

# Friend of the Court “Opt-Out” Refresher

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The Friend of the Court is required by law to make recommendations regarding custody, parenting time and child support, to provide mediation services to settle custody and parenting time disputes, and to enforce custody and parenting time orders.

The Friend of the Court also provides a host of support services to divorcing parties with minor children. Sometimes these support services are not necessary or wanted. For families who are able to navigate through the divorce process without assistance, Michigan law allows them to “opt out” of formal Friend of the Court services.

Parties who choose to opt out will not receive Friend of the Court assistance that would normally be provided to divorcing parents and their minor children. Such assistance includes accounting services, support enforcement services such as tax intercepts and income withholding, medical support, custody and parenting time enforcement, review and modification of support obligations, custody and parenting time investigation services, and mediation services.

Parties who mutually agree that they do not need or want Friend of the Court services do not have to use them. They may file a joint motion, at any stage of the case, to opt out. The parties must sign and file a document that summarizes the Friend of the Court services available to them and acknowledge that they have voluntarily chosen to reject those services.

Parties who elect to opt out at the start of the case should file a motion at the same time the initial complaint is filed. The court will issue the authorizing order unless one or more of the following are true:

- A party is eligible for public assistance.
- A party has applied for services under Title IV-D of the Social Security Act.
- There is evidence of domestic violence or an uneven bargaining position between the two parties coupled with evidence that the request is not in the best interests of a party or the child(ren).

Parties who mutually elect to opt out after the Friend of the Court has opened a case file may do so by motion. The

court will issue the authorizing order unless one or more of the following are true:

- A party is receiving public assistance.
- A support arrearage existed, or a custody or parenting time violation occurred within the previous 12 months.
- A party asked the Friend of the Court to reopen the case file within the previous 12 months.
- There is evidence of domestic violence or an uneven bargaining position between the parties coupled with evidence that the request is not in the best interests of a party or the child(ren).

Opting out of Friend of the Court services can be a bit cumbersome for parties, but not so for those who want to opt out with respect to spousal support obligations. Parties who want to manage their spousal support payments on their own may forego a formal opt out request. However, the parties must use a form created by the State Court Administrative Office entitled *Uniform Spousal Support Order, No Friend of Court Services*. The form is known as “FOC 10c” and may be found on the State Court Administrative Office Web site at <http://courts.michigan.gov/scao/courtforms/domesticrelations/support/foc10c.pdf>. The form should be submitted to the court in accord with the policies established by the assigned judge.

Even if child support, parenting time and/or custody issues are relevant in a case, parties may still choose to opt out for purposes of spousal support, so long as one or more of the conditions referenced above do not apply. Like child support, spousal support must be paid through the State Disbursement Unit. Opting out may be preferential for divorcing parties as they are free to manage spousal support payments on their own.

For more information about opting out of Friend of the Court services please review the Friend of the Court Handbook, which may be found on the Circuit Court’s Web site at [http://www.oakgov.com/foc/info\\_pub/foc\\_index.html](http://www.oakgov.com/foc/info_pub/foc_index.html), or call the Friend of the Court at 248-858-0424.

Until next time...