

# Michigan Judicial Institute and Friend of the Court Bureau Webinar

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## Functions of the Friend of the Court Office

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## Functions of the Friend of the Court Office

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### Objectives

- ❖ Background and Evolution of the Friend of the Court
- ❖ Program Partners
- ❖ Life of a Case
- ❖ FOC Duties

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### FOC History

- ❖ World War, Women's Rights, the Pandemic, and the Industrial Revolution
- ❖ Wayne County 1917
- ❖ 1919 FOC Legislation
  - ❖ The original charge of the FOC was:
    - Examine records and files in divorce cases and determine if the children regularly receive support and are properly cared for by their custodian.
    - Make recommendations to the court for the betterment of conditions and ascertain the moral and general conditions surrounding the children.

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## Functions of the Friend of the Court Office

- ❖ Investigate and Report to Court
  - Eyes and Ears
- ❖ Implement the Court's Orders
- ❖ Enforce the Court's Orders
- ❖ Act as Liaison Between Court and Litigants
- ❖ Provide Alternative Dispute Resolution

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## Federal Laws

- ❖ Most of what we do today
  - Began in 1950
  - **Big changes in 1975 – IV-D**
  - Major changes 1976-82
  - More changes in 1984
  - More changes in 1988
  - Final major changes in 1996

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## Michigan - 1982

- ❖ Moved FOC into Circuit Courts
  - One in every circuit
- Added SPTEA
- Added 215 Fund
- Created FOCB in SCAO

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## Authorities - Federal

- ❖ Federal OCSE Produces Policy
  - Regulations
  - PIQs
  - ATs
  - DCLs
- ❖ OCS is Obligated to Follow Them
  - Contracts with Circuit Courts to Have Their FOCs Follow Them.

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## Authorities - Judicial

- ❖ Supreme Court
  - Court Rules
  - Administrative Orders
- ❖ SCAO
  - FOCB Policies
  - Forms
  - Formula
- ❖ Circuit Courts
  - LAOs
  - LCRs
  - FOCs



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## Authorities Continued - Legislative

- ❖ Legislative
  - State Statutes
  - Local County Commission
    - Budget

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## Governmental Unit Interaction

- ❖ OCS
- ❖ Clerk
- ❖ Sheriff
- ❖ Local Police
- ❖ Prosecutor
- ❖ Treasurer
- ❖ Chief Judge
- ❖ Other Judges
- ❖ County board
- ❖ Legislators

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## Michigan's IV-D Partners

- ❖ Office of Child Support (OCS-MDHHS)
  - > PLG
  - > WITs
- ❖ State Court Administrative Office (SCAO)
- ❖ Prosecuting Attorney (PA)
- ❖ Friend of Court (FOC)
- ❖ Attorney General (AG)

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## Central Operations-MDHHS

- FIDM-Financial Institution Data Match
- Insurance claims data match
- Parent locate
- Passport denial
- Tax Offset

The centralized role is to:

- Transmit combined tax offset files to OCSE and state treasury
- Receive and synchronize rejection files returned by OCSE
- Provide information/guidance to field staff and customers on limited basis

The Friends of the Court (FOCs) are responsible for explaining the tax refund offset processes to their clients and directing them to the appropriate federal and state tax information phone numbers for information on tax refund offset statuses.

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## MiSDU-MDHHS

- Receives and disburses payments
- Updates residential and mailing address changes
- Direct deposit and debit card establishment for custodial parties
- Personal Identification Number (PIN) changes for IVR access
- Financial research and collection adjustments
- Escheatment form requests
- Bank reconciliation

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## MiSDU-FAQ PAGE

Customer service tab

**Q. Who can I talk to when there is a problem with my support payment?**

A. For payment questions call the Michigan child support county interactive voice response (IVR) at 877-543-2660 and follow the prompts to the MiSDU. If you have enforcement or case questions, follow the prompts to the Friend of the Court.

