

Exempting Case (“Opting Out”)
From Friend of the Court Services
Motion Form for Parties Representing Themselves

ATTENTION

If you need help completing this form, you may contact the **Legal Assistance Center** at (616) 632-6000, or you may visit them at the Courthouse, 180 Ottawa NW, 5th floor, Grand Rapids, MI, 49503.

Exempting Case (“Opting Out”) From Friend of the Court Services

Motion Form for Parties Representing Themselves

The Friend of the Court is required by law to open a case for purposes of administering and enforcing the obligations to the parties in a domestic relations matter [MCLA 552.505a(1)]. The law also provides that parties may file a motion with the Court to request that a Friend of the Court case not be opened or maintained [MCLA 552.505a(2)]. The Court may enter an order granting this request unless the Court determines one or more of the following:

1. A party is or was receiving public assistance;
2. Money is due the State because of past public assistance;
3. One of the parties requests child support services;
4. One of the parties objects to not opening a Friend of the Court case;
5. One of the parties requests services related to spousal support, child custody, parenting time, or other services offered by the Friend of the Court;
6. Evidence of domestic violence or uneven bargaining positions;
7. Evidence that not providing for Friend of the Court services is against the best interest of either a party or a child; or
8. If a Friend of the Court case already exists, it may not be closed if within the past 12 months there is a child support arrearage or a parenting time order violation, or if a party has re-opened a Friend of the Court case within the previous 12 months.

The parties must also file documentation, signed by both parties, that lists the Friend of the Court services and acknowledges that the parties are choosing to do without those services. The necessary documentation is enclosed in this packet.

If the request to not have a Friend of the Court case is granted, a party may still request that the order provide for payments to be made through the State Disbursement Unit for purposes of keeping track of payments.

If your case qualifies to opt out from Friend of the Court services, the necessary forms and instructions are contained in this packet to file a motion to represent yourself.

Steps You Must take to File and Represent Yourself on the Motion:

- A. Contact the Circuit Court Clerk's office at **(616) 632-5480**. You must obtain the name of the judge assigned to the case and the date, time and location of the court hearing. This information is needed to fill out the paperwork below. Hearings on motions are typically heard on a Friday.
- B. Fill out the attached form entitled **Notice of Hearing and Motion** form (**MC 326**). You must specifically request either: (1) That you want to exempt the case from Friend of the Court services, or (2) That you want to exempt the case from Friend of the Court services but wish the order to provide that support payments are to be made through the State Disbursement Unit.
- C. You Must sign and attach the following form to your motion: (1) **Advice of Rights Regarding use of Friend of the Court Services** form (**FOC 101**). **Note**: Both parties must sign the **FOC 101** form.
- D. It will greatly facilitate your motion by attaching a **Friend of the Court Attachment** form (contained in this packet) completed by a Friend of the Court representative. The Friend of the Court's telephone number is **(616) 632-6888**. This form will assist you in demonstrating to the Court that there has not been a support arrearage or parenting time order violation within the past 12 months, that a party has not re-opened a Friend of the Court case within the past 12 months, and that a party is not receiving (or previously received) public assistance.
- E. Fill out the attached **Proof of Mailing** form (**MC 302**). **Note**: Use of this motion packet contemplates that you are sending a copy of the Notice of Hearing and Motion (plus attachments), and a copy of the Proof of Mailing, by first class mail to the other party. You must use the last known address of the other party and be sure that it is mailed at least 9 days (the last day not falling on a holiday or a weekend day) before the hearing. If the other party has an attorney of record currently involved in the case the motion must be served on the attorney.
- F. File the original and 2 copies (a copy for Judge/Referee and a Friend of the Court copy) of the **Notice of Hearing and Motion**, as well as the other documents above (**Advice of Rights Regarding use of Friend of the Court Services, Friend of the Court Attachment, and Proof of Mailing**), with the Court Clerk located on the second floor at 180 Ottawa Avenue NW, Grand Rapids, MI, 49503. You must also pay a \$20.00 motion fee.
- G. You must be present at the hearing at the scheduled time, otherwise the Court will not grant the relief you filed the motion for. The hearing will be held by the assigned Judge or by a Referee (look for postings outside of the courtroom on the day of the hearing to see if the hearing was assigned to a Referee). You will need to pull the file (files are located next to the Judge's or Referee's clerk's desk) and put it in line with the others. Listen carefully to what the Court orders. If the Court grants your motion, the Court

should enter the order entitled **Order Exempting Case from Friend of the Court Services** form (**FOC 102**).

You may prepare the Order ahead of time and bring it with you to the hearing, but there is no guarantee that the Court will sign it. Be sure to bring three additional copies. If the Court signs the order you prepared you must give the copies to the Judge's clerk (who will be present in the Courtroom next to the Judge), who will mark them as "true copies." You must then mail a true copy to the other party (or his/her attorney, if applicable), and to the Friend of the Court (see if the Judge's clerk will forward a copy to the Friend of the Court).

