

Program Leadership Group (PLG) Policy Statement – Parenting Time in Support Orders

Michigan child support program mission:

To achieve the permanent well-being and self-sufficiency of families, we will:

- Deliver consistent, innovative, and holistic services;
- Promote healthy relationships between parents and children; and
- Ensure parents fulfill their financial obligations to their children.

To promote excellence in service to families, we will:

- Educate, engage, and empower child support professionals;
- Communicate clearly and timely; and
- Embrace Michigan’s diversity.

The PLG develops policy direction for Michigan’s child support program pursuant to Title IV-D of the Social Security Act, and includes the leaders of Michigan’s primary child support agencies.¹ Although Title IV-D is the federal child support program, the PLG recognizes that seeking child support invokes the courts’ jurisdiction to address issues beyond child support. Further, the PLG recognizes that “support” goes beyond merely the payment of money.

The PLG adopts this Policy Statement pursuant to program strategic goal number 4 – Parenting Time.

A. Legal Authorities

Michigan Compiled Law (MCL) 722.27a establishes the general rule when Michigan has jurisdiction to make a custody determination regarding parenting time. That section states, in part:

(1) Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except as otherwise provided in this section, parenting time shall be granted to a parent in a frequency, duration, and type reasonably

¹ The PLG is made up of directors of the Michigan Office of Child Support, the State Court Administrative Office’s Friend of the Court Bureau, and the Prosecuting Attorneys Association of Michigan, as well as the President and Vice President of the Friend of the Court Association and other members from the Michigan Office of Child Support, the Department of Technology, Management and Budget, the Prosecuting Attorneys Association of Michigan, and the State Court Administrative Office.

calculated to promote a strong relationship between the child and the parent granted parenting time.

(2) If the parents of a child agree on parenting time terms, the court shall order the parenting time terms unless the court determines on the record by clear and convincing evidence that the parenting time terms are not in the best interests of the child.

(3) A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health.

The child support program establishes support through the Paternity Act, the Family Support Act, and the Expedited Support and Paternity Act, among others. Most acts authorizing the establishment of child support orders provide that if there is no dispute regarding custody, the court shall include in the order specific provisions for the custody and parenting time of the child as provided in the Child Custody Act. If there is a dispute between the parties concerning custody or parenting time, the law provides the court shall immediately enter an order that establishes support and temporarily establishes custody of and parenting time with the child. Pending a hearing on or other resolution of the dispute, the court may also refer the matter to the Friend of the Court for a report and recommendation.

B. Policy Statement

The Michigan child support program's policy is to encourage and facilitate parenting time between parents and their children whenever the IV-D agency seeks a support order and Michigan has jurisdiction to make a custody determination. Every order should contain parenting time in accordance with the policy that all child support orders be based on the overnights specified in the parenting time order.

C. Strategy for Implementing Policy

The PLG endorses the following key elements to implement the program's parenting time policy:

1. Support Orders

Whenever possible, every Michigan judgment entered pursuant to the IV-D program should include parenting time provisions in the best interests of the child.

2. Specificity

When entered, parenting time provisions should include specific enforceable language unless such specificity is not in the best interests of the family.

3. Determining Parenting Time

The parties' agreement on a parenting time schedule should control in accord with MCL 722.27a(2).

4. Sample Schedules

All parenting time should fit the individual family's circumstances and promote a strong relationship between the child and both parents. When the parties have not agreed to a parenting time schedule, the IV-D agency should provide sample schedules to assist them in coming to an agreement. One such sample schedule is SCAO's Parenting Time Guideline:

http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/focb/pt_gdlns.pdf.

A more recent sample containing alternative parenting time plans is Arizona's *Planning for Parenting Time*:

<http://www.azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf>.

Whenever possible, the PLG encourages local Prosecutors, Friends of the Court, and the local bar to coordinate with the circuit court to create local models with multiple sample schedules to advise the public of parenting time options.

5. When Parties Cannot Agree

In addition to other local practices for determining parenting time, when parties cannot agree to a parenting time schedule, the order should specify that parenting time will be "as the parties agree." In addition, the IV-D agency should recommend to the parties the entry of a minimum temporary parenting time order for the schedule agreed to by the custodial parent.

When parents cannot agree, the IV-D agency should advise them of their right to have a hearing on parenting time and, if possible, refer them to any community agencies that assist parents, such as agencies offering parenting skills and mediation.

6. Exceptions to Parenting Time

The IV-D program should not pursue parenting time in support orders when, in the opinion of the agency seeking the support order, parenting time would be contrary to the child's physical, mental, or emotional health or welfare, such as cases involving abuse, domestic violence, or criminal sexual conduct involving a child. When the parents agree to a parenting time schedule, but they have unequal bargaining ability because of duress, domestic violence, or similar impediments, the IV-D agency should not include the parenting time agreement in the order.

When it is inappropriate to pursue parenting time in the opinion of the agency seeking the support order, or another agency enforcing an existing order

between the same parents, that agency should document its reasons in the Michigan Child Support Enforcement System (MiCSES) to alert all IV-D agencies.