

Act No. 144  
Public Acts of 1996  
Approved by the Governor  
March 24, 1996  
Filed with the Secretary of State  
March 25, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

**Introduced by Senators Shugars, Geake, Dingell, Hoffman, Gougeon, Stille, McManus, Byrum, Peters  
and Emmons**

# **ENROLLED SENATE BILL No. 609**

AN ACT to amend sections 1, 5, 7, 9, 11, 13, 17d, 18, 19, and 31 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 5 as amended by Act No. 273 of the Public Acts of 1989, section 7 as amended and section 18 as added by Act No. 208 of the Public Acts of 1985, sections 9 and 11 as amended by Act No. 241 of the Public Acts of 1995, section 17d as added and section 19 as amended by Act No. 37 of the Public Acts of 1994, and section 31 as amended by Act No. 24 of the Public Acts of 1996, being sections 552.501, 552.505, 552.507, 552.509, 552.511, 552.513, 552.517d, 552.518, 552.519, and 552.531 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 1, 5, 7, 9, 11, 13, 17d, 18, 19, and 31 of Act No. 294 of the Public Acts of 1982, section 5 as amended by Act No. 273 of the Public Acts of 1989, section 7 as amended and section 18 as added by Act No. 208 of the Public Acts of 1985, sections 9 and 11 as amended by Act No. 241 of the Public Acts of 1995, section 17d as added and section 19 as amended by Act No. 37 of the Public Acts of 1994, and section 31 as amended by Act No. 24 of the Public Acts of 1996, being sections 552.501, 552.505, 552.507, 552.509, 552.511, 552.513, 552.517d, 552.518, 552.519, and 552.531 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1. (1) This act shall be known and may be cited as the "friend of the court act".

(2) The purposes of this act are to enumerate and describe the powers and duties of the friend of the court and the office of the friend of the court; to ensure that procedures adopted by the friend of the court will protect the best interests of children in domestic relations matters; to encourage and assist parties voluntarily to resolve contested domestic relations matters by agreement; to compel the enforcement of parenting time and custody orders; and to compel the enforcement of support orders, ensuring that persons legally responsible for the care and support of children assume their legal obligations and reducing the financial cost to this state of providing public assistance funds for the care of children. This act shall be construed to promote the enumerated purposes and to facilitate the resolution of domestic relations matters.

Sec. 5. Before adjudication of a domestic relations matter, the office of the friend of the court shall have the following duties:

(a) To provide an informational pamphlet, in accordance with the model pamphlet developed by the bureau, to each party to a domestic relations matter. The informational pamphlet shall explain the procedures of the court and the office; the duties of the office; the rights and responsibilities of the parties; the availability of and procedures used in domestic relations mediation; the availability of human services in the community; the availability of joint custody as described in section 6a of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.26a of the Michigan Compiled Laws; and how to file a grievance regarding the office. The informational pamphlet shall be provided as soon as possible after the filing of a complaint or other initiating pleading. Upon request, a party shall receive an oral explanation of the informational pamphlet from the office.

(b) To inform the parties of the availability of domestic relations mediation if there is a dispute as to child custody or parenting time.

(c) To inform the parents of the availability of joint custody as described in section 6a of Act No. 91 of the Public Acts of 1970, if there is a dispute between the parents as to child custody.

(d) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court regarding child custody or parenting time, or both, if there is a dispute as to child custody or parenting time, or both, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. A written report and recommendation regarding child custody or parenting time, or both, shall be based upon the factors enumerated in Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws.

(e) To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the office of the friend of the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

(i) An alternative support recommendation.

(ii) All factual assumptions upon which the alternative support recommendation is based, if applicable.

(iii) How the alternative support recommendation deviates from the child support formula.

(iv) The reasons for the alternative support recommendation.

Sec. 7. (1) The chief judge may designate as referee the friend of the court; an employee of the office who is a member of the state bar of Michigan; or, under section 22, a member of the state bar of Michigan.

(2) A referee may do all of the following:

(a) Hear all motions in a domestic relations matter, except motions pertaining to an increase or decrease in spouse support, referred to the referee by the court.

(b) Administer oaths, compel the attendance of witnesses and the production of documents, and examine witnesses and parties.

