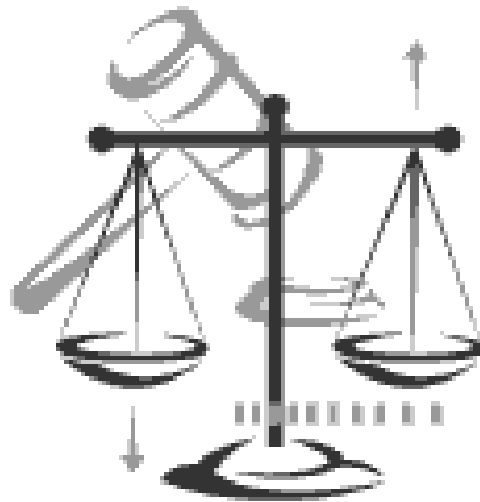


**FRIEND OF THE COURT
ENFORCEMENT OF
DOMESTIC RELATIONS
ORDERS**



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Office of the Friend of the Court: Enforcement of Domestic Relations Orders

The friend of the court office (FOC) is required to begin support enforcement action when child support payments become past due in an amount equal to one month or more of support. This action may be taken by the FOC without waiting for a complaint or request for enforcement.

The most common form of action taken by the FOC to collect past-due child support is by income withholding. If income withholding is unsuccessful, the FOC will often ask the court to order the payer to "show cause" why the payer should not be found in contempt for failing to pay the amount of support ordered. The FOC also may collect past-due support payments using one or more other enforcement remedies, some of which are described in this brochure.

The FOC is also required to provide enforcement services regarding violations of orders for parenting time. The FOC must begin enforcement of parenting time when it receives a written statement that contains specific facts indicating that the parenting time order has been violated. The statement provided to the FOC should include dates, times, and other important information about a claimed denial of parenting time. A party has the right to request that the FOC provide assistance to help the party prepare the parenting time complaint. If the FOC believes that the parenting time order has been violated, the office may do one or more of the following:

- (1) Apply the local FOC policy that applies to make-up parenting time.
- (2) Schedule a contempt of court hearing.
- (3) Refer the parties to a mediator if they agree to mediation.
- (4) Schedule a joint meeting at the FOC office, which may result in a written agreement or a recommended order.
- (5) Petition the court for a change in the existing parenting time order.

Various laws enable the FOC to engage in additional enforcement remedies to encourage parents to follow court orders. These laws include the following:

Surcharge on Child Support

As of January 1, 2011, MCL 552.603a, a court may order a surcharge assessment on specific cases. This surcharge is fully enforceable as support. Beginning in January 2011, each January 1 and July 1 the FOC will add a surcharge (equal to 1% more than the average interest rate for 5-year US Treasury Notes) to any overdue support when the FOC is specifically ordered to do so. This surcharge is added to whatever support obligations the court orders, except for court-ordered repayment of birthing expenses and other prejudgment expenses. Any surcharge collected for support that is due the custodial party will be paid to that party. Any surcharge collected for support that is due the State of Michigan (if assigned to the state by the custodial party to offset payments that were already made through the Department of Human Services), will be paid to the state. An individual will only be charged a surcharge if the court specifically finds that he or she willfully failed to pay support as ordered. A surcharge is not assessed on cases in which all support is paid in the month it comes due.

Consumer Reporting

Under MCL 552.512, the FOC must report to a consumer reporting agency payers who owe arrearage amounts greater than two or more months' payments. Lenders often obtain a credit report from a consumer reporting agency when deciding whether to extend credit. If the credit report shows a history of untimely support payments or a large arrearage amount, the report may result in a denial of a loan or other credit. Once a support arrearage reaches the amount of two or more months' past-due payments, the FOC will notify to the payer that he or she has been identified to be reported to a consumer reporting agency. This notice allows the payer time either to pay the arrearage in full (21 days), or to request a review (21 days) before the payer's name will be reported to the agency (if neither of these conditions is chosen by the payer). A person who has been notified that he or she is subject to consumer reporting may request a review on the basis of a mistake of fact concerning: 1) the amount of the arrearage, or 2) the identity of the payer.

If the arrearage is not paid in full within 21 days, and there is no finding of a mistake of fact concerning either the arrearage amount or the identity of the payer, the FOC's computer system will report the arrearage to a consumer reporting agency. The computer system will continue to report the arrearage on a monthly basis until the arrearage is eliminated. The FOC may also make support information available to a consumer reporting agency if it is requested by the individual who pays the support, or to verify information already on file with the consumer reporting agency.

License Suspension: Support or Parenting Time Violations

Under MCL 552.628, the FOC may take action to have a payer's occupational, sporting, recreational, or driver's licenses suspended if the payer has a support arrearage of two or more months. The FOC will send a notice letting a payer know his or her license will be suspended. A payer may avoid license suspension by paying the arrearage in full within 21 days, by requesting a hearing within 21 days (if the payer can show that there is a mistake of fact regarding the amount of the arrearage or identity of the payer), or by entering into an agreement, which is accepted by the court, for the payment of the arrearage amount.

The circuit court may also suspend occupational, recreational, sporting, or driver's licenses for violation of parenting time orders. This suspension would be required as a result of contempt of court hearing, in which the parent who is ordered to appear in court is required to "show cause" why the parent is not obeying the court's order for parenting time. If the court decides the parent is in violation of the court order, the court may order a number of procedures including suspension of that parent's license(s). The individual's license(s) will remain suspended until such time as the circuit court rescinds the license(s) suspension. The Secretary of State and the occupational regulatory agencies may charge fees for revocation and reinstatement of licenses.

Helpful Hints to Avoid Enforcement Actions

1. If a court orders you to do something, follow the order. If you do not believe the order is fair, you may file a motion to change the order or appeal the judge's decision to a higher court. Even

if you challenge an order, obey the original order until the court changes it or until an appellate court overturns it.

2. Keep accurate records. If the court order requires payments, be sure to use checks, money orders, or other payment methods that will provide you a written record of all payments that you have made. In order to receive proper credit for payments, you must make your payments through the Michigan State Disbursement Unit.

3. If a parenting time dispute occurs, keep accurate written records showing what happened. Try to work out your dispute with the other party directly. If you and the other party continue to have difficulty resolving the dispute, use the mediation services offered by the FOC or seek the assistance of an attorney.

4. If you cannot obey an order because of a change in your circumstances, let the FOC know in writing. MCL 552.603, 552.610, and 552.615 require that both parties provide current income information and any change in circumstances to the FOC. You should also inform the other parent in writing, because the other parent may be willing to try and work out different temporary arrangements.

5. If you experience a change in circumstances and you cannot reach some agreement with the other party, you may file a motion with the circuit court to change the support amount and/or parenting time. The FOC will provide you with forms and instructions to file a "do it yourself" (i.e., *pro se* or *in pro per*) motion.