



Michigan Supreme Court

State Court Administrative Office
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MEMORANDUM

DATE: October 4, 2012

TO: Friends of the Court
cc: Chief Circuit Judges
Presiding Family Division Judges
Circuit Court Administrators
Family Division Administrators

FROM: Steven D. Capps

RE: SCAO Administrative Memorandum 2012-07
When Child Support Stops and When It Continues

The State Court Administrative Office's Friend of the Court Bureau (FOCB) develops operational and procedural guidelines for all friend of the court (FOC) offices. This memorandum provides guidelines to family divisions of circuit courts and FOC offices regarding when child support charges stop and when they should continue. Each FOC must take all necessary steps to adopt office procedures to implement the recommendations of the FOCB. [MCL 552.503(7)]

If courts or FOCs have any questions or would like additional information or clarification regarding this memorandum, please contact Timothy Cole at colet@courts.mi.gov or 517-373-9663.

A. Case Management Duties and Responsibilities of the FOC

1. The FOC offices have a duty to enforce an order in an FOC case regarding custody, parenting time, health care coverage, or support.¹
2. The FOC offices have a duty to establish and maintain the support order and account records necessary to enforce support orders and to record obligations, receipt of support and fees, and allocation, distribution, and disbursement of related payments.²

B. The Obligation of Parents to Support Their Children

1. Parents must support their children³ unless a court terminates the obligation through:
 - a. An order from a court of competent jurisdiction.⁴
 - b. Adoption.⁵
 - c. The child emancipates by operation of law.⁶
2. Court orders in Michigan may require payment of postmajority support for the benefit of the child if **all** of the following are true:⁷
 - a. The child regularly attends high school full time.⁸
 - b. The child has a reasonable expectation of graduating from high school.⁹
 - c. The child lives full time with the support recipient or in an institution.¹⁰
 - d. The child has not reached age 19½.¹¹
3. Formerly, the FOC had to decide when support terminated based on the facts of the case. Effective December 28, 2009, MCL 552.605b(3) was amended to provide that the court shall state the last date of a specific month that support will terminate in the support order.¹²

¹ MCL 552.509(6).

² MCL 552.509(4) and MCR 3.208(C).

³ *Tanielian v Brooks*, 202 Mich App 304, 307 (1993); and *Evink v Evink*, 214 Mich App 172, 174 (1995). Parents have an inherent obligation to support their children.

⁴ *In re Beck*, 488 Mich 6 (2010), the Michigan Supreme Court ruled that termination of parental rights does not automatically end a child support obligation and that payments continue until the support order is specifically terminated by a court with proper jurisdiction.

⁵ MCL 710.60(1).

⁶ MCL 722.3(1).

⁷ MCL 552.605b(2).

⁸ MCL 552.605b(2).

⁹ MCL 552.605b(2).

¹⁰ MCL 552.605b(2).

¹¹ MCL 552.605b(2).

¹² MCL 552, 605b(3). Requires the court to specify the date support ends.

4. If a support order enters on the basis of various assumptions and those assumptions change, a party may petition to modify the support order or ask the court to determine when the support obligation ends.
5. If the court stops or temporarily suspends an obligation, the court order should include the required deviation language explaining the temporary departure from the Michigan Child Support Formula. Any order that stops the support obligation temporarily should also specify how and when the child support may be reinstated.¹³

C. Ending Child Support

1. When certain events occur, the FOC office must discontinue charging child support. The charge should stop on the last day of the month in the month the event occurred.¹⁴ If the FOC should have to charge a different amount (e.g., a support payer is paying for one child instead of two), that new amount should be charged the first day of the following month. An office may require documentation or other verification before it stops charges. The support duty ends when one of the following events occur:
 - a. The child marries.¹⁵
 - b. The child begins active military duty.¹⁶
 - c. The child reaches age 18 when the support order does not provide for post-majority support.¹⁷
 - d. The child reaches age 18, when there is an older order in place with postmajority support provisions, and the noncustodial parent does not provide documentation of continuing eligibility to receive child support.¹⁸
 - e. Date specified in the support order is reached.¹⁹
 - f. A child older than 18 years of age (age of majority) no longer meets the requirements for postmajority support conditions.²⁰
 - g. The payer dies.
 - h. The payee dies and no legal responsibility with a third party is established.²¹

¹³ Because of extraordinary circumstances (e.g., illness or injury of the child support payer), the support payer sometimes files a motion asking that child support be temporarily stopped. When ruling on such a motion, the court should avoid using vague terminology that makes it difficult to know when and if the child support obligation may resume (e.g., a court should not issue an order that says only “the payer’s obligation is suspended”).

