

Summary of Changes to Friend of the Court Statutes

Family/Public Benefits Task Force February 24, 2010

PA 233 of 2009 (SB 99): Amends the Friend of the Court Act to:

- Clarify that the county may be a “recipient of support” in certain foster care cases.
- Require FOC to provide forms for payments plans and modifying domicile and residency provisions of custody or parenting time orders and require SCAO to promulgate the forms.
- Recognize current law regarding custody changes and require that if custody has been established by court order, the court shall order an FOC investigation only if the court first finds proper cause or change of circumstances.
- Permit the FOC to charge a fee for the actual costs of custody or parenting time investigations “requested by a party.” The fee shall be waived if the Court orders a waiver or suspension of fees for indigency or inability to pay.
- Include medical assistance, food assistance and foster care as “public assistance” for purposes of determining whether the FOC act applies and the case remains an FOC case.
- Replace references to FOC Domestic Relations Mediation of custody and parenting time disputes with “Alternative Dispute Resolution” and require each office to establish an ADR plan approved by the Chief Judge and SCAO. The process remains voluntary.

PA 193 of 2009 (SB 100): Amends the Support and Parenting Time Enforcement Act to:

- Include a labor organization as a “source of income.”
- Provide that no further action is needed to reduce a support order to a final judgment.
- Provide that a support order must include notice that an order for dependent health care coverage is effective immediately, that the health care notice will be sent to current and subsequent employers and insurers, and that a parent may contest the action by requesting a review hearing concerning the reasonable cost of coverage.
- Clarify that a support order must provide for each party’s responsibility to keep the FOC advised of a current, single address and specify the information that must be provided. If mail is returned with a forwarding address, the FOC may change the address. Unless otherwise required by federal law or regulation, the failure of the party to maintain a current mailing address with the FOC waives the party’s right to receive notices until they update the FOC.

The Court may impose a fee for failure to comply with these reporting requirements.

- Provide that MiSDU and MiCSES records that relate to paid or unpaid support are prima facie authentic and may be admitted into evidence in a proceeding to enforce support.
- Eliminate the automatic surcharge assessment for past due support in all current and future support orders. Instead, the Court may order a surcharge only if it determines that the payer willfully failed to comply with the support order. Any such court-ordered surcharge may not begin before January 1, 2011. Any surcharge ordered before the effective date of this act (2/24/10) is terminated on the effective date of this act.
- Require that a support order terminate on the last day of a specified month regardless of the actual date of graduation.
- Eliminate the requirement that FOC send a copy of an income withholding order to the support recipient since the recipient is not permitted to object to such notices.
- Limit employer withholding to a maximum of 50% of the payer's disposable income, effective 90 days after the effective date of this act, which is March 28, 2010. This changes current law, which mirrors the federal consumer protection act and permits withholding up to 65% of income in certain circumstances.
- Update the license suspension process and permits FOC to issue a "compliance certificate" to the payer, which permits reinstatement of a suspended license without having to petition the court for an order. See also PA 194 of 2009, which similarly amends the vehicle code.
- Add additional sanctions for failure to appear for a show cause hearing including: suspension of licenses; "booting" of a vehicle owned by the payer; placement under the supervision of the FOC office with conditions such as participation in a parenting time program, drug or alcohol or other counseling, or a work program; commitment to jail or an alternative to jail.
- Add additional sanctions for contempt for nonpayment, including placement under the supervision of the FOC office with conditions or commitment to jail or an alternative to jail.
- Provide that if a hearing cannot be held immediately after a parent is arrested on a bench warrant the parent may be released on bond.

PA 237 of 2009 (HB 5501): Amends the Child Custody Act to:

- Change the reference from FOC mediation to FOC alternative dispute resolution.

PA 239 of 2009 (HB 5504): Amends the Revised Judicature Act regarding record maintenance standards and allocation of fees.

PA 238 of 2009 (HB 5502): Amends the Office of Child Support Act to:

- Require OCS to coordinate with SCAO in the provision of VI-D services by the FOC.
- Require OCS to determine a method of calculating maximum confinement expenses pursuant to federal requirements and the state child support guidelines.
- Update tax offset provisions to recognize federal requirements that provide for automatic referral rather than case-by-case referral by the FOC.

PA 235 of 2009 (SB 106): Amends the Paternity Act to:

- Update provisions regarding apportionment of pregnancy and birth related medical expenses to comply with federal requirements. If Medicaid has not paid the expenses and if the court determines the expense to be reasonable and necessary, the court should apportion as provided in the statute and on request from a parent, require an itemized bill for the expense before apportioning. If Medicaid has paid the expense, the court should apportion the expense to the father as set forth in the statute.

PA 236 of 2009 (SB 107): Amends the Family Support Act to:

- Clarify that service of the summons and complaint is pursuant to the court rules regarding service. This clarifies the current language, which seems to limit service to personal service.
- Clarify that support orders may include expenses for medical, dental and other health care, childcare and education and necessary pregnancy and birth related medical expenses.
- Clarify that an initial support order is retroactive only to the date the complaint was filed except under certain prescribed circumstances.
- Codify determination and apportionment of pregnancy and birth related medical expenses consistent with the paternity act.