



State Court Administrative Office
Friend of the Court Bureau

Friend of the Court Domestic Violence Resource Guide

2019

INDEPENDENCE · ACCESSIBILITY · ENGAGEMENT · EFFICIENCY



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I. Introduction

Domestic violence occurs in all societal groups, without regard to race, income, religion education, or profession. It is not confined to the ranks of the poor, unemployed, or substance-dependent. Domestic violence may be well hidden and hard to detect from those who are not directly involved.

No friend of the court (FOC) office can adequately anticipate when domestic violence will occur. However, FOC offices have a responsibility to make every effort to detect domestic violence and to take the necessary steps to ensure the safety of children, parents, and court staff.

What is domestic violence? [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: causing or attempting to cause physical or mental harm to a family or household member; placing a family or household member in fear of physical or mental harm; causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress; and/or engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.”

Identifying and knowing of the domestic violence will assist the FOC office when investigating and enforcing domestic relations cases and providing the necessary information to court staff, domestic relations referees, and family division judges.

The purpose of the Friend of the Court Domestic Violence Resource Guide (Guide) is to provide practical information about screening, detecting, and responding to domestic violence at various stages of the FOC case process.

Specifically, this Guide will assist the FOC offices with the following:

- Understand the importance of screening and responses to domestic abuse.
- Identify FOC cases where domestic violence is present.
- Develop safety procedures to address domestic violence.
- Provide a safe environment when parties are at the FOC court office.
- Examine how domestic violence information will be used.
- Examine how to minimize contact between the parties.
- Examine how to keep screening protocols confidential.

There are different terms used when referring to who suffer from domestic violence (e.g., victim, survivor, abused party, reporting party). There are also different terms used when referring to those who commit domestic violence (e.g., abuser, assailant, perpetrator).

In this Guide, the terms “victim” and “perpetrator” will be used when discussing domestic violence issues.

Throughout the Guide, the reader will find descriptions of FOC tasks followed by recommendations of how to best address domestic violence when completing that task.

FOC TASKS: Most of the tasks listed in the Guide are mandated by statute or court rule. The majority of the statutory tasks performed by FOCs are from either the Friend of the Court Act, [MCL 552.501](#), or the Support and Parenting Time Enforcement Act, [MCL 552.601](#). However, some tasks listed in the Guide are non-mandated tasks, meaning that a court may decide to conduct a task that is not required by statute or court rule.

Recommendations: Recommendations will be provided for FOC staff who may encounter domestic violence before, during, or after completing a FOC task. These recommendations are considered “best practices” for FOC cases where domestic violence may be present or suspected.

In addition to this Guide, FOC staff may want to contact local domestic violence or sexual assault service providers for additional assistance when addressing domestic violence issues.

II. Opening an FOC Case

FOC TASK

The FOC must open and maintain an FOC case for every domestic relations case filed with the circuit court unless the parties have properly opted out of FOC services. [MCL 552.505a.](#)¹

FOC offices have responsibilities as outlined in the statute and court rule for domestic relations cases in which the parties have not opted out of FOC services.

If a child of the parties or a child born during the marriage is under the age of 18, if a party is pregnant, or if child support or spousal support is requested, the parties must provide the FOC with a copy of all pleadings and other papers filed in the action. The copy must be marked “friend of the court” and submitted to the court clerk at the time of filing. The court clerk must send the copy to the FOC. [MCR 3.203\(G\).](#)

Unless otherwise required by federal law, the office is only required to provide services under the Support and Parenting Enforcement Act when a party has requested IV-D services. [MCL 522.503\(6\).](#) See [SCAO Administrative Memorandum 2004-16](#) on opting out of FOC services.

Before a case is opened, the FOC should take steps to ensure that court documents are properly maintained in the case file.

Complaint: To initiate a domestic relations case, the petitioner must file a complaint with the court clerk. [MCR 3.206\(A\)](#) governs what information must be in the complaint including that a party can request a personal protection order (PPO) or a protective order (PO). [MCR 3.206\(A\)\(6\).](#) In addition, the rule provides that the complaint shall state the complete names of all parties, the complete names and ages of any minors involved in the action, and the residence information required by statute. The rule also states that in a case in which custody of a minor is to be determined, the complaint or an affidavit attached to the complaint also must state the information required by [MCL 722.1209.](#)

Summons: The plaintiff must arrange for the defendant to be served with the complaint, verified statement, and a summons. The summons instructs the defendant to answer the complaint within 21 days. If the defendant does not answer within 21 days, the judge may enter an order granting the plaintiff’s requests without a hearing. If the defendant answers the complaint, the court usually holds a hearing to obtain the information it needs to decide the case.

Verified Statement (FOC 23): In actions involving a minor, child support, or spousal support, the party seeking relief must provide a verified statement that contains income and identifying information to the FOC and must attach a copy to papers served on the other party. [MCR 3.206\(C\).](#) The requirement also applies to cases initiated by the FOC office. If any required information is omitted or not provided, the party must explain the omission in an affidavit filed with the court.

¹ Many FOC offices do not open a case on MiCSES until a IV-D application has been completed or the office receives a copy of a court order.

Recommendations: Addressing Domestic Violence When Opening an FOC Case

- A review of the pleadings and motion papers filed in a domestic relations case may alert the FOC to the presence of violence in a case, but it is a time-consuming process that may not be feasible in FOCs with heavy caseloads. In these FOCs, a review of the pleadings and motion papers might be done in cases where there are other indicators that violence is at issue, such as a PPO, a no contact order, or a PO.
- If a court enters a PPO, the FOC should set the family violence indicator (FVI) once the FOC case is set up in MiCSES, the statewide child support system.
- When the FOC receives a paternity or family support complaint, FOC staff should check to see if a state assistance worker has determined “good cause with continued services.”² If this occurs, the FOC should not expect the custodial parent to participate in any FOC or court actions. When good cause has been determined, the FVI should be set. FOC staff should verify that this has been done. If good cause end services has been determined, the FOC office should close the FOC case.
- The FOC should refrain from contacting the defendant in a case before service has been completed. Scheduling procedures should be reviewed to ensure that they take into account the potential negative consequences that could arise when notices are sent before service has been completed on the defendant. See SCAO Memorandum, dated May 12, 2011, titled [*Scheduling and Service of Process*](#).
- [MCR 3.203\(F\)](#) provides that when there is a court order making a party’s address confidential, the party shall provide an alternate address for service of notice and court papers. FOC offices should secure the alternative address from the court or the party seeking to keep his or her address confidential.
- Before signing an opt-out order, the court may ask the FOC to review its case file for indications of domestic violence. If this occurs, the FOC should not only check its case file but also other sources such as ICHAT, Judicial Data Warehouse, and criminal and civil records within the court’s jurisdiction for any indications of domestic violence.

² The child support case remains open, but the FOC worker is not allowed to contact the victim. If the family has a child support order, the order remains and can be enforced as long as the victim’s participation is not required.

III. Entering Court Order Information

FOC TASK

FOCs must enter information into MiCSES from court orders, judgment information forms, and Uniform Child Support Orders.

Court Orders: When a judgment or order is obtained for temporary or permanent spousal support, child support, or separate maintenance, the prevailing party must immediately deliver one copy to the court clerk for the FOC.

Judgment Information Form (JIF): ([JIF-FOC 100](#)); [MCR 3.211\(F\)\(2\)](#) provides that: The party submitting the first temporary order awarding child custody, parenting time, or support and the party submitting any final proposed judgment awarding child custody, parenting time, or support must: (a) serve the FOC office (unless the court orders otherwise), and all other parties with a completed copy of the latest version of the State Court Administrative Office's (SCAO) domestic relations JIF, and (b) file a proof of service certifying that the JIF has been provided to the FOC office and, unless the court orders otherwise, to all other parties. After the final judgment is entered, the parties are required to update information with the FOC continuously, but the parties do not need to file another JIF. The party submitting an initial order or modification of an order awarding custody, parenting time, or support must submit a copy of the JIF to the FOC and to the other party. The JIF is used for entry of the information (including identifying information) into MiCSES after the first temporary order and after the final judgment.

Uniform Child Support Order (USO): The court is required to enter orders concerning child support and spousal support in a USO, ([USO-FOC 10](#)); [MCR 3.211\(D\)](#). [MCR 3.211\(D\)](#) requires that any order regarding child support or spousal support, or both, must be prepared on the most current version of the USO approved by SCAO. The court cannot enter a judgment regarding child support or spousal support unless the final judgment incorporates a USO. A USO is not required if support is reserved or if no support is ordered. The FOC is to receive copies of USOs.

Recommendations for Addressing Domestic Violence When Entering Court Orders on MiCSES

- Court orders may contain provisions ordering a party's address be kept confidential. FOC staff should review each order for such provisions and take the necessary steps to keep the address confidential, which would include setting the FVI on MiCSES.³
- The address on the JIF and USO should not replace the party's alternative address provided to the FOC.
- FOC staff should review court orders to determine if the court has ordered a party's address be kept confidential, or if the FVI should be removed.⁴

³ [MCR 3.203\(F\)](#): When a court order makes a party's address confidential, the party shall provide an alternative address for service of notice and court papers.

⁴ Michigan Supreme Court Administrative Order 2002-3 – allows the family violence indicator to be removed by court order.

IV. Orientation

FOC TASK

Often FOC offices will conduct an orientation program for parents who have recently filed a domestic relations case. Many FOC offices provide an orientation program that is referred to as SMILE (Start Making It Livable for Everyone). The SMILE program will provide information to help parents better understand the effects of divorce or separation and understand the needs of their children. Many counties play a video during their orientation programs and have an FOC employee or family division judge present to answer questions.

Counties that do not offer the SMILE program will often provide orientation programs that will explain the FOC responsibilities such as enforcing and investigating child custody, parenting time, and child support. These orientation programs will also address the parents' responsibility to the FOC such as providing their current address.

Larger counties will generally schedule the orientation programs more frequently (e.g., weekly or monthly) to accommodate the number of parents, while smaller counties will schedule fewer programs (e.g., quarterly). Most orientation programs are held at the FOC office, the courthouse, or at the office of the orientation provider.

In many counties, parents will receive a letter from the FOC informing them of the date, time, and location of the orientation program they are to attend. Other counties will inform parents of the orientation by other means (e.g., after a scheduled court procedure such as a hearing or alternative dispute resolution session).

Recommendations for Addressing Domestic Violence When Conducting FOC Orientation Programs

- If possible, FOC offices should schedule one orientation program for the plaintiffs and a separate one for the defendants. This will ensure that parties with PPOs, POs, or domestic violence issues will not be in the same room at the same time. If this is not possible, then appointment letters for FOC orientation programs should state: "Please contact the friend of the court office if you do not feel safe being in the same room with the other parent." The contact letter should also state how the orientation will be structured (e.g., classroom style, individual meeting).
- The FOC office should check the local judicial information system for PPOs and POs. Parents should not be required to attend the orientation session with the other parent if there is a PPO or PO.
- The FOC office should not send orientation appointment letters until the defendant has been served. See SCAO's May 11, 2011, Memorandum, [Scheduling and Service of Process](#).
- If FOC orientation programs are held after normal office hours or offsite (e.g., away from the courthouse or FOC office) there should be appropriate security present. This would include a sheriff, deputy, or other law enforcement officer.

- Arrangements should be made to require parents to pass through a metal detector before entering the room where the orientation program will be held.
- Parents should be informed during the orientation that measures will be taken to help protect parties, children, and court staff from violence. The FOC should take steps to help provide an emotionally and physically safe environment for the parties, children, and court staff, including but not limited to appropriate screening. This screening may include asking parties to complete a domestic violence screening document and checking local and state records for evidence of domestic violence.
- Parents should be informed that enforcement procedures are not initiated at the request of either party, but rather as a result of the FOC determining the court order may have been violated.
- Parents should be told that if a PPO is signed by the court or a sworn statement is submitted by a parent, the parent's address and other personal information will be made confidential.
- During the orientation, FOC staff should provide information regarding local domestic violence resources.
- FOC staff or law enforcement should monitor parents arriving and leaving the building where the FOC orientation program is held.
- Any parent who makes threats to the other parent or court staff during the orientation should be asked to leave. The other parent, court staff, and law enforcement should be notified that threats were made.

