



Michigan Supreme Court

State Court Administrative Office

Friend of the Court Bureau

Michigan Hall of Justice

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Steven D. Capps
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MEMORANDUM

DATE: June 27, 2025

TO: Friends of the Court

FROM: Steven D. Capps

RE: Custody and Parenting Time Enforcement Guidelines
FOCB Memorandum 2025-02

Section 19 of the Friend of the Court Act [MCL 552.519](#) provides that the State Court Administrative Office (SCAO), Friend of the Court Bureau (FOCB), shall develop and recommend guidelines for conduct, operations, and procedures for friend of the court offices. The act further requires that the SCAO, FOCB "[i]n consultation with the Domestic Violence Prevention and Treatment Board ... develop guidelines for the implementation of section 41 of the Support and Parenting Time Enforcement Act ... that take into consideration ... (i) domestic violence. (ii) safety of the parents and child. (iii) uneven bargaining positions of the parents." The Friend of the Court Act also requires that each friend of the court (FOC) take all necessary steps to adopt office procedures to implement the act, supreme court rules, and the recommended policy and procedures of the SCAO, FOCB. [MCL 552.503\(7\)](#). [Section 41 of the Support and Parenting Time Enforcement Act](#) requires the implementation of the remedies for custody and parenting time violations pursuant to guidelines developed by the SCAO, FOCB. [MCL 552.519\(3\)\(e\)](#).

This policy outlines the steps FOC offices should take in enforcing custody and parenting time violations and provides an updated model makeup time policy and a model parenting time complaint form in the appendices. This memorandum replaces SCAO Administrative Memorandum 2002-11. Courts should contact Timothy Cole at 517-373-9663 or colet@courts.mi.gov or Amy Lindholm at 517-373-2167 or lindholmA@courts.mi.gov with any questions.

Custody and Parenting Time Violation Enforcement Policy

This memorandum provides guidelines for FOC offices to handle custody and parenting time complaints.

A. Custody or Parenting Time Complaint

1. Violation of Custody or Parenting Time Order

A custody or parenting time order violation is any act or failure to act that interferes with a parent's¹ right to interact with a child as governed by the court order. [MCL 552.602\(e\)](#).² This includes a custodial parent's violation of custody or parenting time provisions, and a noncustodial parent's violation of custody or parenting time provisions.³

2. Written Complaint

The complaint must be in writing⁴ to allow a copy of it to be sent to the other parent. [MCL 552.511b](#). The written complaint must contain enough information to show how the custody or parenting time court order was allegedly violated.⁵ Generally this should include:

- the date of the alleged violation;
- the date of the most recent custody or parenting time court order and the custody and parenting time provisions contained within the order; and
- a summary of the facts supporting the alleged violation.

The parent's statement should be in the form of a verified statement to allow it to be used later in the event contempt proceedings are necessary. Please see Appendix B for model parenting time complaint form/verified statement.

¹ Because MCL 552.511b(1) and MCL 552.602(e) uses the term "parent" for the purposes of this policy the term "parent" will be used instead of the term "party."

² The FOC may address a parenting time complaint that alleges a denial of audio, video, social media, or email access if there is a provision providing for such access to the child in a court order.

³ An example of a violation could be not returning the child in the time designated in the court order.

⁴ In writing may include parenting time complaints submitted electronically.

⁵ FOCs should not reject a parenting time complaint because the parent did not use the local form or the SCAO model form. However, the FOC may reject a complaint if it does not include enough information to support an allegation that a violation occurred.

3. Assisting Parents

State law requires the FOC to assist parents in preparing the custody or parenting time violation complaints if a parent requests assistance. [MCL 552.511b](#).⁶

B. Review of Complaint

Determining Sufficiency of Complaint

The FOC should review the complaint to determine whether the complaint alleges a violation of the court order. If the court order does not provide for custody or parenting time that has been allegedly denied, then the FOC has discretion not to take enforcement action.

Often, the meaning of an order is subject to interpretation. For instance, the order may provide that a parent is to have “reasonable parenting time.” Such an order is entirely subjective from the standpoint of what the parenting time should be.⁷ However, even from this language, it is clear that the court contemplated that parenting time occur. Under the circumstances, the remedy⁸ may be different depending on whether the parent was denying parenting time altogether or whether the parents could not agree concerning what is reasonable parenting time.

The FOC may decline to act on an alleged custody or parenting time order violation under any of the following circumstances:⁹

- (a) The parent submitting the complaint has previously submitted two or more complaints alleging custody or parenting time order violations that were found to be unwarranted, costs were assessed against the parent because a complaint was found to be unwarranted, and the parent has not paid those costs.

⁶ Common examples of situations when a parent might request assistance, and it would be appropriate for the FOC to provide the requested assistance: the parent has visual, intellectual, emotional, or psychological challenges.

