

GUIDELINES FOR COURT-ORDERED REIMBURSEMENT

This revised document was originally published in October 1990 and the text has been revised and updated through April 2018. This document is not intended to be an authoritative statement by the Justices of the Michigan Supreme Court regarding any of the substantive issues discussed.

Michigan Supreme Court
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Guidelines for Court-Ordered Reimbursement
List of Major Changes

Section	Subsection	Change
Title		Updated title of document and provided revision notation.
I. Introduction		Terminology updated.
II. Authority		Statutory citations updated.
III. Types of Court Ordered Reimbursement		Terminology updated (ex., referring to “juvenile” rather than “child”); statutory citations updated; examples of cost of care and/or services updated to remove diversion services and add case law citation to probation services; updated court rule citations.
IV. Considerations in Ordering Reimbursement		Statutory citations updated.
V. Procedures for Starting or Reviewing a Collections Program	A. Determination of Income	Provided references to the Michigan Child Support Formula Manual.
	A.1. Types of Income	<p>a. Parent, Guardian, or Custodian Income: Removed list of sources of income and provided reference to the Michigan Child Support Formula Manual.</p> <p>b. Income of Minor: New section on treatment of minor’s income.</p> <p>c. Treatment of Child Support Orders: Substantial revision to section covering child support orders to update court procedures, terminology, statutory and court rule citations. Inserted references to administrative memoranda.</p>
	A.2. Formula for Determination of Net Income	Provided reference to the Michigan Child Support Formula Manual for determining allowable deductions; treatment of child support orders and the additional child adjustment.

	A.3. Imputing Potential Income	Provided reference to the Michigan Child Support Formula Manual for imputing income.
	B. Making Recommendation to the Judge	
	B.1. Determination of Recommendations	Replaced reference to the model schedule with reference to Michigan Child Support Formula Schedules Supplement; updated statutory citations.
	B.2. Use of the Michigan Child Support Formula Schedules Supplement	Provided reference to Administrative Order 2006-5. Provided extensive direction regarding how to apply the schedules supplement to calculate juvenile reimbursement order amount. Provided reference to the excel calculator designed by Friend of the Court Bureau to assist in calculation.
	C. The Court Order	Updated statutory and court rule citations. Provided information on ordering interval payments and ordering a definite total amount and analysis of ordering the full amount or a reduced amount.
	C.1. Individuals Subject to Reimbursement Orders	Provided considerations regarding whether to assess reimbursement against one individual or multiple individuals.
	C.2. SCAO Forms and Orders for Reimbursement	Updated references to court forms.
	C.3. Effectiveness of Order	Updated statutory citations.
	C.4. Amendment of the Order for Reimbursement	Updated references to court forms.
	C.5. Review of the Order for Reimbursement	Terminology updated.
	D. Collections and Enforcement	
	D.1. Collections	Added references to Administrative Order 2010-1 and the Trial Court Collections Standards and Guidelines. Deleted sections on the Child Care Fund and Distribution of Collections and replaced with reference to Michigan Court Administration Reference Guide (CARG).
	D.2. Enforcement	c. Monitoring Accounts – Added information about case management system reports.

		d. Enforcement Procedures – Updated terminology, procedures, court rule citations and form references involved in enforcement processes. Added reference to the Michigan Judicial Institute’s Contempt of Court Benchbook. Removed notes on use of contempt of court.
VI. Resources		Deleted, information outdated.
VII. Case law		Deleted, but contempt information included in D.2.d. via reference to MJI Contempt of Court Benchbook.
VIII. Attachments		Deleted, information outdated.
Appendix A and B		Added examples of applying the Michigan Child Support Formula Supplement Schedules.

GUIDELINES FOR COURT-ORDERED REIMBURSEMENT

I. INTRODUCTION

Collection of court-ordered reimbursement reinforces accountability for the cost of care and services in the community, places emphasis on deterrence, and assists the court in working with its funding unit in budget development.

The intent of this document is two-fold. It references statutory guidelines for the collection of reimbursement and provides procedural guidelines for courts to start or improve a collections program.

