

Approved SCAO

STATE OF MICHIGAN
8TH JUDICIAL CIRCUIT COURT
IONIA COUNTY

MOTION FOR ARREARS PAYMENT PLAN

CASE NO. _____

Plaintiff's Name

VS

Defendant's Name

Plaintiff address and telephone number

Defendant's address and telephone number

1. I, the payer of child support, _____ would like an arrears payment plan.
2. My current child support charges are _____ per month for _____ children. My youngest child in the case will be or was 18 years of age on _____.
3. My current arrearages are _____. Attached is written proof from the friend of the court office.
4. All or a portion of the arrearages are owed to the State of Michigan. yes no Amount owed \$ _____.
5. All or a portion of arrearages are owed to an individual. yes no Amount owed \$ _____.
6. The arrearages do not result from any attempt on my part to my avoidance to pay support. yes no
7. I do not have the ability to pay the arrearage in the foreseeable future, absent the payment plan. yes no
8. List all assets including houses, automobiles, farm equipment, guns, tools, property, recreational vehicles, etc.

9. Name and telephone number of the financial institution(s) (bank) that hold any accounts you may have along with all account balances:

10. Name and address of your employer or income source. Indicate your monthly income:

11. List expenses you have:

12. Indicate the amount of money you propose to pay each month, the length of time you propose to make payment, and give detailed reasons for the amount:

I declare that the above statements are true to the best of my information, knowledge, and belief.

Date

Signature of party filing motion

NOTICE OF HEARING

A hearing will be held on this motion before Jessica K. Wierckz, Circuit Court Referee on (date) _____
time _____ at the Office of the Friend of the Court – 110 East Washington Street, Ionia MI 48846.

If you require special accommodations to use the court because of a disability, please contact the court immediately to make arrangements.

CERTIFICATE OF MAILING

I certify that on _____ I mailed a copy of the
Above entitled matter to the parties, their attorney of record (if applicable)
To their last known addresses.

Ionia Friend of the Court Representative

GENERAL INFORMATION ON ARREARS PAYMENT PLAN

BACKGROUND:

Effective February 28, 2005, Public Act 211 of 2004 amends the Support and Parenting Time Enforcement Act (MCL 552.605e). The new law allows a payer who has an arrearage under a support order to seek relief from the arrearage by filing a motion with the Circuit Court for a payment plan. The purpose of the plan is to pay arrearages and to discharge or abate a portion of the arrearages upon successful compliance with the arrearage payment plan.

POLICY INFORMATION:

- To initiate an arrearage payment plan, the payer must file a motion to be heard before the Circuit Court.
- In Order for the Court to approve the plan, the Court must find that the plan is in the best interest of the parties and the children.
- If the arrearage is owed to an individual payee, the Court must find both of the following:
 - The payee has consented to the payment plan under circumstances that satisfy the Court that the payee is acting without coercion or duress; &
 - The arrearage did not arise from conduct of the payer exclusively for the purpose of avoiding the support obligation.
 - If the payee supports a payment plan or forgiving any or all arrearages, please contact the Ionia County Friend of the Court Office for a child support stipulated/order. Please complete and sign the agreement form. The Friend of the Court Office will review the matter. If approved, the judge assigned in your case will sign the agreement and it will become an Order of the Court.
 - It is very unlikely that the Court will grant your motion for relief if the other party is not agreeable to your proposal.
- If the payer has state owed arrearage, a copy of the motion must be sent to OCS. The FOC will be responsible for mailing the motion to the OCS.
 - OCS has 45 days to provide written comments to the Court before the hearing.
 - OCS will focus on information via the Arrearage Payment Plan Summary.
- If the payer has state-owed arrearage the Court may grant the motion if it finds:
 - The arrearage did not arise from conduct of the payer exclusively for the purpose of avoiding the support obligation;
 - The payer does not have and will not have the ability to pay the arrearage in the foreseeable future, absent a payment plan; and
 - The payment plan will pay a reasonable portion of the arrearage over a reasonable time period.
- If the arrearage are owed to the state, the Court may:
 - Oppose the arrearage payment plan due to insufficient information provided by the payer. The Court will identify required information, or suggest proof of inability to pay;
 - Oppose the arrearage payment plan due to the identification of assets for the payer in excess of \$5000, or the payer's inability to provide sufficient evidence of inability to pay;
 - Support the arrearage payment plan because the payer agrees to pay at least 50% of the arrearage, or the preliminary review shows the payer currently lacks assets.
- The Court may approve a plan that does not pay the entire arrearage, but the plan must require that:
 - A payer who is at or below poverty level makes payments for at least 24 months;
 - A payer with income above the poverty level makes payments for at least 24 months plus one additional month for each \$1,000 above the poverty level that the payer earns.
- Any time during the term of the payment plan, the law allows the Court to reinstate arrearages upon a motion by an interested party showing good cause. Good cause includes, but is not limited to:
 - The payee becoming a recipient of public assistance; or
 - The payer receiving property sufficient to pay a substantial portion of the amount discharged. Such circumstances may include:
 - Lottery proceeds;
 - Other winnings;
 - A settlement under an insurance policy; or
 - A judgment in a civil action or an inheritance.

PLEASE NOTE: A person who knowingly provides false information on a motion is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than \$1,000 or both. Also, any payer prosecuted under Michigan penal code, 1931 PA 328, MCL 750.161, and 750.167 is not eligible to participate in the child support amnesty program or a payment plan under this section. This involves desertion, abandonment, or refusal or neglect to provide for family as required by court order.