

## **DIRECTIONS FOR OPTING OUT OF FRIEND OF THE COURT SERVICES**

1. File the Stipulation/Motion with the County Clerk, and pay the Motion Fee.
2. Serve the Friend of the Court with a True Copy of the filed Stipulation/Motion.
3. Prepare the Court Order and obtain the Judges signature on the Court Order to Opt-out.
4. File the Court Order with the County Clerk.
5. Serve the Friend of the Court office with a True Copy of the Court Order to Opt-out.

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

ADVICE OF RIGHTS REGARDING  
USE OF FRIEND OF THE COURT SERVICES

CASE NO.

Friend of the Court address

Telephone no.

**I. Right to Refuse Friend of the Court Services**

a. You have the right to refuse friend of the court services for custody, parenting time, and support. To decline friend of the court services, you must file with the court a motion requesting that friend of the court services not be required. You must attach a signed copy of this advice of rights to the motion. The court will grant the motion provided both parties agree and have signed this advice of rights and it determines that the following are true:

- 1) Neither of you receives public assistance for the child(ren) or requests friend of the court services.
- 2) There is no evidence of domestic violence or uneven bargaining position between you.
- 3) The court finds that declining to receive friend of the court services is not against the best interests of a child.

b. If you already have a friend of the court case, you can file a motion to discontinue friend of the court services provided both parties agree and have signed this advice of rights and the court finds that the following are true:

- 1) Neither of you receives public assistance for the child(ren) or requests friend of the court services.
- 2) There is no evidence of domestic violence or uneven bargaining position between you.
- 3) The court finds that declining to receive friend of the court services is not against the best interests of a child.
- 4) No money is due the state because of past public assistance.
- 5) No arrearage or a custody or parenting time order violation has occurred in the last 12 months.
- 6) Neither of you has reopened a friend of the court case in the last 12 months.

**2. Friend of the Court Services (you will not receive these services if you choose not to use the Friend of the Court)**

The friend of the court must provide the following services for friend of the court cases. You are entitled to these services unless you choose to refuse the services and the court grants that choice.

**a. Accounting Services**

Friends of the court must collect support and disburse it within 48 hours. Friend of the court accounting services include:  
1) friend of the court accounting for payments received and sent; 2) adjustments of support for parenting time or other credits; and 3) annual statements of accounts, if requested.

**b. Support Enforcement Services**

The friend of the court must begin to enforce support when one month of support is overdue. For friend of the court cases, child support enforcement services include:

- Paying support out of tax refunds.
- Asking the court to order the nonpaying party to come to court to explain the failure to pay.
- Having unpaid support paid out of property the payer owns.
- Reporting support arrearage to a consumer reporting agency or requesting that the payer's licenses be suspended.
- Collecting support by an income withholding order.

If you choose not to receive friend of the court services, any existing income withholding source will be notified that the friend of the court is no longer responsible for income withholding. **The parties will be solely responsible for stopping or changing income withholding as the law allows.** The friend of the court will stop any unfinished collection actions.

**c. Medical Support Enforcement Services**

The friend of the court is required to recommend how the parents divide health care expenses and to take action to collect the amounts that a parent fails or refuses to pay. When a parent is required to insure the children the friend of the court is authorized to instruct an employer to enroll the children in an insurance plan when the parent fails or refuses to do so.

**d. Support Review and Modification Services**

Once every two years persons with friend of the court cases may request the friend of the court to review the support amount. After completing the review, the friend of the court must file a motion to raise or lower support, or inform the parties that it recommends no change. It must also review support when changed circumstances lead it to believe that support should be modified.

See other side

**e. Custody and Parenting Time Enforcement Services**

For friend of the court cases, the friend of the court must enforce custody and parenting time when a party complains that it is violated. Child custody and parenting time enforcement services include:

- Asking the court to order the noncooperating party to come to the court to explain the failure to obey the parenting time order.
- Suspending the licenses of individuals who deny parenting time.
- Awarding makeup parenting time.
- Joint meetings to resolve complaints.

