

# Establishing an Intrastate Support Order Checklist

One of the primary purposes of the Uniform Interstate Family Support Act (UIFSA), [MCL 552.2101 et seq.](#), is to provide a means for establishing support orders across state lines and foreign countries subject to “the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.” [MCL 552.2102\(c\)](#); [MCL 552.2305\(2\)\(a\)](#); [MCL 552.2704\(2\)\(c\)](#). A petitioner seeking to establish a support order under the UIFSA must file a petition.<sup>1</sup> [MCL 552.2311\(1\)](#); [MCL 552.2705\(1\)](#).

**Note:** A petitioner filing a petition seeking establishment of a support order under the UIFSA that involves an obligee/recipient of payment, obligor/payer, or a child residing outside of the United States is NOT entitled to assistance from the Friend of the Court (FOC). [MCL 552.2701\(d\)](#); [MCL 552.2705\(4\)](#).

On receipt of a petition to establish support (or comparable pleading), inquire and determine the following:

- That a petition for establishment of support was filed that includes:
  - the name, residential address, and social security number of the obligee/recipient of payment.
  - the name, residential address, and social security number of the obligor/payer (where known).
  - name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought (where known).

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<sup>1</sup> The petitioner may not be required to pay a filing fee or other costs. [MCL 552.2313\(1\)](#).

- information providing assistance in locating or identifying the respondent (where available).
- the relief sought. [MCL 552.2311\(1\)-\(2\)](#). See [MCL 552.2312](#) for circumstances in which specific identifying information may not be disclosed to the other party or the public.
- If a party alleges in the pleading/sworn statement that a party's or child's health, safety, or liberty is at risk by the disclosure of identifying information, seal and do not disclose the information to the other party or the public. [MCL 552.2311\(1\)](#); [MCL 552.2312](#).
  - If after a hearing in which the party's or child's health, safety, and liberty were considered and it is determined that the disclosure is in the interest of justice, the court may order disclosure of the identifying information. [MCL 552.2311\(1\)](#); [MCL 552.2312](#).
- MAY communicate with a tribunal outside Michigan in a record, or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. [MCL 552.2301\(1\)](#); [MCL 552.2317](#).
- MAY request a tribunal outside Michigan to assist in obtaining discovery. [MCL 552.2301\(1\)](#); [MCL 552.2318](#).
- Determine whether personal jurisdiction exists over the nonresident individual (or the individual's guardian or conservator) by finding that one or more of the following apply:
  - The individual was personally served with notice in Michigan.
  - The individual submitted to Michigan jurisdiction by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.
  - The individual resided with the child in Michigan.
  - The individual resided in Michigan and provided prenatal expenses or support for the child.
  - The child resides in Michigan as a result of the acts or directives of the individual.

- The individual engaged in sexual intercourse in Michigan and the child may have been conceived by that act of intercourse.
- The individual asserted parentage of a child in the central paternity registry maintained in Michigan by the Department of Health and Human Services (DHHS).
- There exists another basis consistent with the Michigan and United States constitutions for the exercise of personal jurisdiction. [MCL 552.2201\(1\)](#).
- Determine whether this court has jurisdiction to establish a support order:
  - YES *if* there is not another support order recognizable under the UIFSA *and* the individual seeking the order resides outside Michigan OR the support enforcement agency seeking the order is located outside Michigan. [MCL 552.2401\(1\)](#).
  - YES *if* the petition/comparable pleading (filed **after** a pleading was filed in another state or foreign country) was filed in Michigan:
    - before the expiration of the time allowed in the other state/foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state/foreign country; AND
    - the contesting party timely challenges the exercise of jurisdiction in the other state/foreign country; AND
    - Michigan is the child's home state.<sup>2</sup> [MCL 552.2204\(1\)](#).
  - NO *if* the petition/comparable pleading is filed in Michigan **before** a petition/comparable pleading was filed in another state or foreign country AND:
    - the petition/comparable pleading in the other state/foreign country is filed before the expiration of the time allowed in Michigan for filing a responsive pleading challenging the exercise of jurisdiction by Michigan, AND

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<sup>2</sup> For purposes of the UIFSA, home state is "the state or foreign country in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month or other period." [MCL 552.2102\(h\)](#).

