

Act No. 366
Public Acts of 1996
Approved by the Governor
July 2, 1996
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Steil, Geake, Hoffman, Gougeon, Shugars and Stille

ENROLLED SENATE BILL No. 586

AN ACT to amend the title and sections 2, 17a, 19, 23, 24, 25, and 26 of Act No. 294 of the Public Acts of 1982, entitled as amended "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court; to prescribe certain duties of certain employers and former employers; and to repeal certain acts and parts of acts," section 17a as added by Act No. 197 of the Public Acts of 1987 and section 19 as amended by Act No. 144 of the Public Acts of 1996, being sections 552.502, 552.517a, 552.519, 552.523, 552.524, 552.525, and 552.526 of the Michigan Compiled Laws; to add sections 2a, 4, 4a, and 20; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 2, 17a, 19, 23, 24, 25, and 26 of Act No. 294 of the Public Acts of 1982, section 17a as added by Act No. 197 of the Public Acts of 1987 and section 19 as amended by Act No. 144 of the Public Acts of 1996, being sections 552.502, 552.517a, 552.519, 552.523, 552.524, 552.525, and 552.526 of the Michigan Compiled Laws, are amended and sections 2a, 4, 4a, and 20 are added to read as follows:

TITLE

An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts.

Sec. 2. As used in this act:

- (a) "Bureau" means the state friend of the court bureau created in section 19.
- (b) "Chief judge" means the following:
 - (i) The circuit judge in a judicial circuit having only 1 circuit judge.
 - (ii) Except in the county of Wayne, the chief judge of the circuit court in a judicial circuit having 2 or more circuit judges.
 - (iii) In the county of Wayne, the executive chief judge of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit.
- (c) "Citizen advisory committee" means a citizen friend of the court advisory committee established as provided in section 4.

(d) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. As used in this subdivision, "consumer report" means that term as defined in section 603 of the fair credit reporting act, title VI of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1681a.

(e) "County board" means the county board of commissioners in the county served by the office. If a judicial circuit includes more than 1 county, action required to be taken by the county board means action by the county boards of commissioners for all counties composing that circuit.

(f) "Court" means the circuit court.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including but not limited to the following:

(i) Chapter 84 of the Revised Statutes of 1846, being sections 552.1 to 552.45 of the Michigan Compiled Laws.

(ii) The family support act, Act No. 138 of the Public Acts of 1966, being sections 552.451 to 552.459 of the Michigan Compiled Laws.

(iii) The child custody act of 1970, Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws.

(iv) Act No. 293 of the Public Acts of 1968, being sections 722.1 to 722.6 of the Michigan Compiled Laws.

(v) The paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws.

(vi) Revised uniform reciprocal enforcement of support act, Act No. 8 of the Public Acts of 1952, being sections 780.151 to 780.183 of the Michigan Compiled Laws.

(h) "Domestic relations mediation" means a process by which the parties are assisted by a domestic relations mediator in voluntarily formulating an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

(i) "Friend of the court" means the person serving under section 21(1) or appointed under section 23 as the head of the office of the friend of the court.

Sec. 2a. As used in this act:

(a) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396v.

(b) "Office" and "office of the friend of the court" mean the agency created in section 3.

(c) "Payer" means a person ordered by the circuit court to pay support.

(d) "Public assistance" means cash assistance provided under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.119b of the Michigan Compiled Laws.

(e) "Recipient of support" means the following:

(i) The spouse, if the support order orders spousal support.

(ii) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(iii) The family independence agency, if support has been assigned to that department.

(f) "State advisory committee" means the committee established by the bureau under section 19.

(g) "Support" means all of the following:

(i) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(ii) The payment of money ordered by the circuit court under the paternity act, Act No. 205 of the Public Acts of 1956, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother.

(iii) A surcharge accumulated under section 3a of the support and parenting time enforcement act, being section 552.603a of the Michigan Compiled Laws.

(h) "Support and parenting time enforcement act" means Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(i) "Support order" means an order entered by the circuit court for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.

Sec. 4. (1) A citizen friend of the court advisory committee is established in each county and is composed of the following members, each of whom is a resident of the county:

- (a) An advocate for children.
- (b) A representative of noncustodial parents.
- (c) A representative of custodial parents.
- (d) An attorney who engages primarily in family law practice.
- (e) The county sheriff or the sheriff's designee.
- (f) The prosecuting attorney or the prosecuting attorney's designee.
- (g) The director of the family independence agency or the director's designee.
- (h) A mental health professional who provides family counseling.

(i) A member of the general public who is not an individual who could serve on the committee in a category listed in subdivisions (a) to (h).

(2) Except for a member serving under subsection (1)(e), (f), or (g), and except as otherwise provided in this subsection, the county board shall appoint the citizen advisory committee members. In a county organized under Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.521 of the Michigan Compiled Laws, the county executive shall appoint the citizen advisory committee members with the advice and consent of the county board, and shall exercise the other powers and duties prescribed for the county board by this section in regard to the citizen advisory committee.