**f. Custody and Parenting Time Investigation Services**

For disputes about custody or parenting time in friend of the court cases, the friend of the court sometimes must investigate and provide reports to the parties and the court.

**g. Mediation Services**

Friend of the court offices must provide mediation services to help parties with friend of the court cases settle custody and parenting time disputes.

**3. State Disbursement Unit and IV-D Services**

**a. State Disbursement Unit (SDU)**

If you choose not to receive friend of the court services, you may continue to make payments to, and receive payments through, the state disbursement unit (SDU). The SDU will keep track of the amount paid and sent out. However, the SDU cannot provide you with all of the accounting functions the friend of the court provides.

All payments made through the SDU must be distributed to the amounts due as required by federal law. When a payer has more than one case, federal law determines how a payment is divided among the cases. **Even if you choose not to receive friend of the court services, payments through the SDU must be divided among all a payer's cases and distributed in the same manner as payments on FOC cases. You cannot discontinue friend of the court services if you want to use the SDU unless you first provide to the SDU all the information that the SDU needs to set up an account.**

**b. Your Rights Under Title IV-D of the Social Security Act**

Title IV-D of the Social Security Act provides federal government resources to collect child support and it allows certain funding to be used for parenting time and custody services. In Michigan, critical title IV-D services are delivered by the friend of the court. **If you choose not to receive friend of the court services, you cannot receive most IV-D services.**

**ACKNOWLEDGMENT REGARDING SERVICES**

**Check below only if you do not want to receive friend of the court services. Then date, print name, and sign.**

I have read this advice of rights and I understand the friend of the court services I am entitled to receive.

I acknowledge that by signing below I am choosing not to receive any friend of the court services. I understand that before this choice can take effect, a motion requesting this choice and the other party's agreement must be filed with the court for approval. I also understand that the court may deny this choice if certain conditions are not met as stated in this advice of rights.

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**If you did not check the above, you are choosing to receive friend of the court services. For the most effective friend of the court services, you can request IV-D services by dating and signing below.**

I request IV-D services through the friend of the court office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTYSUPPLEMENTAL NOTICE TO ADVICE OF  
RIGHTS REGARDING USE OF  
FRIEND OF THE COURT SERVICES

CASE NO.

Friend of the Court address

Telephone no.

**State Disbursement Unit Payments****a. State Disbursement Unit (SDU)**

If you opt out of the friend of the court, you may continue to make payments through the State Disbursement Unit (SDU). The SDU uses the friend of the court for most accounting functions and cannot provide you with all of the accounting functions the friend of the court provides.

For friend of the court cases, payments are made through the SDU and distributed to the amounts due as required by federal law. When a payer has more than one case, federal law determines how a payment is divided between the cases. **Even if parties opt out of the friend of the court, payments through the SDU must be divided between all payer's cases and distributed in the same manner as payments on friend of the court cases.**

**b. SDU Limitations**

The SDU relies on the friend of the court records to determine the amount of income withholding. The SDU also requires the friend of the court to set up any income withholding or change in income withholding. If you choose not to accept friend of the court services, the SDU will not be able to process payments through income withholding if the person paying support changes jobs or the amount withheld changes.

Under federal law, the state of Michigan is converting its friend of the court to a new single child support enforcement computer system. County friend of the court offices will be converted under a schedule that begins in March, 2003 and continues until September 30, 2003. Until the conversion is completed, only the friend of the court can process checks. If you choose not to accept friend of the court services, you will not be able to use the SDU until all of your cases are converted to MiCSES version 2.4 or greater.

**Your Acknowledgment of System Limitations on Your Right to Opt Out of Friend of the Court Services**

*Please sign and return this form to the friend of the court.*

I have read this form and I want to opt out of the friend of the court. I understand that I cannot opt out of the friend of the court with SDU services until this case is converted to MiCSES version 2.4 or greater.

Date

Signature

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF GRATIOT

Plaintiff,

v.

File No.

