

Frequently Asked Questions

Q: How can I drop charges in a domestic assault case?

A: The Prosecuting Attorney is the only one that can issue or dismiss charges. This is important because it takes the responsibility for prosecuting the abuser off the victim's shoulders and puts it on the Prosecuting Attorney's. It also means that the defendant cannot pressure the victim into dropping the charges.

While the decision is up to the Prosecuting Attorney, the victim's opinion is important and the Prosecuting Attorney will take those wishes into account when making his or her decisions regarding the case. Victims should contact the Prosecuting Attorney's Office to discuss their case.

Q: I feel that a crime has been committed. How do I press charges? Can I report a crime directly to the Prosecutor's Office?

A: Crimes are investigated by the police not the Prosecuting Attorney. Crimes should be reported to the police department or other law enforcement agency, which has jurisdiction where the crime occurred. Once the initial investigation has been completed the police department report is filed with the Prosecuting Attorney. The Prosecutor reviewing the warrant request may send the case back to the police for further investigation. Ultimately, the reviewing Prosecutor decides what charge(s), if any, will be issued and who will be charged.

Q: Why are some cases plea-bargained?

A: There are not enough prosecutors, judges, courtrooms, or trial days on the calendar to put the well over one thousand felony, misdemeanor, juvenile delinquency and child abuse and neglect cases in Montcalm County before a jury. For those criminal defendants who plead guilty before trial or are taken to trial, there are not enough jail cells in the state to hold them. These practical demands, plus the seriousness of the cases, a cases strengths and weaknesses, the victim's wishes, public safety, punishment, rehabilitation, the defendant's right to a speedy and fair trial, and deterrence are all interests that are considered by the prosecutor when deciding how and whether to offer a plea-bargain. A plea agreement is always designed to balance these competing interests. Most cases are resolved in a relatively short time by the defendant's plea---many times a plea to the charged offense.

Q: When does the Prosecuting Attorney's Office get involved in establishing Paternity and/or Support Orders?

A: A referral is made by the Montcalm County Office of Child Support to the Prosecutor's Office when either an absent parent is listed on public assistance or someone has filled out a signed request for services.

Q: How is paternity established?

A: Once a referral is received the Family Support Specialist will schedule an interview with the individual in need of services to file a complaint with the Circuit

Court. The alleged father is served with a copy of the complaint, summons for court, and a Friend of the Court Handbook. At this point the alleged father may admit or deny paternity. If the alleged father is proven to be the father, an Order for Paternity will be entered with Circuit Court.

Q: What if the alleged father wants to admit paternity?

A: If the alleged father wants to admit paternity he may sign an Affidavit of Parentage, sign a Paternity Stipulation and Support Order, or admit paternity in open court at the court date.

Q: What if the alleged father denies paternity?

A: If the alleged father wants to deny paternity he may request paternity testing. He may do this by signing a Stipulation for Paternity Testing or request testing at the court date.

Q: Does it have to be blood testing?

A: In Montcalm County, if the child is under the age of six (6) months we do a buccal swab (cotton swab of the inside of the cheek). However, if the child is over six (6) months of age, unless there are special circumstances, we do blood testing.

Q: Is paternity testing 100% accurate?

A: Both buccal swab and blood testing will either exclude the alleged father or they have a probability of paternity that is 99% or higher.

Q: Who pays for the paternity testing?

A: In Montcalm County, usually the alleged father is ordered to pay for testing because he is the one that requested it be done.

Q: What if the alleged father is excluded?

A: If the alleged father is excluded the Prosecuting Attorney will motion to dismiss the case with prejudice based on the test report received from the laboratory.

Q: What happens after the results come back 99% or higher?

A: Either the alleged father signs a Paternity Stipulation and Support Order or we go back to court to get final judgment of paternity.

Q: What is the difference between establishing paternity and establishing support?

A: To enter into a support order paternity must already be established either by acknowledgement, court order or marriage. In a support case the father does not have a right to paternity testing.

Q: How is support order established?

A: Once a referral is made to the Prosecutor's Office, the Family Support Specialist will set up an interview with the individual in need of support to sign a

complaint to be entered in Circuit Court. The individual who owes the support is served with complaint, summons, and a Friend of the Court Handbook. Once served, either a Stipulation is voluntarily signed or the case goes to court and an Order for Support is entered with the Circuit Court.

Q: What if my husband is not the biological father?

A: Michigan law presumes your husband is the father, therefore, he is the legal father and responsible for child support whether he is the biological father or not. It would be up to him to exclude himself from being the father of the child.

Q: Can we just agree on the child support amount?

A: The Montcalm County Prosecutor's Office only goes by the Michigan Child Support Guidelines when determining support amount. If the parties are not receiving any type of assistance they may stipulate to a lower amount at the Friend of the Court after the Order is entered.

Q: Who collects the child support?

A: The Montcalm County Friend of the Court is responsible for enforcing all support orders.

Q: What about custody and visitation disputes?

A: The support order normally states that whomever has the child, unless they are not the parent, has physical custody and the non-custodial parent has rights to reasonable visitation. However, any party may petition for custody or a specified visitation schedule at any time while the child is under the age of 18. The Montcalm County Prosecuting Attorney's Office does not get involved in any custody or visitation disputes. Either party may request a mediation appointment with the Montcalm County Friend of the Court to assist in problems regarding visitation.