V. Custody and Parenting Time Investigations

FOC TASK

[MCL 552.505\(1\)\(g\)](#) provides that the FOC is to investigate all relevant facts, to make a written report and recommendation to the parties and to the court regarding child custody or parenting time or both, if ordered to do so by the court. If custody has been established by court order, the court shall order an investigation only if the court first finds that proper cause has been shown or that there has been a change of circumstances. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. A written report and recommendation regarding child custody or parenting time or both, shall be based upon the factors enumerated in the Child Custody Act of 1970, 1970 PA 91, [MCL 722.21 to 722.31](#).

Investigations should focus on facts relevant to determining the “best interests of the child” and finding whether an “established custodial environment” exists. The “best interests” are determined by the court based on the 12 Child Custody Act factors. [MCL 722.23](#).

A copy of each report, recommendation, and any supporting documents or summary of supporting documents must be made available to the court and to each party before the court takes any action on a recommendation by the office. [MCL 552.505\(1\)\(g\)](#).

Recommendations for Addressing Domestic Violence When Conducting Custody and Parenting Time Investigations

Before the Custody and Parenting Time Investigation Interview

- Before the initiation of a custody or parenting time investigation, all FOC cases should be properly screened for domestic violence. Confidentiality and disclosure of answers to the screening is an issue that may impact a party’s willingness to disclose information. Parents should be informed that information derived from the domestic screening will not be shared with the other parent. It is recommended that it is best to contact the parents before the investigation interview to determine if holding a joint interview is beneficial. If the initial screening results in reported domestic violence, a joint interview should not be scheduled. Contacting the parents before the investigation interview also allows the investigator to gauge the parent’s responses to domestic violence screening questions.⁵ FOC staff may use SCAO’s [Office of Dispute Resolution Domestic Violence Screening Protocol](#). This screening document should only be used when interviewing a parent by phone or in person.
- If the domestic violence screening protocol is mailed and filled out by the parent and the case is under litigation, the office could treat the document as a record that the FOC did not create ([MCR 3.218\[E\]](#)), thereby allowing the office to refuse disclosure because parents have the right to engage in discovery between them. The court could ensure confidentiality of the screening by having the screening document recorded as confidential and/or not subject to disclosure as part of a Local Administrative Order

⁵ The office may consider the investigator’s notes recording the screening tool answers as “staff notes” under MCR 3.215(3)(a), (thereby making the notes confidential and not subject to disclosure to a party).

(LAO). [\(MCR 3.218\[G\]\)](#). SCAO has developed a domestic violence screening document that can be mailed to parents. The screening document is in Appendix A.

- The FOC should check court records, including PPOs in Michigan or other states, no-contact orders issued in any criminal case concerning either parent, and for past or present child protection cases.
- The FOC should review police reports regarding domestic violence involving the parents and between each parent and other individuals. FOC staff should also review police reports for issues of stalking, assaults, and interference with communication devices.
- FOC staff should check one or more of the following resources for indications of domestic violence and child abuse:
 - ICHAT;
 - Judicial Data Warehouse;
 - Criminal and Civil records within the court's jurisdiction;
 - Review of pleadings for allegations of domestic abuse.
- In the event that the domestic violence protocol is not completed and/or returned by the parents or completed by phone, a joint interview should not take place until both parents have completed a screening document.

Beginning of the Custody and Parenting Time Interview

- Investigators should consider doing the following at the start of the custody and parenting time investigation interview:
 - The scope and purpose of the investigator's report should be explained to all parents, including that any information provided during the interview may be used in the report. Investigators should also advise both parents who will receive copies of the report, and explain that the report itself is not confidential.
 - Parents should be informed approximately when the report will be sent out, so that if the victim has concerns about how the perpetrator will react, he or she may have time to take extra safety precautions.
 - It should be made clear to all parents that the investigator is gathering information and will be making a recommendation to the court concerning the children's custody and parenting time. The investigator is not advocating for, or representing, either parent in the custody and parenting time matter before the court.
 - The investigator should address the repercussions of nondisclosure of domestic violence to the parties, if appropriate. If there is a domestic violence issue present that is not evident in the interview process and the child is later abused, the non-abusing parent could be held liable for abuse.
- If during a joint interview domestic violence concerns are raised, the investigator should end the interview, separate the parents, and schedule separate interviews. The investigator should consider if safety arrangements are immediately necessary and make the arrangements before officially concluding the interview. This can be done with other

FOC staff assistance. See Section XVIII on Safety Planning for appropriate recommendations.

Child Custody Factors that Address Domestic Violence

Factor (j): The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents. A court may not consider negatively for the purposes of this factor any reasonable action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the child's other parent. Considerations for factor j:

- Does the parent have a history of child abuse or neglect or have a PPO against the other parent, or has the parent completed a sworn statement that he or she is a domestic violence victim?
- Are there indications of domestic violence between the parents?
- Are there indications that an act of physical violence was committed by the parent against another individual?
- Has custody or parenting time been denied because of domestic violence?

Factor (k): Domestic violence, regardless of whether the violence was directed against or witnessed by the child. Considerations for factor k:

- Are there indications that an act of physical violence was committed by either parent against another individual?
- Are facts present that either parent verbally, mentally, or emotionally abused (e.g., tormented, berated, threatened) the other parent or another family member including the minor child, live-in relationships, or stepchildren?
- Does one parent have a PPO against the other?
- Has either parent signed a sworn statement that he or she is a domestic violence victim?
- Does one parent have a history of being a perpetrator or victim of domestic violence in a previous relationship?
- Does a parent have a history of child abuse or neglect?

Writing the Report

The investigator's responsibilities to the court are to investigate all relevant facts, write a report with custody and parenting time recommendations, and to distribute the report to the parents, attorneys, and to the court. If the investigator finds during the investigation that there is a history of domestic violence between the parents, or if the investigator believes there is a current or future risk of domestic violence, that information must be reported to the court. Domestic violence information reported to the court should come from a variety of sources, such as the interviews with the parents, a review of the court records, and a review of other nonjudicial records. Because the purpose of the domestic violence screening is to determine if a joint interview is proper and to encourage full disclosure of all information by the parents, investigators should not use the information gathered from the domestic violence screening in

the written report. Investigators should gather information about domestic violence during the interview. That information should be included in the report and addressed under the appropriate factors.

VI. Court Ordered Child Support Investigations

FOC TASK

The FOC is required to investigate all relevant facts and to make a written report and recommendation to the parties, their attorneys, and to the court regarding child support, if ordered to do so by the court.⁶ The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court and shall include documentation of alleged facts, if practicable. The child support formula developed by the FOC Bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the FOC determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

- (i) An alternative support recommendation.
- (ii) All factual assumptions upon which the alternative support recommendation is based, if applicable.
- (iii) How the alternative support recommendation deviates from the child support formula.
- (iv) The reasons for the alternative support recommendation. [MCL 552.505\(1\)\(h\)](#).

Recommendations for Addressing Domestic Violence When Conducting Child Support Investigations

- For cases where the FVI is **not** set, the following language should be provided in the initial contact letter: “If you would like to keep your address and personal information from the other parent because of domestic violence or child abuse, please submit a signed written request to the friend of the court office. For purposes of service of court papers you will be required to provide an alternative address.”
- If FOC 39 and 39e are mailed and filled out by the parties, and the case is under litigation, the office should treat the questionnaires and supporting documents as a record that the FOC did not create ([MCR 3.218\[E\]](#)), thereby allowing the office to refuse disclosure because parties have the right to engage in discovery between them.
- When the FVI is set, the address and other personal identifying information of the affected individual(s) may not be released to another party. [MCR 3.218\(A\)\(3\)\(h\)](#) provides: “all information classified as confidential by the laws and regulations of title IV, part D of the Social Security Act, 42 USC 651 *et seq.*” Any document that contains the following information would be considered a confidential document:
 - Social Security number;
 - Residential and mailing addresses;

⁶ This section of the Friend of the Court Domestic Violence Resource Guide will address child support investigations ordered by the court. The Guide includes a separate section (XII) on child support reviews. [MCL 552.517](#).

- Employment information (e.g., name of employer, employer address); and
 - Financial information.
- If the FVI is set, the victim’s address and any personal information should be suppressed and should not be stated on the recommendation.
 - It is recommended that when the FOC conducts a child support investigation and submits the report to the court, it should prepare a summary of the FOC case questionnaire before the hearing.⁷ Such summaries should *exclude* any identifying information such as addresses, phone numbers, and places of employment, childcare provider, or names of children.
 - If there is evidence of domestic violence, the FOC should refrain from scheduling joint meetings with the parents to discuss the support investigation.

⁷ [MCL 552.505\(1\)\(h\)](#): “To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the office of the friend of the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

- (i) An alternative support recommendation.
- (ii) All factual assumptions upon which the alternative support recommendation is based, if applicable.
- (iii) How the alternative support recommendation deviates from the child support formula.
- (iv) The reasons for the alternative support recommendation.”

VII. Change of Domicile and Change of Legal Residence Investigations

FOC TASK

There are times when the FOC is asked to conduct a change of domicile or a change of legal residence investigation. The FOC investigator should ask for clear direction from the court when asked to conduct such an investigation. The FOC does not have the authority to decide if a person can leave the state or change the legal residence of the child to another residence more than 100 miles away from the parents' addresses when the original order was signed by the court. These are legal determinations by the court.

A parent who has joint legal custody must request the court's permission to change a child's legal residence of 100 miles or more when that parent moves 100 miles or more from the residence where the parent lived at the time the original action was filed.⁸

There is no requirement for court approval for a move to another place in Michigan when:

- The move is less than 100 miles;
- The other parent agrees to the move;
- The judge orders sole legal custody to one of the child's parents;
- The parents were already living 100 miles apart when the judge decided custody;
- The move results in the child's two legal residences being closer to each other than before the move; or
- The parties have an agreement in the order regarding a change of residence. However, the agreement needs to be specific.⁹

If a party files a motion for change in residence (the 100-mile rule),¹⁰ the court will address the five statutory factors. [MCL 722.31](#). If a court order prohibits moving the child to another state regardless of the distance involved, the factors under [MCL 722.31](#) are also the proper criteria for the court to consider.¹¹

The five factors in [MCL 722.31](#) are:

- (a) Whether the legal residence change has the capacity to improve the quality of life for both the child and the relocating parent.
- (b) The degree to which each parent has complied with and utilized his or her time under a court order governing parenting time with the child, and whether the parent's plan to

⁸ [MCL 722.31](#).

⁹ *Delamielleure v Belote*, 267 Mich App 337, 704 NW2d 746 (2005). Pursuant to [MCL 722.31](#).

¹⁰ [MCL 722.31](#).

¹¹ *Gagnon v Glowacki*, 295 Mich App 557, 815 NW2d 141 (2012). Before the codification of MCL 722.31, Michigan appellate courts adopted similar factors considering a parent's request to move a child out of Michigan. The four factors had been laid out in *D'Onofrio v D'Onofrio*, 144 NJ Super 200, 206-207, 365 Ad 27, aff'd 144 NJ Super 352, 265 A2d 716 (1976).

change the child's legal residence is inspired by that parent's desire to defeat or frustrate the parenting time schedule.

(c) The degree to which the court is satisfied that, if the court permits the legal residence change, it is possible to order a modification of the parenting time schedule and other arrangements governing the child's schedule in a manner that can provide an adequate basis for preserving and fostering the parental relationship between the child and each parent; and whether each parent is likely to comply with the modification.

(d) The extent to which the parent opposing the legal residence change is motivated by a desire to secure a financial advantage with respect to a support obligation.