⁷ There may be local policies that help define the term “reasonable parenting time.” Highly specific terms governing the exercise of custody and parenting time rights are recommended as a means of avoiding disputes in cases where the parents have difficulty cooperating to reach agreement. For information about specific custody and parenting time schedules see the [Michigan Parenting Time Guidelines](#). In cases involving domestic violence or child abuse, specific terms can further promote safety of the child and the parents by minimizing opportunities for manipulation of the court’s order. For further discussion, see [Friend of the Court Domestic Violence Resource Guide](#) and [Michigan Parenting Time Guidelines](#).

⁸ FOCs may want to select a remedy such as mediation or joint meetings that would allow the parents to agree to a more structured parenting time schedule.

⁹ [MCL 552.541\(2\)](#).

- (b) The alleged custody or parenting time order violation occurred more than 56 days before the complaint is submitted.¹⁰
- (c) The custody or parenting time order does not include an enforceable provision that is relevant to the custody or parenting time order violation alleged in the complaint.

C. Forwarding the Complaint and Follow-Up Enforcement Action

Within 14 days of the date the office receives a written complaint, it must send a copy of the complaint to each of the parents. If the office can determine what remedy it will apply in response to the complaint it may initiate the remedy at the same time.¹¹ If the office cannot determine whether the complaint alleges a custody or parenting time order violation, it may send out copies of the complaint within 14 days after receiving the complaint and notify the parents that it will await further information from the parents to determine if a violation has occurred before acting on the complaint.¹² If the office determines that it will not act on an alleged custody or parenting time order violation for a reason allowed by statute or the SCAO policy requirements, it shall send out copies of the complaint to each of the parents within 14 days and notify the parents that no further action will be taken on the complaint.¹³

D. Determining Action

The FOC has discretion to use any of the [MCL 552.641](#) remedies available for a custody or parenting time violation. The remedy should be selected based on the allegations and dynamics between the parties;¹⁴ history of the case; and what remedy would most likely resolve the dispute.

Selection of a remedy should be influenced by the safety concerns that arise when one parent has committed a crime against a child or the other parent; or has violated another court order (such as a personal protection order) in exercising or asserting custody or

¹⁰ When the FOC receives the complaint, it must date stamp or affix a date to the written complaint to determine the 56-day limit.

¹¹ FOCs may consider sending the [FOC 124](#), Domestic Violence Screening document, along with the complaint if intending to schedule mediation or a joint meeting to resolve the custody or parenting time dispute.

¹² Example of additional information: date of the complaint was not provided; or the summary of the allegations were not sufficient for the FOC to determine if a violation of the custody or parenting time order occurred.

¹³ FOCs should explain in writing why no action will be taken. For example, the complaint was filed more than 56 days from the time parenting time was denied, there is an unenforceable order, or fines were assessed and not paid. Parents should be informed they can resubmit a complaint if the original complaint was missing specific information about how the alleged custody or parenting time order was violated (e.g., date of the order, summary of allegations, date of the alleged violation).

¹⁴ Examples of dynamics: conflict between the parents, domestic violence, frequent changes in custody and/or parenting time.

parenting time rights.¹⁵ The parents' ability to represent their own interests may be impeded by factors such as undue influence, substance abuse, mental illness, and domestic violence.¹⁶ In cases involving domestic violence, safety concerns arise in

¹⁵ The following may disclose that there are safety concerns in the case:

- A civil or criminal court in Michigan or another jurisdiction has issued an order with protective conditions, such as prohibiting one parent from contacting the other parent.
- A child abuse or neglect proceeding is pending in any jurisdiction involving a child of either of the parents.
- A parent has filed a sworn statement with the FOC setting forth specific incidents or threats of physical violence or child abuse from the other parent.
- Statements made on the [FOC 124](#) Domestic Violence Screening Protocol.
- The family violence indicator is set.
- The case has been exempted previously from mediation, facilitative and information-gathering conferences, or joint meetings. [MCR 3.224](#).

¹⁶ [MCL 400.1501](#) defines domestic violence as: "The occurrence of any of the following acts by a person that is not an act of self-defense: (i) causing or attempting to cause physical or mental harm to a family or household member; (ii) placing a family or household member in fear of physical or mental harm; (iii) causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress; (iv) engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested."

Many of the current Michigan Compiled Laws and Michigan Court Rules use the term "domestic violence." It is anticipated that sometime in future the term "domestic violence" will be replaced with the term "domestic abuse." For that reason, this policy uses both terms domestic violence and domestic abuse. The SCAO and the MDHHS Domestic Violence and Prevention Board as part of a grant project developed the following examples of domestic abuse.