Use of the guidelines and model schedule will result in greater uniformity in reimbursement recommendations and orders. *Special circumstances will arise in which the guidelines and model schedule should not be used and the courts will use their discretion to develop appropriate orders.*

II. AUTHORITY

MCL 712A.18(6)states:

The office of the state court administrator, under the supervision and direction of the Supreme Court, shall create guidelines that the court may use in determining the ability of the juvenile, parent, guardian, or custodian to pay for care and any costs of service ordered under subsection (2) or (3). The guidelines shall take into account the income and resources of the juvenile, parent, guardian, or custodian.

III. TYPES OF COURT-ORDERED REIMBURSEMENT

An order of disposition placing a juvenile outside of the juvenile's own home and under state or court supervision shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian for the cost of care or service. MCL 712A.18(2). (Emphasis added). An order of disposition placing a juvenile in the juvenile's own home may provide for the reimbursement by the juvenile, parent, guardian, or custodian, to the court for the cost of service. MCL 712A.18(3). (Emphasis added).

Some examples of costs of care and/or services provided in juvenile cases include:

- Detention
- Foster care
- Residential care
- Clothing costs
- Medical expenses
- Dental expenses
- Probation services¹
- Counseling fees

¹ But see *In re Killich* regarding imposition of juvenile probation fees. *In re Killich* _ Mich App __ (2017) (Docket No. 329941).

- Psychological evaluations
- In-home care services
- Specialized treatment services
- Attorney fees
- Other reimbursable costs of care or services as identified by the court.

The list is not exhaustive. It identifies costs of care most commonly incurred and services most frequently offered. Many courts assess service fees for court provided services. Service fees must not exceed the actual cost of the service rendered.

If the court appoints an attorney to represent a juvenile, parent, guardian, or custodian, an order of disposition may require the juvenile, parent, guardian, or custodian to reimburse the court for attorney fees. MCL 712A.18(5). (Emphasis added).

MCL 712A.17c(8) also states that if an attorney or lawyer-guardian ad litem is appointed for a party under this act, after a determination of ability to pay, the court may enter an order assessing attorney costs against the party or other person responsible for the support of that party, or against the money allocated from marriage license fees for family counseling services under section 3 of 1887 PA 128, MCL 551.103. (Emphasis added). An order assessing attorney fees may be enforced through contempt proceedings. The language in MCL 712A.17c(8) is paralleled by court rule MCR 3.915(E), but makes no mention of marriage license fees. MCR 3.916(D) provides that the court may assess the costs of providing a guardian ad litem against the party or a person responsible for the support of the party, and may enforce the order through contempt proceedings. (Emphasis added).

IV. CONSIDERATIONS IN ORDERING REIMBURSEMENT

A reimbursement order should not exceed the actual cost of care or service. The intent of reimbursement is to recover the cost of care or services.

The order must be reasonable, taking into account the income and resources of the juvenile, parent, guardian, or custodian. The guidelines and model schedule may be the basis for the order. The court should establish a means of determining what is reasonable to enter into an order, based on the income and resources of the juvenile, parent, guardian or custodian. MCL 712A.18(2) and (3). Whether the court orders payment of the total amount of care or service or only an interval payment schedule, as outlined in subsection V.C., the payment schedule should be reasonable.

The court may continue to collect money from reimbursement orders after a child is released or discharged from care outside the child's own home and from state or court supervision. MCL 712A.18(2). Twenty-five percent of all amounts collected under an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected under an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county juvenile agency, or court supervision. MCL 712A.18(2).

Government benefits may be collected by the court for the cost of care for court wards. MCL 712A.18(2). The court, in every commitment to the state under 1974 PA 1502 or 1935 PA 220,³ is required to name the superintendent of the institution the child is committed to as special guardian to receive any government benefits due. The benefits received by the special guardian shall be used to the extent necessary to pay for the portions of the cost of care in the institution or facility that the parent or parents are found unable to pay. MCL 71 2A.18(1)(e).

V. PROCEDURES FOR STARTING OR REVIEWING A COLLECTIONS PROGRAM

This section outlines procedures recommended to develop a comprehensive reimbursement collections program. It can be used as a comparison with an existing program to see if changes are useful or necessary. The procedures outlined apply to collections in areas of reimbursement for cost of care and services, as previously described, but may also be relevant to collection of other financial obligations ordered in juvenile matters⁴.

