



# 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  
**Self-Help Legal Resource Center**  
at (269) 983-7111 Ext. 8790, or you may visit the office at the  
Berrien County Courthouse, 2<sup>nd</sup> Floor  
811 Port Street  
St. Joseph, MI 49085

## Please Note

Filing Fee for this Motion in the Family Division Clerk’s Office  
(4<sup>th</sup> Floor)  
Will be \$20.00 if filed **before** judgment

or

Filing fee for the Motion in the Family Division Clerk’s Office  
(4<sup>th</sup> Floor)  
Will be \$60.00 **after** Judgment (Post Judgment)



# EXEMPTING CASE (“OPTING OUT”) FROM FRIEND OF THE COURT SERVICES

*Self Help Legal Resource Center*  
811 Port Street, St. Joseph, MI 49085 • 269.983.7111

## 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 of 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 (1) 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 (1) of the parties requests child support services;
4. One (1) of the parties objects to not opening a Friend of the Court case;
5. One (1) 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 exists of domestic violence or uneven bargaining positions;
7. Evidence exists 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 twelve (12) months there has been 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 twelve (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 TO FILE PRO PER

Self Help Legal Resource Center  
811 Port Street, St. Joseph, MI 49085 • 269.983.7111

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

1. Contact the Family Division of the County Clerk's office at 269/983-7111, Ext. 8380 or 8410. You must obtain the name of the Judge assigned to the case and the date, time and location of the Court hearing. A hearing date will not be given until the motion is filed and entry fee is paid. This information is needed to fill out the paperwork attached.
2. 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.
3. You must sign and attach the following form to your motion: **Advice of Rights Regarding Use of Friend of the Court Services** (form FOC 101). Note: Both parties must sign the FOC 101 form.
4. 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 269/983-7111, Ext. 8575). 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 twelve (12) months, that a party has not re-opened a Friend of the Court case within the past twelve (12) months, and that a party is not receiving (or previously received) public assistance.
5. 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 and to the Friend of the Court. You must use the last known address of the other party and be sure that it is mailed at least nine (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.
6. File the original and two (2) copies of the Notice of Hearing and Motion, and the Proof of Service, with the Family Division File Room located on the fourth (4th) floor of the Berrien County Courthouse, 811 Port Street, St. Joseph, Michigan 49085 or the Clerk's Office in Niles at the South County Building, 1205 North Front Street, Niles, Michigan 49120. You must also pay a \$20.00 motion fee. If your motion is post-judgment, you must also pay a \$40.00 entry fee.
7. You must be present at the hearing at the scheduled time, otherwise the Court will not grant the relief you requested. The hearing may be held by a Referee. 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 (3) additional copies. If the Court signs the Order you prepared, you must give the copies to the clerk who will mark them as "true copies." You must then provide a true copy to the other party (or his/her attorney, if applicable), and to the Friend of the Court.

Important: Special instructions if the hearing is held before a Referee: You must attach a copy of the Objection to Referee's Recommended Order and De Novo Review Rights to the back of the Order if a Referee decided your motion. A copy of this document is enclosed in this packet.

8. If the Court did not sign the Order at the hearing, you must file the following with the Family Division County Clerk's office within seven (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 and a self-addressed, stamped envelope 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:
  - a. The Order along with three (3) copies (one (1) marked "Friend of the Court" at the top)
  - b. A "seven (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 seven (7) days if there is no objection filed. Be sure to sign the Proof of Mailing as well.
  - c. Please note that the twenty-one (21) day objection period still applies to a Referee's Order even if the Referee enters the Order under the seven (7) day notice.
9. For Orders entered under the seven (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.

**STATE OF MICHIGAN  
2ND JUDICIAL COURT  
BERRIEN COUNTY**

**NOTICE OF HEARING AND MOTION**

**CASE NO.**

**Court address**

- Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188..... (269) 982-8683  
 South County Building, 1205 North Front Street, Niles, MI 49120-1699 ..... (269) 684-5274

**Telephone no.**

Plaintiff's name, address and telephone no.

**v**

Defendant's name, address and telephone no.

**NOTICE OF HEARING**

1. Motion title: **EXEMPT CASE FROM FRIEND OF THE COURT SERVICES**
2. Signature of moving party: \_\_\_\_\_
3. This matter has been placed on the motion calendar for:

Judge / Referee	Bar No.	Date	Time
Hearing location <input type="checkbox"/> Court address above <input type="checkbox"/>			

4. If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

**MOTION**

(Check one):

- I want to exempt this case from Friend of the Court services.
- I want to exempt this 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.

Signed copies of the following documents are attached:

- (1) Advice of Rights Regarding Use of Friend of the Court Services, and
- (2) Supplemental Notice to Advice Rights Regarding Use of Friend of the Court Services.

