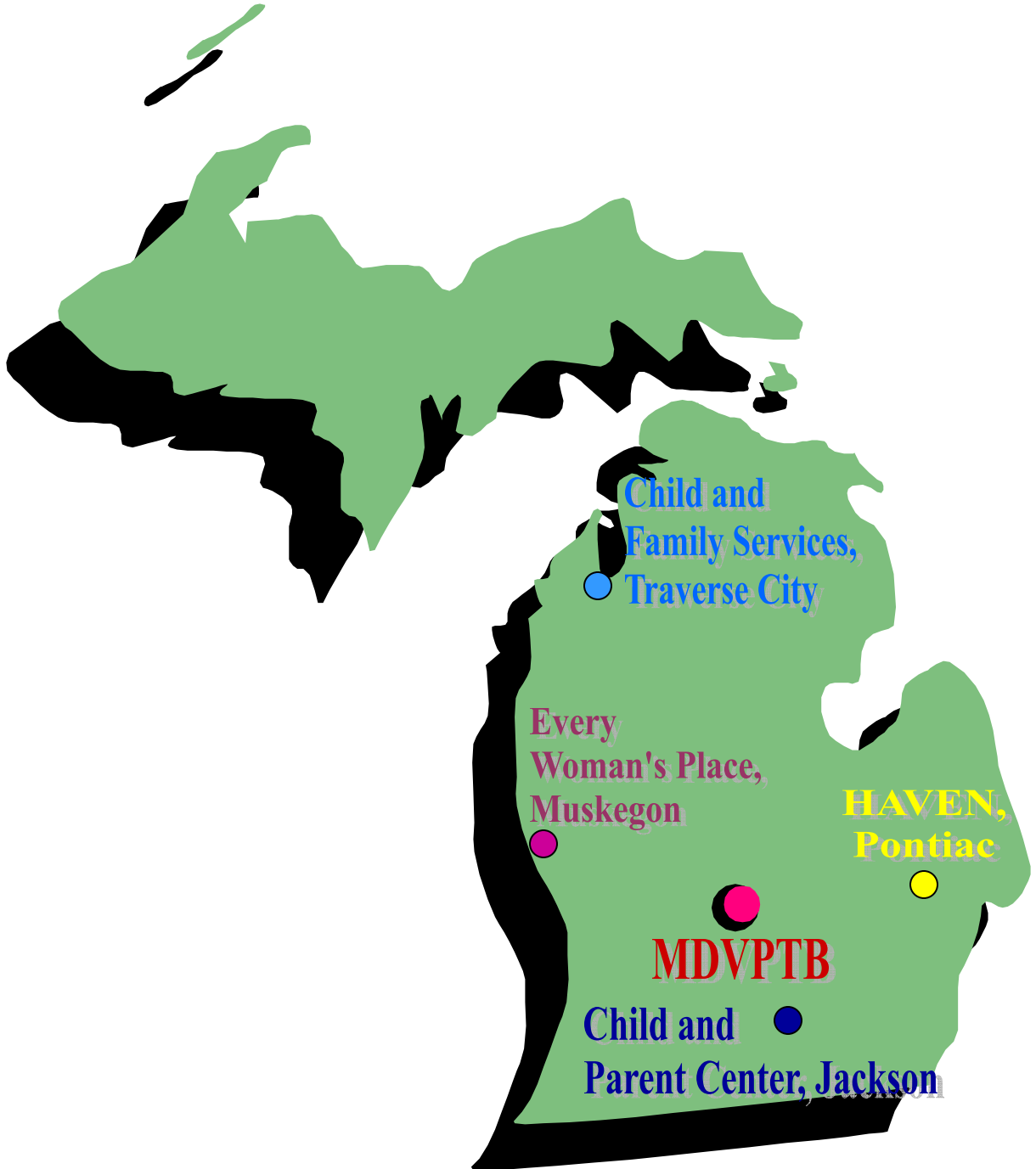


# STATE OF MICHIGAN



MDVPTB = Michigan Domestic Violence Prevention and Treatment Board

## DEMONSTRATION SITE PROFILE

### State of Michigan

**Grant Administrator:**

Michigan Family Independence Agency

**State Court Partner:**

State Court Administrative Office (SCAO)

