 552.645. It also included the addition of MCL 552.636 and the repeal of MCL 552.635.

The forms that appear to be potentially affected by these changes include: FOC 2, FOC 2a, FOC 4, FOC 6, FOC 14, FOC 19, FOC 58, FOC 84, FOC 85, and FOC 86. Forms

that cite to the repealed section that will need to be reviewed include FOC 81, FOC 82, FOC 83, FOC 84.

What changes should be made to these forms to incorporate the changes made by the modified law?

2. **New Forms For Use Under the Revocation of Paternity Act**

A subcommittee including members of the domestic relations committee and other individuals with knowledge of paternity actions worked over the past year to draft forms for use under the Revocation of Paternity Act. After considering draft forms under sections 7, 9, and 11 of the Act, the subcommittee proposes the following forms for use under section 7 and 9:

Order for Genetic Testing

Complaint/Motion and Affidavit to Revoke Acknowledgement of Parentage

Order Regarding Request to Revoke Acknowledgment of Parentage

Motion to Set Aside Order of Filiation

Order on Motion to Set Aside Order of Filiation

Forms for use under section 11 were considered, but it was ultimately determined they could not be proposed at this time due to unanswered questions with respect to the operation of section 11.

Forms under section 8, relating to the genetic father, have not yet been considered because this section was only recently enacted.

Should the five proposed forms be recommended for approval?

A comment from the Tuscola Friend of the Court office is attached.

3. **FOC 29, Order Regarding Change of Domicile/Legal Residence**
FOC 115, Motion Regarding Change of Domicile/Legal Residence
FOC 116, Response to Motion Regarding Change of Domicile/Legal Residence

It has been noted that the change of domicile forms could be read to suggest that the only applicable standard for a change of domicile motion and order is the best interests of the child. See item 5 on MC 29 and item 3 on FOC 115. However, the parties and the court need only address the best interests of the child factors, found in MCL 722.23, where the trial court has found that the move would also amount to a change in the child's established custodial environment. *Rains v Rains*, 301 Mich App 313, 325; 836 NW2d 709 (2013). If the parties share legal custody, the court must instead address the

factors found in MCL 722.31(4). *Rains, supra* at 325; see also *Sulaica v Rometty*, ___ Mich App ___; ___ NW2d ___, issued December 18, 2014 (Docket Nos 321275, 322760). Moreover, where a party has sole legal and physical custody, it appears neither the factors in MCL 722.31(4) or the best interests factors need be considered by the court.

Should the forms be modified so that they do not imply that the standard of review for a change of domicile request is always the best interests of the child under ML 722.23?

4. **MC 306, Substitution of Attorney**

It has been suggested by the family law section of the State Bar of Michigan that this form should be modified to make it clear that the form requires the signature of both attorneys of record and the new attorney, not just the attorney who is withdrawing and the new attorney.

MCR 2.117(C) provides that “[a]n attorney who has entered an appearance may withdraw from the action or be substituted for only on an order of the court.” There is concern that an order signed with only the signature of one party/attorney does not comport with one of the four ways an order is supposed to be entered under MCR 2.602(B).

Further, if this order is to be entered as a stipulated order, MCR 2.119(D)(1) provides: “Before filing a motion, a party may serve on the opposite party a copy of a proposed order and a request to stipulate to the court's entry of the proposed order.” Such stipulations must include the language, “I stipulate to the entry of the above order.” MCR 2.119(D)(2)(a).

Should an additional signature line be added to the form to allow for the signature of the opposing party/counsel?

5. **Should New Forms be Created for Use Under MCR 3.210 Regarding Domestic Relations Cases that Involve a Default**

It has been suggested that new forms should be created to address the recently amended MCR 3.210. MCR 3.210 previously referred back to MCR 2.603, the general civil rule on defaults. This reference was removed and the rule was largely rewritten to provide the procedure to be used with respect to domestic relations cases involving a default. Should new a new form or forms be created for use with this rule?

The Friend of the Court Bureau has provided a draft example of a form entitled “Verified Motion for Default Judgment” that is attached below.

