

Frequently Asked Questions

THIS PAGE IS A SAMPLE OF FREQUENTLY ASKED QUESTIONS WITH GENERALIZED ANSWERS. YOUR CASE HAS SPECIFIC ORDERS THAT MUST BE FOLLOWED.

Q. The other party is not sending or returning clothing or other personal items for our child. Is there anything the Friend of the Court can do?

A. The Friend of the Court follows the written order of the court. Unless your court order states each parent's responsibility for clothing, the Friend of the Court does not have any enforcement power.

Q. Do I have to let my children go for parenting time if it appears that the other parent has been drinking or using drugs?

A. That is your decision. If you make the decision to deny parenting time in these circumstances, you may be asked to explain to the court at a contempt hearing why you felt your decision was in the best interest of the children.

Q. How do I get an order for custody?

A. 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 and consent agreement), that agreement, if approved by the court, may be entered as a custody order.

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

A. A petition to modify a custody order must be filed with the court, or the parents can sign a written agreement changing custody (stipulation and consent agreement), which if approved by the court, will change custody.

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

A. It is not required that you have an attorney to file a petition for custody. However, there are many complicated issues involved in a custody case and therefore you may want to have an attorney represent you. The Friend of the Court cannot file a petition for custody for you.

Q. Are there different kinds of custody?

A. Yes, a number of custody arrangements are possible. The most common are:

1. Joint Custody

Joint custody means an order of the court in which one or both of the following are provided:

1) That the children live with one parent part of the time and with the other parent part of the time.

2) That the parents both share in making decisions on important issues dealing with the children.

2. Sole Custody

An order of the court which states that the children live with one parent and that parent is responsible for making decisions on important issues dealing with the child.

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

A. File a written complaint with the Friend of the Court office. If the Friend of the Court determines that either parent has violated the parenting time order, they have the responsibility to proceed with enforcement.

Q. I am concerned about the other parent discussing changes in the court order with the children. What can the Friend of the Court do?

A. Unless your court order forbids such discussions, the Friend of the Court has no enforcement power.

Q. I have a parenting time order and my teenage child does not want to come for parenting time. What can I do?

A. The parents of the child are bound by the court orders. However, you may consider one or more of the following:

1. You may want to see if you can work out a different parenting time arrangement with the child and the other parent.

2. You can file a petition with the court requesting a change in your parenting time order.

3. You can request the Friend of the Court enforce our parenting time order.

Q. Can I simply call the Friend of the Court and tell the office that my child is now living with me if my ex-spouse and I agree?

A. No. You will need to modify your court order and have it signed by a judge.

Child Support

Q. How do I get support?

A. A petition requesting the court to grant an order for support must be filed with the court either by a party or an attorney. If both parties agree and sign an agreement (stipulation and consent agreement), that agreement will be entered as a support order if it is approved by the court. When money is received at the MISDU on your case and owed to the payee, a check is issued from the MISDU to the payee.

Q. May I receive child support after my child reaches age 18?

A. Child support can continue up to age 19 1/2 if the child attends high school on a full-time basis with a reasonable expectation of completing sufficient credits to graduate and the child continues to reside on a full time basis with the person who receive the support payments.

Q. If I have been paying child support as required by the court's order but the custodial parent will not allow me the parenting time required by the order, do I have to keep paying support?

A. Yes. Parenting time and child support orders are enforced separately.

Q. The other parent is not paying child support as ordered. What can I do?

A. Contact the Friend of the Court for enforcement help if the other parent is more than one month behind on the support payments.

Q. My court order says to pay support through the Friend of the Court or the MISDU (Michigan

State Disbursement Unit). May I pay the other parent directly?

A. NO, not unless your order specifically allows direct payment. If it does not, you might not receive credit for payments made directly to the other parent.

Q. If I am receiving TANF or DHS (Department of Human Services) assistance, may I also receive child support?

A. No. The MISDU must send any support payments that it receives from the other parent to DHS to offset the public assistance that you received from DHS.

Q. Will the Friend of the Court make sure that child support money is spent on the children?

A. No. The law does not authorize the Friend of the Court to verify how child support payments are spent by the custodial parent.

Q. Will the court modify the support order if the payer is in jail or prison?

A. The support amount is determined by the standard child support formulas, which considers the parties' incomes. Therefore, an incarcerated payer's support obligation may be modified if a motion to modify support is filed. Either a party or the Friend of the Court may file that motion.

Q. The payor of support is self-employed and not making his/her support payments. What can the Friend of the Court do?

A. Income withholding orders are not usually effective when a payer is self-employed. In these cases, the Friend of the Court may seek enforcement using one or more of the following options:

1. Petitioning the court for a show cause hearing.
2. Submitting the payer's name for tax intercept (offset).
3. Filing a lien on the payer's property.

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

A. Michigan Court Rules provide that the Friend of the Court may deduct unpaid fees from any support money paid after the fee is due (charged January 2nd and July 2nd of each year).

Miscellaneous Issues

Q. How do I get the court's approval to change the children's residence to a place not allowed by my current order?

A. Parties may agree to a change of residence (domicile) by signing an agreement (stipulation). This stipulation must be put in the form of an order and signed by a judge. It then becomes an order of the court. If you and the other parent cannot agree on the proposed change or domicile, you may file a motion that asks the court to enter an order approving the change. You must obtain a court order approving the move.

Q. Why won't the Friend of the Court enforce a verbal or notarized agreement?

A. The Friend of the Court's authority is limited to enforcing written orders signed by a judge.

Q. Can the Friend of the Court enforce property settlement provisions in my judgment of divorce?

A. No. The Friend of the Court has no authority to enforce the court's property-division order. The court will enforce its own order. If the party does not comply with an order, you may file a motion asking the court to enforce that order.

Q. May I see my child's school, medical, and other records if my child lives with the other parent?

A. Michigan law gives both parents the right to see certain records regardless of the custody arrangement. That includes medical, dental, school, and day care records. In addition, both parents are entitled to receive advance notice of meetings that concern their child's education.

However, the Friend of the Court cannot enforce that law. You may wish to consult an attorney if you are denied any of those rights.

Q. What happens to my child support order if my minor child is adopted, married, or enters the military service?

A. When any of those "emancipation events" occur, the court will grant a motion ending the obligation to pay further child support. Copies of adoption orders, marriage records, or military service records should be provided to the court. Any overdue past support must still be paid.

Q. Will the Friend of the Court help find a missing parent?

A. Yes. The state and federal governments have a parent locating service. It may be used to locate a parent for any of the following purposes:

* Collect child support

* Obtain a court order on a child custody or parenting time matter, or enforce an existing order for either type.

* Enforce state or federal law prohibiting the unlawful taking or restraint of a child.

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

A. A Friend of the Court does not have any responsibility to investigate child abuse or neglect. Allegations of abuse or neglect should be reported to the Protective Services unit of your local Department of Human Services (DHS) office.

Q. How old does a child/ren have to be before they can decide where to live?

A. When children reach the age of 18 years (or are determined to be emancipated by a judge), they can decide where to live. However, before age 18, the Child Custody Act requires the court to consider, "The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference." Judges usually place more emphasis on the preference of the child if the child demonstrates a greater level of maturity and understanding.

Q. Do I have to get the court's permission to move more than 100 miles from my current home if I only have parenting time with my child?

A. Yes, unless the other parent agrees, both parents were already living 100 miles apart when the judge signed your court order, sole custody was granted to the other parent, or the move results in the child's legal residences being closer to each other than before the move.