WHEREFORE, petitioner requests the above Motion be granted.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**PROOF OF SERVICE**

**NOTICE OF HEARING**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE/AFFIDAVIT OF SERVICE/NONSERVICE**

**OFFICER CERTIFICATE** OR  **AFFIDAVIT OF PROCESS SERVER**  
I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104(A)(2), and that: (notarization not required) Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

I served personally a copy of the summons and complaint,  
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,  
Together with \_\_\_\_\_  
List all documents served with the Summons and Complaint

\_\_\_\_\_ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	<b>TOTAL FEE</b>
\$	\$	\$	
Incorrect address fee	Miles traveled	Fee	
\$	\$	\$	\$

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name (type or print)  
\_\_\_\_\_  
Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date Deputy Court Clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_  
Attachments

\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time

\_\_\_\_\_ on behalf of \_\_\_\_\_  
Signature

<p align="center"><b>STATE OF MICHIGAN 2ND JUDICIAL DISTRICT BERRIEN COUNTY</b></p>	<p align="center"><b>ADVICE OF RIGHTS REGARDING USE OF FRIEND OF THE COURT SERVICES (PAGE 1)</b></p>	<p align="center"><b>CASE NO.</b></p>
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<p><b>Friend of the Court address</b> Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188 .....</p>	<p align="right"><b>Telephone no.</b> (269) 983-7111 x 8575</p>
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**1. Right to Refuse Friend of the Court Services**

- a. You have the right to refuse friend of the court services for custody, parenting time, and support. To decline friend of the court services, you must file with the court a motion requesting that friend of the court services not be required. You must attach a signed copy of this advice of rights to the motion. The court will grant the motion provided both parties agree and have signed this advice of rights and it determines that the following are true:
  - 1) Neither of you receives public assistance for the child(ren) or requests friend of the court services.
  - 2) There is no evidence of domestic violence or of an uneven bargaining position between you.
  - 3) The court finds that declining to receive friend of the court services is not against the best interests of a child.
- b. If you already have a friend of the court case, you can file a motion to discontinue friend of the court services provided both parties agree and have signed this advice of rights and the court finds that the following are true:
  - 1) Neither of you receives public assistance for the child(ren) or requests friend of the court services.
  - 2) There is no evidence of domestic violence or an uneven bargaining position between you.
  - 3) The court finds that declining to receive friend of the court services is not against the best interests of a child.
  - 4) No money is due the state because of past public assistance.
  - 5) No arrearage or violation of a custody or parenting time order has occurred in the last 12 months.
  - 6) Neither of you has reopened a friend of the court case in the last 12 months.

**2. Friend of the Court Services (you will not receive these services if you choose not to use the friend of the court)**

**a. Accounting Services:**

Friends of the court must collect support and disburse it within 48 hours. Friend of the court accounting services include:

- 1) friend of the court accounting for payments received and sent,
- 2) adjustments of support for parenting time or other credits, and
- 3) annual statements of accounts, if requested.

**b. Support Enforcement Services:**

The friend of the court must begin to enforce support when one month of support is overdue. For friend of the court cases, child support enforcement services include:

- Paying support out of tax refunds.
- Asking the court to order the nonpaying party to come to court to explain the failure to pay.
- Having unpaid support paid out of property the payer owns.
- Reporting support arrearage to a consumer reporting agency or requesting that the payer’s licenses be suspended.
- Collecting support by an income withholding order.

If you choose not to receive friend of the court services, any existing income withholding source will be notified that the friend of the court is no longer responsible for income withholding. **The parties will be solely responsible for stopping or changing income withholding as the law allows.** The friend of the court will stop any unfinished collection actions.

**c. Medical Support Enforcement Services**

The friend of the court is required to recommend how the parents divide health care expenses and to take action to collect the amounts that a parent fails or refuses to pay. When a parent is required to insure the children, the friend of the court is authorized to instruct an employer to enroll the children in an insurance plan when the parent fails or refuses to do so.

**d. Support Review and Modification Services**

Once every three years persons with friend of the court cases may request the friend of the court to review the support amount. After completing the review, the friend of the court must file a motion to raise or lower support, or inform the parties that it recommends no change. It must also review support when changed circumstances lead it to believe that support should be modified.