(e) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.

If a parent with joint custody meets the five factors in [MCL 722.31](#), the court must address the best interest factors in [MCL 722.23](#) if the move changes the established custodial environment.

If a parent has sole legal custody and wants to change the domicile or legal residence and the move changes the established custodial environment, then the court must address the best interest factors.¹² The parent must prove by clear and convincing evidence the move is in the best interest of the child.

Recommendations for Addressing Domestic Violence for Change of Domicile and Change of Legal Residence Investigations

- Has the parent already moved to another state or changed his or her legal residence due to domestic violence?¹³
- Is the parent seeking to change the domicile or legal residence because of domestic violence or threats of domestic violence by the other parent?
- If the court grants the parent's request for change of domicile or legal residence, will the parent be living with someone who has committed domestic violence or child abuse against any individual?
- Is the nonmoving parent objecting to the move for financial gain (e.g., to avoid an increase in child support)?
- Is the nonmoving parent resisting the move to try to gain emotional or physical control over the other parent?
- The investigator should consider how the parties will exchange information, meet, and exchange the child when domestic violence is present and the custodial parent moves to another state.

¹² [MCL 722.23](#).

¹³ [MCL 722.31](#). If this section applies to a change of a child's legal residence and the parent seeking to change that legal residence needs to seek a safe location from the threat of domestic violence, the parent may move to such a location with the child until the court makes a determination under this section.

- With the exception of the recommendations for factors “j” and “k” of the Child Custody Act, the FOC investigator should follow the same recommendations (e.g., screening, checking pleadings and databases, separate interviews when necessary) for change of domicile and change of legal residences investigations as he or she would for custody and parenting investigations. Those recommendations are in Section V, Custody and Parenting Time Investigations.

VIII. FOC Alternative Dispute Resolution

FOC TASK

The Friend of the Court Act ([MCL 552.513](#)) requires FOCs to provide, either directly or by contract, alternative dispute resolution (ADR) to assist the parents in voluntarily settling a dispute concerning child custody or parenting time matters. The Act requires that ADR be provided according to a plan approved by the chief judge and the SCAO. The plan must include a process for screening for domestic violence, the existence of a protection order, child abuse or neglect, and other safety concerns. The plan must be consistent with standards established by SCAO and must include minimum qualifications, training requirements, and designation of matters that are subject to ADR. FOCs are required to provide mediation but may provide other ADR services. The three most common forms of FOC ADR are:

Mediation is a process in which a neutral third party facilitates confidential communication between parties to explore solutions to settle custody or parenting time 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.

Joint meeting is a process in which the FOC may schedule a meeting to discuss proposed solutions with the parties to a custody or parenting time complaint or an objection to an FOC support recommendation. If the parties reach an agreement, a consent order is prepared for the court's signature. In the event the parties fail to reach an agreement, the individual conducting the joint meeting may prepare a report and/or recommended order.

A process used in some courts in which a facilitator assists the parties in reaching an agreement for custody parenting time and child support issues usually at the beginning of an action. If the parties reach an agreement, a consent order is prepared for the court's signature. In the event the parties fail to reach an agreement, the facilitator may prepare a report and/or recommended order.

Recommendations for Addressing Domestic Violence When Providing Alternative Dispute Resolution

- All proper domestic violence screening must occur before any FOC ADR session.¹⁴
- FOC ADR sessions 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 FOC ADR sessions in which the perpetrator will have physical proximity and access to the victim.
- Proper domestic violence screening allows FOC staff the opportunity to confidentially schedule appointments separately on different dates or a different location (other than the FOC office) to maximize safety.
- Domestic violence screening can provide PPO information.

¹⁴ [MCL 552.513](#).

- If an FOC ADR session is conducted and the ADR provider suspects that a party’s safety may be compromised, the FOC ADR session should be discontinued. See Section XVIII, FOC Safety Planning, for appropriate recommendations.
- The FOC may choose to send a domestic violence screening questionnaire to the parties to complete. Appendix A contains a sample screening questionnaire that can be mailed to the parties.
- The FOC may also choose to contact the parties by phone and ask each party questions from a domestic violence screening document. FOC offices can use SCAO’s [Office of Dispute Resolution Domestic Violence Protocol](#).
- The purpose of completing the questionnaire is to identify the parties’ involvement in past or pending court orders or proceedings involving domestic violence and/or child abuse/neglect. Completing the questionnaire in person, by phone, or by mail will also provide the parties with the opportunity to raise concerns about participating in FOC ADR due to issues arising from domestic violence. Equally important is the purpose of completing the questionnaire to see if there are any issues, including domestic violence that would interfere with the ability of either party to effectively and safely participate in the ADR process.
- FOC ADR domestic violence screening documents are considered confidential and should be kept in the confidential section of the FOC file.¹⁵
- The screening document and appointment letter should not be mailed before the defendant is served.¹⁶
- In the event the domestic violence screening document is not completed and/or returned by the parties, or the FOC does not complete the screening document by phone, then the mediator or facilitator should require the parties to complete a screening document before the ADR session.
- Whether the domestic violence screening document is mailed for completion, completed by phone, or done in person, parties should be informed of the following:
 - The purpose of the domestic violence screening is to determine if the parents can meet jointly without issue and can effectively and safely participate in the ADR process.
 - That information shared during the screening will not be shared with the other parent. Fully informing the parents of the purpose of the screening may encourage the parents to share relevant information without fear of disclosure.
 - That all FOC cases are screened for domestic violence. If the perpetrator knows that every case consists of a domestic violence screening, the perpetrator may be less likely to engage in retaliatory violence.

¹⁵ [MCR 3.218\(A\)\(3\)\(c\)](#) considers records from alternative dispute resolution processes confidential including the mediation records as defined in [MCR 2.412](#). Because all FOC cases must be screened before ADR, domestic violence screening documents are considered a confidential document.

¹⁶ See [SCAO May 11, 2011 memorandum: Scheduling and Service of Process](#).

- Before the FOC ADR process, FOC staff should check one or more of the following resources for indications of domestic violence and child abuse.
 - Judicial Data Warehouse;
 - Criminal and civil records within the court’s jurisdiction;
 - Review pleadings for allegations of domestic abuse (if applicable).
- If the FOC provides mediation, the mediator should inform the parents at the beginning of the mediation that mediation is a confidential process. However, the mediation communication should be disclosed if it is:¹⁷
 - A threat to inflict bodily injury or commit a crime;
 - A statement of a plan to inflict bodily injury or commit a crime;
 - A statement made to plan a crime, attempt to commit or commit a crime, or conceal a crime.
- Throughout the FOC ADR process, the mediator or facilitator should make reasonable efforts to screen for the presence of coercion or violence that would make the ADR process physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
- If domestic violence is discovered during the FOC ADR process, parents should be immediately separated and placed in different rooms. See Section XVIII in this Guide.

¹⁷ [MCR 2.412\(D\)](#).

IX. Domestic Relations Referees

FOC TASK

[MCL 552.507](#) authorizes the use of domestic relations referees (referees) and defines their responsibilities. [MCL 552.507\(1\)](#) provides that “the chief judge may designate a referee as provided by the Michigan court rules.” [MCL 552.507\(1\)](#) allows a chief judge to designate a domestic relations referee to do the following:

- a. Hear all motions in a domestic relations matter referred to the referee by the court, except motions pertaining to an increase or decrease in spousal support.
- b. Administer oaths, compel the attendance of witnesses and the production of documents, and examine witnesses and parties.
- c. Make a written, signed report to the court containing a summary of testimony given, a statement of findings, and a recommended order; or make a statement of findings on the record and submit a recommended order.
- d. Hold hearings as provided in the Support and Parenting Time Enforcement Act, 1982 PA 295, [MCL 552.601 to 552.650](#). The referee shall make a record of each hearing held.
- e. Accept a voluntary acknowledgment of support liability and review and make a recommendation to the court concerning a stipulated agreement to pay support.
- f. Recommend a default order establishing, modifying, or enforcing a support obligation.

[MCR 3.215\(B\)\(3\)](#) allows referees to conduct settlement conferences and scheduling conferences.

[MCR 3.215\(D\)\(2\)](#) requires the referee to provide both an oral and written notice of the right to a judicial hearing.

[MCR 3.215\(E\)](#) specifies the content of referee recommendations and the procedural requirements for issuing and implementing them. Within 21 days after a hearing, a referee must either state findings orally on the record or summarize the testimony and findings in a written report.

[MCR 3.215\(E\)\(1\)\(b\)\(ii\)](#) provides that a recommended order will become a final order if no one files a written objection. Except as limited by subrules [MCR 3.215\(G\)\(2\)](#) and [\(G\)\(3\)](#), the court may provide that a referee’s recommended order will have interim effect. The referee’s proposed order must include prominent notice of all available methods for obtaining a judicial hearing. The recommendation also should clearly advise litigants if the proposed order would have any interim effect before a judge reviews it.

[MCR 3.215\(E\)\(1\)\(c\)](#) provides that if the court approves the referee’s recommended order, the recommended order must be served within seven days of approval, or within three days of approval if the recommended order is given interim effect. A proof of service must be filed with

the court. If the recommendation is approved by the court and no written objection is filed with the court clerk within 21 days after service, the recommended order will become a final order.

A recommendation regarding income withholding takes an expedited path from the referee to the court pursuant to [MCL 552.607\(3\)](#).

[MCR 3.215\(E\)\(8\)](#) allows parties who are satisfied with the recommendations of the referee and who prefer not to wait until the time to object has expired to agree in writing to the immediate entry of the recommended order.

[MCR 3.215\(F\)\(1\)](#) requires the judicial hearing must be held within 21 days after the written objection is filed, unless time is extended by the court for good cause.

Recommendations for Addressing Domestic Violence When Conducting Domestic Relations Referee Hearings

- All FOC cases should be screened for domestic violence before scheduling a domestic relations referee hearing.
- Domestic relations referees should be notified if there is a PPO, PO, evidence of domestic violence, or domestic violence is reported.
- Security staff should be notified if parents with a history of domestic violence are appearing for a referee hearing in the courthouse or FOC office.
- Before the hearing, parties should be escorted to different waiting areas within the courthouse.
- Domestic violence victims should be offered entrance and exit strategies that can be utilized by the court to ensure safety such as having the victim leave first, then having the perpetrator leave the courthouse sometime after the victim has left.
- Referees should be prepared to terminate a perpetrator's cross-examination if it becomes hostile, abusive, or generally unproductive.
- For cases with domestic violence, the FOC staff should verify that the FVI is set before notices and referee recommendations go out to parties.
- Referees should refrain from asking parents to state identifying information during hearings.
- Referees should contact the FOC to verify that the case has been screened for domestic violence.
- When necessary, recommendations for including supervised parenting time should be stated in referee-recommended orders.¹⁸ The following are considerations for supervised parenting time:

If the perpetrator has a history of hostility or violence during pick-up and return of children, supervised parenting time allows protection for victims while sending a message to the perpetrator that his or her behavior is being monitored.

¹⁸ Rygwelski, *Beyond He said/She said*, p 77–79 (Mich Coalition Against Domestic Violence, 1995).