Other than what is provided for in MCL 400.1501, domestic abuse includes stalking and using physical harm, threat, intimidation, or controlling behavior to:

- interfere with or obstruct a parent or child's access to necessary health insurance, medical care, medicine, medical devices, or other health-related services or reproductive autonomy;
- restrict the other parent's safety or autonomy by such actions as monitoring and surveilling of daily personal activities; intensely managing or dictating the other parent's personal day-to-day activities; isolating the other parent from friends, relatives, faith, cultural, or linguistic communities, employment, education, or other support networks; repeatedly humiliating or using degrading language towards the other parent; threatening to harm or abduct children; committing or threatening to commit cruelty or abuse to animals connected to the family; engaging in behavior to deliberately and systematically provide false information to the other parent in an effort to lead the parent to question what the parent knows to be true; threatening deportation or to contact local or federal agencies based on actual or perceived immigration status, refusing to file immigration applications, refusing to sponsor, withholding essential documents needed for immigration applications, or threatening to withdraw immigration applications filed on the other parent's or child's behalf or coercing or forcing the other parent to violate the terms of the parent's immigration visa;
- cause or attempt to cause the other parent to be financially dependent, including: accessing or using credit or property without authorization; engaging in fraud or misuse related to taxes or state or federal assistance; withholding or interfering with access to money, debit cards or credit cards, government benefits, or any other resources; sabotaging efforts to gain financial independence by interfering with employment or education, immigration status, employment authorization, or damaging the reputation of the abused parent; damaging credit ratings; or acquiring debt that is imposed on the other parent;
- engage in an act or pattern of behavior by a parent that is intended to harm, threaten, intimidate, stalk, impersonate, exploit, or extort, by use of any form of technology such as cyberstalking or other forms of electronic monitoring or surveillance, nonconsensual intimate image disclosure, or impersonation;

addition to questions of fairness. Efforts to promote safety in these cases will be most effective if they focus on the protection of the abused parent and children, and on intervention in the abusive parent's manipulation and control tactics.¹⁷ This focus will help the court to address the underlying basis for the problems caused by domestic violence in the case, rather than on the custody or parenting time issues that arise from the violence. Other ways to promote safety include:

- Minimize physical or other contact between the parents, and thus opportunities for threats, harassment, or physical violence; or
- Adhere to any prior court orders restricting one parent from contacting the other parent. Such orders may have been issued in criminal or civil cases in Michigan or another jurisdiction. Michigan courts must extend full faith and credit to protection orders issued in civil and criminal cases in other U.S. jurisdictions. See [MCL 600.2950h](#), and [MCL 600.2950j](#).

Communicate clearly with the parents about court processes, particularly about the limits of confidentiality. Abused parents need to know what use will be made of their disclosures of domestic violence to take safety precautions against potential retaliatory violence, which is often precipitated by such disclosures.

Refer abused parents to domestic violence service agencies that can assist with safety planning.¹⁸

E. Established Custodial Environment

When selecting and conducting a procedure to resolve a custody or parenting time violation, FOC staff should be careful not to make recommendations or prepare proposed orders that would change the established custodial environment (ECE).¹⁹ This is a

use the legal system to harass, coerce, or control the other parent, diminish or exhaust the other parent's financial resources, or compromise the other parent's employment or housing including but not limited to: using repeated court actions not warranted by existing law or good faith argument; filing repeated court actions alleging the same or similar issues addressed in previous actions; filing multiple different court actions at different times; excessive discovery requests that seek irrelevant information or information already within the requestor's control or knowledge; use of surrogates to engage in behavior that would be considered legal abuse if engaged in by the parent.

¹⁷ For discussion of case management procedures in cases involving domestic violence, see [Friend of the Court Domestic Violence Resource Guide](#).

¹⁸ [Domestic Violence \(michigan.gov\)](#).

¹⁹ Before establishing or modifying custody, the trial court must determine whether an ECE exists with either or both parents. The trial court must then analyze the best interest factors in the Child Custody Act (CCA) to determine what custody arrangement is in the child's best interest. See [MCL 722.27\(1\)\(c\)](#); *Daly v Ward*, 501 Mich 897 (2017). A parent who moves for a change in custody must first show a proper cause or a change in circumstances exists to support a change in custody. See *Vodvarka v Grasmeyer*, 259 Mich App 499 (2003); *Leiberman v Orr*, 319 Mich App 68, 73-74 (2017). If the court finds a proper cause or change in circumstances exists, the court must then determine (by analyzing the best interest factors in the CCA) whether changing custody is in the child's best interest.

particularly important consideration if the FOC were to select a joint meeting or file a motion to modify the parenting time order as a procedure to resolve a custody or parenting time violation.

F. Procedures to Resolve Custody and Parenting Time Disputes

1. Makeup Parenting Time [MCL 552.642](#)

Makeup parenting time is used to substitute future parenting time for denied parenting time. Each FOC is required by statute to have a makeup parenting time policy.²⁰ A model policy is attached as Appendix A. The process for applying makeup parenting time is to send a notice [FOC 16](#)²¹ advising the parents that makeup parenting time will be applied unless one or both parents object within 21 days.

If a parent does not respond in writing to the FOC, within 21 days after the office sends the notice to contest the application of the makeup parenting time policy, the FOC shall notify each parent that the makeup parenting time policy applies. If a parent makes a timely response to contest the application of the makeup parenting time policy, the FOC shall utilize a procedure authorized under the Support and Parenting Time Enforcement Act. [MCL 552.641](#).