(c) Make a written, signed report to the court containing a summary of testimony given, a statement of findings, and a recommended order; or make a statement of findings on the record and submit a recommended order.

(d) Hold hearings as provided in the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws. The referee shall make a record of each hearing held.

(e) Accept a voluntary acknowledgment of support liability, and review and make a recommendation to the court concerning a stipulated agreement to pay support.

(f) Recommend a default order establishing, modifying, or enforcing a support obligation in a domestic relations matter.

(3) If ordered by the court, or if stipulated by the parties, a referee shall make a transcript, verified by oath, of each hearing held. The cost of preparing a transcript shall be apportioned equally between the parties, unless otherwise ordered by the court.

(4) A copy of each report, recommendation, transcript, and any supporting documents or a summary of supporting documents prepared or used by the friend of the court or an employee of the office shall be made available to the attorney for each party and to each of the parties before the court takes any action on a recommendation made under this section or section 5. In a child custody dispute, the parties shall be informed of whether a custody preference expressed by the child was considered, evaluated, and determined by the court, but the parties shall not be informed of

the preference expressed by the child under section 3 of the child custody act of 1970, Act No. 91 of the Public Acts of 1970, being section 722.23 of the Michigan Compiled Laws. If a guardian is appointed for a child, the guardian shall be informed whether a custody preference expressed by the child was considered, evaluated, and determined by the court, and, if so, the preference expressed. The manner and time within which this material is made available shall be determined by supreme court rule.

(5) The court shall hold a de novo hearing on any matter that has been the subject of a referee hearing, upon the written request of either party or upon motion of the court. The request of a party shall be made within 21 days after the recommendation of the referee is made available to that party under subsection (4), except that a request for a de novo hearing concerning an order of income withholding shall be made within 14 days after the recommendation of the referee is made available to the party under subsection (4).

Sec. 9. (1) After a support order is entered in a domestic relations matter except as otherwise provided in the order or judgment, the office shall receive all payments of support orders and service fees; not less than once each month record the support payments due, paid, and past due; and disburse all support receipts to the recipient of support.

(2) The office shall provide annually to each party, without charge, 1 statement of account upon request. Additional statements of account shall be provided at a reasonable fee sufficient to pay for the cost of reproduction. Statements provided under this subsection are in addition to statements provided for administrative and judicial hearings.

(3) The office shall initiate and carry out proceedings to enforce all orders entered in a domestic relations matter regarding custody, parenting time, health care coverage, and support, in accordance with this act, the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, and supreme court rules.

Sec. 11. (1) Each office shall initiate enforcement pursuant to the support and parenting time enforcement act when either of the following applies:

(a) A fixed amount of arrearage is reached, except as otherwise provided in section 4 of the support and parenting time enforcement act, being section 552.604 of the Michigan Compiled Laws. The amount of arrearage so fixed shall be an amount equal to the amount of support payable for 1 month under the payer's support order. The office shall not initiate enforcement under this subdivision if the support order was entered ex parte and the office has not received a copy of proof of service of the order.

(b) A parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court. The office shall initiate enforcement under this subdivision at the following times:

(i) Within 60 days after the entry of a support order containing health care coverage provisions.

(ii) When a review is conducted as provided in section 17.

(iii) Concurrent with enforcement initiated by the office under this subdivision.

(iv) Upon receipt of a written complaint from a party.

(v) Upon receipt of a written complaint from the department of social services if the child for whose benefit health care coverage is ordered is a recipient of public assistance or medical assistance.

(2) For a custody or parenting time order, the office may initiate enforcement proceedings under subsection (3) upon its own initiative and shall initiate enforcement proceedings upon receipt of a written complaint stating the specific facts alleged to constitute a violation, if the office determines that there is reason to believe a violation of a custody or parenting time order has occurred. Upon request, the office of the friend of the court shall assist a person in preparing a complaint under this subsection.