- If a perpetrator has a drug or alcohol problem, supervised parenting time may promote the safety of the children while they have contact with that parent.
 - Supervised parenting time may work better for parents who have difficulty cooperating with the agreed-upon parenting time arrangements.
 - Supervised parenting time may prevent a parent from abducting a child during parenting time.
 - If supervised parenting time is ordered, it is important to establish conditions that clearly specify the responsibilities and authority of the supervisor during supervised parenting time. In addition, it is important that the supervisor agrees to fully participate in the supervised parenting time and agrees to take on such supervising responsibilities.
- Referee-recommended orders for custody and parenting time should take into account the safety of the children and parties if there is evidence of domestic violence or domestic violence is reported. Considerations for referee recommended orders are:
 - Avoid nonspecific provisions such as “reasonable parenting time,” “parenting time as agreed by the parties,” or “parenting time to be arranged later.” The terms of a parenting time order should be stated unambiguously, with pick-up and drop-off locations, times, and days of the week clearly specified.
 - Provide safe, neutral locations for parenting time, whether supervised or unsupervised.
 - Specify how the parties may communicate with each other to make arrangements for parenting time (e.g., whether the parties communicate by telephone, e-mail, text, or through a third party). Note: Parties should be informed on how long a parent is expected to wait (e.g., 30 minutes) for the other parent before cancelling parenting time.
 - If the parties must meet to transfer children, require that the transfer take place in the presence of a third party and in a protected setting, such as a police station or public place. However, exchanges of children at a police station should be a last resort because additional trauma can be created for children who start identifying that one or both of their parents must be “bad” or “criminal” because the police have to be involved in child exchanges. In addition, if the referee is going to order exchanges to occur in a building housed by the police department, then he or she should make sure that the building is equipped to handle such exchanges. For example, many police department lobbies are not manned with personnel; the goal should be finding a safe place for the exchange.
 - Specify how disputes between the parties will be resolved:
 - If the parties have a PPO, parenting time exchanges shall occur (if permitted by the order) in a manner that ensures the order is not violated. The order should provide appropriate safety when a PPO is in place or when a documented history of abuse exists, all exchanges should occur in a public place at a designated neutral exchange site by a third party, or at a supervised parenting time facility.

- It may be necessary for referee-recommended orders to have specific parenting time language. Example of specific language: “Parenting time shall take place every first and third Saturday from 10 a.m. to 3 p.m., at the home of and in the presence of Mary Smith, plaintiff’s aunt, at 123 Main Street, City. The plaintiff is responsible for dropping off the child by 9:45 a.m. and picking up the child by 3:15 p.m. If parenting time cannot take place, notice must be given by telephoning Mary Smith at 000-123-4567 by 8:30 a.m., and parenting time shall then take place the following Saturday with the same provisions.”
- Further example of specific language: “Drop-off and pick-up of the children shall occur at the local police department, in the lobby. Defendant shall leave with the children immediately; plaintiff may request a police escort to plaintiff’s car or to public transportation. At the end of parenting time, defendant shall wait in the lobby at least 20 minutes while plaintiff leaves with the children.”

X. Custody and Parenting Time Enforcement

FOC TASK

In an FOC case, the office must initiate enforcement upon receipt of a written complaint stating facts alleged to constitute a violation of the order, if the office determines that there is a reason to believe that a violation has occurred. [MCL 552.511b](#).

The FOC must initiate an action if it determines that the facts as stated in the complaint submitted under [MCL 552.511b](#) allege an order violation that can be addressed by taking one or more of the following actions:

- Apply makeup parenting time under a policy established by [MCL 552.642](#);
- Commence civil contempt proceedings under [MCL 552.644](#);
- File a motion to modify parenting time provisions to ensure parenting time under [MCL 552.517d](#), unless modification is contrary to the best interests of the child;
- Schedule ADR subject to [MCL 552.513](#); or
- Schedule a joint meeting subject to [MCL 552.642a](#); [MCL 552.641](#).

The office may decline to respond to an alleged violation, if:

- The submitting party has previously submitted two or more complaints alleging order violations that were found to be unwarranted, costs were assessed against the party because a complaint was found to be unwarranted, and the party has not paid those costs.
- The alleged violation occurred more than 56 days before submitting the complaint.
- The order does not include an enforceable provision that is relevant to the violation alleged in the complaint. [MCL 552.641\(2\)](#).

In response to an alleged custody or parenting time order violation, and following an evaluation and required notice, the office may file a post-judgment motion under [MCL 552.517d](#) to modify parenting time provisions to ensure parenting time unless contrary to the best interests of the child. [MCL 552.641\(1\)](#).

The circuit court must formulate a makeup parenting time policy. [MCL 552.642](#). The policy must include enumerated statutory items. When denied parenting time, the harmed individual must give the FOC office written notice. Before applying the policy to a case, the FOC office must send notice to both parties of the intent to apply the policy. If a timely objection is made after this notice, a hearing must be held before the court. [MCL 552.642](#).

At the office's discretion, statute permits resolution of certain issues through a joint meeting scheduled by the office with both parties. A joint meeting and its associated proceedings must follow all the requirements of [MCL 552.642a](#). Requirements include:

- a. The person conducting the meeting (facilitator) must have completed domestic violence training referred to in [MCL 552.519\(3\)\(b\)](#). See Appendix B for Domestic Violence Training.

- b. Parties may attend joint meetings in person or via telecommunications equipment, and need to be given the opportunity to do so.
- c. At the meeting's onset, the moderator must advise the parties that (1) the meeting's purpose is for the parties to reach a written accommodation, and (2) the moderator may recommend an order that the court may issue to resolve the dispute.
- d. At the meeting's conclusion, the individual conducting the joint meeting must either record the parties' agreement in writing and provide copies to each party, or submit an order to the court that incorporates the individual's recommendation for resolving the dispute.

Joint meetings should be used in cases where the parties will likely reach an equitable agreement or accept the meeting moderator's recommendation for an order.

The FOC may schedule a joint meeting between the parties to attempt to expedite resolution of parenting time denial issues. [MCL 552.517b\(5\)](#) and [MCL 552.641\(1\)\(e\)](#).

[MCL 552.641\(3\)](#) requires courts to enforce parenting time violations in compliance with the guidelines developed by the FOC Bureau in cooperation with Domestic and Sexual Violence Prevention and Treatment Board ("DSVPTB") as required in [MCL 552.519\(3\)\(b\)](#).

Recommendations for Addressing Domestic Violence When Enforcing Custody and Parenting Time

- Selection of a parenting time enforcement procedure should be influenced by the safety concerns that arise when one parent has committed a crime against a child, or the other parent has violated another court order (such as a PPO or noncontact order) in exercising or asserting custody or parenting time rights, or there is reported child abuse or domestic violence. FOC offices should also take into consideration cases in which parents are unable to adequately represent their own interests and require special consideration to ensure fairness. The parents' ability to represent their own interests may be impeded by factors such as undue influence, substance abuse, mental illness, and domestic violence. In cases involving domestic violence, safety concerns arise in addition to questions of fairness. Efforts to promote safety in these cases will be most effective if they focus on the protection of the victim and children (understanding that the safety of the child is linked to that of the adult victim) and on intervention in the perpetrator's manipulation and control tactics. 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 parenting time symptoms that arise from the violence.
- FOC staff should try to minimize physical or other contact between the parties, and thus opportunities for threats, harassment, or physical violence. A perpetrator's exercise of parenting time can pose potential danger to a child or victim. Perpetrators may use parenting time as a tool for emotional abuse. They may, for example, institute disputes over parenting time as a means to harass a victim, or they may use parenting time as an opportunity to recruit the children to collect information about the victim. Furthermore, parenting time can give perpetrators physical access to children and victims, which creates opportunities for physical abuse (e.g., coercion, stalking). Perpetrators can also

use the courts and parenting time specifically to further their abuse of the victim (e.g., filing multiple motions to get the victim in court) giving them access to the victim, and making the parent take time off work that could jeopardize the parent's job leading the parent to become financially dependent on the other parent.

- FOC staff should adhere to any prior court orders restricting contact between the parties. This may require additional research from FOC staff to obtain information regarding PPOs or no contact orders. An effort should be made by FOC staff to obtain copies of any PPOs for the office file. 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 PPOs issued in civil and criminal cases in other U.S. jurisdictions.) ([See MCL 600.2950h, MCL 600.2950j.](#))
- During custody and parenting time enforcement procedures, the FOC should communicate clearly with the parties about court processes, particularly with regard to the limits of confidentiality. Victims need to know what use will be made of their disclosures of domestic violence in order to take safety precautions against potential retaliatory violence, which is often precipitated by such disclosures.
- Makeup parenting time may not be a good remedy for cases involving domestic violence because it does not address the underlying dynamic of power and control. For example, if a victim's denial of parenting time is motivated by a fear of violence at the hands of the perpetrator, a grant of makeup parenting time to the perpetrator may reward and encourage the abusive behavior that originally caused the denial of parenting time. If the victim is denying the perpetrator 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 victim and children and on intervention to address the perpetrator's control tactics. Examples of alternatives to makeup parenting time that may be more applicable are court-ordered supervised parenting time or filing a motion to amend the order to better protect the victim and the child.
- All proper domestic violence screening must occur before any mediation or joint meeting. Mediation and joint meetings should be approached with caution in cases in which domestic violence is suspected or present. If domestic violence is identified or suspected, the meeting should not proceed unless the victim submits a written consent and the FOC takes additional precautions to ensure the safety of the victim and court staff. Because of the dynamic of power and control that exists in these cases, careful consideration should be given with respect to whether a fair outcome is possible. Additionally, serious safety concerns arise from mediation and joint meetings in which the perpetrator will have physical proximity and access to the victim. Proper domestic violence screening allows FOC staff the opportunity to confidentially schedule appointments separately on different dates to maximize safety. Domestic violence screening can also provide information regarding PPOs and no contact orders. If mediation or a joint meeting is conducted and the mediator or facilitator suspects that a parent's safety may be compromised, the mediation or joint meeting should be discontinued. Refer to Section XVIII, Safety Planning, within this Guide.

- If modification to the custody and parenting time order is necessary for the safety of the parties or the children, the FOC may file a motion to modify the custody and parenting time order. For example, the FOC may recommend that the parties exchange the child in the presence of a third party and in a protected setting, such as a police station or public place. If the parents have a PPO or a noncontact order, parenting time exchanges must occur (if permitted by the order) in a manner that ensures the PPO or noncontact order is not violated.
- The FOC should initiate contempt proceedings for serious violations, such as when a parent is unlikely to comply with a makeup schedule, a parent clearly disregards the court's authority, or the parties are not able to meet because of domestic violence concerns. In the event a hearing is scheduled, FOC staff should, to the best of their ability, provide the victim with options for entering the courthouse, seating arrangements, and exiting the courthouse.
- If Michigan is no longer the child's home state, the FOC should be careful to select the enforcement procedure that will not result in modifying the underlying custody determination. Modifying a court order in a state that is the child's home state is a violation of the Uniform Child Custody Jurisdiction Enforcement Act.

For more information about custody and parenting time enforcement, see SCAO's policy, [2002-11 Guidelines for Enforcement of Custody and Parenting Time Violations](#).

XI. Child Support Enforcement

FOC TASK

The FOC office must initiate enforcement when an arrearage is an amount equal to support payable for one month under the support order (except for ex parte orders where the FOC office has not received a proof of service) when a parent fails to maintain court-ordered health insurance coverage, or someone who is legally responsible incurs uninsured medical expenses. [MCL 552.511\(1\)](#). The FOC is responsible for initiating proceedings to enforce an order or judgment for support. [MCR 3.208\(B\)](#).

The following are summaries of enforcement procedures available to FOCs and the courts to enforce court-ordered child support obligations.

Income Withholding Notice

Absent a specific and rare judicial finding to the contrary, all support orders contain an income withholding order that is immediately effective. [MCL 552.604\(3\)](#). The FOC office must immediately serve notice of the order on any source of income. State law requires that sources of income honor notice of the order without requiring a copy of the order.

Civil Contempt – Orders to Show Cause

A support recipient or FOC may commence a civil contempt proceeding when a person ordered to pay support fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful. If the judge concludes from the testimony of the parties and others that the respondent has sufficient ability to comply with the order or by the exercise of due diligence could be of sufficient ability and has neglected or refused to comply, the respondent may be found in contempt of court.

License Suspensions

An FOC office may petition to suspend a payer's occupational, recreational, or sporting license or initiate administrative suspension of a driver's license if (a) the payer has an arrearage greater than the amount of periodic support due for two months, (b) the payer holds a license (or is required to hold one), and (c) withholding is inapplicable or has been unsuccessful in assuring regular payments. [MCL 552.628\(1\)](#). A petition to suspend an occupational or recreational license or notification of suspension of license may not be filed unless the payer has been sent a notice stating the arrearage and that a suspension order will be entered and sent to the licensing agency unless the payer responds by paying the full arrearage, or requesting a hearing within 21 days. [MCL 552.628\(2\)](#).