A. Determination of Income

For the purpose of this section, a working definition of income is necessary. Although not directly applied to all aspects of this document, the Michigan Child Support Formula [Manual](#) (MCSF)⁵ provides direction to determine income. See 2017 MCSF 2.01-2.06. Pursuant to the manual, “the term ‘net income’ means all income minus the deductions and adjustments permitted by this manual. A parent’s ‘net income’ used to calculate support will not be the same as that person’s take-home pay, net taxable income, or similar terms that describe income for other purposes.” MCSF 2.01(A). In applying the child support formula manual schedules supplement, these guidelines incorporate much of the manual’s treatment of net income.

When the court intends to enter an order assessing the cost of care to a party, the court must start with a report of income by the party or parties. The Financial Statement (JC 34) can be used to obtain income information. The financial statement should be completed by both the custodial and noncustodial parent when parents are separated, divorced, or living apart, and by the juvenile and any guardian or custodian, as applicable,⁶ to ensure the court can fully consider the income and resources available. Upon completion and return to the court, the financial statement should be reviewed to determine if it is complete as to all available income. If there are questions about the financial statement, obtain a release from the party to gain the necessary information. Use the Request for Financial Information (JC 37). This form

² Youth Rehabilitation Services Act, MCL 803.301, *et seq.*

³ Michigan Children’s Institute, MCL 400.201, *et seq.*

⁴ Some of the procedures may also apply to efforts to collect other monies that are not specifically addressed, such as fines, restitution, minimum state costs and crime victim rights assessment. See the [Circuit Court Fee and Assessments Table](#) for assessment information in juvenile matters.

⁵ All references to the MCSF are for 2017, but the manual and supplement are both updated periodically.

⁶ MCL 712A.18(2) requires the court’s order of disposition to address reimbursement and shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian.

authorizes release of information as requested by the court. The form must be signed by the parent, guardian, or custodian, and by a court representative.

1. Types of Income

a. Parent, Guardian, or Custodian Income

Parent, guardian, or custodian income can be derived from a number of sources. See [MCSF](#), beginning at section 2.01(C).

There are other kinds of income that can be considered where no money is exchanged, such as in-kind services, trades, or allowances given. See MCSF 2.01(D). The court should use its discretion if it chooses to pursue these additions to income and, in determining the value, should not exceed market value. Further, the MCSF considers these amounts if “they reduce personal expenses, and have significant value or are received regularly.” *Id.*

Non-income or low-income producing assets can also be considered. This will help prevent a parent, guardian, or custodian from redirecting income/assets into an area that does not appear as income that would be considered reportable. See MCSF 2.06. In evaluating the income that could be produced by any of these assets, the court can apply current interest rates for passbook savings accounts, treasury bills, bonds, and certificates of deposit to the amount of the asset over a given period of time.

If a parent, guardian, or custodian is self employed, either in a small business or in a corporation, special attention should be paid to the income reported. See MCSF 2.01(E).

For seasonal or annual variations on income, see MCSF 2.02.

With regard to means-tested income, pursuant to the MCSF 2.04(A), income does not include the value of benefits from means tested sources such as Temporary Assistance to Needy Families (TANF), food stamps, the federal Earned Income Credit, and Supplemental Security Income (SSI).

Unlike the MCSF, do not count as income benefits paid to parents or children from retirement, survivor’s, or disability dependent benefits from government insurance programs like social security, veteran’s administration, or railroad retirement. See *In re Lampart*, 306 Mich App 226 (2014), wherein the juvenile’s mother was ordered to pay restitution, but her only source of income was SSDI. The court held that social security benefits, whether from SSDI or SSI, are exempt from legal process and those benefits could not be used to satisfy court-ordered restitution

For purposes of this manual, alimony is treated as provided by the Internal Revenue Service (IRS) and is considered income to a recipient and a deduction to a payer, regardless of whether the payment is between the parties in the case (IRS treatment of alimony changing in 2019).

b. Income of Minor

The court should determine if a juvenile has income from employment, other assets, or is a recipient of government benefits. MCL 712A.18(2) permits the court to collect from the government of the United States benefits paid for the cost of care of a court ward.

c. Treatment of Child Support Orders

The previous version of these guidelines provided that when there is an order of child support in the circuit court, the court should enter an order requesting the friend of the court (FOC) to forward any child support payments received to the probate court.

The authority and procedure for child support assignment and support redirection have changed over the years. There are a few options the court may consider to facilitate application of a child support payment towards an order for reimbursement for cost of care.