Makeup parenting time is normally used as a remedy for violations that are not likely to recur. For instance, makeup parenting time is an ideal remedy for a case in which a parent was late in getting the child home which prevented the other parent from picking up the child.

If the parenting time denial is severe, makeup parenting time is not usually the correct remedy. For instance, makeup parenting time is not appropriate when the parent has frequently denied parenting time and is likely to do so in the future. Using makeup parenting time in such a circumstance merely postpones the ultimate resolution of the issue.

The makeup parenting time shall be at least the same type, frequency, and

See MCL 722.27(1)(c). For either establishing or changing custody, if the proposed order would alter the child's ECE, the court may not enter the order unless it finds clear and convincing evidence that it is in the child's best interest. *Id.* If the court modifies a parenting time order in a way that changes the child's ECE, it likewise must find the modification is in the child's best interest supported by clear and convincing evidence. *O'Brien, supra*.

²⁰ [MCL 552.642](#).

²¹ "FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF THE COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME WILL BE APPLIED."

duration of parenting time as the parenting time that was denied, including, but not limited to, weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time. The makeup parenting time shall be taken within one year after the wrongfully denied parenting time was to have occurred. The wrongfully denied parent shall choose the time of the makeup parenting time. The wrongfully denied parent shall notify both the FOC and the other parent in writing not less than 1 week before making use of makeup weekend or weekday parenting time or not less than 28 days before making use of makeup holiday or summer parenting time.²²

Unless a court has addressed the domestic violence issues in previous custody and parenting time orders, makeup parenting time may not be a good remedy for cases involving domestic violence.²³ This is because it does not address the underlying dynamic of power and control. For example, if an abused parent's denial of parenting time is motivated by a fear of violence at the hands of the abusive parent, a grant of makeup parenting time to the abusive parent may reward and encourage the abusive behavior that originally caused the denial of parenting time. If the abusive parent is denying the abused parent access to the child, a grant of makeup parenting time may only perpetuate the circumstances giving rise to the abuse. A more effective response in these situations will focus on providing safety to the abused parent and child(ren), and on intervention in the abusive parent's control tactics.

2. FOC Domestic Relations Mediation [MCR 3.224](#) and [MCL 552.513](#)

FOC domestic relations mediation means a process in which a neutral third party facilitates confidential communication between parents to explore solutions to settle custody and parenting time or support issues for FOC cases. FOC domestic relations mediation is not governed by [MCR 3.216](#), which relates to domestic relations mediation conducted without participation or supervision of the FOC. FOCs must secure a court order before scheduling the mediation session with the parents.²⁴

Exempting Cases from FOC Domestic Relations Mediation

FOC cases may be exempt from mediation based on the following reasons:

- child abuse or neglect;

²² [MCL 552.642](#).

²³ Denying parenting time because of domestic abuse is not a legitimate reason if the court has addressed the issue in its previous orders. For example, the parents are to exchange the child at a public location.

²⁴ FOCs may use the [FOC 12](#) to secure a court order to conduct a mediation session.

- domestic abuse, unless the abused parent submits a written consent and the FOC takes additional precautions to ensure the safety of the protected parent and court staff;
- inability of one or both parents to negotiate for themselves at the mediation, unless attorneys for both parents will be present at the mediation session;
- reason to believe that one or both parents' health or safety would be endangered by FOC domestic relations mediation; or
- for other good cause shown.

The FOC shall notify the court when a case has been exempted from FOC domestic relations mediation.

If the FOC exempts a case from FOC domestic relations mediation, a parent may file a motion and schedule a hearing to request the court to order FOC domestic relations mediation.

Objection to Mediation

To object to FOC domestic relations mediation, a parent must file a written motion to remove the case from FOC mediation and a notice of hearing of the motion, and serve a copy on all parents or their attorneys of record within 14 days after receiving notice of the order. The motion must be set for hearing within 14 days after it is filed, unless the hearing is adjourned by agreement of counsel or the court orders otherwise.

A timely motion must be heard before the case is mediated.

Screening for Domestic Violence

The mediation may not begin until the FOC case has been screened for domestic violence using the [FOC 124](#).

If domestic violence is identified or suspected, the mediation process may not continue unless the protected parent submits a written consent and the FOC takes additional precautions²⁵ to ensure the safety of the protected parent and court staff. Throughout the mediation process the mediator must make reasonable efforts to screen for the presence of coercion or domestic violence that would

²⁵ Examples of additional safety precautions may include but are not limited to the following: having the abused parent's attorney present, scheduling mediation at different times or days for each parent, having the parents in separate conference rooms for the mediation.

make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

Opening Statements

At the beginning of the mediation, the mediator will advise the parents and their attorneys, if applicable, of the following:

- the purpose of mediation;
- how the mediator will conduct mediation; and
- except as provided for in [MCR 2.412\(D\)\(8\)](#), statements made during the mediation process are confidential and cannot be used in court proceedings.

Mediation Results

If the parents reach an agreement, the mediator shall submit a proposed order ([FOC 89a](#)) and a report ([MC 280](#)) within seven days.

