THE Pundit

Michigan Child Support Information

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Interview with Chris Beresford

Director of Family Justice Programs under the Ministry of the Attorney, General British Columbia, Canada

by State Court Administrative Office, Friend of the Court Bureau Staff

The Friend of the Court Bureau regularly gets calls from Michigan citizens with child support cases in Canada, and from Canadian citizens with cases in Michigan. Because of those inquiries, we decided to ask Chris Beresford for some information about the Canadian child support enforcement system.

Chris Beresford has worked in the British Columbia (Canada) Ministry of the Attorney General since 1982. He currently is the Ministry's Director of Family Justice Programs. His previous experience there includes 12 years with the Ministry's Corrections Branch as an analyst responsible for community services policy development. Chris holds a B.A. degree in Psychology and Social Welfare from the University of Victoria.

Like American states, individual Canadian provinces and territories are responsible for their own enforcement systems, which typically are called the "Family Maintenance System" or something similar. Each province receives federal assistance, but nowhere near the level of the financial assistance that Michigan receives from the U.S. government. The Canadian federal government provides small five-year grants that are earmarked for "innovation projects." These funds typically account for about one-half of one percent of the province's total child support enforcement budget, and they are intended exclusively for innovative projects, not for ongoing programs. The federal government also provides some direction on policy and legal matters.

A U.S. citizen seeking child support enforcement in Canada should first contact the Canadian federal government which will locate the other parent within Canada and help to initiate enforcement action within the appropriate province or territory.

In some provincial family maintenance systems, enrollment is mandatory following a court judgment. In other provinces, including British Columbia, enrollment in the enforcement program is voluntary. Like Michigan, provinces with mandatory

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Inteview with Jack Battles, Genesee County Friend of the Court

by State Court Administrative Office, Friend of the Court Bureau Staff

The Genesee County Friend of the Court is John "Jack" G. Battles. He has been the Genesee FOC director for just six months.

Jack earned his B.B.A. degree from Western Michigan University and his J.D. degree from Saint Louis University School of Law. After graduating from law school in 1982, Jack worked in General Motors' labor relations department for five years. He then entered private practice, where he handled domestic relations, criminal defense, and child abuse/neglect cases.

Genesee County has approximately 440,000 residents. The median household income is $41,000. Historically, the automobile industry has been the area's largest employer. However, with GM's presence fading, the community is actively encouraging the growth of technology companies and other new employers.

The Genesee County FOC office is located in downtown Flint, at 1101 S. Beach Street, Flint, MI 48502. Although there is no free parking or public e-mail address, the Genesee County FOC maintains a website that provides contact information, various court forms, and a downloadable copy of the FOC Handbook. They are upgrading the website so that litigants will be able to download more forms, obtain the answers to frequently asked questions, and review a newsletter that will report on recent and upcoming changes at the FOC office. The office is open Monday thru Friday from 8:00 a.m. until 5:00 p.m. They do not accept walk-in appointments, however, walk-in clients can obtain forms, make appointments, or receive information about their FOC files. Parties may also listen to recorded FAQ-type information by calling 810-257-3300.

The Genesee County FOC office currently has 56,000 open files and must monitor 6,500 outstanding warrants. There are 101 full-time FOC employees. Genesee County has 22 judges and 5 domestic relations referees.

Why did you choose a career in child support and enforcement of parenting time?

To help children through the turmoil of divorce by ensuring that they are adequately cared for, financially and emotionally.

What is the most satisfying aspect of being an FOC director?

Being part of an organization that assists clients and their children with the enforcement of child support and parenting time orders.

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Interview with Bruce Cranham, Mackinac County Friend of the Court Director

by State Court Administrative Office, Friend of the Court Bureau Staff

Bruce Cranham has been the part-time director of the Mackinac County Friend of the Court (FOC) office since 2003. He also is a family law referee in Mackinac County and eight other counties: Alger, Emmet, Cheboygan, Crawford, Charlevoix, Kalkaska, Otsego and Schoolcraft. Bruce recently met with *Pundit* staff to discuss Michigan's child support system and the Mackinac County FOC office.

Bruce earned his bachelor's degree from Western Michigan University and his juris doctor degree from the University of Arkansas Law School. He has practiced law for 30 years. His career has included 2 years with a company providing prepaid legal services, 15 years in private practice, and 15 years as a family law referee.