6. **FOC 52, Instructions For FOC 10 or FOC 10a**

It has been suggested that these instructions should be modified to include a reference to the new FOC 10d, Deviation Addendum form. Should the instructions be modified to incorporate references, where appropriate, to FOC 10d?

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

It has been suggested that the form, possibly in item 2 or 4, should be modified to allow the friend of the court to specifically identify what will happen if the individual does not respond. It is suggested that the form is not clear enough regarding the consequences of a failure to provide the information in response to the FOC 71, which may include imputation of income or an assumption regarding the number of overnights, which might be detrimental to the individual. Should the form be modified to include more specifics regarding the consequences of a failure to respond?

8. **FOC 102, Order Exempting Case From Friend of the Court Services**

It has been suggested by a local friend of the court office that because some courts require the friend of the court to sign off on the FOC 102 before the court will enter the order, a space should be added for the friend of the court to sign on the form. However, because not all courts require the friend of the court to approve the order, this issue has been addressed on other forms (i.e. FOC 10) by adding a “court use only” section to the bottom of the form on the last page. Should the form be modified to allow for a space where the friend of the court can approve the order?

9. **FOC 22, Employer’s Disclosure of Income and Health Insurance Information**

A number of suggestions have been made regarding this form:

- A. It has been suggested by a friend of the court worker that an item should be added to this form to inquire as to layoff status and, if it is a temporary layoff, a possible return date. Should an item be added to the form asking for this information?
- B. It has been suggested that this form needs to be clarified so employers can more easily understand their obligations. It has been noted that in the current format, the notice to employers, which is lifted directly from MCL 552.518, is confusing. Further, the form does not explain the limitation from MCL 552.518(4) that former employers have an obligation to provide information for an individual who was employed with three years of the date of the request. Should the form be clarified with respect to the obligations of the employer to provide information?

- C. The Office of Child Support has requested that the form be modified to add lines to track prescription insurance, mental health insurance, and other coverage separately from medical, dental, and vision insurance. Specifically, this would mean add new items to allow this information to be reported after item 10 and include the following information:
- a. Prescription insurance company name, address, telephone no., policy no., and group no.
 - b. Mental health insurance company name, address, telephone no., policy no., and group no.
 - c. Other: _____ insurance company name, address, telephone no., policy no., and group no.

Should the form be modified as requested?

- D. The Office of Child Support has suggested this form should be expanded in item 25 to include mandatory and voluntary employee and employer retirement contributions, consistent with the Michigan Child Support Formula, 2013 MCSF 2.01(C)(8) and 2.07(E). Should the form be modified to add this information?
- E. A friend of the court office has suggested that this form should be modified to indicate a time period for responding. When completing a support review friend of the court offices generally need the information within one or two weeks. While MCL 552.518(2) provides that responses to administrative subpoenas must be within 15 days, there does not appear to be any specific statutory time frame for the response to a request (as opposed to the subpoena) in MCL 552.518. Should the form be modified to provide further direction as to the timeframe that the friend of the court needs the information within?

10. **FOC 10, Uniform Child Support Order**

FOC 10a, Uniform Child Support Order (No Friend of the Court Services)

Two suggestions have been made regarding these two forms:

- A. **FOC 10 Only:** MCL 552.605d was amended to change the phrase “legally responsible for” to “who is providing” the actual care, support and maintenance. Item 8 on the FOC 10 currently uses the term “legally responsible for.” It is suggested that the reference be changed to “who is providing the actual care, support and maintenance” consistent with MCL 552.605d. Should this change be made?
- B. It has been suggested that these forms should now have a checkbox at the top of the

form to indicate the order was entered after a default, in light of the recent amendments to MCR 3.210. Consider how this checkbox, if added, would be used given that MCR 3.210 will now have circumstances where a default judgment is entered after a hearing, as well as circumstances where a default judgment is entered without a hearing after a verified motion is filed under MCR 3.210(B)(2)(4)(b). Should a checkbox be added to FOC 10/10a to allow the order to indicate it was entered after a default judgment without a hearing?