If the parents do not reach an agreement within seven days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional FOC Alternative Dispute Resolution (ADR) proceedings are contemplated.²⁶

Mediation Communications

With the exceptions provided for in [MCR 2.412\(D\)\(8\)](#), communications during FOC domestic relations mediation process are confidential, cannot be used in court proceedings, and cannot be recorded.

3. Joint meetings [MCR 3.224](#) and [MCL 552.642a](#)

Joint meetings are a process in which a person discusses proposed solutions with the parents to a custody or parenting time complaint or an objection to a FOC support recommendation. FOCs can only conduct joint meetings if it is included in the circuit court's FOC ADR Plan, and has been approved as a Local Administrative Order (LAO) by the SCAO.²⁷ Because of the safety concerns arising from the presence of domestic violence in a case, joint meetings must only

²⁶ FOC mediators should use the [MC 280](#) form to provide the court with the information contained within this paragraph.

²⁷ [FOC ADR Model LAO49](#).

be conducted by a person who has completed the requirements set forth by the SCAO,²⁸ including the domestic violence training course offered by the SCAO.²⁹ Joint meetings may be used for two purposes to resolve a parenting time complaint. They may be used to allow the parents to settle a parenting time complaint and reach an accommodation, or to allow the FOC to gather information to complete a report and a proposed order to submit to the parents, attorneys, and the court. Joint meetings may be conducted by phone, by other telecommunications equipment, or in person. Attorneys of record must be allowed to attend and participate in joint meetings or elect not to attend upon mutual agreement with opposing counsel and their clients.³⁰

Exempting Cases from Joint Meetings

FOC cases may be exempt from joint meetings based on the following reasons:

- child abuse or neglect;
- domestic abuse, unless the protected parent submits a written consent and the FOC takes additional precautions to ensure the safety of the protected parent and court staff;
- inability of one or both parents to negotiate for themselves, unless attorneys for both parents will be present at the joint meeting;³¹
- reason to believe that one or both parents' health or safety would be endangered by participating in a joint meeting; or
- for other good cause shown.

Objection to Joint Meetings

To object to a joint meeting, the parent must file a written objection with the FOC and provide a copy to all parents and their attorneys of record before the time scheduled for the joint meeting.

²⁸ [SCAO Administrative Memorandum 2019-05.](#)

²⁹ [Joint Meeting Domestic Violence Training.](#)

³⁰ [MCR 3.224\(A\)\(8\).](#)

³¹ Joint meetings normally should not be used when the parents have unequal bargaining positions unless the parent's attorney is present. Unequal bargaining positions may occur because of a parent's mental, physical, or emotional health. Inequality may also occur because of other persons (such as a controlling new spouse or partner) who would not be allowed to participate but could still exert influence. When a parent's conditions indicate that one of these (or similar) elements exist, the joint meeting is not appropriate. Sometimes the unequal bargaining position is caused by unequal access to financial resources, legal assistance, or education. In these circumstances the joint meeting can be a way of minimizing the unequal bargaining position by giving the parents access to a person who has training in gathering information that is necessary to resolution of the dispute but which the disadvantaged parent might not otherwise be able to provide. The FOC facilitator conducting the meeting should be careful, however, to be certain that the meeting is not conducted in a manner to attempt to compensate for either parent's real or perceived unequal bargaining position, nor to represent either parent's interest.

If a parent files an objection, the FOC shall not hold a joint meeting unless the court orders a joint meeting following a hearing on motion of a parent or the objecting parent withdraws the objection.³²

The joint meeting may not begin until the case has been screened for domestic violence using the [FOC 124](#).

If domestic violence is identified or suspected, the meeting may not proceed unless the protected parent submits a written consent³³ and the FOC takes additional precautions to ensure the safety of the abused parent and court staff. Throughout the joint meeting, the FOC facilitator conducting the joint meeting must make reasonable efforts to screen for the presence of coercion or violence that would make the joint meeting physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

Opening Statements

At the beginning of a joint meeting, the facilitator conducting the meeting shall do the following:

- advise the parents that statements made during the joint meeting are not confidential and can be used in other court proceedings;
- advise the parents that the purpose of the meeting is for the parents to reach an accommodation and how the person will conduct the meeting; and
- advise the parents that the person may recommend an order to the court to resolve the dispute; and explain to the parents the information provided for in [MCR 3.224\(H\)\(1\)\(d\)-\(e\)](#).

Joint Meeting Results

At the conclusion of a joint meeting, the facilitator conducting the meeting shall submit a report³⁴ within seven days and may do one of the following:

- If the parents reach an accommodation, record the accommodation in writing and provide a copy to the parents and attorneys of record. If the accommodation modifies an order, the person must submit a proposed

³² [MCR 3.224\(E\)\(4\)](#).

³³ [MCR 3.224\(I\)](#) requires the SCAO to develop only report and order forms. For these reasons the SCAO did not develop an official written consent form. However, the SCAO did develop a [SCAO Model Consent Form](#) for abused parents to sign if they wanted to participate in an FOC ADR process.

