

STATE OF MICHIGAN
THE CIRCUIT COURT FOR THE COUNTY OF KENT

ADMINISTRATIVE ORDER: 2019-03

**IN RE: FRIEND OF THE COURT
ALTERNATIVE DISPUTE RESOLUTION PLAN
PURSUANT TO MCR 3.224**

AT A SESSION OF SAID COURT HELD IN THE KENT COUNTY
COURTHOUSE, CITY OF GRAND RAPIDS,
ON THIS 27th DAY OF November, 2019

PRESENT: HON. MARK A. TRUSOCK
Chief Circuit Court Judge

IT IS ORDERED:

Pursuant to MCR 3.224, the following is adopted by the 17th Circuit Court as the Friend of the Court Alternative Dispute Resolution Plan:

(A) Alternative Dispute Resolution (ADR)

The 17th Circuit Court has determined that Friend of the Court (FOC) ADR serves an extremely useful purpose in resolving custody and parenting time disputes, as well as child support disputes in conjunction with FOC custody or parenting time mediation. The authority for the 17th Circuit Court FOC Office to conduct ADR services has been determined by MCL 552.513, MCL 552.641, MCL 552.642a, and Michigan Court Rule 3.224. In addition, the Chief Judge for the 17th Circuit Court and the State Court Administrative Office have approved the 17th Circuit Court FOC ADR Plan.

(B) General Provisions of FOC ADR

- 1) The 17th Circuit Court will utilize FOC domestic relations mediation as established in MCL 552.513 and MCR 3.224 and joint meetings established in MCL 552.642a and MCR 3.224. In compliance with MCR 3.224 the 17th Circuit Court has established additional FOC ADR processes and incorporated them into this FOC ADR plan.

- 2) All FOC ADR cases must be screened for domestic violence using a screening protocol provided by the SCAO to identify domestic violence, the existence of a protection order as defined in MCL 552.513 between the parties or other protective order, child abuse or neglect, and other safety concerns.
- 3) In accordance with MCL 552.505a, the FOC may provide ADR services for all open FOC cases that qualify for FOC ADR services.
- 4) On written stipulation of the parties, on written motion of a party, or on the court's initiative, the court may order any contested custody or parenting time issue in a domestic relations case, including postjudgment matters to the FOC by written order.
- 5) The court may, by an order or through its FOC ADR plan, provide that the parties are to meet with a FOC employee conducting ADR other than FOC domestic relations mediation concerning custody or parenting time issues, unless otherwise provided by statute or court rule.
- 6) A party may object to FOC ADR under MCR 3.224(E). An objection must be based on one or more of the factors listed in MCR 3.216 (D)(2) and must allege facts in support of the objection. Timely objections must be made in accordance with MCR 3.224(E).
- 7) Parties who are, or have been, subject to a personal protection order or other protective order or who are involved in a past or present child abuse and neglect proceeding may not be referred to FOC ADR without a hearing to determine whether FOC ADR is appropriate. The court may order ADR if a protected party requests it without holding a hearing.
- 8) The FOC may exempt cases from ADR based on MCR 3.224(D)(2). The FOC shall notify the court when a FOC case has been exempted from FOC ADR. If the FOC exempts a case from ADR, a party may file a motion and schedule a hearing to request the court to order FOC ADR.
- 9) Attorneys of record will be allowed to attend, and participate in, all FOC ADR processes, or elect not to attend upon mutual agreement with opposing counsel and their client.
- 10) Participants in an ADR process may not record the ADR proceeding.
- 11) A report will accompany each FOC ADR proposed consent order and shall contain sufficient information to allow the court to make an independent determination that the proposed order is in the child's best interest.
- 12) When the friend of the court submits a proposed order following a joint meeting, the report shall contain the parties' agreed-upon and disputed facts and issues.

- 13) Qualifications: FOC ADR providers have met the training and qualifications established by SCAO and approved by the Chief Judge or will meet the training and qualification within the standards established by SCAO and the Chief Judge.
- 14) The Chief Judge shall supervise this FOC ADR plan.
- 15) The FOC will provide the following ADR services:
 - FOC Domestic Relations Mediation: Post-judgment.
 - Joint Meetings. Post-judgment to resolve physical custody and parenting time complaints.
 - Additional ADR services detailed in the Attachment, below, including:
 - Walk-in Mediation: Prejudgment and post-judgment.
 - Mediation by Consent: Post-judgment.
 - Co-Parent Sessions: Post-judgment.
 - Facilitated Parenting Time: Post-judgment.
- 16) The FOC will not provide the following ADR services:
 - Mediation pursuant to MCR 3.216.
 - Facilitative and Information-Gathering Conferences.
- 17) Public Access to FOC ADR Plan: The FOC will make available the FOC ADR plan:
 - On the court's website.
 - In printed materials, available upon request.