(3) A vacancy on the citizen advisory committee shall be filled for the remainder of the term in the same manner as the position was originally filled. The county board shall attempt to compose the citizen advisory committee so that its membership reflects the ethnic, racial, and gender distribution of the community that it serves.

(4) Except for the initial members, a citizen advisory committee member shall serve a renewable 3-year term. Of the initial members, 3 shall serve 3-year terms, 2 shall serve 2-year terms, and 2 shall serve 1-year terms. The county board may remove a citizen advisory committee member for cause.

(5) A citizen advisory committee shall elect 1 of its members as chairperson and 1 as vice-chairperson. Each shall serve a 1-year term.

(6) The state court administrative office shall perform staff and support functions that are necessary for a citizen advisory committee to perform its duties and functions.

(7) Except for a member serving under subsection (1)(e), (f), or (g), a citizen advisory committee member shall not serve more than 2 consecutive terms. After completion of 2 consecutive terms, a former member shall not be reappointed to serve during the 2 years immediately following the end of his or her previous term.

Sec. 4a. (1) A citizen advisory committee is advisory only and shall do all of the following:

(a) Meet not less than 6 times annually. The citizen advisory committee shall keep minutes of each meeting and submit a copy to the county board.

(b) Review and investigate grievances concerning the friend of the court as provided in section 26.

(c) Advise the court and the county board on the office of the friend of the court's and the friend of the court's duties and performance, and on the community's needs relating to the office's services.

(d) At the end of each calendar year, submit an annual report of its activities to the county board, court, state court administrative office, governor's office, and standing senate and house committees and appropriations subcommittees that are responsible for legislation concerning the judicial branch.

(2) A citizen advisory committee chairperson may appoint subcommittees comprised of 3 committee members to review, investigate, and hold hearings on grievances submitted to the citizen advisory committee as provided in section 26. The chairperson may serve on such a subcommittee and shall attempt to appoint members so that each member has an equal opportunity for subcommittee participation.

(3) Except as otherwise provided in this subsection, a citizen advisory committee meeting shall be open to the public. A member of the public attending a meeting shall be given a reasonable opportunity to address the committee on an issue under consideration by the committee. If a vote is to be taken by the citizen advisory committee, the opportunity to address the committee shall be given before the vote is taken. A citizen advisory committee meeting, including a meeting of a subcommittee appointed under subsection (2), is not open to the public while the committee or subcommittee is reviewing, investigating, or holding a hearing on a grievance as provided in section 26.

Sec. 17a. The office shall make available to an individual form motions, responses, and orders for requesting the court to modify the individual's child support, custody, or parenting time order, or for responding to a motion for such

a modification, without the assistance of legal counsel. The office shall make available instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a modification hearing.

Sec. 19. (1) The state friend of the court bureau is created within the state court administrative office, under the supervision and direction of the supreme court.

(2) The bureau shall have its main office in Lansing.

(3) The bureau shall do all of the following:

(a) Develop and recommend guidelines for conduct, operations, and procedures of the office and its employees, including, but not limited to, the following:

(i) Case load and staffing standards for employees who perform domestic relations mediation functions, investigation and recommendation functions, referee functions, enforcement functions, and clerical functions.

(ii) Orientation programs for clients of the office.

(iii) Public educational programs regarding domestic relations law and community resources, including financial and other counseling, and employment opportunities.

(iv) Procedural changes in response to the type of grievances received by an office.

(v) Model pamphlets and procedural forms, which shall be distributed to each office.

(vi) A formula to be used in establishing and modifying a child support amount and health care obligation. The formula shall be based upon the needs of the child and the actual resources of each parent. The formula shall establish a minimum threshold for modification of a child support amount. The formula shall consider the child care and dependent health care coverage costs of each parent.

(b) Provide training programs for the friend of the court, domestic relations mediators, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules.

(c) Gather and monitor relevant statistics.

(d) Annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the legislature and to each office and shall be made available to the public. The annual report required by this subdivision shall include, but is not limited to, all of the following:

(i) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each citizen advisory committee during the preceding year.

(ii) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all citizen advisory committees in the state during the preceding year.

(iii) An identification of problems that impede the efficiency of the activities and functioning of the citizen advisory committees and the satisfaction of the users of the committees' services.

(e) Develop and recommend guidelines to be used by an office in determining whether or not parenting time has been wrongfully denied by the custodial parent.

(f) Develop standards and procedures for the transfer of part or all of the responsibilities for a case from one office to another in situations considered appropriate by the bureau.

(g) Certify domestic relations mediation training programs as provided in section 13.

(h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, each of whom is a member of a citizen advisory committee:

(i) Three public members who have had contact with an office of the friend of the court.

(ii) Three attorneys who are members of the state bar of Michigan and whose practices are primarily domestic relations law. Not more than 1 attorney may be a circuit court judge.

(iii) Three human service professionals who provide family counseling.

(i) Cooperate with the office of child support in developing and implementing a statewide information system as provided in the office of child support act, Act No. 174 of the Public Acts of 1971, being sections 400.231 to 400.235 of the Michigan Compiled Laws.