³⁴ The [FOC 125](#) must be completed at the conclusion of the joint meeting.

order to the court. If the court approves the order, the court shall enter it; or

- Submit an order to the court stating the facilitator's recommendation for resolving the dispute. The parents may consent by signing the recommended order and waiving the objection period in accordance with [MCR 3.224\(H\)\(1\)\(e\)\(iii\)](#). If the court approves the order, the court shall enter it.

If the facilitator conducting the joint meeting submits a recommended order within seven days to the court, the FOC must serve the parents and attorneys of record a copy of the order and a notice that provides the following information:

- that the court may enter the recommended order resolving the dispute unless a parent objects to the order within 21 days after the notice is sent;
- when and where a written objection must be submitted;
- that a parent may waive the 21-day objection period by returning a signed copy of the recommended order; and
- if a parent files a written objection within the 21-day limit, the FOC office shall set a court hearing before a judge or referee to resolve the dispute. If a parent fails to file a written objection within the 21-day limit, the office shall submit the proposed order to the court for entry if the court approves it.

Joint meetings should be used to resolve parenting time complaints that are likely to recur if they are not resolved by an agreement.³⁵ A good use of a joint meeting would be to resolve a parenting time complaint between the parents regarding the proper time to pick up or return a child, or whether a child on weekend parenting time must be returned on a Sunday before a Monday holiday parenting time.

Mediations, Joint Meetings and Domestic Violence

Mediations and joint meetings should be approached with caution in cases in which domestic violence is suspected or present. Because of the dynamic of power and control that exists in these cases, careful consideration should be given to whether a fair outcome is possible. Additionally, serious safety concerns may arise from mediations and joint meetings in which the abusive parent will have physical proximity and access to the abused parent. If a mediation or joint meeting is conducted and the mediator or meeting facilitator suspects that a parent's safety may be compromised, the mediation or joint meeting should be discontinued unless the abused parent wants to continue with the mediation or

³⁵ Joint meetings can be more appropriate than FOC domestic relations mediation because if the parents fail to reach an agreement, the FOC can propose a solution to resolve the dispute.

joint meeting, is willing to sign a written consent, and additional safety precautions are taken.³⁶ The mediator or facilitator can help to prevent reprisals against the abused parent by *not* telling the suspected abusive parent that the abused parent has signed a consent form and additional precautions will be taken or the mediation or joint meeting can be discontinued because of suspected domestic violence. If domestic violence is identified, the mediator or facilitator should meet with the parents separately, starting with the abused parent. If the abused parent does not want to continue with the mediation or joint meeting, then that person should be given the opportunity to leave the FOC office safely during the later interview with the suspected abusive parent. During the separate mediations or joint meetings, efforts to gather information about the suspected violence might be made. It is important to inform parents who may be abused about the limits of confidentiality to enable them to safety plan. Safety planning can also be facilitated by referring abused parents to local domestic violence service agencies.³⁷ In cases with an imminent threat of violence, law enforcement officials should be called upon to provide protection.

Mediations or joint meetings can be held if the abused parent has submitted a written consent to participate in the mediation or joint meeting and additional safety precautions are taken. Some examples of additional safety precautions are different meeting rooms, schedule meetings on different days, and having the abused parent's attorney is present.³⁸ However, the mediation or joint meeting must proceed without violating any provisions restricting one parent from contacting the other parent that are contained in any order issued by a previous court in a criminal, personal protection, or other action involving the parents, whether issued in Michigan or another jurisdiction.

Separate times and/or locations must be scheduled for each parent, if one parent requests it. In this case, neither parent should be informed of the time or location of the other parent's separate mediation or joint meeting.

Telephonic mediations or joint meetings must be scheduled if one parent requests it. If both parents are represented by counsel, counsel for both parents must be allowed to attend and participate by mutual agreement of counsel and their clients in the joint meeting.

4. Modification of Parenting Time [MCL 552.517d](#) and [MCL 552.641](#)

When an FOC receives a parenting time complaint, [MCL 552.517d](#) and [MCL 552.641](#) allow the FOC to take the necessary steps to modify the current parenting

³⁶ [SCAO Model Consent Form](#).

³⁷ [Domestic Violence \(michigan.gov\)](#).

time order. If it does so, it must complete the following procedures:

- The FOC prepares a report and recommendation that addresses the unresolved custody or parenting time dispute.³⁸ Please refer to the [SCAO's Custody and Parenting Time Investigation Manual](#) for recommendations for completing the report and recommendation.
- The FOC must prepare a notice of intent to file a motion, the notice must have the statutory language³⁹ that the recommendation will become an order unless an objection is filed. The motion must contain the same language. The notice, motion, report/recommendation, and proposed order are served on the parents.
- If no objection is filed within 21 days, then the motion, report/recommendation, and proposed order is sent to the court. If the court approves the order, the court will sign the order. A hearing will be set if the court does not sign the order or if an objection is filed to the FOC's recommendation. If an objection is filed, the FOC would be responsible for scheduling the hearing and serving notice of the hearing on the parents and attorneys.