¹⁴ MCL 552.605c.

¹⁵ MCL 722.4(2)(a).

¹⁶ MCL 722.4(2)(c).

¹⁷ MCL 722.4(2)(b).

¹⁸ MCL 552.605b(2).

¹⁹ MCL 552.605(b)(3).

²⁰ MCL 552.605b(2).

²¹ If the custodial party dies and the child goes to live with a person other than the support payer, the FOC may

- i. The child dies.
- j. The child is placed with the support payer.²²
- k. The child is adopted.²³
- l. A court of competent jurisdiction terminates the support obligation.²⁴

D. Child Support Obligations When Parental Rights are Terminated

1. A termination of parental rights only ends a parent's support duty under limited circumstances.
 - a. A voluntary release of parental rights (PCA form 305)²⁵ to DHS under the adoption code pursuant to MCL 710.29 **does** terminate a parental support duty. The Michigan Court of Appeals has held that a mother's release of a child born out of wedlock terminated both her parental rights and duties.²⁶
 - b. A parent may attempt to petition the court to accept a release of parental rights for a child during a neglect and abuse (NA) hearing (under the juvenile code). However, the court cannot accept a release of parental rights in the NA case; the court must open a new case file under the release to adopt (RL) case code (which occurs under the adoption code) to accept the parent's release. SCAO advises courts to have a plan in place for processing these cases and sharing information between the local judges and court staff.
2. A father's voluntary termination of parental rights during an NA proceeding pursuant to the juvenile code **does not** terminate the parent's duty to support the child born of the marriage.²⁷
3. An involuntary termination of parental rights during an NA proceeding under the juvenile code **does not** terminate the father's duty to support the child.²⁸

redirect the support to that person only if the person meets the requirements for being legally responsible for that child. Please see SCAO Administrative Memorandum 2005-04.

<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Administrative-Memoranda/2005-04.pdf>

²² The child support obligation would stop when the parent who has been paying support for the child has legal responsibility for his or her child. The child support charges should stop the last day of the month in the month that legal responsibility was established pursuant to MCL 552.605d(4)-(5).

²³ MCL 710.60(1).

²⁴ *In re Beck*, 488 Mich 6 (2010), the Michigan Supreme Court opined that the support continued until a court of competent jurisdiction terminates the support duty.

²⁵ <http://courts.mi.gov/Administration/SCAO/Forms/courtforms/adoptions/pca305.pdf>

²⁶ *Bradley v Fulgham*, 200 Mich App 156 (1993). Here, the Court of Appeals reasoned that the Adoption Code specifically provided for the financial support of the child independent of the parental support duty.

²⁷ *Evink v Evink*, 214 Mich App 172, 174 (1995). Here, the respondent-father entered a no contest plea under the Juvenile Code. The Court of Appeals reasoned that the Juvenile Code does not address the financial support of the child following the termination, and distinguished *Bradley* on this point, and limited *Bradley* to its facts. Without a clear legislative direction to terminate the parental support duty, the legislature only authorized the termination of parental rights in the juvenile code.

²⁸ *In re Beck*, 488 Mich 6 (2010), here, the respondent-father's rights were involuntarily terminated under the Juvenile Code. The Michigan Supreme Court held that because the statute does not address the financial support

E. When Conditions Change Other Than Parental Rights Being Terminated and Child Support Continues

1. A child may be emancipated by court order.²⁹ In this circumstance, the parent's obligation to support the minor child continues even though the court has emancipated the child.³⁰
2. If the support recipient dies and the child is placed with a third party who has "legal responsibility," the FOC should administratively redirect the current child support obligation to the third party. See footnote 21.

F. Interstate Cases

1. For interstate cases, FOCs should follow any provisions stated in the issuing state's order and apply the issuing state's law to determine the duration of current support obligations.³¹ If necessary, a Michigan court may modify a provision regarding the duration of an obligation if it determines that the provision was modifiable under the issuing state's law.³²

of the child following the termination, the duty to support did not end with the termination of parental rights.

²⁹ MCL 722.4(3).

³⁰ MCL 722.4e(2). For MCL 722.4e(2) to apply, a minor would have to initiate a court case and request emancipation. In these situations parents are jointly and severally still obligated to support the minor. Emancipation by operation of law does not require a minor to request emancipation from a court; the event (e.g., the child marries) itself results in the emancipation and in these situations parents are not jointly and severally obligated to support the minor.

³¹ 28 USC 1738B(h)(2) and MCL 552.1605(1).

³² MCL 552.1635(2).