



Michigan Supreme Court

State Court Administrative Office
Trial Court Services

Friend of the Court Bureau

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Steven D. Capps
Director

MEMORANDUM

DATE: July 15, 2020

TO: Friend of the Court Directors

FROM: Steven D. Capps, Director

RE: Electronic Signature Options for Friend of the Court Offices

With courts and friend of the court (FOC) offices handling hearings and appointments remotely, parties to an FOC case can electronically sign and securely transmit electronic documents to the court or FOC. This memorandum provides recommendations on how to obtain an electronic signature from a party to a domestic relations case.

If courts, FOC directors, or staff have any questions or would like additional information or clarification regarding this memorandum, please contact Elizabeth Stomski at StomskiE@courts.mi.gov or 517-373-5975.

Background

With the coronavirus pandemic expanding the use of electronic means to conduct court hearings and FOC meetings, and to transmit documents, the Friend of the Court Association (FOCA) requested information from the Friend of the Court Bureau (FOCB) about obtaining and submitting authenticated electronic signatures. Under MCR 1.109(E), an “electronic signature” means an electronic sound, symbol, or process attached to or logically assigned with a record and executed or adopted by a person with the intent to sign the record. The following format is acceptable: /s/ [printed name].

The forms produced by SCAO and by the local FOC offices do not require signature authentication. Every document filed with the court must be signed by the person filing it or by at least one attorney of record. MCR 1.109(E). There is no statutory or court rule requirement that a document prepared for filing in the court must be an original signature.¹ However, some

¹ [Michigan Trial Court Records Management Standards, 3.3 Case Records](#), October 2019.

forms require additional information with the signature, have a declaration statement certifying the accuracy of the form, or require a notary's signature.

When forms are submitted in person, it is common practice to ask for the signer's identification to verify their identity matches that on the form. There is no requirement for court staff to verify a person's identity when filing court documents, as there are legal avenues to prove a mistake in identity if documents are fraudulently submitted to the court.

OPTIONS FOR OBTAINING A PARTY'S ELECTRONIC SIGNATURE

Signatures Using Online Software and Submitted via MiChildSupport Portal

Parents can sign PDF documents by using various online software programs. Using some of these programs, parents can type, draw, or insert an image of their signature. After signing, the signer can then save the document and submit it back to the FOC.

MiChildSupport is a public, secure website that parents can use to apply for child support services, view information about their existing child support case(s), and create support calculations. The MiCase website within the MiChildSupport portal displays real-time information for a IV-D or court case.

For a parent to access MiChildSupport, they must first sign up for an account and go through a verification process. There are multiple levels of access that the parent can request, with "full access" allowing them access to all MiChildSupport features. Full access allows the parent to message the caseworker (if available in the particular county), attach documents, and view MiCSES-generated PDF forms related to the parent's case.² According to the Office of Child Support (OCS), as of February 2020 the MiChildSupport portal had 440,000 accounts.

The majority of FOC offices across the state are using MiChildSupport. According to OCS, 38 FOC offices use the MiChildSupport "Two-Way Communication" feature. After a parent selects a question to submit to the caseworker, they can select up to three files (one MB maximum per file) to upload to the caseworker. Additionally, the caseworker can submit electronic files to upload to the parent. The following file formats are allowed: DOC, DOCX, XLS, XLSX, PDF, TEXT, JPEG, PND, and BMP. Parents can opt into receiving text or e-mail alerts when a new message is posted to the parent's MiChildSupport account.

If a parent and the FOC use MiChildSupport, a caseworker can submit a form requiring signature to the parent(s) through the secure MiChildSupport portal. The parent would be alerted to new mail in the parent's MiChildSupport account, and would securely log in and verify his or her identity. Logging into and using the MiChildSupport website provides FOC staff authentication that the parent accessing the document is the MiChildSupport account holder. The parent can download the form, sign it with the downloaded signature software, re-save the document, and then submit the newly-signed document to the caseworker.

This solution would be of no cost to the parent, but would require them to set up an account and have that account be upgraded to the full access status. The process could take one to two weeks from the creation of the account until the parent receives his or her PIN number in the mail.³

² [MiCSES Customer Information Guide: MiChildSupport Web Site](#), 2018

³ This process is being reviewed by OCS. Effective mid-August 2020, parents will be able to access all of MiChildSupport through the statewide "MiLogin" portal.

There is no cost to use the MiChildSupport two-way communication feature. However, the FOC would need to train staff on using the feature and allow time for FOC staff to respond to MiChildSupport inquiries.

Electronic Signature Software

Electronic signature programs (eSignature programs) allow users to electronically sign or stamp a signature in real time, which eliminates the need to print, sign, and re-scan documents. Many of the eSignature programs claim a reduction in paper and printing costs and state that using the eSignature program makes the signature process easier and more secure than the traditional handwritten signature (wet-ink signature).

Obtain Signatures on the Record or During Remote Meeting

Court proceedings are recorded pursuant to Michigan Court Rules.⁴ While the parties are in the hearing, and if a document needing a signature is available, the court can request that both parties provide an e-mail address and ask if the parties are immediately able to access and review e-mail. The court can then send a copy of the order, recommendation, or other documentation simultaneously to both parties, and request that each party electronically sign the document and return it via e-mail to the court. The court can retain both parties on the web call until the document(s) are signed and returned.⁵ While waiting for the return of the documents, the court can put the parties in a virtual waiting room and proceed with other matters, then go back on the record to note receipt of the signed documents.

Obtain Signatures during Remote Meetings

For meetings FOC staff hold that are not on the record (joint meetings, facilitative and information-gathering conferences, mediations, etc.), staff may approve documents on behalf of the parties with their permission. During the meeting, the facilitator, mediator, or other court staff member can screen-share the document for each party's review. Once the document has been adequately reviewed, the staff member can ask if each party understands and approves the document, and, with the party's permission, indicate on the document that the parent approves. This approval can be as simple as writing in the signature place that the parent consented to entry of the document or simply indicating "/S/ with the party's permission" above his or her name.

The person hosting the joint meeting can make a note in the court's case management system and in MiCSES that the document was signed with the party's approval.

⁴ MCR 8.109 references that courts may use audio or video recording devices approved by SCAO to keep a record of a proceeding; MCR 3.215(D)(4) states that referee hearings must be held on the record.

⁵ Many videoconferencing software platforms allow for documents to be transmitted through messaging features. If the feature is available, FOC offices may opt to use the messaging feature to transmit and receive documents instead of using e-mail.