Financial Institution Data Match and Insurance Claim Data Match

The Office of Child Support (OCS) is required to enter into agreements with financial institutions and insurers to collect the name, address, social security number, and account numbers for each parent who maintains an account at the financial institution and owes a threshold amount of past due support (greater than two month's support arrearage). [MCL 400.234a](#). When accounts or claims are identified for payers who owe past due support, OCS central operations uses an administrative process to levy the account.

Tax Refund Offsets

MiCSES automatically screens and refers qualifying cases for state tax offset. If a case has not been designated by OCS for offset proceedings, and the arrearage on the case meets state or federal requirements, the office may request that OCS initiate offset proceedings against a payer's qualifying federal and state tax refunds. [MCL 552.624](#), [MCL 400.233a](#), and [45 CFR 303.6\(c\)\(3\)](#). To offset federal tax refunds, the arrearage as determined by reference to MiCSES records must be (1) \$150 when support is assigned to the state or (2) \$500 when support is assigned to the payee. [45 CFR 303.72](#).

Consumer Credit Reporting

The FOC office must report the arrearage amount to a consumer-reporting agency for each payer with a support arrearage of two or more months. [MCL 552.512\(1\)](#). MiCSES automatically screens and reports qualifying cases. See the Friend of the Court Bureau (FOCB) [Model Policy 2009-04 Providing Information to Credit Reporting Agencies](#). Before reporting an arrearage, the FOC office must provide notice of the proposed action and an opportunity to object based on mistake of fact. [MCL 552.512\(2\)](#), and [\(3\)](#). The office should check e-Oscar at least weekly and provide confirmations to all challenges.

Petition for Bond

The FOC office may petition for a bond to secure payment of support that is past due or due in the future. [MCL 552.625](#). Compare [45 CFR 303.103\(a\)](#) and [45 CFR 303.104\(a\)](#) which suggests that a lien or bond must be petitioned. For more information, see FOCB's [FAQ 2007-01](#), Use of Cash Bonds to Secure Support.

Parent Locating

Within 75 days of determining that location is necessary, FOCs must access all appropriate location sources. [45 CFR 303.3\(b\)\(3\)](#). Repeat location attempts quarterly or immediately upon receipt of new information which may aid in location. [45 CFR 303.3\(b\)\(5\)](#).

Actions to Set Aside Fraudulent Conveyances

If a support arrearage has accrued and there is reason to believe the payer transferred title or ownership of real or personal property without fair consideration, the IV-D agency can initiate proceedings to have the transfer set aside as provided in the Fraudulent Conveyance Act, [MCL 566.31 to 566.45](#), or obtain a settlement for repayment that is in the best interest of the recipient of support. [MCL 552.624a](#). Ethical and separation of powers considerations may prohibit the FOC from filing these actions.

Evidentiary Rule in Enforcement Proceedings

MiCSES records are considered prima facie evidence of the amount due and may be admitted into any support hearing ([MCL 552.603\[13\]](#)) without first calling the custodian of the records.

Intergovernmental

When enforcement action on an interstate case is required, numerous actions must be completed within 10 days. [45 CFR 303.7](#).

Full Faith and Credit of Child Support Orders Act (FFCCSOA), [28 USC 1738](#). This is a federal law that restricts when states may enter a support order and modify an order.

Uniform Interstate Family Support Act (UIFSA). [MCL 552.2101, et seq.](#) UIFSA has been enacted in the same basic form in all 50 states. UIFSA provides for registration of orders for enforcement. [MCL 552.2601.](#) It also allows registration for modification. Registration for modification must occur in the state of the party not seeking the modification. [MCL 552.2635.](#)

Only one state has jurisdiction to decide the amount of child support, eliminating the possibility of multiple orders as occurred under RURESA (Revised Uniform Reciprocal Enforcement of Support Act). To achieve this goal, UIFSA specifies criteria for determining which order is the controlling order and which state has continuing exclusive jurisdiction for determining modifications of the support amount. [MCL 552.2207.](#)

RURESA was not repealed by the legislature when enacting UIFSA. Although no case has addressed the relationship of the two acts, it appears that RURESA cases are converted to (or treated as) UIFSA actions when procedures to modify or enforce support are instituted.

Interstate Income Withholding: UIFSA allows income withholding notices to be sent directly to an employer in another state. If an employer fails to comply with an income withholding notice sent directly to it, UIFSA provides for registration of the income withholding order in the other state. [MCL 552.2502\(1\).](#)

Criminal Nonsupport

Michigan law provides that it is a felony to do either of the following: (1) violate a support order [MCL 750.165](#); or (2) fail to support family while having the resources to do so. [MCL 750.161.](#)

Federal law provides that it is a crime if the following occurs: (1) a payer having the ability to pay, (2) willfully fails to pay child support, (3) a known arrearage exists, (4) the arrearage has remained unpaid for longer than one year or is greater than \$5000, and (5) the child resides in a different state from the payer. [18 USC 228.](#)

As a court agency, the FOC must avoid the appearance of impropriety and assure that proper separation of powers is maintained. The office should not refer individual cases for prosecution. Permissible FOC involvement relative to criminal prosecutions is outlined in SCAO's [Administrative Memorandum 2008-03-Felony Nonsupport Referral and Processing Policy.](#)

Under the Support and Parenting Time Enforcement Act and other Michigan statutes, there are several procedures available to FOCs and the courts to enforce child support. This section of the Guide will provide general recommendations for addressing domestic violence when enforcing child support.

Recommendations for Addressing Domestic Violence When Enforcing Child Support

Most domestic violence victims want to pursue child support if they can do so safely.¹⁹ They want their children to receive support from the other parent and they do not want that parent to be “excused” from paying child support because he or she is violent.²⁰ Child support should be enforced based on objective measures such as MiCSES reports and not solely on the request of

¹⁹ Federal Office of Child Support Enforcement.

²⁰ Federal Office of Child Support Enforcement.

the payee. In some cases involving domestic violence, the victim may not take the initiative to enforce the support obligation of a perpetrator. The victim in these cases may be concerned about revealing his or her whereabouts or may fear reprisal from the perpetrator. Thus, it is important to remember that the responsibility for initiating enforcement proceedings is with the FOC, and not with the victim.²¹ Note: Some perpetrators may not engage in coercive or violent behavior if they realize that the victim is not in a position to control efforts to enforce child support obligations.

Child support enforcement notices: Because domestic violence victims sometimes go into hiding to escape their perpetrators, it is critical to their safety that addresses and other identifying information remain confidential. It may be necessary to remove such information from court papers that the perpetrators may see. The FOC should take the necessary steps to minimize these risks, including using the FVI to protect any personal information that could be used to locate them, and refer victims to local domestic violence programs that can help them develop a safety plan.

Income withholding: If a perpetrator has income that can be withheld for support, an income withholding should be implemented. Income withholding is required by federal law²² and is the most reliable way to ensure that the victim receives support without being harassed or threatened. It should be stressed to the perpetrator that all support orders contain an income withholding requirement that is immediately effective ([MCL 552.604\[3\]](#)), and that the income withholding notice was not implemented at the request of the victim.

Child support enforcement hearings: There are times when both the victim and perpetrator may appear for hearings. FOC staff should take the following precautions when there is domestic violence reported or there is evidence of domestic violence, and it is anticipated that both parties will appear for the hearing:

- Court security should be notified that both parties would be appearing for the hearing.
- Stagger arrival and departure times. It may be necessary to keep the perpetrator in the courthouse longer after the hearing has ended, so the victim can leave without being followed.
- If possible, provide separate waiting areas for the victim and perpetrator.
- Refrain from linking parenting time to support payments. In cases involving domestic violence, perpetrators frequently use contacts for parenting time as opportunities to harass, threaten, or assault a former partner. Under these circumstances, a linkage between parenting time and support payment encourages the perpetrator's efforts to control the other parent and, in some cases, may endanger the other parent.
- Stress to the perpetrator that the court is initiating the enforcement and not the victim.
- Make sure no identifying information is stated in court.

²¹ See, e.g., [MCR 3.208\(B\)](#) and [MCL 552.511\(1\)](#).

²² See [42 USC 666\(a\)\(1\)\(b\)](#).

- Provide for privacy in interview areas so that the victim feels safe about sharing information.
- Before the hearing, meet with the parties separately to prevent coercion or intimidation of the victim.
- Make sure the family division judge or the domestic relations referee is aware of any domestic violence issues.

XII. Child Support Reviews

FOC TASK

The FOC office must initiate a child support review when all the following are true: (1) when a party has requested IV-D services; (2) after a final judgment is entered (on Michigan-entered orders where either party or the child resides in Michigan or another state's order registered for modification); (3) Michigan retains jurisdiction to modify; and (4) a statutory condition triggers the review.

The entire review and modification process must be completed within 180 days after determining that a review is required. [MCL 552.517\(3\)](#).

The FOC office must review the child support order or request that another state review the support obligation when any of the following conditions trigger a review:

- Not less than once each 36 months, when a child is supported by public assistance (unless good cause not to proceed with the review exists and neither party has requested a review).
- Where there are reasonable grounds to believe that the amount of support should be modified. Reasonable grounds include changes in financial circumstances (could be on or off from: disability, unemployment, public assistance, etc.), needs of the child, unordered changes in physical custody, incarceration, or release from incarceration.
- Upon receipt of a written request from either party, but not more than one request from each party each 36 months.
- If a child is receiving medical assistance and the order does not provide for health care coverage (unless good cause exists not to proceed and neither party has requested a review).
- Not less than once each 36 months if requested by the initiating state for a recipient of IV-D services in that state. [MCL 552.517\(1\)](#).
- At the court's direction.
- A party presents evidence of a substantial change in circumstances as set forth in the Michigan Child Support Formula Supplement. [MCL 552.517b\(9\)](#).
- Incarcerated Parties: [MCL 552.517](#) mandates that offices initiate a support review upon notification of incarceration or notification of release from incarceration for sentences to a term of one year or more. All review requirements apply to incarcerated parties.

Reviews initiated by the office because reasonable grounds to modify may exist cannot be used as grounds to deny a recipient or payer from a requested three-year review. [MCL 552.517\(2\)](#).

Upon determining that a condition exists to warrant a review, the FOC must send notice of the review and request information from the parties. Between 21 and 120 days after sending the parties notice and after the date the parties' information was due, the office must calculate the support amount using the Michigan Child Support Formula. [MCL 552.517b\(3\)](#).

When completed, the FOC office must send both parties and their attorneys a written recommendation and notice. If the office recommends modification, notice to the parties must clearly indicate that if a party does not object within 21 days, an order will be entered incorporating the new amount. If the recommendation is for no change, the FOC must notify parties of their right to object and have a court hearing. [MCL 552.517b.](#)

The FOC office must recommend modification when the projected modification exceeds the minimum threshold (as stated in the [Michigan Child Support Formula Manual](#), difference of at least 10 percent and \$50) unless the reasons for prior deviation remain unchanged. If the projected change does not exceed the threshold, the office has discretion to recommend modification or to recommend no change. [MCL 552.517.](#)

The written recommendation filed with the court serves as a petition to modify support. Before the court modifies a support order, the FOC office must make available a summary of the information used to recommend support and allow the parties 21 days to object to the proposed order. [MCL 552.517\(6\).](#)

At the office's discretion, statute permits the office to resolve certain issues through a joint meeting with both parties. A joint meeting and its associated proceedings must follow all the requirements of [MCL 552.642a.](#) Joint meetings should be used in cases where the parties will likely reach an equitable agreement or accept the meeting moderator's recommendation for an order. The time and resources spent on the joint meeting process should not exceed the resources needed for other remedies.