In the event the FOC decides to file a motion to modify the current parenting time order the following forms must be completed:

- UCCJEA Affidavit: [MC 416](#);
- Motion Form: [FOC 65](#); and
- Proposed Order: [FOC 89](#).

This remedy is the most time-consuming and should rarely be used except where the existing order will not work for the parents for reasons other than their unwillingness to comply with the order. In certain circumstances in which one of the parents will not comply with the order, the FOC could recommend a change in the order.

This remedy may also be effective in addressing situations in which domestic violence or unequal bargaining positions are present which cannot be addressed through less intrusive enforcement measures that may result in retaliatory violence. This is because the parents would not be required to meet or discuss the parenting time dispute.

³⁸ FOCs could send out the copy of the complaint (ideally verified to provide a basis for moving for relief) along with other modification documents. However, the report and other documents would have to be completed and forwarded to the parents within 14 days from the date the FOC received the complaint.

³⁹ [MCL 552.517d](#).

5. Civil Contempt [MCL 552.644](#)

Civil contempt proceedings are initiated by the FOC to require a parent to an FOC case who is alleged to have violated the order to come into court and explain why the court should not impose sanctions to compel the alleged violator to follow the order. The procedure is initiated by filing a motion and order ([FOC 19](#)) with the court alleging the existence of an order and providing a copy of a parent's complaint that the order has been violated. The parenting time complaint should be submitted to the court along with the FOC 19. The parent's statement should be in the form of a verified statement.⁴⁰ The order directs the alleged violator to appear before the court and show cause why the parent should not be found in contempt. The court will find a parent in contempt if the order was violated without good cause. Good cause may include but not be limited to consideration of the safety of a parent or child.

If the court finds a parent in contempt, the court can do the following:⁴¹

- a. require additional terms and conditions consistent with the court's parenting-time order;
- b. after notice to both parents and a hearing, if requested by a parent, on a proposed modification of parenting time, modify the parenting time order to meet the best interests of the child;⁴²
- c. order that makeup parenting time be provided for the wrongfully denied parent to take the place of wrongfully denied parenting time;
- d. order the parent to pay a fine of not more than \$100.00;⁴³
- e. commit the parent to the county jail or an alternative to jail with the privilege of leaving the jail or other place of detention during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment;
- f. if the parent holds an occupational license, driver's license, or recreational or sporting license, condition the suspension of the license, or any combination of the licenses, upon noncompliance with an order for

⁴⁰ See Appendix B for model verified statement form.

⁴¹ [MCL 552.644](#).

⁴² MCL 552.644(2)(b): The FOC 19: states: "You have the right to a hearing on a proposed modification of parenting time if you request one within 21 days after the date this motion is mailed to you." The FOC should not schedule a civil contempt hearing sooner than 30 days from the date the FOC 19 is mailed to both parents (21 days to allow the parent to request a hearing, and 9 days to serve the other parent with a notice of the hearing by ordinary mail). The parents should be served with a notice that a request was made to modify the parenting time order. The hearings will be held at the same time unless there is good cause exists than the hearings should be held separately.

⁴³ The \$100.00 fine must be placed in the FOC 215 Fund. The fine should not be processed through MiCSES. FOCs may collect the fine through income withholding using the [FOC 5](#).

- makeup and ongoing parenting time;
- g. order the parent to participate in a community corrections program; and
 - h. place the parent under the supervision of the office for a term fixed by the court with reasonable conditions, including one or more of the following:
 - participate in a parenting program;
 - participate in drug or alcohol counseling;
 - participate in a work program;
 - seek employment;
 - participate in other counseling;
 - continue compliance with a current support or parenting time order;
 - enter into and compliance with an arrearage payment plan, and/or
 - facilitate makeup parenting time.

If a parent fails to appear for the hearing, the court can issue a bench warrant to arrest the parent and bring the parent before the court for proceedings related to the parenting time violation. If the court issues a bench warrant, the court may enter an order that a law enforcement agency render any vehicle owned by the payer⁴⁴ temporarily inoperable, by booting or another similar method, subject to release on deposit of an appropriate bond. [MCL 552.644\(9\)](#).

Upon finding that a parent has acted in bad faith, the court shall order a sanction of not more than \$250.00 for the first time, not more than \$500.00 for the second time, and not more than \$1000.00 for the third time. [MCL 552.644\(6\)](#). The sanction applies equally to the parent bringing or defending the dispute. The sanctions are used to fund FOC services not covered by title IV-D.⁴⁵

In addition to sanctions, the court must order a parent who has acted in bad faith to pay the other parent's costs.⁴⁶ There is no statute or court rule authorizing the costs to be paid through the FOC, nor for the FOC to collect/enforce those costs. The FOC can collect those costs if the court orders the costs to be paid through the FOC.⁴⁷

Normally, contempt proceedings are the preferred remedy when a parent is attempting to circumvent the order instead of an unintentional violation of the

⁴⁴ Although the statute designates the "payer" it contemplates the person who violates the order.

