

lawmattersnow

common sense information for you

Are Your Child Support and Visitation Orders Working?



If a parent does not meet the child support obligation, an attorney and the Friend of the Court will work with you to enforce the order. Both federal and state laws provide enforcement measures to force compliance with the support obligation. Some useful tools are:



- contempt of court hearing
- consumer reporting
- new hire reporting
- driver's license suspension
- occupational license suspension
- recreational license suspension
- tax refund intercept
- the parent's other income
- liens against real or personal property

If you are having problems with child support and visitation, you should contact an attorney and discuss the specific problems you are having. The attorney can help you put some muscle into your requests regarding nonpayment of support or disputes over visitation.

Information taken from Michigan Department of Human Services "Enforcing Court Orders for Support and Parenting Time"
http://www.michigan.gov/dhs/0,1607,7-124-5453_5528_29251-20552--,00.html



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Sources

State Bar of Michigan
<http://www.michbar.org>

Michigan Department of Human Services
http://www.michigan.gov/dhs/0,1607,7-124-5453_5528_29251-20552--,00.html

What's Inside

page 2 - Unauthorized Practice of Law, Part One

page 3 - School Laws Divorcing Families Should Know About

page 4 - Legalese Translated

Unauthorized Practice of Law

(Part One)



Disclaimer: This newsletter is for general information only and focuses on broad legal principles and issues. It does not constitute legal advice, and it should not be acted on without legal advice. Legal advice may be given only on the basis of specific facts relayed by a client to an attorney. Contact an attorney regarding the specific facts of your situation. © copyright State Bar of Michigan all rights reserved. Redistribution or reproduction by any means is strictly prohibited. Reprints by permission only.

Who has authority to regulate the practice of law?

The Michigan Supreme Court governs the practice of law and lawyers and has delegated the investigation and prosecution of unauthorized practice of law complaints to the State Bar of Michigan.

What activities constitute the “practice of law” or the “unauthorized practice of law”?

No precise definition includes all activities involved in the “practice of law.” The courts prefer to address such questions on a case-by-case basis. Generally, the unauthorized practice of law includes the following types of activity engaged in by a person who is not a lawyer licensed in the Michigan state courts and on active status:

- Nonlawyers may not hold themselves out as “lawyer,” “counselor,” or “attorney,” unless licensed to practice law in Michigan.
- Nonlawyers may not draft documents for the legal matter of another person.
- Nonlawyers may not give advice tailored to the particular legal situation of another person.
- Nonlawyers may not appear before courts or act as an intermediary on behalf of another person regarding the other person’s legal matter.
- Nonlawyers can read law, interpret laws, draft documents, and process in legal matters on their own behalf. Nonlawyers may not represent the interests of others, to interpret and apply laws and legal theories so as to give advice to other persons about the legal implications and consequences of alternative courses of action related to the person’s individual legal problems. When a nonlawyer assists others to this extent, the activity constitutes the unauthorized practice of law.

May I represent myself and handle my own legal work?

Anyone has the constitutional right to represent himself or herself in legal matters. The right to represent yourself, however, does not give you the power to delegate the authority to a subordinate or agent. A nonlawyer is not authorized to represent other people in court, even if the nonlawyer has a power of attorney or is a notary public.

May I represent my business partnership or my corporation in legal matters?

Michigan law does not allow a nonlawyer to represent the interests of a partnership, corporation, or other organization in court, even when the nonlawyer is a partner or shareholder of the business. There is a special rule allowing a nonlawyer agent to appear on behalf of a business in proceedings before small claims court, and some state administrative agencies allow nonlawyers to represent the interests of other people on businesses.

Next issue will have the last part of this article.

School Laws Divorcing Families Should Know About

Parental access to their children's school records is governed by both federal and state law. At the federal level, the Family Educational Rights and Privacy Act (FERPA) governs access, and the Michigan Revised School Code and Section 10 of the Child Custody Act govern access at the state level. FERPA provides parents with access to their child's school records unless a court order revokes the right. The right exists regardless of whether the parent has custody of the child, and regardless of whether one parent disapproves of the disclosure to the other parent. Section 10 of the Michigan Child Custody Act also provides the right of a non-custodial parent to access his or her child's school records, unless there is a court order preventing access. Under the Act, "records or information" includes, but is not limited to, school records and notification of meetings regarding the child's education.

1. The Revised School Code provides an exception to a parent's right to access school records when the parent of the student has obtained a Personal Protection Order (PPO) concerning the student's other parent. The school is prohibited from releasing information about the student, which informs the parent subject to the PPO of the student's or other parent's home address, telephone number, or work address and telephone number.

- Access to child's school records
- Rights to be involved at the school
- School district enrollment

2. The Michigan Revised School Code gives a parent responsible for the care and custody of the student enrolled in the school district specific rights to be involved at the school. At reasonable times, the parent may review the curriculum, textbooks, and teaching materials of the student's school.

3. To prevent problems with picking up a student at school, signing permission slips and waivers, and emergency contact cards for the student, these issues should be written in the divorce judgment or other court order, and a copy should be provided to the school.

4. Michigan's Revised School Code and State School Aid Act permit a child to enroll in any school district where a parent resides, without regard to whether the parent has custody of the child. This is true even if one parent does not live in Michigan. Further, the child need not be living with a parent in the district to enroll there.

Summarized from an article written by article by Laura Katers Reilly in the February 2005 *Michigan Bar Journal*.

Legalese Translated

Code — A collection of laws pertaining to related subjects arranged into chapters, table of contents and indices, issued by legislative authority; a complete compilation of law on a subject.

Dismissal — An order or judgment finally deciding a particular lawsuit in favor of the defendant by sending it out of court without trial. Dismissal “with prejudice” forever bars the right to bring a lawsuit on the same claim or cause; dismissal “without prejudice” disposes of the particular lawsuit before the court but permits a new lawsuit to be brought based on the same claim or cause.

Ex contractu (ex kon-trak´ tu) — Rights and causes of action arising from a contract.

Interrogatories — Written questions posed by one party and served on another who must answer them in writing under oath — a form of discovery to enable the party posing the questions to prepare for trial.

“*A Laypersons Guide To Legal Terms*” is available from the State Bar of Michigan’s Programs and Services Division 517-346-6322. The publication is available for \$2.25 including shipping.

Mistrial — Termination of a trial prior to verdict, with the case ordered for retrial, because of some basic flaw such as lack of jurisdiction or improper drawing of jurors, or because of some event in the courtroom which jeopardizes the rights of one of the parties to a fair trial.

Praecipe (pr e´ si-pe) — An original writ commanding the defendant to do certain things or to show the reason he or she had not done it; also, an order directing a court clerk to issue a particular writ.

Specific performance — A court order directing a party to a contract who has breached its terms to do what he or she contracted to do; generally involved when the thing or service contracted for is unique so that money damages for breach of contract would be inadequate, **i.e.**, breach of contract to sell water rights to one who has no alternative access to water.

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