- MCL 552.605d(3) provides for the automatic assignment of child support when a child is placed in state- or county-funded foster care. The term “foster care” is not defined in the support and parenting time enforcement act.⁷ If there is any dispute whether a placement qualifies as foster care for purposes of automatic assignment, it is up to the discretion of the court that issued the underlying child support order.
- MCL 552.605d(4) provides for the redirection of child support when a new person is providing “the actual care, support, and maintenance of a child”. The redirection is subject to the procedures set forth in MCL552.605d(5). The court would have to send a request for redirection to the FOC office handling the support order for a child, and state that they are “providing the actual care, support, and maintenance for” the specific child. Once they become the recipient, the court should immediately notify the FOC when they are no longer providing “the actual care, support, and maintenance” and let the FOC know who is.
- The court could file a motion to modify support or a request for support review seeking to have the order modified to name the court as the recipient.
- We suggest that, if the support is redirected, in instances where the child will be placed for a longer period (e.g., 180 days or longer), at the same time that redirection is requested (or shortly thereafter), the court should request that the FOC office begin a statutory review of the support amount, due to the change of physical custody outside of the domestic relations case.

⁷ MCL 712A.13a(1) provides that “[a]s used in this section and sections 2, 6b, 13b, 17c, 17d, 18f, 19, 19a, 19b, and 19c of this chapter ... (e) "Foster care" means care provided to a juvenile in a foster family home, foster family group home, or child caring institution licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, or care provided to a juvenile in a relative's home under a court order.”

The court should follow the notification procedures found in MCR 3.205 to inform the friend of the court that established the support order of the subsequent juvenile proceeding. Additionally, [ADM 2017-02](#), [ADM 2008-1](#) and [FAQ 2008-02](#) provide guidance on child support assignment and redirection.

2. Formula for Determination of Net Income

Net income may be determined by using the previous year's tax return, assuming there has been no substantial change in circumstances, but remember MCSF 2.01(A) provides that the manual's treatment of net income will differ from take-home pay and net taxable income. It is important to review any allowable deductions noted in the manual. It can also be determined from the information provided on the financial statement.

The only allowable deductions are those that the parent, guardian, or custodian is legally responsible to pay. The MCSF provides direction for determining allowable deductions from income. See MCSF 2.07. Unlike the MCSF, deduct any amounts that the parent is ordered to pay in a child support case. For any children for whom child support is not ordered but for which the parent has an obligation to support, apply the additional child adjustment. This adjustment includes both the health insurance premium (dollar-for-dollar deduction) and the adjustment multiplier. See MSCF 2.08.

3. Imputing Potential Income

When a parent is voluntarily unemployed or underemployed, or has an unexercised ability to earn, income includes the potential income that parent could earn, subject to that parent's actual ability. See MCSF 2.01(G). Imputing potential income is used to calculate the income of a parent, guardian, or custodian when the party has voluntarily reduced or eliminated income.

The decision to impute income is discretionary with the court. MCSF 2.01(G)(5). If a court chooses to impute income, the person investigating income should make two recommendations to the court for ordering reimbursement:

- based on actual income
- based on actual income plus imputed income

B. Making Recommendations to the Judge

1. Determination of Recommendations

The recommendations of the reimbursement order should be based on the information used to determine net income. It is critical that the recommendations have a basis in fact. If the Michigan Child Support Formula Schedules Supplement (see Section 2, below) is used as the basis of the recommendations, it should be noted. All data compiled should be maintained for reference by the court. Any application of formulas using the data should be done in writing, so that the court can present and defend the method and data used to arrive at recommendations for reimbursement.

If possible, complete the recommendations in the space provided on the Financial Statement (JC 34), page two. Attach pages as necessary for additional recommendations and information on computation of data.

The recommendations should address all areas relevant to the status of the case. See previous Section III for a listing of the types of care and services that can be considered.

The recommendations should be submitted for consideration by the judge at the initial disposition. If necessary information is not available to make complete recommendations, the recommendations for the order can be framed in one of two ways:

- The party is responsible for “\$0” toward the cost of care or service, pending receipt of complete information.
- The party is responsible for “full cost” of care or service, pending receipt of complete information.

2. Use of the Michigan Child Support Formula Schedules Supplement

[Administrative Order 2006-5](#) replaced the model schedule of payments formerly included in these Guidelines with the [Michigan Child Support Formula Schedules Supplement](#). Once the court determines net income, that figure can be applied to the appropriate child support formula schedule to obtain the amount to be ordered for reimbursement.