⁴⁵ The sanctions once paid must be placed in the FOC 215 Fund. The sanctions should not be processed through MiCSES. FOCs may collect the fine through income withholding using the [FOC 5](#).

⁴⁶ [MCL 552.644\(8\)](#).

⁴⁷ The costs should not be processed through MiCSES. FOCs may collect the costs through income withholding using the [FOC 5](#).

order.⁴⁸ This can be determined by the statements of the parents, their response at a joint meeting, or by the presence of frequent disputes over parenting time.

When other remedies are possible, but the FOC enforcing the order believes that court-imposed contempt remedies are likely to be more effective at addressing the issues between the parents, the show cause process is the preferred remedy.

⁴⁸ Examples of unintentional violations: The parent's work schedule changes, child is older and involved in more extracurricular activities, or there is now a greater distance between the parents' homes.

Appendix A

Makeup Parenting Time Model Policy

The _____ Circuit Court strongly believes that it is important for a child to have a good relationship with both parents and has, therefore, adopted a makeup parenting time policy.

When appropriate the friend of the court will apply this makeup parenting time policy when a parent has submitted a written parenting time complaint that alleges that parenting time was wrongfully denied.

Parenting time is every child's right. Responsible parents will put individual differences aside and deal with each other in good faith to see that parenting time is encouraged. The following explanations by a parent for denying parenting time are generally not valid:

1. The child(ren) has a minor illness.
2. The child(ren) had to go somewhere else.
3. The child(ren) was not home.
4. The parent is behind in support.
5. The parent did not want the child(ren) to go.
6. The weather was bad.
7. The child(ren) had no clothes to wear.
8. The child(ren) refused to go.
9. The other parent failed to meet preconditions unilaterally established by the parent allegedly denying parenting time.
10. Religious reasons.
11. Extracurricular activities.

The following are reasons you may believe are valid to deny parenting time. However, you should know that you may have to appear in court and explain why you denied the other parent parenting time:

1. When the parent arrived for parenting time it appeared that the parent was under the influence of drugs and/or alcohol.
2. That the parent failed to arrive for parenting time within one half hour of the time specified in the order.
3. The parent did not have a baby seat for the child.
4. You believe the other parent is abusing the child.
5. The other parent has had no contact with the child for a long time.

Determination of Valid Complaint

The friend of the court must first determine if the complaint states something which is enforceable under the court's parenting time order. If the friend of the court finds that it does, it must send a copy of the complaint and the following notice as required by [MCL 552.642\(2\)](#):

FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS

Appendix A
WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME POLICY
ESTABLISHED BY THE COURT WILL BE APPLIED.

As required by [MCL 552.642\(3\)](#), a parent who was sent the notice must respond in writing to the FOC office within 21 days after the office sends the notice to object to the application of makeup parenting time.

Procedure after response or the time for response passes

If a parent timely provides a response, the friend of the court shall initiate one of the other enforcement methods available under [MCL 552.641](#).

If a written response is not provided to the friend of the court within 21 days of when the notice was sent, the friend of the court shall apply makeup parenting time as set forth in [MCL 552.642\(1\)](#):

- (a) That makeup parenting time shall be at least the same type, frequency, and duration of parenting time as the parenting time that was denied, including but not limited to weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time.
- (b) That makeup parenting time shall be taken within one year after the wrongfully denial of parenting time occurred.
- (c) That the wrongfully denied parent shall choose the time of the makeup parenting time.
- (d) That the wrongfully denied parent shall notify both the friend of the court and the other parent in writing not less than one week before making use of makeup weekend or weekday parenting time or not less than 28 days before making use of makeup holiday or summer parenting time.

The friend of the court will first attempt to apply make-up parenting time. If the parents object to the application of make-up parenting time, then the friend of the court may pursue one of the following enforcement procedures:

- Schedule a joint meeting.
- Schedule mediation.
- File a motion to modify the existing court order.
- Schedule a contempt hearing.

Appendix B

STATE OF MICHIGAN
COUNTY

PARENTING TIME COMPLAINT

CASE NO.
HON.

County Friend of the Court Address:

Telephone No.

FAX:

Email:

Plaintiff's name, address, and telephone no.

v

Defendant's name, address, and telephone no.

Date the violation occurred: _____

Date of the most recent custody and parenting time order and the provisions contained within the order:

Provide a summary of the issues that you believe resulted in the alleged parenting time violation:

YOU MUST FILE YOUR COMPLAINT WITH OUR OFFICE WITHIN FIFTY-SIX (56) DAYS OF THE ALLEGED VIOLATION, HAVE AN ENFORCEABLE COURT ORDER, AND HAVE PAID ALL PARENTING TIME FINES ASSESSED BY THE COURT.

If the Friend of the Court finds you have submitted a valid complaint it may select from one of the following procedures to enforce parenting time complaints.

- Apply Make-Up Parenting Time.
- Schedule a joint meeting or mediation.
- File a motion to modify the existing court order.
- Schedule a contempt hearing.

I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief.

Signature

Date