11. **FOC 39, Friend of the Court Case Questionnaire**

There are a number of suggestions relating to this form:

- A. It has been suggested by the several friend of the court offices that, with the modifications made last year to FOC 10/10a relating to a specific end date for support ordered after the child is 18 years old, this form should ask for information relating to this issue. Specifically, it is suggested that the form should ask for information relating to when the child's qualification for continued support under MCL 552.605b will end. Additionally, it has also been suggested that the form should be modified to include the most recent grade completed by each child. Should either of these be added to the form?
- B. It has been suggested by several friend of the court offices that the form should include a place for listing the number of overnights each child has with each parent. Should this be added to the form?
- C. It has been suggested that, depending on how this form is being used (i.e. case initiation, custody investigation, support review), there are a number of fields that are not needed in every circumstance. It has been suggested that the form could be modified to allow the friend of the court to identify for the individual using the form which portions of the form are required to be filled out. Should the form be modified to group items together and allow the friend of the court office to direct which portions need to be completed?
- D. The Office of Child Support has requested that the form be modified to add lines to track prescription insurance, mental health insurance, and other coverage separately from medical, dental, and vision insurance. Specifically, this would mean add new items to allow this information to be reported after item 50 and also referenced in items 51, 52, 53, 90, 91, and 92 and include the following information:
 - a. Prescription insurance company name, address, telephone no., policy no., and group no.
 - b. Mental health insurance company name, address, telephone no., policy no., and group no.
 - c. Other: _____ insurance company name, address, telephone no., policy no., and group no.

Should the form be modified as requested?

- E. Several friend of the court offices have suggested this form should be expanded in item 42 to include mandatory and voluntary employee and employer retirement contributions, consistent with the Michigan Child Support Formula, 2013 MCSF 2.01(C)(8) and 2.07(E). Should the form be modified to add this information?
- F. The Office of Child Support has suggested that information pertaining to a timeframe to respond should be added to this form. Should the form be modified as requested?
- G. It has been suggested by a friend of the court employee that an item should be added to the form to allow the individual to report mandatory deductions, like union dues, retirement, pension, fees for uniforms, etc. Should the form be modified to add an item to capture this type of information?
- H. It has been suggested by a friend of the court employee that the form should ask for a conviction history of the individual completing the form. This may be useful when trying to determine the imputation of income. It was suggested it could be in the section of the form for personal information and in the form of:
 - a. How many felonies have you been convicted of? When was the most recent conviction year?
 - b. How many misdemeanors have you been convicted of? When was the most recent conviction year?

Should the form be modified to capture information relating to the parent's conviction history?

- I. It has been suggested by a local friend of the court office that some fields on this form are not long enough for the information requested (i.e. item 11, email address, item 21 address field). Are there fields on the form that should be extended to allow for sufficient space to complete the field? If so, which fields should be extended?
- J. It has been suggested by a local friend of the court office that an item should be added to this form that asks about tribal payouts that the individual may be receiving. Should a field for this information be added to the form?

Additionally, it has been suggested that a field should be added to the form asking whether the individual is a member of a federally recognized tribe. Should this field be added to the form?

- K. It has been suggested by a local friend of the court office that some individuals completing the form do not know what "FIP" in item 42 stands for and that this item should be clarified. "FIP" stands for cash assistance from the Family

Independence Program. See <http://www.michigan.gov/dhs/0,1607,7-124-9253---F,00.html>. Should the form be modified to clarify what “F I P” relates to?
A comment from the Tuscola Friend of the Court office is attached.

12. **Should Forms Be Created For Use Under the Uniform Child Custody Jurisdiction and Enforcement Act?**

An attorney has suggested that forms should be created for use under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), MCL 722.1101 *et seq.* The individual has attached draft examples and suggested the forms could include, perhaps among others, an Order for Expedited Enforcement, Order Following Enforcement Hearing, Petition for Expedited Enforcement, and a Request for Registration form. Currently, the only form for use under the UCCJEA specifically is MC 416. Should SCAO-approved forms be created for use under the UCCJEA?

Some examples of forms used in Wayne County are included below.

A comment regarding this agenda item from an Oakland County Friend of the Court referee is attached.

Attachments