Defendant  
\_\_\_\_\_ /

STIPULATED MOTION TO EXEMPT CASE FROM FRIEND OF THE COURT SERVICES

Now come the Plaintiff and the Defendant to the above entitled cause, and hereby, affirmatively states as follows:

1. That there is no domestic violence or unequal bargaining position between the parties to this case.
2. That exempting this case from Friend of the Court services would not be against the best interest of their children.
3. That each party has reviewed a copy of the form "Advice of Rights Regarding the Friend of the Court Services."
4. That neither party receives public assistance for a child in this case.
5. That no money is due to the state because of past public assistance for a child in this case.
6. That no arrearage or custody or parenting time order violation has occurred within the last 12 months in this case.
7. That neither party has reopened a Friend of the Court case within the last 12 months.
8. That the parties do not want IV-D services and have requested that any existing IV-D case is closed.

WHEREFORE, the parties mutually request and stipulate to entry of an order exempting this case from Friend of the Court services, pursuant to MCL552.505, MCL552.505 (a)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Plaintiff)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Defendant)

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

ORDER EXEMPTING CASE FROM  
FRIEND OF THE COURT SERVICES

CASE NO.

Friend of the Court address

FAX no.

Telephone no.

Plaintiff's name and address

Defendant's name and address

v

Attorney:

Attorney:

Date of hearing: \_\_\_\_\_

Judge: \_\_\_\_\_

Bar no.

**THE COURT FINDS:**

- 1. There is no evidence of domestic violence or unequal bargaining position between the parties to the case.
- 2. Granting the parties the relief they have requested would not be against the best interests of any child in the case.
- 3. The parties have filed executed copies of a form advising them of the services they will not receive if their motion is granted.
- 4. Neither party receives public assistance for a child in the case.
- 5. No money is due the state because of past public assistance for a child in the case.
- 6. No arrearage or custody or parenting time order violation has occurred in the last 12 months in this case.
- 7. Neither party has reopened a friend of the court case in the last 12 months.
- 8. The parties do not want IV-D services and have requested that any existing IV-D case be closed. (Note: This box should be checked unless exceptional circumstances exist that entitle the IV-D case to remain open.)

**IT IS ORDERED:**

- 9. Subject to the provisions of item 14 below, this case is not a friend of the court case.
- 10. This case is not a title IV-D case. (Note: This box should be checked if item 8 has been checked.)
- 11. The friend of the court shall not be involved in the enforcement, investigation, or accounting functions for custody, parenting time, or support in this case.
- 12. The parties are responsible for all enforcement and accounting functions for custody, parenting time, or support in this case.
- 13. Except as indicated below, there is no income withholding in this case, support will be paid directly by the payer to the payee, and the friend of the court shall terminate any existing income withholding. Should this case become a friend of the court case, the payer must keep the friend of the court advised of the name and address of the payer's source of income and any health care coverage that is available to the payer as a benefit of employment or that the payer maintains including the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit the payer maintains the coverage.
  - a. Support shall be paid through the State Disbursement Unit (SDU). Support shall be paid by income withholding to the extent allowed by statutes and court rules, however, the friend of the court is not responsible for the income withholding. The friend of the court shall notify the employer that it is no longer involved in the case and that any further information concerning income withholding will be provided by the parties.
  - b. Support shall be paid through the SDU.
- 14. If support payments are to be made through the SDU by income withholding or otherwise, the friend of the court shall not close the friend of the court case until the SDU notifies the friend of the court that it has been provided with the information necessary to process the child support payments. There will be no accounting for support that is not paid through the SDU.
- 14. The friend of the court shall open a friend of the court case if a party applies for public assistance relating to a child of the parties or either party submits to the friend of the court a written request to reopen the friend of the court case. If this case becomes a friend of the court case for any reason, the provisions on the other side of this order shall apply.

Date

Judge

See provisions on back.

**CERTIFICATE OF MAILING**

I certify that on this date I mailed a copy of this order to the other party by first class mail addressed to the last known address as defined in MCR 3.203.

Date

Signature