If the court grants your motion to opt out, you will need to enter your support order onto a new **Uniform Child Support Order/No Friend of the Court Services (FOC 10a/52a)**. The form is in this packet. This can be done at the hearing if both parties agree.

Important: Special instructions if the hearing is held before a Referee: You must attach a copy of the **Notice of Opportunity to Object and Request a De Novo Hearing** to the back of the Order if a Referee decided your motion. A copy of this document is enclosed in this packet.

- H. If the Court did not sign the Order at the hearing you must file the following with the Circuit Court Clerk's office within 7 days after the hearing and also mail copies to the other party and to the Friend of the Court; also, you should include a cover letter for the Clerk with your name and address so they will be able to mail the true copies to you after the Court enters the order:
- i. The Order along with three copies (one marked "Friend of the Court" at the top).
 - ii. A "7 day notice" form entitled **NOTICE OF ENTRY OF ORDER** that is provided in this packet. This notice states that the Court will enter the Order within 7 days if there is no objection filed. Be sure to sign the **Proof of Mailing** as well.
 - iii. Please note that the 21 day objection period still applies to a Referee's order even if the Referee enters the order under the 7 day notice.
- I. For orders entered under the 7 day notice procedure described above, be sure to mail a true copy to the other party when you receive the true copies back from the Clerk's office.

FORMS / Hyperlinks To Forms

MC 326 [NOTICE OF HEARING AND MOTION](#)

FOC 101 [ADVICE OF RIGHTS REGARDING USE OF FRIEND OF THE COURT SERVICES](#)

FRIEND OF THE COURT ATTACHMENT (see page 6)

MC 302 [PROOF OF MAILING](#)

FOC 102 [ORDER EXEMPTING CASE FROM FRIEND OF THE COURT SERVICES](#)

Notice of Opportunity to Object and Request a De Novo Hearing
(see page 7)

NOTICE OF ENTRY OF ORDER
(see page 8)

FOC 10a/52a [UNIFORM CHILD SUPPORT ORDER, NO FRIEND OF THE COURT SERVICES](#)

FRIEND OF THE COURT ATTACHMENT
(To Accompany Motion to Exempt Case from FOC Services)

Instructions: (1) Fill out the Case Name, Case No., Person Requesting, address and Social Security number of both parents

(2) Send/deliver to FOC at least two weeks before the hearing

Case Name: _____ vs _____

Case No.: _____

Person Requesting: _____

Address: _____

Social Sec No. of Both Parents: _____

Note to FOC Staff:
Block out the SSNs before
returning this form

The Friend of the Court confirms the following:

1. There [] has [] has not been a support arrearage within the past 12 months (state-owed or county foster care, if applicable, totals \$_____).
2. There has been a support arrearage within the past 12 months, but [] payee waived it, [] it resulted from the retroactive date of an order that entered within the past two months and is not yet enforceable (per MCL 552.511).
3. There [] has [] has not been a parenting time order violation within the past 12 months.
4. A party [] has [] has not re-opened a Friend of the Court case within the past 12 months.
5. A party [] does [] does not currently receive public assistance. Note: "Public assistance" includes one or more of the following: Cash assistance, Medicaid, food stamps, child day care, or foster care benefits.

Dated: _____

(print name):
Friend of the Court Representative

Notice of Opportunity to Object and Request a De Novo Hearing

This cause having been brought before the Court on the findings and recommended order of the Referee, and the Court being fully advised; now therefore;

It is ORDERED, that the recommended order of the Referee shall be and is hereby made the Order of this Court.

It is further ORDERED, that as this Order is being entered pursuant to the Referee's findings and recommendation, it shall be subject to review and hearing by the Court, **provided** that any party seeking said review and hearing shall, within twenty-one (21) days from the service of this Order, file with the Circuit Court Clerk's office and the Friend of the Court's office a notice of hearing, proof of service showing notice to all other parties and motion which sets forth the factual basis for relief sought.

It is further ORDERED, that this Order shall become final upon failure of any party to make a timely motion for said review and hearing before the Circuit Court.

Family Division Judge

Attest a True Copy:

Deputy Court Clerk

STATE OF MICHIGAN
17TH JUDICIAL CIRCUIT
KENT COUNTY

**NOTICE OF ENTRY
OF ORDER**

CASE NO.

Court Address: 180 Ottawa NW, Grand Rapids, MI 49503

Plaintiff's Name & Address:

Attorney (bar no., address, telephone no.):

Defendant's Name & Address:

Attorney (bar no., address, telephone no.):

Please take NOTICE, that the enclosed proposed order will be submitted to the Court for entry if no written objections to its accuracy or completeness are filed with the court clerk within 7 days after service of this notice. **Note: The written objections must state with specificity the inaccuracy or omission, and must be served on all parties together with a notice of hearing (to have objections heard before the court) and an alternate proposed judgment or order.** This notice is given pursuant to MCR 2.602(B)(3).

Date: _____

Signature

PROOF OF MAILING

I certify that on this date I mailed a copy of this Notice and the proposed order to the other party by ordinary mail addressed to the last known address.

Date: _____

Signature