(C) FOC Domestic Relations Mediation (Court-Ordered)

The 17th Circuit Court hereby adopts FOC domestic relations mediation under MCR 3.224, and MCL 552.513. FOC domestic relations mediation is a process in which a neutral third party facilitates confidential communication between parties to explore solutions to settle custody or parenting time issues for FOC cases, as well as child support disputes in conjunction with FOC custody or parenting time mediation. FOC domestic relations mediation is not governed by MCR 3.216, which relates to domestic relations mediation conducted without participation or supervision of the FOC. All 17th Circuit Court FOC domestic relations mediation procedures comply with MCR 3.224.

- 1) **FOC Mediation Referral:** On written stipulation of the parties, on written motion of a party, or on the court's initiative, the court may order any contested custody or parenting time issue in a domestic relations case to the FOC mediation, by written order.
- 2) **Objection to Mediation:** To object to FOC relations mediation, a party must file a written motion to remove the case from FOC mediation and a notice of hearing of the motion, and serve a copy on all parties or their attorneys of record within 14 days after receiving notice of the order. The motion must be set for hearing within 14 days after it is filed, unless the hearing is adjourned by agreement of counsel or the court orders otherwise. A timely objection must be heard before the case is mediated by the FOC.

- 3) **FOC Domestic Relations Mediation Procedures:** FOC domestic relations mediation will be conducted by a mediator selected by the FOC.
- a. The mediation may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
 - b. If domestic violence is identified or suspected, the mediation process may not continue unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the mediation process, the mediator must make reasonable efforts to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
 - c. At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
 - i. The purpose of mediation;
 - ii. How the mediator will conduct mediation;
 - iii. Except as provided for in MCR 2.412(D)(8), statements made during the mediation process are confidential and cannot be used in court proceedings and cannot be recorded;
 - d. If the parties reach an agreement, the mediator shall submit a proposed order and a report pursuant to MCR 3.224(I) within 7 days.
 - e. If the parties do not reach an agreement within 7 days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional FOC ADR proceedings are contemplated.
 - f. With the exceptions provided for in MCR 2.412(D), communications during FOC domestic relations mediation process are confidential and cannot be used in court proceedings and cannot be recorded.

(D) Joint Meetings

Joint meeting is a process in which a FOC employee discusses proposed solutions with the parties to a custody or parenting time complaint.

- 1) **Joint meeting referral:** The 17th Circuit Court may, by an order or through this FOC ADR plan, provide that the parties are to meet with a FOC employee conducting a joint meeting concerning custody or parenting time issues, specifically the parents' compliance

with specific, court-ordered physical custody or parenting time. Under this plan, the FOC will schedule a joint meeting with parents in an attempt to resolve a complaint prior to scheduling a hearing or issuing a proposed order.

2) Objection to a Joint Meeting:

- a. To object to a joint meeting, the party must file a written objection with the FOC and provide a copy to all parties and their attorneys of record before the time scheduled for the joint meeting.
- b. If a party files an objection, the FOC shall not hold a joint meeting unless the court orders a joint meeting following a hearing on motion of a party or the objecting party withdraws the objection.

3) Joint Meeting Procedures: Joint meetings shall be conducted as follows:

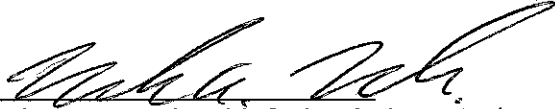
- a. The joint meeting may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
- b. If domestic violence is identified or suspected, the meeting may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the joint meeting, the FOC employee conducting the joint meeting must make reasonable efforts to screen for the presence of coercion or violence that would make the joint meeting physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
- c. At the beginning of a joint meeting, the FOC employee conducting the meeting shall do the following:
 - i. Advise the parties that statements made during the joint meeting are not confidential and can be used in other court proceedings;
 - ii. Advise the parties that the purpose of the meeting is for the parties to reach an accommodation and how the FOC employee will conduct the meeting; and
 - iii. Advise the parties that the FOC employee may recommend an order to the court to resolve the dispute; and explain to the parties the information provided for in MCR 3.224(H)(1)(d)-(e).