It is important to note that the formula schedules are based on the number of children for which support is being ordered, which ranges from one child to five or more children. That support amount is then divided by the same number of children (per capita), to arrive at the order amount for one child in placement. Some considerations in using the schedules include whether the family is intact versus separate (from the juvenile’s perspective) and if there are multiple children in common.

In an intact family (both parents are in the same household), consider both parent’s net income. If there are multiple children in common, use the schedule that corresponds to the number of children, determine each parent’s obligation by looking for the number using the parent’s income on the left column and the other parent’s income on the top row. See Appendix A for example. Then divide the proposed obligation amount by the number of children.

Calculations for a separate family apply when the parents of the juvenile do not live in the same a household. Support is calculated based on each parent’s net income, using zero for the “other parent” amount. This results in two separate obligations. The schedules try to help retain some self-support for the parent in a low income situation. If there are multiple children in common, use the schedule that corresponds to the appropriate number of children, the obligations are calculated using zero as the “other parent” income and each obligation is divided by the corresponding number of children. See Appendix B for example.

To calculate a juvenile's obligation using the support formula schedules, the juvenile's income is run against party A's and B's combined income as the "other" amount.

The schedule should not be used in cases where there is no personal income or where the sole source of income of the parent, guardian, or custodian is public assistance or other government benefits not applicable to the care of the minor.

Courts are urged to consider all case circumstances when applying the schedule. Strict adherence to the schedule could create problems for the court in ordering and collecting reimbursement. Click [here](#) to request an Excel calculator designed to apply net income to the child support formula schedules supplement.

C. The Court Order

At the dispositional hearing, the court must order reimbursement for the cost of care or services if a child is placed or committed to care outside of his own home.⁸ If the juvenile remains in his home, the court may order a reimbursement, but it is not required.⁹ The court may modify reimbursement amounts in a subsequent order of disposition following a dispositional review hearing.¹⁰ In addition to the cost of care or services, the court may also assess the cost of an attorney or lawyer-guardian ad litem.¹¹

The court order for reimbursement must be reasonable and must take into account the income and resources of the juvenile, parent, guardian, or custodian. The court may assess the full cost of care or a reduced amount,¹² but the order cannot be for more than the actual cost. The amount ordered may be based on the guidelines and supplement schedule. Additionally, if the juvenile is receiving an adoption support subsidy under sections 115f to 115m of the social welfare act, 1939 PA 280, MCL 400.115f to 400.115m, the amount shall not exceed the amount of the support subsidy. The amount ordered remains at the discretion of the court. We recommend that courts review the whole financial picture and not strictly adhere to the schedule.

There are two approaches to construction of a reasonable order. First, the court can set a reasonable *interval amount* to be paid during the time the juvenile is out of the home or receiving services. For example, the order would state that the parent shall reimburse the court \$50 per week for the cost of care, paid until the juvenile is returned home. Second, the court can order a *definite total amount* of costs, at a reasonable interval payment. For example, the court would order the parent to pay the full cost of care, at a rate of \$50 per week. In either example, the order must be based on the financial statement and supporting information obtained by the court.

Interval Amount: The interval amount does not assess a total amount due; instead, it establishes payments on a scheduled basis. If the court uses an interval payment

⁸ MCL 712A.18(2)

⁹ MCL 712A.18(3)

¹⁰ MCR 3.945(A)(1); MCR 3.975(G)

¹¹ MCL 721A.18(5); MCR 3.915(E); MCR 3.916(D)

¹² See *In re Brzezinski*, 214 Mich App 652, 679-90, rev'd 454 Mich 890 (1997) (holding the court is not mandated to order the full amount of reimbursement, but rather a reasonable amount). The Michigan Supreme Court reversed the court of appeals for the reasons outlined in the dissenting opinion in the court of appeals opinion.

approach, working with the juvenile, parent, guardian, or custodian to determine and agree to a payment amount often has a positive impact. Parties can add the payment to their budget and the court is less likely to have to use any of the enforcement steps available.

Definite Total Amount: If the court orders a definite total amount, the court should consider the following when deciding whether to assess the *full amount* of cost of care or a *reduced amount*.

Benefits of assessing the *full amount* include:

It provides the court with a mechanism to compute and track the actual cost of care or service for the juvenile. This information can be conveyed to the juvenile, parent, guardian, or custodian.