- the contesting party timely challenges the exercise of jurisdiction in Michigan, AND
- where relevant, the other state/foreign country is the child's home state. [MCL 552.2204\(2\)](#).
- Ensure proper notice has been provided. See [MCL 552.2401\(3\)](#).
- If the obligor/alleged payer FAILS to appear for the proceedings (after proper notice) MAY issue a bench warrant. See [MCL 552.2305\(2\)\(i\)](#). *Note, however, a nonresident party need not be physically present for the establishment of the support order.* [MCL 552.2316\(1\)](#).
- Ensure parties have an opportunity to be heard. See [MCL 552.2401\(3\)](#).
- Note:** A party whose parentage of a child has been previously determined by or according to law may not plead nonparentage as a defense to a proceeding under the UIFSA. [MCL 552.2315](#).
- MUST admit into evidence (where applicable):
  - an affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference by any of them, that would not be excluded under the hearsay rule if given in person if given under penalty of perjury by a party or witness residing outside of Michigan. [MCL 552.2316\(2\)](#).
  - a copy of the record of child-support payments certified as a true copy of the original by the custodian of record forwarded to the court as evidence of facts asserted in it and to show whether payments were made. [MCL 552.2316\(3\)](#).
  - copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary. [MCL 552.2316\(4\)](#).
- May NOT exclude documentary evidence transmitted from outside Michigan by telephone, telecopier, or other electronic means that do not provide an original record from evidence on an objection based on the means of transmission. [MCL 552.2316\(5\)](#).

- MUST permit a party or witness residing outside of Michigan to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated location. [MCL 552.2316\(6\)](#).
- MAY draw an adverse inference from a party's refusal to answer when called to testify on the ground the testimony may be self-incriminating. [MCL 552.2316\(7\)](#).
- Privilege against disclosure of communications between spouses OR defense of immunity based on the relationship between spouses or parent and child do NOT apply. [MCL 552.2316\(8\)](#); [MCL 552.2316\(9\)](#).
- MAY issue a *temporary child-support* order if it is appropriate and the payer is:<sup>3</sup>
  - the child's presumed father.
  - petitioning to have his paternity adjudicated.
  - identified as the child's father through genetic testing.
  - an alleged father who has declined to submit to genetic testing.
  - shown by clear and convincing evidence to be the child's father.
  - an acknowledged father as provided by the Acknowledgment of Parentage Act, [MCL 722.1001 et seq.](#)
  - the child's mother.
  - an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated. [MCL 552.2401\(2\)](#).
- On finding that an obligor/payer owes a duty of support:
  - establish a support order directed to the obligor/payer that includes the calculations on which the support order is based. [MCL 552.2305\(3\)](#); [MCL 552.2401\(3\)](#).

**Note:** Payment of support may not be conditioned on compliance by a party with provisions for visitation. [MCL 552.2305\(4\)](#).

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<sup>3</sup> If authorized to determine parentage of a child, the court may serve as a responding tribunal in a proceeding to determine parentage of a child brought under the UIFSA or procedure substantially similar to the UIFSA. [MCL 552.2402](#).

- order income withholding.<sup>4</sup> [MCL 552.2305\(2\)\(c\)](#); [MCL 552.2401\(3\)](#).
- order the obligor/payer to keep the court informed of his/her current residential address, electronic-mail address, telephone number, employer, address of employment, and telephone number at the place of employment. [MCL 552.2305\(2\)\(d\)](#); [MCL 552.2401\(3\)](#).
- order the obligor/payer to seek appropriate employment by specified methods. [MCL 552.2305\(2\)\(j\)](#); [MCL 552.2401\(3\)](#).
- award reasonable attorney fees, filing fees, other fees and costs, and necessary travel and other reasonable expenses incurred against the payer.<sup>5</sup> [MCL 552.2305\(2\)\(k\)](#); [MCL 552.2313\(2\)](#); [MCL 552.2401\(3\)](#).
- grant any other available remedy the court deems fit. [MCL 552.2305\(2\)\(l\)](#); [MCL 552.2401\(3\)](#).
- Send a copy of the support order to the petitioner, the respondent, and to the initiating tribunal (if initiated in another state or foreign country and transferred to Michigan). [MCL 552.2305\(5\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

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<sup>4</sup> See [MCL 552.604\(3\)](#). However, the immediacy of the income withholding order may be suspended by written agreement between the parties or by court order after notice and hearing is held. See [MCL 552.604\(3\)\(a\)-\(b\)](#). For a checklist on the suspension of immediate income withholding, see the Michigan Judicial Institute's [Suspension of Immediate Income Withholding Checklist](#).

<sup>5</sup> Payment of support owed has priority over fees, costs, and expenses. [MCL 552.2313\(2\)](#).