- d. At the conclusion of a joint meeting, the FOC employee conducting the meeting shall submit a report within seven days pursuant to MCR 3.224(I) and may do one of the following:
 - i. If the parties reach an accommodation, record the accommodation in writing and provide a copy to the parties and attorneys of record. If the accommodation modifies an order, the FOC employee must submit a proposed order to the court. If the court approves the order, the court shall enter it; or
 - ii. Submit an order to the court stating the FOC employee's recommendation for resolving the dispute. The parties may consent by signing the recommended order and waiving the objection period in accordance with MCR 3.224(H)(1)(e)(iii). If the court approves the order, the court shall enter it; or
 - iii. Apply makeup parenting time pursuant to MCL 542.641(a); or
 - iv. Initiate civil contempt proceedings pursuant to MCL 552.641 if FOC deems appropriate under existing policies and procedure; however, if inappropriate, parents may initiate contempt proceedings with the court directly; or
 - v. Per MCL 552.641(c), file a motion with the court under section 17d of the friend of the court act, MCL 552.571d, for a modification of existing parenting time provisions to ensure parenting time, unless contrary to the best interests of the child; or
 - vi. Schedule a mediation pursuant to MCL 552.641(d) and the friend of the court act, MCL 552.513.
- e. If the FOC employee conducting the joint meeting submits a recommended order within seven days to the court, the FOC must serve the parties and attorneys of record a copy of the order and a notice that provides the following information:
 - i. That the court may enter the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent;
 - ii. When and where a written objection must be submitted;
 - iii. That a party may waive the 21-day objection period by returning a signed copy of the recommended order; and
 - iv. If a party files a written objection within the 21-day limit, the FOC shall set a court hearing before a judge or referee to resolve the dispute. If a

party fails to file a written objection within the 21-day limit, the FOC shall submit the proposed order to the court for entry if the court approves it.

- v. Except for communications made during domestic violence screening, communications made during a joint meeting are not confidential and may be used in other court proceedings.

IT IS SO ORDERED:



Hon. Mark A. Trusock, Chief Circuit Court Judge
ATTACHMENT

Dated: NOV 27 2019

ATTACHMENT: OTHER FOC ADR SERVICES NOT DEFINED IN MCR 3.224

(E) FOC Walk-in Mediation

- 1) **FOC Walk-in Mediation Referral:** On their own initiative, parties with FOC cases can voluntarily mediate custody or parenting time issues in a prejudgment or post-judgment domestic relations case during specified walk-in mediation hours.
- 2) **FOC Walk-in Mediation Procedures:** FOC domestic relations mediation will be conducted by a mediator selected by the FOC.
 - The mediation may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
 - If domestic violence is identified or suspected, the mediation process may not continue unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the mediation process, the mediator must make reasonable efforts to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
 - At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
 - i. The purpose of mediation;
 - ii. How the mediator will conduct mediation;
 - iii. Except as provided for in MCR 2.412(D)(8), statements made during the mediation process are confidential and cannot be used in court proceedings and cannot be recorded;
 - If the parties reach an agreement, the mediator shall submit a proposed order and a report pursuant to MCR 3.224(I) within 7 days.
 - If the parties do not reach an agreement within 7 days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional FOC ADR proceedings are contemplated.
 - With the exceptions provided for in MCR 2.412(D), communications during FOC walk-in mediation process are confidential and cannot be used in court proceedings and cannot be recorded.

(F) FOC Mediation by Written Consent

- 1) FOC Mediation by Written Consent Referral:** On their own initiative, parties can request voluntary mediation in writing and a mediation will be scheduled upon receipt of written consent from both parents.

- 2) FOC Mediation by Written Consent Procedures:** FOC domestic relations mediation will be conducted by a mediator selected by the FOC.
 - The mediation may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.

 - If domestic violence is identified or suspected, the mediation process may not continue unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the mediation process, the mediator must make reasonable efforts to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

 - At the beginning of the mediation, the mediator will advise the parties and their attorneys, if applicable, of the following:
 - The purpose of mediation;
 - How the mediator will conduct mediation;
 - Except as provided for in MCR 2.412(D)(8), statements made during the mediation process are confidential and cannot be used in court proceedings and cannot be recorded;

 - If the parties reach an agreement, the mediator shall submit a proposed order and a report pursuant to MCR 3.224(I) within 7 days.

 - If the parties do not reach an agreement within 7 days of the completion of mediation, the mediator shall so advise the court stating only the date of completion of the process, who participated in the mediation, whether settlement was reached, and whether additional friend of the court ADR proceedings are contemplated.

 - With the exceptions provided for in MCR 2.412(D), communications during FOC domestic relations mediation process are confidential and cannot be used in court proceedings and cannot be recorded.

(G) FOC Co-Parent Session. A process in which a FOC employee discusses proposed solutions with the parties regarding: 1. parenting time addressed by a court-order but lacking in specificity; or 2. address instances when parents have not been exercising parenting time pursuant to a court-order or when one parent has not exercised parenting time for a considerable time.