The Mackinac County FOC office is in St. Ignace, the small city at the northern end of the Mackinac Bridge. The FOC office is open from 8:30 am to 4:30 pm Monday through Friday. The public can contact the office by stopping in (free parking is available), by calling the office at 906-643-7336, or by mail. The mailing address is: Mackinac County Friend of the Court, 11th Circuit Court, Mackinac County Courthouse, 100 Marley Street, St. Ignace, Michigan 49781.

Because of the county's small population (11,470), the FOC office does not formally partner with other local family service agencies. The FOC staff provides many services themselves, and Bruce adds that "When you have such a small community, you tend to know the various agencies and individuals involved on a first name basis. If you require information or need to work with parties, they are just a phone call away and are readily accessible."

The Native American community employs many people in Mackinac County. The Sault Tribe of Chippewa Indians operates a casino in St. Ignace. The tribe and its several businesses also employ a diverse group of professionals, including lawyers and medical personnel. The three other major industries in Mackinac County are service, retail/wholesale, and government. The county's median income is $33,806.

The Mackinac County FOC office has three full-time employees who handle about 700 active cases. They open 3 to 4 new cases per month. Circuit Judge Charles H. Stark is the chief circuit court judge, and the probate court's Judge W. Clayton Graham handles some family division cases in addition to his probate responsibilities. Bruce Cranham is the sole referee for the nine counties listed above. He works with ten different judges in those nine counties.

Bruce knew that he wanted a career in family law from the time he was a young lawyer. He finds family law fascinating, and he has developed considerable expertise while observing the changes in family law over the past 30 years. The parties that he works with are often in conflict, and Bruce believes that resolving those conflicts requires that an FOC be able to make decisions quickly and then act on those decisions.

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Introducing Angel Sorrells, Management Analyst, Friend of the Court Bureau

by State Court Administrative Office, Friend of the Court Bureau Staff

Angel Sorrells has joined the Friend of the Court Bureau as a Management Analyst.

Angel is originally from Georgia and has degrees from Appalachian State University in Boone, North Carolina, and Thomas M. Cooley Law School in Lansing.

Angel acquired considerable legislative and policy analysis experience working for both the Michigan House of Representatives and the Michigan Senate. Immediately prior to joining SCAO/FOCB, she worked for the Michigan Senate, where she was policy advisor to the Health Policy Committee and the Appropriations Subcommittee for the Department of Community Health.

Angel's hobbies include cooking, running, and tap dancing. She and her husband have one daughter.

Angel will be working on a variety of projects at the FOCB. She developed an interest in family law while in law school, and she hopes to use her legal background to assist the courts and Michigan families.

***Interview with Chris Beresford**, continued from page 1*

enrollment have a procedure that allows parties to opt out of the system. The provinces with voluntary systems tend to handle only those cases in which collecting child support payments proves to be difficult. The one exception to voluntary enrollment is when the custodial parent is receiving income assistance or other welfare benefits. In those cases, the parents must enroll. In British Columbia, parties who are receiving income assistance account for only about 14 percent of the current caseload.

Canadian child support programs have similar approaches to the enforcement of child support orders which Chris describes as the preferred approach "cooperative administrative enforcement." The Family Maintenance agency staff tries to cooperatively establish a payment plan that will work for the payer. This sometimes includes wage garnishment. Family Maintenance agencies have the ability to restrict a driver's license, but this is done only after cooperative efforts are exhausted. And instead of suspending the driver's license the parent is denied the issuance or renewal of the license until the child support payment is received. The Family Maintenance office may also garnish federal government payments such as tax refunds, wage supplements, and pensions. The denial of federal licenses, most notably passports, can also be an effective enforcement tool. Chris describes the denial of passports as a big money generator because Canadians are now required to have a passport for flights into the United States, and many payers regularly conduct business here.

In Canada, nonpayment of child support is not a criminal offense. Payers who are in arrears may be held in contempt of court, but imposition of that sanction is rare. The prevailing view is that, although the threat of jail may produce payment, actually putting payers in jail does nothing to recover the funds. In British Columbia, fewer than 20 nonpayers each year are jailed for civil contempt.

Family Maintenance agencies only enforce court orders to pay child support. They are not involved in procuring those orders or monitoring access or visitation orders.

If a party does not have a court order for child support, he or she may register his or her separation agreement with the Family Maintenance agency and get enforcement assistance from the agency.

A Family Maintenance program may use any of three approaches when addressing their legal services: 1) government lawyers attached to the program; 2) lawyers on loan from another provincial ministry (for example the Ministry of the Attorney General); or 3) Outsourcing legal work to private firms unique to British Columbia.

Family Maintenance agencies also provide centralized payment processing. Most provinces have one payment processing office that is responsible for the entire province. Nova Scotia and New Brunswick have combined their Family Maintenance services with their courts and maintain Family Maintenance offices in most courts. British Columbia, however, operates three regional offices so that each office's staff will have a better feel for the nature of the region served.

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The best thing about the Michigan child support program is the automation of income withholding.

***Interview with Jack Battles**, continued from page 2*

What is the most frequently asked question you receive from litigants?

Divorcing parents want to know what they can realistically expect regarding child support, custody, and parenting time.

In your opinion, what is the best thing about the Michigan child support program?

Automated income withholding orders.

What do you think is the most critical challenge facing the Michigan child support System today?

The lack of adequate financial resources. The Genesee County Friend of the Court office has many good programs that should be expanded to better meet the needs of our clients.

If you had your choice of making one improvement to the Michigan child support program, what would it be?

The state should delegate more authority to local friend of the court offices.

What would you like to see done at the state or federal level to strengthen the Michigan child support program?

Review federal regulations that encumber the ability of local friend of the court offices to efficiently meet the needs of our clients.

What "best practice" used in your office are you most proud of?

After I was appointed as the friend of the court, we completely revamped our enforcement efforts. Those changes have substantially increased our support collections.

What is the key to a successful child support program in the future?

Technology is definitely the key to improving the services offered by the friend of the court.

Who is your personal hero?

My father, John A. Battles.

***Interview with Bruce Cranham**, continued from page 3*

Bruce says that some of the most satisfying aspects of his job involve educating people about the child support system and persuading them to think about what is best for their children. He believes that FOCs and their staffers should feel proud of their profession and recognize their important role in helping families. That justified pride will help them when they must make tough decisions, accept criticism, and take responsibility for their decisions' effects on other people's lives.

What are the most frequent questions that litigants ask Bruce? He reports that questions about gender-biased decision-making come up often. He also gets many general questions about due process and fairness. Bruce believes that FOCs must be constantly aware of fairness issues and must make sure that they discharge their responsibilities as fairly as possible.

". . . FOCs should feel proud of their profession and recognize their important role in helping families."

Bruce is a strong advocate for the judicial model of support enforcement, as opposed to the administrative model. At the same time, however, he believes that although felony prosecutions for nonpayment of support may be good politics, they usually are bad law and bad policy. He thinks that those prosecutions should be infrequent because the real key to collecting child support is simply hard work by FOC personnel and judges. Bruce encourages the liberal use of show cause hearings. He believes that FOCs who make timely requests for show cause hearings are doing their job by staying on top of cases. Bruce does not want to see Michigan move to an administrative collection system. Although we might still collect a great majority of the support owed, an administrative enforcement system would tend to lose track of the cases that require the most work.

Bruce believes that the biggest issues facing the Michigan child support program today involve basic fairness. He cites the Joint Economic Sharing Formula as an example of a procedure that may lead to unfairness. He will not hesitate to recommend a deviation from the formula when the deviation will produce a more equitable result.

Bruce believes that Michigan's child support program could be improved by further strengthening and accelerating enforcement efforts. In Mackinac County, the FOC staff handles enforcement issues very quickly. If someone comes into the office with an enforcement problem, they try to handle the matter right away. Bruce understands that some other counties may not have this luxury due to bigger caseloads or more complex local bureaucratic structures.

Bruce is very proud of the Mackinac County FOC office and of its staff. He says that they work together as a team and provide fast and effective service to the public. Bruce's personal hero is Winston Churchill, who once said that another word for perfection is paralysis. Applying that lesson to support enforcement and custody disputes, Bruce observes that often there are several satisfactory solutions to a problem. Rather than spend too much time searching for a perfect solution, it's more important that the FOC and the court make a reasonable decision promptly so that the family can stabilize and begin the healing process.

***Interview with Chris Beresford**, continued from page 5*

In British Columbia, there are considerable regional variations in population density, the important industries, and the economies. The south-coast/lower-mainland is urban while most of the remainder of the province is less densely populated and more reliant on industry.

The provincial Family Maintenance systems have been in place for 15 to 20 years. Family Maintenance for British Columbia is responsible for approximately 50,000 child support orders representing 45,000 payers. Nationwide, there are approximately 500,000 current child support orders.

In Canada, if you live with a partner and the partner's children for more than two years, you acquire stepparent legal obligations.

British Columbia boasts 87 percent compliance with child support orders, which is on par with the national average. The compliance rating is measured by comparing what is due that month with the amount collected, including arrearages. The province's compliance rating has increased every year for the last five years.

Over time, the Family Maintenance systems have become more integrated with other Family Justice services, including outreach and counseling services. The emotional toll exacted by divorce has seriously impacted Canadian health care services. Chris said that, as a result of cutbacks in health care funding, his office now handles some health care services, such as crisis line telephone calls and referrals for counseling.

A "typical" party in a British Columbia child support case has a surprising profile. The average age of a custodial parent is 42, and it's 44 for noncustodial parents. Comparatively few cases involve young parents. There are currently fewer than 100 cases in British Columbia involving parties under 20 years of age. There are many more cases that involve people over the age of 60 than under the age of 20.

Establishing paternity is not an issue for provincial Family Maintenance systems because their offices become involved only after a support order has been issued and paternity has been determined. Further, disputes over paternity are rare. Chris says that, "In Canada there is no appetite to revisit paternity." When asked why this is true in Canada, as opposed to the frequent litigation over the matter in the United States, Chris responded that the difference probably results from the way that Canadian laws and courts assign legal responsibility for children. In Canada, if you live with a partner and the partner's children for more than two years, you acquire stepparent legal obligations (either through marriage or by common-law rule). This means that the courts can assign multiple payers for each child. The system recognizes that there are varied family relationships, and that a child may have parental relationships with people other than his or her biological mother and father. This policy is illustrated by a recent Ontario case in which the court held that a child had three legal parents—a lesbian couple and the child's biological father.

Chris characterizes Canadian child support enforcement systems as essential in addressing child poverty issues. Currently, one in five children in Canada lives in poverty, which is defined as annual income of CAN $26,984 or less for a family of four. That converts to US $22,868. [In this country, US $20,000 is the American poverty threshold for a family of

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***Interview with Chris Beresford**, continued from page 8*

four.] Chris believes that Canada has changed the public's attitude toward child support payments by framing child support as a child poverty issue. Nationally, $1.2 billion in child support is collected and paid to families each year. Government fees are collected only after support has been paid.

Chris emphasized that British Columbia takes a customer-service approach to dealing with payers. It focuses on maintaining a cooperative relationship with payers so that future payments will be made voluntarily. His staff tries to avoid making the relationship adversarial. They do not want to be viewed as debt collectors, which is why they do not rush to seek wage garnishments and license restrictions.

"They do not want to be viewed as debt collectors, which is why they do not rush to seek wage garnishments and license restrictions."

A recent Ontario survey showed that 70 percent of payers in that province were dissatisfied with the court system and their treatment, and 50 percent reported that they thought their court orders were unfair. In contrast, a recent British Columbian survey reported that 70 percent of British Columbian payers believed that they were treated fairly by Family Maintenance staff. This was up from a previous rating of 30 percent payer satisfaction. These survey results and the payment compliance numbers suggest that the British Columbian approach to payers is working well.

Chris said that the biggest challenge likely to face the British Columbian Family Maintenance System will be keeping the child support collection numbers up if there is any down turn in the economy. He also mentioned his concerns about how difficult it is to have a child support order modified once it is issued. In British Columbia, there is no automatic review of support orders. Modification of an order can occur only in response to a party's motion. This makes it difficult for parties who are not represented by an attorney — especially if the order was issued by the British Columbian Supreme Court as part of a divorce judgment. That court is still largely a place for lawyers that can be very difficult to navigate for parties not represented by counsel. Chris would like to see changes that would encourage the review and modification of child support orders in cases in which the previous order no longer reflects the current financial capabilities of the parties.