**See page 2**

Approved, SCAO

<p align="center"><b>STATE OF MICHIGAN 2ND JUDICIAL DISTRICT BERRIEN COUNTY</b></p>	<p align="center"><b>ADVICE OF RIGHTS REGARDING USE OF FRIEND OF THE COURT SERVICES (PAGE 2)</b></p>	<p align="center"><b>CASE NO.</b></p>
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**Friend of the Court address** Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188 ..... **Telephone no.** (269) 983-7111 x 8575

**Right to Refuse Friend of the Court Services**, continued from page 1

- e. **Custody and Parenting Time Enforcement Services**  
For friend of the court cases, the friend of the court must enforce custody and parenting time when a party complains that it is violated. Child custody and parenting time enforcement services include:
  - Asking the court to order the noncooperating party to come to the court to explain the failure to obey the parenting time order.
  - Suspending the licenses of individuals who deny parenting time.
  - Awarding makeup parenting time.
  - Joint meetings to resolve complaints.
- f. **Custody and Parenting Time Investigation Services**  
For disputes about custody or parenting time in friend of the court cases, the friend of the court sometimes must investigate and provide reports to the parties and the court.
- g. **Mediation Services**  
Friend of the court offices must provide mediation services to help parties with friend of the court cases settle custody and parenting time disputes.

**3. Michigan State Disbursement Unit and IV-D Services**

- a. **Michigan State Disbursement Unit (MiSDU)**  
If you choose not to receive friend of the court services, you may continue to make payments to, and receive payments through, MiSDU. MiSDU will keep track of the amount paid and sent out. However, MiSDU cannot provide you with all the accounting functions the friend of the court provides.  
All payments made through MiSDU must be distributed according to the amounts due as required by federal law. When a payer has more than one case, federal law determines how a payment is divided among the cases. **Even if you choose not to receive friend of the court services, payments through MiSDU must be divided among all a payer’s cases and distributed in the same manner as payments on FOC cases. You cannot discontinue friend of the court services if you want to use MiSDU unless you first provide to MiSDU all the information that MiSDU needs to set up an account.**
- b. **Your Rights Under Title IV-D of the Social Security Act**  
Title IV-D of the Social Security Act provides federal government resources to collect child support and it allows certain funding to be used for parenting time and custody services. In Michigan, critical Title IV-D services are delivered by the friend of the court. If you choose not to receive friend of the court services, you cannot receive most Title IV-D services.

**4. Public Assistance**

Receipt of public assistance means receipt of any of the following benefits: cash assistance, medical assistance, food assistance, foster care, and/or child care.

**ACKNOWLEDGMENT REGARDING SERVICES**

**Check below only if you do not want to receive friend of the court services. Then date, print name, and sign.**

I have read this advice of rights and I understand the friend of the court services I am entitled to receive.

I acknowledge that by signing **below I am choosing not to receive** any friend of the court services. I understand that before this choice can take effect, a motion requesting this choice and the other party's agreement must be filed with the court for approval. I also understand that the court may deny this choice if certain conditions are not met as stated in this advice of rights.

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**If you did not check the above**, you are choosing to receive friend of the court services. **For the most effective friend of the court services**, you can request Title IV-D services by dating and signing below.

I request Title IV-D services through the friend of the court office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature



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

*Self Help Legal Resource Center  
811 Port Street, St. Joseph, MI 49085 • 269.983.7111*

- Instructions:
1. Fill out the Case Name, Case No., Person Requesting and address of both parents
  2. Send/deliver to FOC at least two (2) weeks before the hearing

Case Name: \_\_\_\_\_ vs. \_\_\_\_\_

Case No.: \_\_\_\_\_

Person Requesting: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**The Friend of the Court confirms the following:**

1. There  has  has not been a support arrearage within the past twelve (12) months.
2. There  has  has not been a parenting time Order violation within the past twelve (12) months.
3. A party  has  has not re-opened a Friend of the Court case within the past twelve (12) months.
4. A party  does  does not currently receive public assistance. Note: "Public Assistance" includes one (1) or more of the following: Cash Assistance, Medicaid, Food Stamps, Child Day Care, or Foster Care benefits.

There is a State arrearage totaling:     \$                     (this includes permanently assigned arrears, conditionally assigned arrears and/or IV-E Foster Care).

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name):  
Friend of the Court Representative

**STATE OF MICHIGAN  
2ND JUDICIAL CIRCUIT  
5TH JUDICIAL DISTRICT  
COUNTY PROBATE**

**PROOF OF MAILING**

**CASE NO.**

**Court address**

Berrien County Courthouse, 811 Port St., St. Joseph, MI 49085-1188

**Telephone no.**

269/983-7111

Plaintiff(s)	v	Defendant(s)
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<input type="checkbox"/> Juvenile	In the matter of _____
<input type="checkbox"/> Probate	In the matter of _____

On the date below I sent by first-class mail a copy of:

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to: (list names and addresses)

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I declare that the statements above are true to the best of my information, knowledge, and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (type or print)

