

Examples of How the Bench Warrant Enforcement Fund (BWEF) May and May Not Be Used

Michigan Compiled Law (MCL) 400.236a states “[t]he office [of child support] shall contract with law enforcement agencies to use the fund to enforce *civil* warrants related to child support.” The Program Leadership Group (PLG) determined that the Friend of the Court (FOC) offices are law enforcement agencies when they enforce child support orders and could receive BWEF money for additional bench warrant (BW) enforcement activities. However, federal regulations through federal Office of Child Support Enforcement (OCSE) AT-79-3, *Availability of Federal Financial Participation (FFP) for Making Arrests Pursuant to Appropriate State Process*, restrict the use of these funds. BWEF money cannot be used for:

- Arraignment costs;
- Incarceration costs;
- Police uniforms, vehicles, personal protection equipment or training;
- Bonding and processing fees; and
- Non-IV-D activities.

The Michigan Legislature has only authorized use of the BWEF to enforce **civil BWs, not felony warrants**, and the BWEF must be used for activities that increase the FOC’s enforcement of child support BWs, such as:

- Subcontracting with local law enforcement agencies;
- Scheduling a special day for non-custodial parents (NCPs) to turn themselves in;
- Transporting NCPs between counties;
- FOC staff arresting NCPs during normal business hours; and
- Overtime for locate activities.

Subcontracting With Local Law Enforcement Agencies

FOC offices may use the BWEF to pay a local law enforcement agency to enforce child support BWs on the FOC’s behalf. However, the BWEF-funded law enforcement officer(s) must dedicate 100 percent of their time to child support BW enforcement.

Example 1: Sheriff Deputy Carr stops John Doe for a traffic stop. John Doe has a child support BW and Deputy Carr arrests him on the child support BW. The FOC **may not** use the BWEF to pay Deputy Carr’s salary, because the deputy is not dedicating all of his shift to enforcing child support BWs.

Example 2: A city police agency hires Officer Burr to enforce child support BWs on a full-time basis. Because 100 percent of Officer Burr’s time is devoted to child support BWs, the BWEF **may** pay his salary.

Example 3: Officer Fenn works for the city police. He is offered an opportunity to work overtime to enforce child support BWs for four hours a week. If Officer Fenn spends 100 percent of the overtime on child support BW enforcement, the FOC **may** use the BWEF to pay his wages associated with the child support BW enforcement.

Scheduling a Special Day for NCPs to Turn Themselves In

FOC offices may schedule a specific day/time, such as on a specific Saturday, for NCPs to turn themselves in on BWs. FOC staff may work non-standard hours associated with the special day to handle the paperwork. The key is that this special BW enforcement must be in addition to standard FOC enforcement, which includes standard BW enforcement. A county scheduling a special day for individuals to turn themselves in would be in addition to standard BW enforcement. However, the FOC cannot use the BWEF to pay judges, court reporters, prosecutors, court officers, etc., for their participation in this program.

Example 1: The court stays open after hours or on a Saturday so that NCPs can turn themselves in to the court on child support BWs. The FOC pays its staff to work non-standard work hours to accommodate this process. The FOC **may** use the BWEF to pay FOC staff's wages for these activities.

Example 2: FOC staff work after hours to handle BW paperwork for NCPs who were arrested during normal work hours. The FOC **may not** use the BWEF to pay FOC staff's salary for this work.

Example 3: The court stays open after hours on a Saturday for a special initiative allowing NCPs with BWs to turn themselves in to the court. FOC staff work on both the special-initiative BW work and other FOC work. The BWEF may only be used for the time that FOC staff work on special-initiative BW tasks. If the FOC staff work four hours, three on the special-initiative BW tasks and one on scheduling show cause hearings, the BWEF **will pay** for three hours of the wages.

For reporting purposes, FOC staff must detail their work on the special-initiative BW day by:

- Indicating the number of workers;
- Indicating the number of hours worked;
- Indicating the number of individuals who turned themselves in; and
- Summarizing the work the staff did.

Transporting NCPs Between Counties

FOC offices may use the BWEF to transport NCPs between counties.

Example 1: Kent County has arrested John Doe (for any offense including a felony warrant or another child support BW). Iron County has a BW for child support. Iron County **may** use the BWEF to pay a law enforcement officer's wages or the wages of an FOC-hired BW officer (who has the authority to hold a person in custody). However, if the BW officer's salary is paid with non-BWEF money, the BW officer must be working outside his/her normal work hours to be paid his/her wages for the travel. The BWEF may be used for mileage.

Example 2: Kent County has arrested John Doe; no other county has a child support BW for John Doe. Kent County FOC **may not** use the BWEF to pay the sheriff to transport John Doe to the jail or the court.

FOC Staff Arresting NCPs During Normal Business Hours

Some counties have deputized FOC staff who, as part of job duties, may take individuals into custody. The FOC may use the BWEF to fund additional staff who will be working **entirely** on child support BW or for overtime if the FOC workers will be making arrests on an overtime basis. All BWEF money must be used for BW enforcement.

Example 1: The FOC hires Mr. Jones to arrest individuals with child support BWs. Mr. Jones does not have a caseload and spends all of his time on BW enforcement. The FOC **may** use the BWEF to pay Mr. Jones's salary.

Example 2: Mr. Smith is an enforcement officer with the FOC. In addition to his position as a case worker, the sheriff has deputized him to arrest individuals, with child support BWs who come to the court. John Doe, who has a child support BW, arrives at the FOC to request a modification. Mr. Smith arrests John Doe while at the FOC office. The FOC **may not** use the BWEF to pay Mr. Smith's salary.

Overtime for Locate Activities

FOC staff have inquired whether they may use the BWEF to pay overtime to locate individuals with BWs. The Office of Child Support (OCS) understands this to mean that FOC staff would use the Michigan Child Support Enforcement System (MiCSES) and other search tools to locate NCPs with BWs. FOC staff would then provide the information to law enforcement officers. The law

enforcement officers would enforce the warrants and arrest the located individuals. This is a permissible use of BWEF funds if:

1. County policy allows the use of overtime;
2. The FOC staff being paid overtime spend 100 percent of that overtime period attempting to locate NCPs with BWs and do not use overtime pay to do other FOC work; and
3. All positive locates are provided to the law enforcement officers, for the purpose of making an arrest based on the information.

Example 1: FOC staff work on a Saturday doing Internet searches for NCPs with BWs. FOC staff submit all positive locate information to law enforcement officers, so the law enforcement officers may enforce the warrant. The BWEF **may** be used to pay the FOC staff wages earned for this activity.

Example 2: FOC staff work on a Saturday doing Internet searches for NCPs with BWs and NCPs with real property, intending to lien the property. If FOC staff work two hours overtime on BWs and two hours overtime on real property, the BWEF **may** only be used to pay for **two** hours.