- It allows the court the flexibility to use juvenile, parent, guardian, or custodian cooperation with the court as an incentive. Compliance with the order could result in release from all or part of the outstanding debt at the end of court jurisdiction.
- It gives the court the opportunity to recover costs incurred prior to disposition, particularly when the juvenile is placed outside the parental home.

Assessing the full amount of cost of care, however, will increase the amount owed to the court on its receivables reports and could result in unrealistic and financially overwhelming court orders to the juvenile, parent, guardian, or custodian.

Benefits of assessing a *reduced amount* include:

- This could lead to a decrease in outstanding debt owed to the court because an upfront ability to pay determination would allow for the court to assess an amount which it believes is reasonable for the juvenile, parent, guardian, or custodian to pay the court.
- It may result in more realistic cost of care orders.

In ordering a reduced amount of cost of care, the court would want to conduct an ability to pay determination before making its order. This would be more work on the front end as each parent would have his own order for reimbursement of the cost of care based on individual circumstances.

Whether the court assesses the full amount or a reduced amount, it should also determine how the amounts will be paid. The court should determine if a payment plan is appropriate, for example, a biweekly or monthly payment from the responsible parties until the total amount ordered is satisfied.

1. Individuals Subject to Reimbursement Orders

The court may order one or more of the following individuals to reimburse the court for the cost of care or services:¹³

- Juvenile

¹³ MCL 712A.18(2) and (3)

- Parent
- Guardian
- Custodian

Considerations when deciding to assess against only one individual include:

- The court is limiting from whom it may collect money.
- If another individual has income resources, the court does not have an order which would allow for collection. For example, if the court orders a parent responsible for the cost of care, and does not order the juvenile responsible, the court would not be able to pursue the juvenile for reimbursement later on if the juvenile was employed.

Considerations when deciding to assess against multiple individuals include:

- This joint and several style of assessment would require the court to adjust each individual's balance as a payment is made.
- This practice will put the individuals equally responsible for satisfying the obligation.
- The court may pursue any of the individuals for the obligation.
- Use of the Judicial Data Warehouse may help a court locate an individual not listed on the petition. However, see Section 3 Effectiveness of Order, below, regarding notice.

2. SCAO Forms and Orders for Reimbursement

The reimbursement provisions are contained in the Order of Disposition. See SCAO forms JC14a, JC14b, JC17, JC17a. Language regarding reimbursement is also included on the forms JC 63, 71, 72, 73, 57. The court may also order reimbursement entering a separate order using the Order for Reimbursement (JC 38). Remember that the court must address the issue of reimbursement at the first disposition, even if a final amount of reimbursement is not set. The amount of reimbursement ordered may be modified in a subsequent order following disposition.

3. Effectiveness of Order

An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless an opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of this chapter. MCL 712A.18(4).

4. Amendment of the Order for Reimbursement

Changed circumstances may result in a need to amend the order of reimbursement. The affected individual(s) or a representative of the court may request reconsideration of the order. A party may motion the court to request the opportunity to be heard on changed circumstances. The court may use Order for Reimbursement (JC 38) to amend the original reimbursement order. Note, the court should indicate at the top of the JC 38 form that it is an amended order.

The judge should make it clear to the affected individuals at disposition that the order can be amended, and by whom. Because the court often discovers financial information after entry of the order of disposition, there must be flexibility for adjustments based on new information. The juvenile, parent, guardian or custodian can request changes in the order based on changes in income or circumstances. In either case, the court should require completion of a revised Financial Statement (JC 34), with instructions that the changes be noted. The revised statement should be clearly marked and dated to distinguish it from previous statements.

The court can include a provision in the original order of reimbursement requiring the juvenile, parent, guardian, or custodian to notify the court of any increase or decrease in income within a certain number of days of the change. The court should also reserve the right to amend the order if the party fails to notify the court.

5. Review of the Order for Reimbursement

The court can, at any time, order a review of the parent, guardian, or custodian's compliance with the order of reimbursement. Notice must be given for the hearing.