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## Life of a Case-Support Specialist-MDHHS

- Public assistance referrals
- 1201 applications
- Interview
- Locate and locate tools
- Send [Court Action Referrals \(CARs\)](#) to the Prosecuting Attorney (PA) or Friend of the Court (FOC)

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### Life of a Case - Establishment

- 1201 Applications
- Assistance Referrals
  - TANF (CDC)
  - FAP
  - Medicaid (XIX)
  - IV-E
  - Previous assistance cases
- Coop/Non Coop

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### Life of a Case - Establishment

- Prosecuting Attorney
  - Evaluate CAR
  - Interview parties
  - Locate when necessary
  - Genetic testing
  - Affidavit of Parentage
- Establish order

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### Life of a Case -Domestic Relations Cases

- Two Types
  - With Lawyers
  - Without Lawyers

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## Life of a Case-Domestic Relations Cases

- With a Lawyer
  - Stages of grief
    - Denial
    - Anger
    - Bargaining
      - Manipulation
      - Negotiation and resistance
    - Depression
    - Acceptance
- Resolution to file
- Expectations

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## Life of a Case-Domestic Relations Cases

- Preparing the documents
  - Complaint
  - Financials
  - IV-D application

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## Life of a Case-Domestic Relations Cases

- Filing
  - Complaint
  - Service of Process
  - Answer
- Negotiation
- FOC Assistance
- Final Judgment

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### Life of a Case-Domestic Relations Cases

- Self-Represented
  - May have settled in advance
  - Same emotions but...
    - Confusion
  - FOC Assistance
    - Final Judgment

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### FOC Administrative Duties General

- ❖ Perform Duties under direction and supervision of CJ
- ❖ Take necessary steps to adopt procedures to implement FOC Act, Court rules and FOCB policies

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### FOC Administrative Duties Reporting

- ❖ Grievances - Policy 2003-03
  - By statute
  - FOC and then CJ
  - Report Annually to SCAO and SCAO reports to legislature
  - CAC for gender bias and for operations
    - not FOC function

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### FOC Administrative Duties Reporting

- ❖ Statistical Report
  - Annually to SCAO
  - Uses:
    - For statistics to reporters, legislators
    - For management assistance



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### FOC Administrative Duties Reporting

- ❖ Annual Review
  - Required by statute yearly
  - It provides basic information
  - More important is that it allows venting
- ❖ Child Support Deviation Survey
  - We have been doing these to review the guideline

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### FOC Administrative Duties Opening and Closing Cases

- ❖ Opening FOC case
- ❖ Case Closure
  - Governed by SCAO policy 2001-09 and by OCS Policy Manual Section 3.5
    - IV-D vs Court Case
    - MCR 3.208

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**FOC Administrative Duties  
Contract**

- ❖ Contract Administration
  - OCS contract
  - Time records 66% IV-D

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**FOC Fees**

\$42.00 per year  
per family

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**FOC Duties-Accounting**

- ❖ Allocation, Distribution, Disbursements
  - First to current support
  - Then arrears
  - Finally, non-support
- ❖ Audits - What are they? Opportunities

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## FOC Duties-Accounting

Receipt and Disburse Timely

Separation of 4 Basic Duties - Receiving, Receiving, Reconciling, and Adjusting

"Employees who are involved in opening mail, receipting payments, balancing accounting records, and performing bank reconciliations should not be able to delete case files, make adjustments to financial records, or modify court orders in the automated system" 6-05 Court Administration Ref Guide

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## FOC Duties – Custody and PT

- ❖ Inform of Availability of Joint Custody
- ❖ Make Mediation Available
  - Lawyer, Graduate degree, license to practice psychology, 5 years' experience in family counseling, and take SCAO approved training.
- ❖ Investigations
  - Prejudgment if dispute.
  - Written Reports
  - Meet with party on request.
- ❖ Objections to Ex Parte Orders
  - Within 14 days, FOC must assist to resolve. Schedule hearing within 21 days.
  - Provide form motions to rescind or modify.

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## Facilitative Information Gathering Conferences

- History
- How They Work

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## FOC Duties – Custody and PT

- ❖ Parenting Time Enforcement
  - Notice of violation
  - Must help prepare if asked.
  - Not required to enforce if two or more complaints and costs awarded but unpaid.
- ❖ Make up PT notice and no objection in 21 days then apply
- ❖ Mediation
- ❖ Joint meetings
  - Allows 21 day notice. Person must be trained in DV. For minor complaints. Can be by phone.
- ❖ Contempt
  - Show cause. Can't know so parties should be present.
- ❖ Modification
  - Allows investigation commensurate with issue. 21 day notice.
- ❖ License suspension

