

Frequently Asked Questions

Custody Questions

1. How do I get an order for custody?

A petition requesting the Court to grant you custody of your children must be filed with the Court. If both parents agree and sign an agreement (stipulation) that agreement can be entered by the Court as the custody order.

2. How do I change an existing order for custody?

A petition to modify a custody order must be filed with the Court or the parents can sign a written agreement changing custody (stipulation) which, if the Court approves it, will change custody.

3. Do I need to have an attorney to get custody?

It is not necessary that you have an attorney to seek custody. However, there are many issues involved in a custody matter and an attorney can help you with these issues.

4. Are there different kinds of custody?

- a. Joint Custody means the following: The children live with one parent part of the time and with the other parent part of the time and/or the parents both share in making decisions on important issues dealing with the children.
- b. Sole Custody means the following: The children live with one parent and that parent is responsible for making all decision on important issues dealing with the children.

5. Do I have a right to receive a copy of the Friend of the Court report on custody?

The Friend of the Court office must provide a copy of the report to each parent or their attorney. If you have an attorney only your attorney will receive a copy and you would have to obtain a copy from them.

6. What can happen if I am the custodial parent and the other parent does not return the child to me as stated in the court order?

You may contact your attorney or the Friend of the Court office and request enforcement of your order. You may also contact local law enforcement and request the matter be investigated for parental kidnapping.

7. Does the Friend of the Court investigate alleged abuse and/or neglect of a child?

The allegations of abuse or neglect should be reported to the Protective Services division of your local Department of Human Services. Allegations of abuse or neglect should be communicated to the Friend of the Court during any custody or parenting time investigation.

Parenting Time Questions

1. The parenting time order states that the parent has “reasonable and liberal rights of parenting time.” What does this mean?

This means that the parents have the responsibility for setting up a mutually agreeable schedule for parenting time. If you cannot agree to a schedule and your order permits it you may contact the Friend of the Court in writing to request its assistance. You may also file a motion to change parenting time if you cannot agree on a schedule.

2. We have a specific parenting time schedule that I want to change?

If you need to make a permanent change to the schedule you should ask the other parent if they will agree to the change (stipulation). If the other parent does not agree you have to file a motion with the Court.

3. If the parent who pays child support is not making regular payments do I have to allow that parent to have parenting time?

Yes, parenting time and support issues are separate matters with separate enforcement procedures.

4. The other parent is not following the parenting time order. What can I do?

You may file a written complaint with the Friend of the Court. If the Friend of the Court determines that the parent may have violated the order than they may start enforcement proceedings.

5. The other parent is not sending or returning clothing or other personal items of the child. What can the Friend of the Court do?

The Friend of the Court can only enforce the written court order. Unless your court order states each parents' responsibility for clothing or other personal items the Friend of the Court does not have any enforcement ability.

6. Do I have to let the children go for parenting time if I suspect the other parent has been drinking or using drugs?

That is a decision a parent must make. The Friend of the Court cannot tell you to violate a court order. If you make the decision to deny parenting time you may be required to come to a court for a contempt hearing to explain why you felt your decision was justified.

7. I am concerned that the other parent may be discussing changes in the court order with the children. What can the Friend of the Court do?

The Friend of the Court has no enforcement ability regarding such an issue.

8. Does the Friend of the Court have a responsibility to investigate alleged abuse and/or neglect of a child?

The Friend of the Court does not have an authority to investigate child abuse or neglect. Those types of allegations should be reported to your local Protective Services division of your Department of Human Services.

9. We have a parenting time order and our teenage child does not want to come for parenting time. What can be done?

The parents and child are required to follow court orders. However you could consider the following: 1) Try working out a different parenting time arrangement with the child and other parent or 2) You may file a written complaint with the Friend of the Court asking it to enforce your parenting time order.

Child Support Questions

1. Does the judge have to use the Michigan Child Support Formula or the Friend of the Court recommendation when setting a child support obligation?

The Michigan Child Support Formula and Friend of the Court are used to assist the Court in a making a decision concerning child support. Under Michigan law the judge does not have to follow the Friend of the Court recommendation of Formula when making a final decision.

2. If I have been paying my child support and the custodial parent is not allowing parenting time am I required to keep paying my child support?

Yes, parenting time and support matters are separate issues.

3. What can I do if the parent is not paying their support obligation?

Contact the Friend of the Court and request that it initiate enforcement proceedings. You may also contact an attorney to file an enforcement action.

4. The payer of support is self-employed and not making regular support payments. What can the Friend of the Court do?

In these cases the Friend of the Court can start an enforcement action because income withholding is not usually effective when a payer is self-employed.

5. The court order states that I have to pay the support obligation through the Michigan State Disbursement Unit (MiSDU). Can I pay the support directly to the other parent?

No, not without changing your court order and opting-out of Friend of the Court services.

6. Does the Friend of the Court have the right to deduct statutory fees from a child support payment?

Michigan law provides that the Friend of the Court may deduct unpaid fees from any support payment.

7. If I receive cash assistance benefits through the Department of Human Services will I still get child support?

No, all child support payments paid while you are on assistance must be sent to the Department of Human Services. However, if the payer is making payments you may receive up to the first \$50.00 of any child support paid for each month.

8. Is the Friend of the Court responsible for ensuring that all child support payments are being spent by the custodial parent on the child?

No, the Friend of the Court has not legal authority to question how child support payments are spent.

Miscellaneous Questions

1. Why won't the Friend of the Court enforce what the Judge said at the hearing even if it is not in the court order?

A court speaks through its written order and therefore, the Friend of the Court only enforces written orders. If you feel that the written order is incorrect and you were represented by an attorney you should discuss it with them. If you were not represented by an attorney you may want to order a transcript of the hearing from

which the order is based on. If you find that the order does not agree with the transcript and the other parent will not agree to change the order you may file a motion with the Court asking it to correct the order.

2. Who has to carry health insurance for the children?

You should review your support order. The responsibility to carry health insurance is enforced as written.

3. I believe that my health care insurance is too expensive. Do I have to provide it?

The Friend of the Court office will enforce the language in your support order. If it state that you must obtain and maintain health care insurance at a reasonable cost, they will ask for income information and proof of your out-of-pocket costs from your employer. The Michigan Child Support Formula will be used to determine the reasonable cost to carry health insurance.