If the court orders reimbursement of the full cost of care or service, a review should be required prior to the release of the juvenile from the court's jurisdiction. This review provides an opportunity for the judge to look at compliance with the order, payment history, arrearage, enforcement efforts needed and other factors. The court can then determine whether to:

- Forgive the entire debt
- Forgive any part of the debt
- Continue the original or last order as entered
- Seek voluntary or involuntary wage assignment
- Amend the existing order

D. Collections and Enforcement

1. Collections

The family division of circuit court is required to have a collections program pursuant to Administrative Order 2010-1. Family division collections systems are designed to continue to accrue amounts as time goes by, offsetting amounts as payments are received.

Courts are required to adhere to standards and accounting procedures as defined in the Michigan Trial Court Administration Reference Guide (CARG), section 6-05, Trial Court Financial Management Guidelines. These accounting and bookkeeping standards apply to funds handled by the courts. Additional information regarding funding sources, such as the Child Care Fund, and distribution of collections is available in section 6-10 of the CARG.

Each court is urged to establish a formal written policy regarding collections. See the [Trial Court Collections Standards and Guidelines](#) for assistance in developing a collections policy. The following areas should be addressed in written policy:

- Types of care and/or service for which reimbursement will be ordered
- When assessment will be addressed in the judicial process
- When the court will use (and not use) the child support formula manual schedules
- The method used to determine income and resources
- Determine the method of billing
- Determine the method of accounting
- Definition of a delinquent account
- Definition of when and how reimbursement orders will be modified or terminated
- Staff positions responsible for each step in the process

2. Enforcement

Enforcement is an integral part of the collection process. The court must first determine a definition of what a delinquent account is. Then it must decide how it will address delinquent accounts. Community standards and staff availability often dictate how delinquent accounts will be handled. Court resources impact the number and severity of the steps used in the court collections process.

a. Defining a Delinquent Account

Each court must determine what it considers to be a delinquent account. Generally, an account is delinquent as soon as a payment is not made by the due date set by the court. For purposes of enforcement, the court may consider an account delinquent for enforcement at a later time, for example, 30 days after the due date.

b. Billing Statements

The billing statement should be considered a part of the enforcement process. Statements should be sent out regularly, but at least on a monthly basis. The billing statement should include the following information:

- Name and address information of the party
- Court contact information, including address and phone
- Up-to-date billing postings
- Up-to-date payment postings
- Current balance due
- Due date for next payment
- Total cost of care to date
- Other information as locally determined

c. Monitoring Accounts

Accounts should be monitored regularly to determine if they are delinquent. A staff person or department should have responsibility for this assignment.

Case management system reports, such as the JIS Show Cause Report, can help identify cases that have not made a payment within a date specified by the user. A key aspect of making enforcement work is to respond to nonpayment situations in the time frames set out by the court.

When an account is determined delinquent, it should be turned over to the person or department responsible for initiating and tracking the enforcement procedure.

d. Enforcement Procedures

1. Delinquency Notice

Sending a delinquency notice is usually the first step. The notice should include:

- The balance due and any past due amounts
- Clear warning of the intent of the court to pursue contempt proceedings
- A specific date by which the party must comply
- Information on how to contact the court

2. Direct Contact

This could be by telephone or in person. It can occur informally, when the party is in contact with the court on another matter and the court seizes the opportunity to address the delinquent account. Or, the court may assign collections staff to make calls on files that have been identified as delinquent. If direct contact is used, as a regular function of enforcement or as an occasional opportunity, the contact and its results should be recorded as part of the file.

3. Voluntary Wage Assignment

A voluntary wage assignment can be executed at any time. If the party believes it will be difficult to make regular payments, or is delinquent in doing so, wages can be assigned with the knowledge and understanding of the party. In making a voluntary wage assignment, the Order for Assignment of Wages (JC39) should be used. Note, involuntary wage assignments are authorized pursuant to MCL 712A.18b, and are discussed, below.

4. Petition and Order to Show Cause

If the account remains unpaid after a delinquency notice, the court should issue an order to the party to show cause as to why an order for contempt of court should not be entered.

The show cause order should include the following information:

- The date of the order ignored
- Terms of the order
- Amount paid to date

- Payment history
- Date and amount of last payment made
- Total amount of arrearage

The court should set policy for circumstances when payment in lieu of the hearing is acceptable, the minimum payment that is acceptable, and if payment is made, what steps of the enforcement process will be used in the future if the account again becomes delinquent.