This process is not an appropriate means for handling all support determinations. For instance, a support determination conducted by the parties submitting information, and staff calculating and recommending a new amount without a meeting will likely take fewer resources than would be involved with a joint meeting. However, if one party requests a meeting to discuss additional income information and the office will likely have to recalculate support, conducting a joint meeting may be warranted.

If Michigan is the initiating state in an interstate case, the FOC must determine whether a review is required using the same criteria as for Michigan orders. [MCL 552.517c\(1\).](#) If a review is appropriate, the FOC office must obtain income, expense, and other information needed from the requesting party or recipient of public assistance. [MCL 552.517c\(2\).](#) After information is collected from the party, the FOC office must initiate a request for review to another state within 20 days. [MCL 552.517c\(3\).](#)

The FOC office must forward to the party in Michigan a copy of each notice issued by the responding state in conjunction with the review and modification. [MCL 552.517c\(4\).](#) Within 20 days of determining that the support payer is in another state, the FOC office must refer a modification request to the other state in the appropriate manner. [45 CFR 303.7\(c\).](#)

Recommendations for Addressing Domestic Violence When Conducting Child Support Reviews

- When initiating a child support review, and the FVI is **not** set, contact letters should state the following:

“If you would like to keep your address and personal information from the other parent because of domestic violence or child abuse, please submit a signed written request to the friend of the court office. For purposes of service of court papers you will be required to provide an alternative address.”²³
- If FOC 39 and 39e are mailed and filled out by the parties, and the case is under litigation, the office could treat the questionnaires and supporting documents as a record that the FOC did not create ([MCR 3.218\[E\]](#)), thereby allowing the office to refuse disclosure because parties have the right to engage in discovery between them.
- When the FVI is set, the address and other personal identifying information of the affected individual(s) may not be released to another party. [MCR 3.218\(A\)\(3\)\(h\)](#) provides: “all information classified as confidential by the laws and regulations of title IV, part D of the Social Security Act, [42 USC 651 et seq.](#)” Any document that contains the following information would be considered a confidential document:
 - Social Security number;
 - Residential and mailing addresses;
 - Employment information (e.g., name of employer, employer address);
 - Financial information.
- If the FVI is set, the victim’s address and any personal information should be suppressed and should not be stated on the recommendation.
- If an objection is filed, there is domestic violence, and the FOC schedules a joint meeting, the following should be considered:
 - The joint meeting may not begin until a reasonable inquiry has been made concerning whether either party has a history of a coercive or violent relationship with the other party. A reasonable inquiry includes the use of the domestic violence screening protocol provided by the SCAO as directed by the Supreme Court.
 - If domestic violence is identified or suspected, the meeting may not proceed unless the victim submits a written consent and the FOC takes additional precautions to ensure the safety of the victim and court staff. Throughout the joint meeting, the person 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.

²³ At the time of publication, the State Court Administrative Office is working with the Office of Child Support to include the recommended language on the RNMEIGLTR-Review Notice-Eligibility Letter.

- If an objection is filed to the support recommendation and a hearing is set, arrangements should be made for the victim entering the courthouse, seating in the courthouse, and exiting the courthouse.

XIII. Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)

Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) General Description

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA, codified by Michigan in [MCL 722.1101 et. al.](#)) and the Full Faith and Credit of Child Custody Determinations ([28 USC 1738A](#)) control jurisdiction to establish or modify child custody, including parenting time orders. If another state has previously issued a child custody determination, a different state is limited in its ability to modify the order. Domestic violence was a major consideration in drafting the UCCJEA.

Except in emergencies, an initial custody determination must be made by a court having one of the UCCJEA's four jurisdictional criteria. Those four criteria, in order of statutory priority, are:

Home State Jurisdiction: The UCCJEA states that if the child involved in the custody dispute has a home state,²⁴ only that state may make the initial custody determination unless the home state declines jurisdiction. A child's temporary absences from the state are not relevant to this determination. A child's home state keeps its status for six months after a child leaves, regardless of why the child has left, provided a parent or person acting as a parent remains in the home state.²⁵

Significant Connection Jurisdiction: If there is no home state or the home state court has declined jurisdiction, a state with significant connection jurisdiction is permitted to preside over a custody determination.²⁶

More Appropriate Forum Jurisdiction: A court in a state that is the appropriate forum may make the decision, only if the courts of the states having home state or significant connection jurisdiction have declined to exercise it.²⁷

No Other State Jurisdiction: Only if no court of any other state has jurisdiction on any of the three previous jurisdictional criteria may a court exercise no other state jurisdiction to deal with these "vacuum" situations.²⁸

If Michigan previously entered a child custody or parenting time order, jurisdiction to modify remains in Michigan as long as one parent remains in Michigan unless the relationship between the parent and the child becomes virtually nonexistent.

²⁴ "Home state" is defined in the UCCJEA as "the state in which a child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with a parent or person acting as a parent. A period of temporary absence of a parent or person acting as a parent is included as part of this period."

²⁵ Under the UCCJEA, a state could only remain a child's home state for six months after the child left because of wrongful removal from the home state or wrongful retention of the child in another state. See [MCL 722.1201\(1\)\(a\); MCL 722.1208\(1\)](#).

²⁶ [MCL 722.1201\(1\)\(c\)](#).

²⁷ [MCL 722.1201\(1\)\(b\)](#).

²⁸ [MCL 722.1201\(1\)\(d\)](#).

The UCCJEA permits a court to ask another court to order an evaluation, hold an evidentiary hearing, conduct discovery, and order any party or person having physical custody of the child to appear with or without the child or forward certified copies of transcripts, evidence, or custody evaluations.²⁹

Although the UCCJEA forbids courts without jurisdiction from modifying the custody order of another state or permanently change custody, the UCCJEA allows a Michigan court to enforce parenting time rights granted by another state’s order using all remedies available under Michigan law.³⁰ The Michigan court may provide for makeup parenting time when parenting time has been obstructed.³¹ Although the language only talks of parenting time, custodial parents should be likewise entitled to makeup time if their time with the child was denied. As part of its enforcement provisions, the UCCJEA allows courts to temporarily designate specific parenting time when orders do “not provide for a specific parenting time schedule” (e.g., “reasonable parenting time”).³² When a court is enforcing a “reasonable parenting time” order, the court must set an expiration date for the order³³ unless the issuing court and the enforcing court have communicated on this issue and the issuing court has deferred its jurisdiction to the enforcing court on the grounds that the enforcing court is a more convenient forum.

The UCCJEA sets forth that safety of the parties and child is the first consideration³⁴ and grants temporary emergency jurisdiction for a state to exercise jurisdiction over a child under extraordinary circumstances when that state is not the child’s home state and the child is present in that state.³⁵ The UCCJEA limits the new state’s court to issue only short-term orders.³⁶ The UCCJEA allows a court to exercise temporary emergency jurisdiction when required to protect the child, siblings, or parents who are subject to mistreatment or abuse.³⁷

The UCCJEA permits a court of another state to assume temporary jurisdiction when a parent removes himself or herself to that state when he or she is being battered, threatened with abuse, or the child or sibling of the child is being abused.³⁸ The court must first specify in the temporary emergency order how long the protected parent has to obtain an order from the state otherwise having initial jurisdiction.³⁹ Second, the court shall immediately communicate with the court of the state having initial jurisdiction to resolve the emergency, protect the safety of the parties and the child, and determine an appropriate jurisdiction for duration of the temporary order.⁴⁰

²⁹ [MCL 722.1112.](#)

³⁰ [MCL 722.1302](#) and [MCL 722.1303\(2\).](#)

³¹ [MCL 722.1302\(2\)\(a\).](#)

³² [MCL 722.1302\(2\)\(b\).](#)

³³ [MCL 722.1302\(3\).](#)

³⁴ [MCL 722.1204\(4\)](#) and [MCL 722.1307\(3\)](#)

³⁵ [MCL 722.1204.](#)

³⁶ [MCL 722.1204\(3\).](#)

³⁷ [MCL 722.1204\(4\).](#)

³⁸ [MCL 722.1204\(1\).](#)

³⁹ [MCL 722.1204\(3\).](#)

⁴⁰ [MCL 722.1204\(4\).](#)

Recommendations for Addressing Domestic Violence in UCCJEA Cases

- Before conducting an investigation or enforcement procedure for a UCCJEA case, FOC staff should check any other jurisdiction involved to verify if there are or have been any PPOs that have been entered by the court. The FVI should be set if the FOC discovers there is a PPO in another state, or a party to the case signs a sworn statement that he or she is a victim of domestic violence. Be aware, perpetrators may attempt to locate a victim by filing a false UCCJEA claim.
- Because of a request from another state, the FOC may be ordered to conduct a child custody and parenting time investigation. This may include conducting a home visit for the parent who lives in Michigan if Michigan does not have home-state jurisdiction. FOC staff should refer to the Custody and Parenting Time Investigation section of this Guide for appropriate recommendations.
- FOC staff may be asked to conduct an investigation for a temporary parenting time schedule. FOC staff should consider if the child can be exchanged between the parents at a location that would be safe for all parties and the child.
- If the FOC recommends makeup parenting time, it should consider any safety issues that may have caused the victim to deny parenting time or led to the victim being denied parenting time.

XIV. Case Closure

FOC TASK

Except as otherwise provided, [MCL 552.505a](#) requires an office to open and maintain an FOC case, administer, and enforce the parties' obligations as required in the Friend of the Court Act. Reducing the number of cases that an office administers permits the office to apply freed-up resources to cases needing additional attention.

FOC offices can limit services in a non-IV-D case that is not eligible for IV-D funding, but the office may only close the FOC case when IV-D and statutory requirements have been met. See FOC Administrative Case Closure Criteria in SCAO's [Administrative Memorandum 2001-09-Friend of the Court Support Case Administrative Closure Criteria](#), which explains IV-D Closure Criteria for FOC cases.

Also, see IV-D Case Closure Criteria, [45 CFR 303.11](#), and Office of Child Support Policy.

When all children emancipate and no monies remain owed, IV-D and FOC cases are closed. Additional circumstances exist when both IV-D and FOC cases should be administratively closed by the office (e.g., no current support due and arrears of less than \$500 and collection is unlikely, payer dies and has no assets, recipient dies and no other obligations due, divorced parties remarry, parents with a child born out of wedlock marry, etc.). There are also circumstances when only the FOC case should be closed by the office (e.g., FOC transferred, divorce action dismissed). In compliance with federal regulation and state policy, the FOC should establish procedures and include objective criteria to determine when to close cases administratively. The written policy should outline the entire process from identification of cases to providing notice and from obtaining necessary orders to segregate and prepare the file for storage. Throughout the year, staff should identify records to which access probably is no longer needed (e.g., closed cases, investigative records) and segregate them for retention and storage.

Recommendations for Addressing Domestic Violence for Case Closure

FOC cases can be closed for different reasons. However, there are certain conditions that FOCs should be careful to examine regarding domestic violence before an FOC case is closed. Those case closure reasons⁴¹ that should be of particular concern are:

- **The nonpublic assistance custodial parent requests closure.** The FOC should be confident that the custodial parent is not being pressured or coerced by the other parent to request his or her FOC case to be closed. After looking for signs of domestic violence, the FOC can refuse to honor the request to close when evidence of domestic violence has been found.
- **Custodial parent cannot be located.** Some domestic violence victims may go into hiding out of fear from the perpetrator and thus may not be willing to provide the FOC with their current address. The FOC should utilize available services to locate the custodial parent before the office closes the FOC case.

⁴¹ The reasons codes provided for in this section of the Guide apply to both FOC cases IV-D case closure as well.

- Good cause. If it is determined that a child support action must end because good cause has been determined, the IV-D case will close. Federal regulation [45 CFR 303.11\(b\)\(9\)](#) allows a IV-D case to close when there has been a finding of good cause or other exceptions to cooperation with the IV-D agency. The FOC should close the FOC case if the IV-D case is closed for good cause.⁴²
- Noncustodial parent not located in three years. The FOC should look for any indications that the custodial parent is withholding information about the other parent’s location out of fear of violence before deciding to close the FOC case. If the FOC is convinced that locate information is being withheld, it may want to consider not closing the IV-D and FOC cases.