**Domestic Violence Agency:**

Michigan Coalition Against Domestic and Sexual Violence (MCADSV)

**Project Director:**

Shelia Hankins,  
Michigan Domestic Violence Prevention and Treatment Board  
235 S. Grand Avenue, Suite 506  
Lansing, MI 48909  
Phone: (248) 601-9618  
[hankinss@michigan.gov](mailto:hankinss@michigan.gov)

The Michigan Domestic Violence Prevention and Treatment Board, within the Michigan Family Independence Agency and the four partnering visitation centers will use their grant funds to:

- Develop a state-wide supervised visitation advisory board
- Establish a resource center for supervised visitation centers throughout the state
- Train supervised visitation center staff, domestic violence providers, courts, child welfare, and criminal justice professionals on custody and visitation issues in domestic violence, sexual assault, and stalking cases
- Enhance existing services and increase the capacity to provide safe and appropriate services
- Develop a means of communication and coordination and technical assistance through quarterly meetings, the development of a listserv, and development of a website
- Create Michigan-specific policy, protocol and training curriculum
- Create data collection tools
- Translate materials into Spanish & hire bilingual monitor
- Purchase closed circuit cameras, 2-way radios, hand held metal detector & security cameras
- Hire security officer
- Contract Native American cultural diversity trainer to provide staff training

## COLLABORATING PARTNERS

### Visitation Center and Domestic Violence Agency:

HAVEN  
Tiffany Martinez  
Program Director  
92 Wittemore  
Pontiac, MI 48343  
**Phone:** 248-334-1284, ext. 250  
tmartine@haven-oakland.org

### Court Partner:

Oakland County Friend of the Court

**The role for each of the center's Domestic Violence Agency partner is to:**

- Participate in planning domestic violence, sexual assault, and stalking awareness training sessions
- Refer appropriate domestic violence, sexual assault and stalking victims with children in need of supervised visitation or exchange services and follow-up on the outcome of the referrals
- Promote training/education of local law enforcement agencies and court members regarding domestic violence, sexual assault, stalking issues, and supervised visitation.

### Visitation Center and Domestic Violence Agency:

Every Women's Place  
Barbara Olsen  
Project Coordinator  
1221 W. Laketon Avenue  
Muskegon, MI 49441  
**Phone:** 231-759-7909  
ewbarb@hotmail.com

### Court Partner:

14<sup>th</sup> Judicial Circuit Friend of the Court  
Muskegon County

**The role for each of the center's Court partner is to:**

- Support the growth of the collaborative effort and designate a representative to participate in collaboration meetings
- Submit referrals and relevant case information to the visitation center, and follow-up on the outcome of the referrals to assist the visitation center in providing for the safety of domestic violence survivors and their children
- Work to eliminate court related activities that may compromise the safety of domestic violence, sexual assault, and stalking survivors, and their children, in custody decisions and visitation orders.
- Participate in training for collaboration partners on the legal system and its role in working with victims of domestic violence, child abuse, sexual assault, and stalking.

### Visitation Center:

Child and Parent Center  
Renee Ingraham  
Program Coordinator  
606 Greenwood Place  
Jackson, MI 49203  
**Phone:** 517-788-4445  
supervisits@yahoo.com

### Domestic Violence Agency:

Aware, Inc.  
Jackson, MI

### Court Partner:

County of Jackson  
Office of the Friend of the Court

### Visitation Center:

Child & Family Services  
Mary Lou Williams  
Safe Haven Program Coordinator  
3785 Veterans Drive  
Traverse City, MI 49684  
**Phone:** 231-946-8975  
mwilliams@cfsmail.org

### Domestic Violence Agency:

Women's Resource Center -  
Grand Traverse Area

### Court Partner:

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

## LEGAL CONSIDERATIONS<sup>1</sup>

Michigan statutes and laws often refer to Friends of the Court. Therefore, included is a brief description of the role of a Friend of the Court: “As part of the family division of the circuit court, the friend of the court serves as the "amicus curiae" (acts as the "eyes and ears") of the circuit court family division judge. The office is to provide assistance to the court in matters that the court cannot exercise personal supervision over, and to furnish the court with recommendations related to domestic relations matters such as custody, parenting time, and support. The person who makes the ultimate decision in any domestic relations action is the family division judge to whom the case is assigned.”<sup>2</sup>

### COURT RULES

#### MIR MCR 3.706: Orders

This court rule provides that for existing custody and parenting time orders.