(j) Develop and make available guidelines to assist the office of the friend of the court in determining the appropriateness in individual cases of the following:

(i) Imposing a lien or requiring the posting of a bond, security, or other guarantee to secure the payment of support.

(ii) Implementing the offset of a delinquent payer's state income tax refund.

(k) Develop and provide the office of the friend of the court with all of the following:

(i) Form motions, responses, and orders for use by an individual in requesting the court to modify his or her child support, custody, or parenting time order, or in responding to a motion for modification without the assistance of legal counsel.

(ii) Instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.

(l) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.

(4) The state advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. The bureau shall make a state advisory committee report or recommendation available to the public. State advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, under the schedule for reimbursement established annually by the legislature. A state advisory committee meeting is open to the public. A member of the public attending a state advisory committee meeting shall be given a reasonable opportunity to address the committee on any issue under consideration by the committee. If a vote is to be taken by the state advisory committee, the opportunity to address the committee shall be given before the vote is taken.

(5) The bureau may call upon each office of the friend of the court for assistance in performing the duties imposed in this section.

Sec. 20. If the family independence agency requests information from an office of the friend of the court, that office may provide the information requested on a quarterly basis. Not less often than quarterly, the family independence agency shall publish the information received under this section.

Sec. 23. (1) If the position of friend of the court becomes vacant for any reason, the chief judge shall appoint a person to the position of friend of the court not later than 6 months after the vacancy occurs. An appointment under this subsection is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have any area in common with the geographic area served by that friend of the court.

(2) If necessary, the chief judge may appoint an interim friend of the court to serve for not longer than 6 months until a friend of the court is appointed and approved under subsection (1).

(3) A friend of the court appointed under this section is an at-will employee and shall demonstrate experience or education in 1 or more of the following areas:

- (a) A human service or behavioral science field.
- (b) Family law.
- (c) Administration.

Sec. 24. (1) The chief judge annually shall review the performance record of each friend of the court serving that circuit to determine whether the friend of the court is guilty of misconduct, neglect of statutory duty, or failure to carry out written orders of the court relative to a statutory duty; whether the purposes of this act are being met; and whether the duties of the friend of the court are being carried out in a manner that reflects the needs of the community being served. Public notice of the annual review shall be given.

(2) Members of the public may submit written comments to the chief judge or county board relating to the criteria in subsection (1). The citizen advisory committee may advise the court and the county board regarding the criteria in subsection (1). The court shall prepare a written evaluation, which shall include a summary of any public comments received and of any citizen advisory committee report or recommendation. The court and county board may also, in a written response, address the recommendation of the citizen's advisory committee concerning the general operations of the citizen's advisory committee. The friend of the court and the bureau shall each receive a copy of the evaluation. The friend of the court shall have an opportunity to make a written response to the evaluation. A copy of the response shall be included with the evaluation.

Sec. 25. The chief judge may remove the friend of the court. A removal under this section is not effective until approved by a majority of the circuit, probate, and district court judges serving in all districts that have an area in common with the geographic area served by that friend of the court.

Sec. 26. (1) A party to a domestic relations matter who has a grievance concerning office operations or employees shall utilize the following grievance procedure:

(a) File the grievance, in writing, with the appropriate friend of the court office. The office shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the office shall respond

to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(b) A party who is not satisfied with the decision of the office under subdivision (a) may file a further grievance, in writing, with the chief judge. The chief judge shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the court shall respond to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(2) Each office shall maintain a record of grievances received and a record of whether the grievance is decided or outstanding. The record shall be transmitted not less than biannually to the bureau. Each office shall provide public access to the report of grievances prepared by the bureau under section 19.

(3) In addition to the grievance procedure provided in subsection (1), a party to a domestic relations matter who has a grievance concerning office operations may file, at any time during the proceedings, the grievance in writing with the appropriate citizen advisory committee. In its discretion, the citizen advisory committee shall conduct a review or investigation of, or hold a formal or informal hearing on, a grievance submitted to the committee. The citizen advisory committee may delegate its responsibility under this subsection to subcommittees appointed as provided in section 4a.

(4) In addition to action taken under subsection (3), the citizen advisory committee shall establish a procedure for randomly selecting grievances submitted directly to the office of the friend of the court. The citizen advisory committee shall review the response of the office to these grievances and report its findings to the court and the county board, either immediately or in the committee's annual report.

(5) The citizen advisory committee shall examine the grievances filed with the friend of the court under this section and shall review or investigate each grievance that alleges that a decision was made based on gender rather than the best interests of the child.

(6) If a citizen advisory committee reviews or investigates a grievance, the committee shall respond to the grievance as soon as practicable.

(7) A grievance filed under subsection (3) is limited to office operations, and the citizen advisory committee shall inform an individual who files with the committee a grievance that concerns an office employee or a court or office decision or recommendation regarding a specific case that such a matter is not a proper subject for a grievance.

Section 2. Section 31 of Act No. 294 of the Public Acts of 1982, being section 552.531 of the Michigan Compiled Laws, is repealed.

Section 3. This amendatory act shall take effect January 1, 1997.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.