**STATE OF MICHIGAN  
2ND JUDICIAL DISTRICT  
BERRIEN COUNTY**

**ORDER EXEMPTING CASE FROM  
FRIEND OF THE COURT SERVICES  
(PAGE 1)**

**CASE NO.**

**Friend of the Court address**  
Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188

**Fax no.** 269-982-8624 .....  
**Telephone no.** 269-983-7111 x 8575

Plaintiff's name and address

**v**

Defendant's name and address

Attorney:

Attorney:

Date of hearing: \_\_\_\_\_

Judge: \_\_\_\_\_

**THE COURT FINDS:**

1. There is no evidence of domestic violence or of an unequal bargaining position between the parties to the case.
2. Granting the parties the relief they have requested would not be against the best interests of any child in the case.
3. The parties have filed executed copies of a form advising them of services they will not receive if their motion is granted.
4. Neither party receives public assistance.
5. No money is due the governmental entity because of past public assistance in the case.
6. No arrearage or custody or parenting-time order violation has occurred in the last 12 months in this case.
7. Neither party has reopened a friend of the court case in the last 12 months.
8.  The parties do not want Title IV-D services and have requested that any existing Title IV-D case be closed. (Note: This box should be checked unless exceptional circumstances exist that entitle the Title IV-D case to remain open.)

**IT IS ORDERED:**

9. Subject to the provisions of item 14 below, this case is not a friend of the court case.
10.  This case is not a Title IV-D case. (Note: This box should be checked if item 8 has been checked.)
11. The friend of the court shall not be involved in the enforcement, investigation, or accounting functions for custody, parenting time, or support in this case.
12. The parties are responsible for all enforcement and accounting functions for custody, parenting time, or support in this case.

**(See page 2 for the remainder of the order.)**

Do not write below this line – For court use only

**STATE OF MICHIGAN  
2ND JUDICIAL DISTRICT  
BERRIEN COUNTY**

**ORDER EXEMPTING CASE FROM  
FRIEND OF THE COURT SERVICES  
(PAGE 2)**

**CASE NO.**

**Friend of the Court address**  
Berrien County Courthouse, 811 Port Street, St. Joseph, MI 49085-1188

**Fax no.** 269-982-8624 .....  
**Telephone no.** 269-983-7111 x 8575

Plaintiff's name

**v**

Defendant's name

13. Except as indicated below, there is no income withholding in this case, support will be paid directly by the payer to the payee, and the friend of the court shall terminate any existing income withholding. Should this case become a friend of the court case, the payer must keep the friend of the court advised of the name and address of the payer's source of income and any healthcare coverage that is available to the payer as a benefit of employment or that the payer maintains, including the name of the insurance company, health-care organization, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit the payer maintains the coverage.

- a. Support shall be paid through the Michigan State Disbursement Unit (MiSDU). Support shall be paid by income withholding to the extent allowed by statutes and court rules; however, the friend of the court is not responsible for income withholding. The friend of the court shall notify the employer that it is no longer involved in the case and that any further information concerning income withholding will be provided by the parties.
- b. Support shall be paid through MiSDU.

If support payments are to be made through MiSDU by income withholding or otherwise, the friend of the court shall not close the friend of the court case until MiSDU notifies the friend of the court that it has been provided with the information necessary to process the child-support payments. There will be no accounting for support that is not paid through MiSDU.

14. If child support payments are to be made through MiSDU by income withholding or otherwise, the friend of the court shall not close the friend of the court case until MiSDU notifies the friend of the court that it has been provided with the information necessary to process the child-support payments. There will be no accounting for support that is not paid through MiSDU.

15. The friend of the court shall open a friend of the court case if a party applies for public assistance, a child is placed in foster care, or either party submits to the friend of the court a written request to reopen the friend of the court case. If this case becomes a friend of the court case for any reason, the following provisions shall apply.

- a. The parties must cooperate fully with the friend of the court in establishing the case as a friend of the court case.
- b. The parties must provide copies of all orders in their case to the friend of the court.
- c. The parties must supply any documents that a party to a friend of the court case is required to supply if they have not already done so.
- d. The friend of the court is not responsible for determining any support arrearage that is not indicated by payment made through MiSDU.
- e. Support is payable through MiSDU effective the date the case becomes a friend of the court case.
- f. The friend of the court may prepare and submit, ex parte, a uniform support order that contains all the statutory requirements of a Michigan support order as long as the order does not contradict the existing support order.
- g. At the request of the friend of the court, the parties shall complete a Verified Statement and Application for Title IV-D Services.

Date: \_\_\_\_\_

Judge: \_\_\_\_\_

**CERTIFICATE OF MAILING**

I certify that on this date I served a copy of this order on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined in MCR 3.203.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature