

Instructions  
for  
**STARTING A CASE**

13<sup>th</sup> Circuit Friend of the Court – Antrim, Grand Traverse & Leelanau Counties

## Starting a Case

The Friend of the Court does not start cases. **After** a case is filed, the Friend of the Court will schedule a conference to meet with the parents to discuss issues of child custody, parenting time and child and medical support. A temporary order will be recommended.

**Non-Divorce cases** If you have a child and have never been married, or, are married but living separately, a case can be started under the Paternity Act or the Family Support Act by the prosecuting attorney's office following a referral from the Department of Health and Human Services (DHHS). To initiate this process you must contact the DHS. A toll free number is available: If paternity has been established call Office of Child Support at 1-866-540-0008. If paternity needs to be established call Office of Child Support at 1-866-661-0005

An application for services must be completed and can be found at: [http://www.michigan.gov/documents/DHS-1201\\_136519\\_7.pdf](http://www.michigan.gov/documents/DHS-1201_136519_7.pdf)

You may also engage the services of an attorney to file such an action privately.

**Divorce cases** You may file a divorce case, or, you may engage the services of an attorney. The Traverse Attorney Referral Service at 231-922-4713 can help you locate an attorney. Should you decide to file on your own, assistance is available through the free legal clinic on Tuesdays at 7 p.m. at Third Level Crisis Intervention Center, 3785 Veterans Dr, Traverse City, 231-922-4800 or, through the Women's Resource Center – 231-941-1210. Additionally, Traverse Area District Library on Woodmere has copies of the *Michigan Divorce Book* for your use. (Check with your local library for availability in their location also) A new legal help service is available on line at: [www.michiganlegalhelp.org](http://www.michiganlegalhelp.org).

In order to file a case, you must first have resided in the State of Michigan for at least 180 days and in the county in which you file for at least 10 days. (Your husband/wife does not need to live in the same county.)

To begin a case, you must complete and file a [Complaint for Divorce](#), a [Record of Divorce or Annulment](#), a [Uniform Child Custody Jurisdiction Enforcement Act Affidavit](#), and pay the appropriate filing fee to the Court Clerk. Currently, the filing fee is \$255.00 (\$150 + \$80 FOC fee + \$25.00 e-filing fee). **Please note:** you should bring the original and two sets of copies of each form with you to the Clerk's office to avoid any copy fee charges. If you are indigent, you may ask the Court Clerk for an Application to Waive filing fees. You will also need to bring a [Summons](#) form. The Court Clerk will issue the Summons when you file the case. These documents will be filed with the Court Clerk.

You must also complete a [Verified Statement and Application for IV-D Services](#). These documents are required for Friend of the Court.

**Filing** Take your prepared documents and filing fee to the Clerk's office in the appropriate county for filing. While you are at the Clerk's office be sure to obtain a form called Record of Divorce or Annulment. This must be completed and filed with the Clerk's office who will send it to the Michigan Department of Community Health.

**Service** After your case has been filed, you will need to serve the defendant.

In the 13<sup>th</sup> Circuit, the Friend of the Court will schedule a conference for both parties shortly after it has received the Complaint and the Verified Statement. Unless you are very prompt in serving the defendant, the defendant could first learn of the divorce action when he/she receives an appointment letter from the Friend of the Court. ***If there are concerns about domestic violence, do not file your action until you have made arrangements for your safety; as soon as you file the case, it is a matter of public record.***

There are essentially three methods of service of the summons, complaint, and, in the case of a divorce with minor children, the UCCJEA affidavit and verified statement. The first of these is to have a third party hand-deliver the papers directly to the defendant. This can be any legally competent adult (other than you.) It can also be a private process server or the civil service division of the sheriff's department. Both the sheriff's department and a private process server will charge a fee for this service. After handing the documents to the defendant, the process server must complete the Certificate/Affidavit of Service (page two of the Summons form) listing all of the documents that were served, the name of the defendant and the address, day, date and time of service. The person serving the papers must sign the affidavit of service before a notary. After completion, the Certificate/Affidavit of Service is filed with the Court Clerk as proof that the defendant has been served.

The defendant can be handed the documents by a third party and acknowledge that he/she has received the papers. The third party must complete the Certificate/Affidavit of Service (listing all documents given to the defendant). The third party must sign the affidavit of service before a notary. The defendant also signs under the "Acknowledgment of Service." After completion, the Certificate/Acknowledgment is filed with the Court Clerk as proof the defendant has been served.

Finally, it is possible to serve the defendant by mail; however, service of the summons and complaint, UCCJEA affidavit and verified statement must be by "certified mail, return receipt requested, delivery restricted to addressee." Ask the post office for assistance and be sure to state that you need all of the listed services. Again, it is advisable for a third person to perform this task. If the service is successful, the party who mailed the documents will receive the return receipt back from the post office with the signature of the defendant. This signed receipt must be attached to the completed Certificate/Affidavit of Service (page two of the Summons) and filed with the Court Clerk to prove the service.

***If you are unable to serve the defendant by one of these methods, there are alternative methods of service, but they are beyond the scope of these instructions. You will need to consult an attorney.***