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## FOC Duties - Support

- ❖ Investigation-Evaluation
  - Tax Returns, Contact Employers
- ❖ Before final judgment – If ordered
- ❖ After Judgment-Support Reviews
  - Reasonable Grounds Include:
    - Unordered change of custody or to include health care or changes in needs or assets, incarceration for one year (6 months by policy) or release.
  - Request Once Every 36 Months
    - More frequent if show substantial change in circumstances as set forth in child support guideline.
  - Medical Assistance-trigger
- ❖ Interstate (subject to same rules)

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## FOC Duties - Support

- ❖ FOC Must Determine Within 14 Days if Order Qualifies for Review
  - Parties May Object to Decision Not to Review
- ❖ Conduct of Review and Notice to Parties
  - Must Complete Within 180 days
  - Request Information at Least 21 days Before Review
  - FOC Runs Guidelines and Makes Recommendation at Least 21 Days But No Later Than 120 Days After Information Provided
  - Send Recommendation to Parties With Notice
    - That recommendation will be incorporated into order if no objection within 21 days
    - Where to file objection
    - Must include a summary of calculations used

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### FOC Duties - Support

- ❖ Support Issues
  - Threshold-10% or \$50 whichever greater
  - Retroactivity -To date that notice of change provided to other party
  - Imputing, actual ability to earn, **Individual**
  - Incorrect Information; new recommendation, joint meeting, hearing
- ❖ Use of Formula - Mandatory must deviate
- ❖ Form Motions - Must be made available
  
- ❖ In addition to Review and Mod, Change in Custody
  - Redirect and abate

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### FOC Duties – Support Enforcement

- ❖ Begin at 1 Month
- A. Income Withholding
  - Delayed
  - Immediate
  - Administrative Adjustment
    - must give notice of new amount.
    - It is larger of minimum \$50, 50% of current support, last ordered if no current
    - Maximum 50% but this is an employer issue
  - Termination 60 days if cannot locate

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### FOC Duties – Support Enforcement

- B. Tax Offsets
  - \$150 FIP/\$500 Non-FIP
  - Exception to Payee First - Goes to State
- C. Consumer Reporting
  - MiCSES Does It
  - Mandatory
  - Not Necessarily Very Effective

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## FOC Duties – Support Enforcement

- D. License Suspensions
  - Optional - Somewhat Effective
  - Notice Method
    - Must give 21 day notice. If no answer then suspend. If answer hearing.
  - Judicial Method
    - Notice of hearing and conditional suspension
    - Post suspension notice must be given by certified mail - but need not be received

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## FOC Duties – Support Enforcement

- E. Liens
  - Regular
    - There is a lien on everything. Problem is perfection.
  - Financial Institution FIDM.
    - Match, lien, FI sends out notice, if objection hearing, if not send money. If don't like can go to court. Enormously successful.
  - Simpler procedures for judgments, Workers Compensation, inheritances.
    - Will track FIDM process
- F. Bonds
  - Security. Statute says for future and past-due.

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## FOC Duties – Support Enforcement

- G. Show Cause - Contempt actions
  - Failure to pay out of available resources
    - Presume 1 month
  - Failure to exercise due diligence
  - Failure to attend work program
  - Remedies
    - Jail 45 and 90
    - Alternatives
    - Work programs - Required if finding under due diligence
    - Fine of 100
  - Failure to appear
    - Bench Warrant – Minimum bond 25% or \$500 security
    - Any remedy

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## Support Related Activities

- H. Fraudulent Conveyances (IV-D Agency)
- I. Miscellaneous Actions - but not FOC function
- J. Enforcement Related Tools
  - Surcharge - variable rate and does not compound.
  - Location
  - Motion for surcharge relief
- K. Felony Non-Support
  - a. State
    - Violate a support order and leave the state 1-3 years
    - Fail to pay support in amount due or on due date 4 years
  - b. Federal
    - Willful failure to pay support
    - Looking at \$20,000 threshold

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## FOC Duties – Interstate Support Enforcement

- ❖ UIFSA
  - In a nutshell
  - Order is immediately effective
- ❖ RURESA
- ❖ Redirection of Support

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## FOC Duties – Medical Support

- ❖ Bills
  - Procedure
    - Time limits 1 year
    - Incurred vs. paid
    - Notice
- ❖ Formula
  - Enrollment
    - QMSCO
    - Should have in order



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