1) Co-Parent Session Referral: FOC will inform parties of this option when appropriate and parties can request this service in writing.

2) Co-Parent Session Procedures: Co-parent sessions shall be conducted as follows:

- The co-parent session may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
- If domestic violence is identified or suspected, the co-parent session may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the co-parent session, the FOC employee conducting the co-parent session must make reasonable efforts to screen for the presence of coercion or violence that would make the co-parent session physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
- At the beginning of a co-parent session, the FOC employee conducting the meeting shall do the following:
 - i. Advise the parties that statements made during the co-parent sessions are not confidential and can be used in other court proceedings;
 - ii. Advise the parties that the purpose of the meeting is for the parties to reach an accommodation and how the FOC employee will conduct the meeting; and
 - iii. Advise the parties that the FOC employee may recommend an order to the court to resolve the dispute; and explain to the parties the information provided for in MCR 3.224(H)(1)(d)-(e).
- At the conclusion of a co-parent session, the FOC employee conducting the session may do one of the following:
 - i. If the parties reach an accommodation, record the accommodation in writing and provide a copy to the parties and attorneys of record. If the accommodation modifies an order, the FOC employee must submit a proposed order and report to the court. If the court approves the order, the court shall enter it; or

- ii. Submit an order and report to the court stating the FOC employee's recommendation for resolving the dispute. The parties may consent by signing the recommended order and waiving the objection period in accordance with MCR 3.224(H)(1)(e)(iii). If the court approves the order, the court shall enter it; or
 - iii. File a motion with the court to modify existing parenting time provisions pursuant to MCL 552.517d.
- If the FOC employee conducting the co-parent session submits a motion with recommended order, the FOC must serve the parties and attorneys of record a copy of the recommended order and a notice that provides the following information:
 - i. That the court may enter the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent;
 - ii. When and where a written objection must be submitted;
 - iii. That a party may waive the 21-day objection period by returning a signed copy of the recommended order; and
 - iv. If a party files a written objection within the 21-day limit, the FOC shall set a court hearing before a judge or referee to resolve the dispute. If a party fails to file a written objection within the 21-day limit, the FOC shall submit the proposed order to the court for entry if the court approves it.
 - v. Except for communications made during domestic violence screening, communications made during co-parent sessions are not confidential, may be used in other court proceedings, and cannot be recorded.

(H) FOC Facilitated Parenting Time Meeting. A process in which a FOC employee discusses establishment of parenting time with the parties in conjunction with a judgment of paternity or support. Parties are eligible for this service from the time a case referral for establishment is received by the Prosecuting Attorney's Office until one year following the entry of the judgment.

3) Facilitated Parenting Time Meeting Referral: A party can request a session in writing and a meeting will be scheduled with the FOC.

4) Facilitated Parenting Time Meeting Procedures: The meeting for this service shall be conducted as follows:

- The facilitated parenting time meeting may not begin until the FOC case has been screened for domestic violence using a screening protocol provided by the State Court Administrative Office as directed by the Supreme Court.
- If domestic violence is identified or suspected, the facilitated parenting time may not proceed unless the protected party submits a written consent and the FOC takes additional precautions to ensure the safety of the protected party and court staff. Throughout the facilitated parenting time, the FOC employee conducting the facilitated parenting time must make reasonable efforts to screen for the presence of coercion or violence that would make the facilitated parenting time physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.
- At the beginning of a facilitated parenting time meeting, the FOC employee conducting the meeting shall do the following:
 - i. Advise the parties that statements made during the facilitated parenting time meeting are not confidential and can be used in other court proceedings;
 - ii. Advise the parties that the purpose of the meeting is for the parties to reach an accommodation and how the FOC employee will conduct the meeting; and
 - iii. Advise the parties that the FOC employee may recommend an order to the court to resolve the dispute; and explain to the parties the information provided for in MCR 3.224(H)(1)(d)-(e).
- At the conclusion of facilitated parenting time, the FOC employee conducting the meeting will submit a status report to the court, providing enough information for the court to make an independent determination, and may do one of the following:
 - i. If the parties reach an accommodation, record the accommodation in writing and provide a copy to the parties and attorneys of record. If the accommodation modifies an order, the FOC employee must submit a proposed order to the court. If the court approves the order, the court shall enter it; or
 - ii. Submit an order to the court stating the FOC employee's recommendation for resolving the dispute. The parties may consent by signing the recommended order and waiving the objection period in accordance with MCR 3.224(H)(1)(e)(iii). If the court approves the order, the court shall enter it; or
 - iii. Terminate the service.