⁴² [MCR 3.208\(D\)](#): The FOC may inactivate its case and is not required to perform activities under the Friend of the Court Act [MCL 552.501 et seq.](#), and the Support and Parenting Time Enforcement Act, [MCL 552.601 et seq.](#), when the case is no longer eligible for federal funding because a party fails or refuses to take action to allow the FOC’s activities to receive federal funding or because the federal child support case is closed pursuant to Title IV, Part D of the Social Security Act, [42 USC 651 et seq.](#)

XV. Family Violence Indicator

Family Violence Indicator (FVI) General Description

FOC staff should be familiar with the FVI. Federal regulations and Supreme Court Administrative Order provide that when there is family violence, the address and other personal identifying information of the affected individual(s) may not be released to another party. The MiCSES system can suppress a victim's address and other identifying information when there is a PPO, a sworn statement, or a written statement (e.g., letter).

A victim may have a PPO from Michigan or another state/county that makes the victim's address confidential. The victim will need to provide a copy of the PPO to the FOC unless the PPO is provided through the Michigan State Police Law Enforcement Information Network (LEIN) interface. MiCSES receives PPO information from LEIN. When MiCSES receives PPO information from LEIN and the perpetrator on the PPO matches an individual in MiCSES, the system compares the name of the other party on the perpetrator's IV-D case(s) to the name of the victim in the PPO file. If the names match, the FVI is set and will suppress the victim's address on all of his or her domestic relations cases.

If a domestic violence victim would like his/her identifying information suppressed but does not have a PPO, he or she may complete a sworn statement. The FOC may use the Affidavit of Nondisclosure for Family Violence Indicator (FEN 210) as a sworn statement. The FOC may also provide the victim with the Request to Protect Information (MDHHS 5728). Both forms are generated in the MiCSES system. The MDHHS 5728 is also on the Michigan Department of Health and Human Services (MDHHS) website.

The victim may also submit a signed letter to the FOC asking to have his/her identifying information protected from the other party. The victim must provide enough identifying information in the request so the FOC employee can find the victim in MiCSES. The FOC can process the letter as a sworn statement. The sworn statement or letter must be submitted to the FOC or it can be faxed to the Office of Child Support at 517-335-3030.

A claim of violence occurs when an individual claims that he or she and/or his or her dependents are at risk due to family violence. An FOC employee should not set the FVI based solely on a claim of violence. If an individual makes a claim of family violence, that person should be given a sworn statement or be instructed to submit a signed letter.

When the FVI is set on a victim, that person must provide an alternative address. The victim may provide the alternative address to the FOC using the Change in Personal Information form ([FOC 108](#)), the MDHHS-5728, or a signed letter. The alternative address allows the FOC to send correspondence and serve court documents to the victim while still protecting his/her identifying information. FOCs may release the alternative mailing address to the other party, or the court may order another method to allow the parties to serve pleadings and notices without divulging the suppressed address. The alternative address is the "legal address" for service of notices and court papers.

XVI. Good Cause

Good Cause General Description

Definition of Good Cause: A legal reason for which a recipient of public assistance through MDHHS is excused from cooperating with the child support enforcement process. Examples of reasons a recipient can claim good cause:

- Danger of physical harm to the child(ren);
- Danger of emotional harm to the recipient;
- Danger of physical harm to the recipient;
- Danger of emotional harm to the child(ren);
- Other: For instance, other good cause exception would include a pending adoption.

When a custodial parent claims good cause and is a public assistance recipient/applicant, the FIS/ES worker will make the decision about the claim in most cases.

When a custodial parent claims good cause to the FOC, the employee must:

- Search for member exceptions for any member on the custodial parent's assistance case(s);
- Resolve any member exceptions that exist; and
- Update MiCSES to indicate the pending good cause claim.

MiCSES will transmit the claim of good cause to Bridges to the assigned FIS/ES worker. The FIS/ES worker will make the decision about the claim.

Once there is a claim of good cause, the FOC must suspend all activities to establish paternity, or secure or enforce support on the IV-D case until notified of a final determination by the FIS/ES worker in order to prevent harm to the family. FOC staff may continue to register out-of-state orders and may act upon pending enforcement, but should not initiate new enforcement actions.

Additionally, if the custodial parent is in a noncooperation status, the FOC will place the custodial parent into cooperation as of the date the case was placed into a "good cause pending" status.

While the good cause claim is pending, the MDHHS policy states that the assistance worker may ask the FOC to review and comment on the good cause claim. If this occurs, the FOC will review the good cause claim and provide recommendations to the assistance worker. The FOC should base its recommendations on the following:

- Available information, including records of prior contacts with the custodial parent and records gathered by the assistance worker as part of the good cause investigation;
- Information the custodial parent may voluntarily provide concerning the claim;
- Consideration of whether support action can be taken without custodial parent cooperation and without resulting in physical or emotional harm to the child or custodial

parent; (This is particularly important in cases in which a support order does not exist for a child.)

- Consideration of whether support action can be taken without disclosing the location of the custodial parent and the children.

If the custodial parent and/or dependents are involved in a domestic violence situation, MiCSES has the ability to protect the confidentiality of the members' demographic information when certain codes are selected. MiCSES will not release the custodial parent address and identifying information to the other party on forms. When certain family violence codes are set for the custodial parent, his/her dependents' information will also be confidential.

If it is determined that child support action must end, the IV-D case will close. Federal regulation [45 CFR 303.11\(b\)\(14\)](#) allows a IV-D case to close when there has been a finding of good cause or other exceptions to cooperation with the IV-D agency.

Michigan Office of Child Support Policy and Federal Regulations do not address good cause for nonpublic assistance IV-D cases. If FOC employees discover abusive or controlling behaviors, they need to take the appropriate measures to protect the victim. One such measure for IV-D nonpublic assistance cases is to determine the victim's expected cooperation with the FOC office. The FOC should determine if full cooperation would further endanger the victim or the victim's children.

Recommendations for Addressing Domestic Violence in Good Cause Claims

- When a good cause claim is pending, the FOC may continue enforcement action that was initiated but should not start a new enforcement procedure. For example, FOC staff may have scheduled a contempt hearing before the 45-day good cause period, but the hearing has not yet been held. It would be appropriate to continue with the contempt hearing, but not initiate a new enforcement procedure (e.g., LIENs, license suspensions).
- The FOC will be notified by the assistance worker if and what type of good cause was determined. If good cause end services is determined, the IV-D case will close. Federal regulations⁴³ allow a IV-D case to close when there has been a finding of good cause or other exceptions to cooperation with the child support program. The FOC office is not required to provide services when the IV-D case closes.⁴⁴ FOC employees should refer to SCAO's [Case Closure Policy 2001-9](#).
- If there is a good cause finding with continued services and the IV-D case is not closed, then FOC staff should verify the FVI is set and additional precautions are taken to protect the victim. Additional precautions could include avoid scheduling joint meetings and joint interviews and ensure the parents are not in the same waiting areas in the FOC office and courthouse.

⁴³ [CFR 45 CFR 303.11\(b\)\(14\)](#).

⁴⁴ [MCL 552.503\(6\)](#).

XVII. Access to FOC Records

FOC TASK

[MCR 3.218](#) specifies the ways individuals or agencies can access FOC records. Unless specifically allowed by [MCR 3.218](#), court staff must refuse to provide access to FOC records. This includes requests under the Freedom of Information Act, a subpoena authorized by another section of the Michigan Court Rules, or any other request for information that is not authorized under [MCR 3.218](#). Information in FOC records often has a dual nature as both a record of the FOC (governed by Michigan Court Rules) and a Title IV-D record (governed by Title IV-D of the Social Security Act, various state laws and policies published by Michigan’s Office of Child Support [OCS]). The information in FOC records that is not governed by Title IV-D (e.g., custody or parenting time investigations) is governed only by the court rule. Title IV-D policy does not affect how the FOC maintains non-Title-IV-D information.

The FOC director or designated employee has discretion concerning how documents should be provided. Whenever possible, the manner in which documents are provided should correspond to the requested method.

The FOC director may authorize other methods of access if the requested method would be burdensome or disruptive to the office. The local circuit court should adopt an administrative order under [MCR 8.112\(B\)](#) to make reasonable regulations necessary to protect the FOC records and prevent excessive and unreasonable interference with the discharge of the FOC functions. [MCR 3.218\(G\)](#).

Recommendations for Addressing Domestic Violence and Access to FOC Records

- Only individuals and agencies listed in [MCR 3.218\(B\)\(1\)](#) should be allowed to view non-confidential records.⁴⁵ Note: FOCs may require parties to complete the [FOC 72 “Request to Access Friend of the Court Records and Decision”](#) before the parties have access to FOC records.
- All confidential documents as defined in [MCR 3.218\(A\)\(3\)](#) should be segregated before an individual begins reviewing the file.
- During the review of case records, the FOC staff should be present at all times to ensure that the documents are protected while records are being inspected. This applies to both inspection of printed material or any imaged material where a paper file does not exist.
- When records are reviewed in the FOC office, staff should ensure that only the information allowed to be shared under [MCR 3.218\(A\)\(3\)](#) is available.
- Federal and state regulations provide that when there is family violence, the address and other personal identifying information of the affected individual(s) may not be released to

⁴⁵ Individuals and agencies listed in [MCR 3.218\(C\)\(1\)-\(6\)](#) must be given access to nonconfidential and confidential records. [MCR 3.218\(G\)](#) provides that, “A court by administrative order adopted pursuant to [MCR 8.112\(B\)](#) may make reasonable regulations necessary to protect FOC records and to prevent excessive and unreasonable interference with the discharge of friend of the court functions.”

another party.⁴⁶ [MCR 3.218\(A\)\(3\)\(h\)](#) provides: “all information classified as confidential by the laws and regulations of title IV, part D of the Social Security Act, [42 USC 651 et seq.](#)” Any document that contains the following information would be considered a confidential document:

- Social Security number;
 - Residential and mailing addresses;
 - Employment information (e.g., name of employer, employer address);
 - Financial information.
- FOC staff should check for court orders that prohibit the release of certain information, thus making records and documents confidential.⁴⁷
 - A domestic relations PPO can prohibit a perpetrator from obtaining access to identifying information in children’s records. If the case file contains children’s records, the FOC should check the PPO to verify if it restricts access to such records.
 - An FOC office may designate domestic violence screening documents as confidential documents under the following circumstances:
 - Before a custody and parenting time investigation, the screening document can be considered “staff notes” under [MCR 3.218\(3\)\(a\)](#) (thereby making the notes confidential and not subject to disclosure to a party).
 - When the screening document is mailed and filled out by the party, and the case is under litigation, the office could treat the document as a record the FOC did not create ([MCR 3.218\[E\]](#)), thereby allowing the office to refuse disclosure because parties have the right to engage in discovery between them.
 - The court could ensure confidentiality of the screening document by having it recorded as confidential and/or not subject to disclosure as part of an LAO ([MCR 3.218\[G\]](#)).
 - The FOC should consider designating a private area, if available, for the individual to review the records. The area should be separate from the general waiting room to provide some privacy for the individual. Further, the FOC should establish policies to ensure that the individual does not remove or alter any of the information in the file, and does not have access to information in any other file.
 - Proper records management will reduce the chances unnecessary records will be available for perpetrators to search to gain information about a victim.

⁴⁶ [45 CFR 303.21\(a\)\(1\)](#). Definitions: Confidential information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual’s Social Security number, residential and mailing addresses, employment information, and financial information.

⁴⁷ [MCR 3.218\(A\)\(3\)\(f\)](#).