- Subsection (C)(1) provides that the court issuing a personal protection order must contact the court having jurisdiction over the custody or parenting time matter, and where practicable, the judge should consult with that court regarding the impact upon custody and parenting time rights *before* issuing the personal protection order [emphasis added.]
- Subsection (C)(2) addresses the issue of conditions when modifying custody and parenting time provisions. Specifically, if the respondent’s custody or parenting time rights will be adversely affected by the personal protection order, the issuing court must determine:
  - whether conditions should be specified in the order that would accommodate the respondent’s rights, or
  - whether the situation is such that the safety of the petitioner and minor children would be compromised by such conditions.

The rule also states that a personal protection order takes precedence over any existing custody or parenting time order until the personal protection order has expired or the court having jurisdiction modifies the custody or parenting time order.

### STATUTES

The following statutes are found in Michigan Compiled Laws:

#### § 722.31: Legal residence change of child whose parental custody governed by court order

According to this statute, before permitting a legal residence change otherwise restricted by Subsection (1) of this statute, the court must consider the enumerated factors, with the child as the primary focus of the court’s deliberation, including domestic violence, regardless of whether the violence was directed against or witnessed by the child. In addition, the statute provides that if this

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<sup>1</sup> This information is provided as an overview of how the legal systems vary at each of the demonstration sites. It is highly recommended that the reader review the actual statutes, case laws, and court rules, before relying on this information. Additionally, this list may not be all-inclusive, may contain dated information, and is intended for educational and research purposes only.

<sup>2</sup> See “Michigan Friend of the Court System” at [http://www.courts.michigan.gov/scao/services/focb/focb\\_over.htm](http://www.courts.michigan.gov/scao/services/focb/focb_over.htm).

section applies to a change of a child's legal residence and the parent seeking to change that legal residence needs to seek a safe location from the threat of domestic violence, the parent may move to such a location with the child until the court makes a determination under this section. *See* Subsection (6).

§ 552.519: State friend of the court bureau; creation; powers and duties

- Subsection 3 outlines the duties of the friend of the court bureau and under subsection (b) provides for training programs for the friend of the court, domestic relations mediators, and employees of the office that must include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.
- Subsection (3)(m) requires the bureau to consult with the domestic violence prevention and treatment board to develop guidelines for the implementation of the support and parenting time enforcement act that take into consideration at least all of the following regarding the parties and each child involved in a dispute governed by such act:
  - domestic violence,
  - safety of the parties and child,
  - uneven bargaining positions of the parties.

§ 722.23: Best interests of the child, definition

Michigan's best interests of the child statute includes both a consideration for the willingness and ability of each party to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents, as well as a consideration for domestic violence, regardless of whether the violence was directed against or witnessed by the child.

§ 722.27a: Parenting time; presumptions, factors, terms; temporary and ex parte orders; objections, modification, notice

- Subsection (4) prohibits a court from granting parenting time to a biological parent who is convicted of criminal sexual conduct if the child was conceived as a result of such acts. However, this prohibition does not apply if, after the date of conviction, the biological parents cohabit and establish a mutual custodial environment for the child.
- Subsection (6) allows the court when determining the frequency, duration, and type of parenting time to be granted to consider the reasonable likelihood of abuse of a parent resulting from exercise of parenting time and the threatened or actual detention of the child with the intent to retain or conceal the child from the other parent or a person with legal custody. This provision further provides that a custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child.
- Subsection (8) states that a parenting time order may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of visitation by a parent including restrictions on or requirements of the presence of third persons during parenting time.