5. Show Cause Hearing

The court may choose to have the responsible party meet with collections staff, the finance officer, administrator or referee prior to convening the hearing. If the party appears in court prepared to pay, an agreement can be worked out informally and the hearing postponed. The staff person can work out terms to be entered as part of the hearing record and order. It is also an opportunity to propose alternatives, such as assignment of wages.

If no agreement is worked out in advance of the hearing, the judge should hold the hearing. The party should know the judge is involved in the process and is willing to take the necessary steps to enforce the original order. The hearing will result in findings that will cause one of the following steps, outlined below, to occur.

6. Forgive All or Part of the Debt

Changed or unforeseen circumstances may cause the court to find that the debt should be forgiven. This may occur from a certain point in time (for example, if a recent injury or illness has forced the party out of work) or from the date of the original order. A good record should be made, and an amended Order of Reimbursement (JC 38) issued.

7. Contempt of Court

Contempt of court is the finding made in the show cause hearing if the party is found responsible for *willful* nonpayment. The court can then apply appropriate sanctions. See MCL 600.1715. If the court is going to hold a contempt proceeding for failing to pay court-ordered financial obligations and incarceration is a possible sanction, the court needs to offer the defendant legal representation.¹⁴ For additional information on contempt, see the Michigan Judicial Institute's [Contempt of Court Benchbook](#).

¹⁴ In *Mead v Batchlor*, 435 Mich 480, 498 (1990), the Michigan Supreme Court, relying on *Lassiter v Dep't of Social Services*, 452 US 18, 25-27 (1981), concluded that the civil or criminal nature of a proceeding is not the determining factor in whether procedural due process requires the appointment of counsel. Rather, the right to appointed counsel is triggered by a person's fundamental interest in physical liberty. The Michigan Supreme Court also found that an indigent person cannot be jailed for contempt of court unless counsel has been appointed or waived. *Id* at 505-506. Further, in *Turner v Rogers*, 564 US 431 (2011), while the Court found that a right to counsel does not exist in all cases involving incarceration, it did suggest that the possibility of incarceration is required to trigger the right to counsel.

8. Involuntary Wage Assignment

If the party is found to be in contempt of court, the court may issue an order assigning wages, pursuant to MCL 712A.18b. The Order for Assignment of Wages (JC 39) must be used for this action. The order of assignment shall be effective one week after service upon the employer of a true copy of the order by personal service or by registered or certified mail. If the party is self employed, a wage assignment may be more difficult or ineffective.

9. Bench Warrant

If the party fails to appear to answer the Order to Show Cause, the court may issue a bench warrant to compel appearance by arrest. The court may try to contact the party by letter or telephone prior to issuance of a bench warrant to determine if other action can be taken.

10. Tax Intercept

MCL 712A.18(2) permits the court to enter intercept orders for the state income tax refunds of a juvenile, parent, guardian, or custodian in matters where there are delinquent accounts for cost of care or service obligations. Order to Intercept State Income Tax (JC 61) is the form for this action.

11. Government Benefits

As provided in MCL 712A.18(2), the court may also collect from the government of the United States benefits paid for the cost of care of a court ward.

12. Alternatives to Reimbursement

If reimbursement is found to be impossible, and enforcement is not likely to produce desired results, the court may consider payment alternatives, where appropriate¹⁵. Examples include:

- Community service
- Volunteer services
- Participation in and completion of other ordered requirements (therapy, substance abuse treatment, etc.)
- Frequent court review of existing situation
- Credit for school grades and attendance or obtaining GED
- Other alternatives determined by the court

E. Restitution

Restitution must be addressed specifically in the order of disposition. The court shall order that the juvenile make full restitution to any victim of the juvenile's course of conduct that gives rise to the disposition or to the victim's estate. MCL 712A.30(2). Under certain circumstances, the court may order the parent(s) having supervisory

¹⁵ Please note, payment alternatives may not be used to satisfy required assessments including but not limited to, restitution, crime victim rights assessment, and minimum state cost.

responsibility for the juvenile at the time of the acts upon which an order of restitution is based to pay any portion of the restitution ordered that is outstanding. MCL 712A.30(15).

F. Bail Money

In delinquency cases, if conditions of bail have been met and the court imposes reimbursement or costs as part of a juvenile's disposition, MCR 3.935(F)(4)(a) requires the application of bail money paid by a parent to be applied to the amount of ordered reimbursement or costs. Although not required, the court may consider notifying a parent that the bail money he/she posts may be applied to the case.

Appendix A