XVIII. FOC Safety Planning

FOC TASK

FOC employees may encounter domestic violence issues when meeting with both parents. This could occur during a parenting time complaint discussion, objection to a support recommendation, a custody and parenting time investigation, or some form of ADR, such as mediation. All FOC cases must be screened before meeting with both parents. FOC employees should consider the following recommendations if domestic violence is discovered while meeting with both parents.

Recommendations: Addressing Domestic Violence-Meeting with Both Parents

Safety Planning for Mediation.

For any questions regarding safety planning for mediation, please refer to SCAO's Office of Dispute Resolution's Section H of the [Domestic Violence Screening Protocol for Mediators of Domestic Relations Conflict](#).

Safety Planning for Meeting with Both Parents Concerning Custody and Parenting Time.

During a joint interview to discuss or investigate custody and parenting time, the FOC employee may notice safety, abusive or controlling behaviors that were not revealed during the screening process. Behaviors that may be of concern include threatening looks or actions, one parent attempting to speak for or control the other parent, or one party dominating the interview. Not all behaviors are apparent; they can be ambiguous. If these behaviors are present, the FOC employee should separate the parents and escort each to a different room.

- The FOC employee should speak with the victim first and discuss the following: Acknowledge the behaviors that caused the employee to become concerned and ask if anything can be done to increase his or her comfort with the interview.
- Ask the victim if he or she can safely continue with the interview or if meeting separately is preferred or in a different location (e.g., courthouse).
- Determine what safety arrangements are immediately necessary. This may include asking for assistance from law enforcement or other security personnel if the victim consents or meeting in the courthouse where law enforcement is present. Do not contact law enforcement against the victim's wishes unless there is an emergency.
- Describe the interview process and possible outcomes.
- The victim should be informed that the twelve best interest factors will be addressed during the interview and that he or she may be asked about the perpetrator's moral fitness, mental health, and any domestic violence concerns.
- Inform the victim that the custody and parenting time report will contain statements made by both parents. The FOC employee may want to notify the victim when the report is about to be mailed so additional precautions can be taken.
- Before continuing with the joint interview, ask the victim if he or she would like to consult with an attorney and or a domestic violence service provider.
- Ask how the perpetrator might respond to the interview.

- Discuss arrangements for the parties to leave the building separately.
- Explore safety options after the victim leaves the FOC office or courthouse.

If the victim decides to no longer participate in the interview with the perpetrator, he or she should be allowed to leave the building and a separate interview should be scheduled. The FOC employee should return to the perpetrator and explain that separate interviews will be conducted, but not specify why. The perpetrator should be told that it is not uncommon for the FOC to decide to end a joint session if it is determined it would be more helpful to meet with the parties individually.

If the victim decides to continue with the interview, the FOC employee must continually evaluate the safety of the situation and the victim's ability to speak for his or her self. If the FOC employee has continued concerns for the victim's safety or if the employee believes the victim can no longer safely speak for his or her self, the joint interview should be concluded and separate interviews should be scheduled.

The FOC employee should consider the domestic violence issues when preparing a custody and parenting time recommendation or a recommended order to the court. The employee should:

- Avoid nonspecific language in the recommendation such as “reasonable parenting time,” “parenting time as agreed by the parties,” or “parenting time to be arranged later.” The terms of a parenting time recommendation should be stated unambiguously, with pick-up and drop-off locations, times, and days of the week clearly specified.
- Recommend how the parties may communicate with each other to make arrangements for parenting time (e.g., whether the parties communicate by telephone, e-mail, text, or through a third party).
- Recommend that the transfer take place in the presence of a third party and in a protected setting, such as a public place or public safety complex.
- Provide for how disputes between the parties will be resolved (e.g., parenting coordinator).
- Consider if the parties have a PPO and make sure the recommendation is consistent with the PPO language.
- The FOC may consider recommending supervised parenting time and if so, preferably with an organization that specializes in providing services in domestic violence cases. If this is not available, then the victim should at the very least, have input and at best, be allowed to select the supervisor.

Joint Meetings

[MCL 552.642a](#) allows the FOC to use joint meetings to resolve a parenting time complaint or an objection to a support recommendation. As with other ADR procedures, the FOC will attempt to resolve the dispute by assisting the parents in reaching an agreement. If the parties fail to reach an agreement, the FOC may prepare a recommended order. If the FOC employee detects signs of domestic violence, the employee should stop the joint meeting and, with the exception of

discussing the child custody factors, the FOC employee should use the recommendations listed above.

Appendix A: Sample Letter and Questionnaire

Sample Participant Letter

Mr./Ms. [PARTY NAME]:

The _____ Friend of the Court Office often meets with both parents at the same time to discuss custody, parenting time, and child support. It is very important for the friend of the court to know of any safety concerns that may exist between parents or between parents and their children before scheduling a meeting with both parents or schedule a separate meeting. Please find enclosed a domestic violence screening questionnaire. This questionnaire is mailed to both parents and is used to inform us of any concerns you may have about past or present violence, or threats of violence in the family that may impact you being in the same room as the other parent. The information we receive will assist us in providing you with a safe environment when meeting with the friend of the court staff.

Please think carefully about the questions. If you have any concerns about completing the questionnaire, feel free to call our office. We can easily talk about your concerns over the phone, or we can set up a time to speak to you. A meeting will only be scheduled with both parents if BOTH parents complete and return the questionnaire.

Your responses will be kept confidential and will not be shared with the other party.

Your safety is of the utmost importance to the _____ Friend of the Court, so thank you for your time in completing this questionnaire.

Sincerely,

/S/

Initial Screening

Your name: _____

Our goal is to provide a safe environment for families with a friend of the court case. The following information will help us provide that safe environment.

1. Do you feel safe around the other parent? Yes No
2. Has there ever been a Personal Protection Order (PPO) or a no contact order between the parents (including now)? Yes No
3. Has there ever been a PPO or a no contact order issued against the other parent? Yes No
4. Has either parent been charged with a violent crime? Yes No
5. Has the other parent been convicted of a violent crime? Yes No
6. Has the other parent ever physically harmed you? Yes No
7. Are there any child protective (abuse/neglect) actions involving you and/or the other parent in Michigan or any other state or country? Yes No
8. Are there any safety concerns with the children? Yes No
9. Does the other parent experience bouts of rage? Yes No
10. Do you have concerns about sitting in a room with the other parent? Yes No
If so, please explain: _____

11. Do you think you can speak up for yourself in the meeting if the other parent is also present? Yes No
12. If you begin to feel uncomfortable during a meeting, will you be able to ask for a break? Yes No

If there is anything else you would like share with the friend of the court staff, please feel free to write it in the remaining space below. Thanks again for your time.

Signature

Date

Appendix B: Domestic Violence Training

The following websites provide domestic violence information and training materials for FOC employees:

National Institute of Justice:

<https://nij.gov/topics/courts/domestic-violence-courts/Pages/welcome.aspx>

Michigan Department of Health and Human Services:

https://www.michigan.gov/mdhhs/0,5885,7-339-71548_7261_21516---,00.html

Michigan Judicial Institute:

<https://mjieducation.mi.gov/>

National Center for State Courts:

<https://www.ncsc.org/Topics/Children-Families-and-Elders/Domestic-Violence/Resource-Guide.aspx>

The Michigan Judicial Institute (MJI) provides domestic violence training videos:

<https://mjieducation.mi.gov/search-results?searchword=domestic%20violence&searchphrase=all>

<https://mjieducation.mi.gov/videos/foc-domestic-violence-training-part-1>⁴⁸

<https://mjieducation.mi.gov/videos/foc-domestic-violence-training-part-2>

Also, the Michigan Family Support Conference (MFSC) will often provide domestic violence workshops at its Fall Conference usually held the first week of October every year. The MFSC website is at <http://mifsc.org/>.

⁴⁸ FOC employees who complete domestic violence training parts 1 and 2 are qualified to conduct joint meetings as provided for in [MCL 552.642a](#).

Appendix C: Acknowledgements

Friend of the Court Domestic Violence Resource Guide Acknowledgements

The State Court Administrative Office Friend of the Court Bureau would like to thank the following individuals for their efforts in reviewing sections of the Friend of the Court Domestic Violence Resource Guide.

All Sections

Family Division Judge Janice Cunningham, 56th Circuit Court
Tiffany Martinez, Project Director, Michigan Domestic and Sexual Violence Prevention and Treatment Board Division of Victim Services

Opening a Friend of the Court Case

Helen Miles, Supervisor, Calhoun County Friend of the Court Office, 37th Circuit Court

Order Entry

Maureen Peterson, Operations Coordinator, Kalamazoo County Friend of the Court, 9th Circuit Court
Ken Randall, Friend of the Court Director, Midland County Friend of the Court, 42nd Circuit Court

Orientation

Helen Miles, Supervisor, Calhoun County Friend of the Court Office, 37th Circuit Court
Mary Kaye Neumann, Supervisor, Oakland County Friend of the Court Office, 6th Circuit Court
Danielle Brownell, Custody/Parenting Time Specialist, Marquette County Friend of the Court Office, 25th Circuit Court

Custody and Parenting Time Investigations

Robert Kulpa, Mediator and Investigator, Wexford/Missaukee County Friend of the Court Office, 28th Circuit Court
Abbie Schlager, Mediator and Investigator, Bay County Friend of the Court Office, 18th Circuit Court

Support Investigations

Christen Schwab, Supervisor, Calhoun County Friend of the Court Office, 37th Circuit Court

Change of Domicile and Change of Legal Address Investigations

Claire Metzgar, Investigator, Calhoun County Friend of the Court Office, 37th Circuit Court

Alternative Dispute Resolution

Lou Belzer, Supervisor, Ingham County Friend of the Court Office, 30th Circuit Court
Sara Anderson, Friend of the Court Director, Jackson County Friend of the Court Office, 4th Circuit Court
Jeremy Hogue, Friend of the Court Director, Grand Traverse, Antrim, Leelanau Counties, Friend of the Court Office, 13th Circuit Court

Domestic Relations Referees

Carol Bealor, Friend of the Court Director, Cass County Friend of the Court Office, 43rd Circuit Court

Melissa Sytsma, Referee, Cass County Friend of the Court Office, 43rd Circuit Court
Stephanie Witucki, Referee, Wayne County Friend of the Court Office, 3rd Circuit Court

Custody and Parenting Time Enforcement

Allen Schlossberg, Eaton County Friend of the Court Director, Eaton County Friend of the Court Office, 56th Circuit Court
Carrie Haeck, Senior Investigator, Eaton County Friend of the Court Office, 56th Circuit Court

Child Support Enforcement

Jevona Watson, Judicial Service Officer, Macomb County Friend of the Court Office, 16th Circuit Court

Child Support Reviews

Joseph Hudson, Friend of the Court Director, Monroe County Friend of the Court Office, 38th Circuit Court
Ken Schreur, Support Investigator, Ottawa County Friend of the Court Office, 20th Circuit Court
Michelle Crowe, Supervisor, Kent County Friend of the Court Office, 17th Circuit Court
Sandra Erskine, Friend of the Court Director, Tuscola County Friend of the Court Office, 54th Circuit Court

Uniform Child Custody Jurisdiction Enforcement Act

Barbara Kelly, Deputy Director, Washtenaw County Friend of the Court Office, 22nd Circuit Court
Traci Rink, Referee, Oakland County Friend of the Court Office, 6th Circuit Court
Cynthia Sherburn, Supervisor, Wayne County Friend of the Court Office, 3rd Circuit Court

Case Closure

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Nicole Withrow, formerly Management Analyst, Michigan Department of Health and Human Services, Office of Child Support

Good Cause

Monica Bowman, Michigan Department of Health and Human Services, Office of Child Support

Access to Friend of the Court Records

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Lona Julien, Friend of the Court Director, Branch County Friend of the Court Office, 15th Circuit Court

Safety Planning

Mary Kaye Neumann, Oakland County Friend of the Court Office, 6th Circuit Court
Tracey Stieb, Oakland County Friend of the Court Office, 6th Circuit Court