



*Presents the 2006 Spring Training*



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## **MICHIGAN'S FAMILY COURT SYSTEM**

**BISC-MI SPRING TRAINING  
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**By: Katy Conklin, JD  
Law Office of Kathleen L. Conklin  
617 N. Seymour  
Lansing, MI 48933  
517-267-1500 ext. 208**

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### **Family Division of the Circuit Court**

- Created January 1, 1998, to hear family-related cases
- Formerly heard in both Circuit and Probate Courts
- "Unified Family Court"
  - One family/one judge concept
- Family Division Jurisdiction
  - Domestic Relations Matters
  - Adoption
  - Juvenile Delinquency
  - Child Abuse and Neglect
  - Personal Protection Orders

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## DOMESTIC RELATIONS MATTERS

- PATERNITY
- CHILD SUPPORT
- SPOUSAL SUPPORT
- SEPARATE MAINTENANCE
- DIVORCE
- CUSTODY
- PARENTING TIME

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## Personal Protection Orders (PPO)

- A PPO involves seeking an order from the Family Division of the Circuit Court to protect individuals from harassment, assault, beating, molesting, wounding, or stalking by another person.
- The PPO can also prohibit a person from entering the premises, removing minor children, unless the removal is part of court-ordered parenting time.
  - Petitioner: The person requesting the PPO.
  - Respondent: The person restrained by the PPO.

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## Types of PPO's

- Two types of PPO's: domestic and non-domestic.
- A domestic PPO is for individuals who have or had a dating or established relationship with the other party or have a child in common.
- A non-domestic PPO can be obtained to prevent threatening or violent behavior by someone with whom the petitioner has not had any form of domestic relationship; also referred to as an order against stalking.

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**How PPO's are Issued**

Two ways:

Hearing: The court can issue a PPO after the respondent has been notified that petitioner filed for a PPO and after the court has held a hearing.

Ex Parte: The court may also issue a PPO without notifying the respondent and without a hearing. Most PPO's are issued ex parte.

- Judge must rule within 24-hours after petition filed

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**CHILD CUSTODY**

- A custody order establishes both the custody and parenting time arrangement for the children.
- Required for all minor children, and can be reviewed and changed if both parties agree and the court revises the order, or if a motion is filed with the court.
- Governed by the Michigan Child Custody Act.
  - MCL 722.21et seq.
    - Best Interest Factors
    - Legal and Physical custody

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**Parenting Time**

- Parenting time is time a child spends with his or her parents.
- Based on the court's determination of the best interests of the child.
- Under Michigan law it is presumed to be in the child's best interests to have a strong relationship with both parents.

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## PATERNITY

Three ways to establish paternity:

- *Affidavit of Parentage* form. Both parents sign acknowledgment they are the parents – child is born out of wedlock.
- *Rebuttable presumption*: Child is born or conceived during a marriage presumed child of the marriage.
- *Paternity Action* – Putative father can admit paternity or request genetic testing. If 99.9% certain, Court enters an *Order of Filiation*.

Can be initiated by County DHS through the Prosecutor if the mother: 1) resides in that county; 2) cannot afford an attorney; 3) eligible for child support services via IV-D; or 4) is receiving public assistance.

Can also be initiated by the mother or father by filing a summons and complaint.

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## DIVORCE

- MI is a no fault state: No grounds required to seek or grant a divorce.
  - Fault relevant in spousal support, property division and custody & parenting time orders.
- Jurisdiction: At least one party (Plaintiff or Defendant) must have lived in Michigan for at least 180 days, and in the county where the case will be filed for at least 10 days before filing. (Venue)
- Divorce with minor children: 180-day waiting period.
  - Custody, parenting time, child support, property and debt division, spousal support & dissolution of the marriage
- Divorce without minor children: 60-day waiting period
  - property and debt division, spousal support & dissolution of the marriage.

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## FRIEND OF THE COURT (FOC)

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**ROLE OF THE FOC**

- part of the family division of the circuit court
- serves as the "amicus curiae" (acts as the "eyes and ears") of the circuit court family division judge.
- provides assistance to the court and to furnish the court with recommendations related to domestic relations matters such as custody, parenting time, and support.
- The person who makes the ultimate decision/ruling/order/judgment is the family division judge to whom the case is assigned.

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**FOC Services**

- Enforcement
  - Enforcement of child support in domestic relations cases on behalf of minor children.
  - Enforcement of the orders of the family division of the circuit court and delivering services related to divorce, custody, paternity actions, family support actions, and interstate actions.
    - Referees, Mediators, Caseworkers, Investigators, Conciliators.

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**FOC Services, cont.**

- Investigation (sometimes called evaluation)
  - The investigative and enforcement entity of the family division of the circuit court with respect to child custody, parenting time (visitation), and child support.

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**FOC Services, cont.**

- Dispute Resolution
  - Also required to provide -- directly or through contract -- alternative dispute resolution -- both formally and informally -- through mediation programs.

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**FOC Services, cont.**

- Child Support Enforcement Agency
  - only entity that provides ongoing case-management in domestic relations actions and assists parties to those actions in receiving access to the justice system.
  - Title IV-D of the Social Security Administration Act, requires states to have a child support enforcement agency (IV-D agency). In Michigan, that agency is the Office of Child Support (OCS) which is a division of the Department of Human Services (DHS). The OCS contracts with the counties and courts to have the prosecuting attorney and the friend of the court provide child support enforcement activities, known as IV-D activities.
    - Triggered in Paternity cases involving public assistance

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**FRIEND OF THE COURT ACT**  
**Act 294 of 1982**

Certain FOC duties are required by law; MCL 552.505 mandated duties include:

- 1) investigate and make recommendations to the circuit court judge on child custody, parenting time, and support;
- 2) initiate enforcement of the court's orders regarding custody, parenting time, and support;
- 3) initiate enforcement proceedings upon receiving a written complaint that contains specific facts of an alleged violation of a parenting time or custody order;
- 4) assist a party in preparing a written complaint regarding parenting time, if requested.

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**SUPPORT & PARENTING TIME  
ENFORCEMENT ACT**

AN ACT to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts.

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