§ 600.2950: Injunction against specific persons, conditions; personal protection orders, terms, reasonable cause, exceptions; application of section; entry into law enforcement network

[*See Brandt v. Brandt infra.*]

## CASE LAW

### *DeRose v. DeRose*, 469 Mich. 230, 666 N.W.2d 636 (2003)

The Supreme Court of Michigan (Court) held that Michigan’s grandparent visitation statute violated parents’ liberty interests that are protected by due process guarantees and was thus unconstitutional. In this case, mother opposed visitation with the grandmother because grandmother denied her son was guilty of first degree criminal sexual conduct involving his stepdaughter, even though he admitted to the crime. Mother viewed contact with her child was not in the child’s best interest. The trial court disagreed and ordered supervised visitation with the child. The Court of Appeals, in a split decision, reversed the decision of the trial court, basing much of its decision on the holding of the U.S. Supreme Court in *Troxel v. Granville*, 530 U.S. 57, 120 S.Ct. 2054 (2000). In affirming the decision of the Court of Appeals, the Court stated that it was bound by the decision in *Troxel* and therefore compelled to affirm judgment of the lower court. Justice Kelly dissented stating that the grandparent visitation statute was not unconstitutional, but that the trial court’s application of the statute was unconstitutional in this instance.

### *Brandt v. Brandt*, 250 Mich.App. 68, 645 N.W.2d 327 (2002)

The Court of Appeals (Court) held that the trial court had authority to prohibit husband from contacting children and to modify the personal protection order to limit husband’s contact with the children. The respondent on appeal argued that custody and parenting time determinations may only be made in a child custody proceeding after a court has examined the best interests of the child. In its decision affirming the trial court’s order, the Court stated that the ‘catchall’ provision in the protection order statute provided the trial court with such authority. Under the ‘catchall’ provision, the court may prohibit the party restrained or enjoined from “any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.” See MCL 600.2950. The Court reasoned that “there is no question that it would be reasonable for petitioner to fear that respondent might become violent with petitioner if she were forced to permit respondent to visit the children or exchange the children for parenting time.” The Court further stated that “this interpretation is entirely consistent with the remainder of the statute, which makes it clear that the Legislature recognized that access to the children may need to be restrained to protect the safety of the parent,” referring to MCL 600.2950(1)(d), (f), and (h).

## UNPUBLISHED OPINIONS

*See Court Rules before citing (an unpublished opinion is not precedentially binding under the rule of stare decisis, Rule 7.215).*

### *Solomon v. Moore*, 2004 WL 1335859 (Mich.App. 2004)

The Court of Appeals (Court) affirmed the trial court’s order changing custody of the parties’ minor child from defendant-mother to plaintiff-father and restricting defendant-mother’s visitation rights to supervised visitation only. The trial court based its decision on mother’s interference in the relationship between the father and the child, her attempts to alienate the two, and the deterioration of the child’s personality. The Court found that there was sufficient evidence in the record to support the trial court’s conclusion. In addition to addressing all of the factors in determining the best interests of the child, the mother argued that the domestic violence factor should have been considered. However, the Court stated that analysis of this factor in this instance hinges primarily on a credibility assessment of the parties. Here both parties allege abusive behavior by the other party; the trial court found that the father was more credible. After addressing each factor and

finding for father on each, the trial court stated that it ordered supervised visitation to prevent mother from alienating the child from the father.

## OTHER ANALYSIS

### *Privilege*

The following information is research that was pulled in response to examining a specific aspect of privilege. That is, does an advocate-victim privilege exist in the state and if so, does it extend to visitation centers.<sup>3</sup>

### **General:**

Mich. Comp. Laws. Ann. § 600.2157a creates a privilege between a victim and a domestic violence counselor. It defines “domestic violence counselor” as a person who is employed at or who volunteers service at a domestic violence crisis center, and who in that capacity provides advice, counseling, or other assistance to victims of domestic violence and their families.

Mich. Comp. Laws. Ann. § 600.2157a defines “domestic violence crisis center” as an office, institution, agency, or center which offers assistance to victims of domestic violence and their families through crisis intervention and counseling.

Mich. Comp. Laws. Ann. § 600.2157a defines “confidential communication” as information transmitted between a victim and a domestic violence counselor, or between a victim and a domestic violence counselor and any other person to whom disclosure is reasonably necessary to further the interests of the victim, in connection with the rendering of advice, counseling, or other assistance by the domestic violence counselor to the victim.

### **Specific to Supervised Visitation Centers:**

Michigan does not have any statutes that are specific to supervised visitation centers and/or a privilege for supervised visitation centers.

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<sup>3</sup> This question was of interest as some of the centers are located in other organizations, like domestic violence agencies, hospitals, mental health providers, etc., and whether that fact can affect the privilege.