(3) The office shall send, by ordinary mail, a notice to an alleged violator of a custody or parenting time order, informing the alleged violator of the nature of the alleged violation, the proposed action under this or other applicable act, and the availability of domestic relations mediation. The notice shall contain the following statement in boldfaced type of not less than 12 points:

**"FAILURE TO RESPOND TO THE FRIEND OF THE COURT OFFICE WITHIN 14 DAYS AFTER THE DATE OF THIS NOTICE TO WORK OUT A SATISFACTORY ARRANGEMENT MAY RESULT IN CONTEMPT OF COURT PROCEEDINGS BEING BROUGHT AGAINST YOU."**

(4) A copy of the notice described in subsection (3) shall be sent by ordinary mail to the party alleging a violation.

(5) Fourteen days after the date of the notice to the alleged violator under subsection (3), the office may do 1 or more of the following:

(a) Schedule a joint meeting with the parties to discuss the allegations of failure to comply with a custody or parenting time order, and attempt to resolve the differences between the parties.

(b) Refer the parties to meet with a domestic relations mediator as provided in section 13, if the parties agree to mediation.

(c) If appropriate, proceed under section 41 of the support and parenting time enforcement act, being section 552.641 of the Michigan Compiled Laws, or other applicable act.

Sec. 13. (1) The office shall provide, either directly or by contract, domestic relations mediation to assist the parties in settling voluntarily a dispute concerning child custody or parenting time that arises from a domestic relations matter. Parties shall not be required to meet with a domestic relations mediator. The service may be provided directly by the office only if such a service is in place on July 1, 1983, if the service is not available from a private source, or if the court can demonstrate that providing the service within the friend of the court office is cost beneficial. Any expansion of existing services provided by the court on July 1, 1983 shall be provided by an individual meeting the domestic relations mediator minimum qualifications listed under subsection (4).

(2) If an agreement is reached by the parties through domestic relations mediation, a consent order incorporating the agreement shall be prepared by the friend of the court; an employee of the office who is a member of the state bar of Michigan; under section 22, a member of the state bar of Michigan; or by the attorney for 1 of the parties. The consent order shall be provided to, and shall be entered by, the court.

(3) Except as provided in subsection (2), a communication between a domestic relations mediator and a party to a domestic relations mediation is confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between the parties in the presence of the mediator.

(4) A domestic relations mediator who performs mediation under this act shall have all of the following minimum qualifications:

(a) One or more of the following:

(i) A license or a limited license to engage in the practice of psychology under parts 161 and 182 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.16349 and 333.18201 to 333.18237 of the Michigan Compiled Laws, or a master's degree in counseling, social work, or marriage and family counseling; and successful completion of the training program provided by the bureau under section 19(3)(b).

(ii) Not less than 5 years of experience in family counseling, preferably in a setting related to the areas of responsibility of the friend of the court and preferably to reflect the ethnic population to be served, and successful completion of the training program provided by the bureau under section 19(3)(b).

(iii) A graduate degree in a behavioral science and successful completion of a domestic relations mediation training program certified by the bureau with not less than 40 hours of classroom instruction and 250 hours of practical experience working under the direction of a person who has successfully completed a program certified by the bureau.

(iv) Membership in the state bar of Michigan and successful completion of the training program provided by the bureau under section 19(3)(b).

(b) Knowledge of the court system of this state and the procedures used in domestic relations matters.

(c) Knowledge of other resources in the community to which the parties to a domestic relations matter can be referred for assistance.

(d) Knowledge of child development, clinical issues relating to children, the effects of divorce on children, and child custody research.

Sec. 17d. (1) After a final judgment containing a parenting time order has been entered in a domestic relations matter, if there is a dispute as to parenting time that is not resolved voluntarily by the parties through a meeting with the office of the friend of the court under section 11 or through domestic relations mediation under section 13, the office may petition the court for a modification of the parenting time order. A written report and recommendation shall accompany the petition.

(2) Before a court hearing on a proposed modification of a parenting time order, the office shall notify both parties of the proposed modification and afford the parties an opportunity for review and comment.

Sec. 18. (1) Subject to subsections (3) and (4), upon the request of the office of the friend of the court, any employer or former employer of a custodial parent or an absent parent as defined in section 1 of the office of child support act, Act No. 174 of the Public Acts of 1971, being section 400.231 of the Michigan Compiled Laws, shall provide all of the following information relative to the custodial parent or absent parent:

(a) Full name and address.

(b) Social security number.

(c) Date of birth.

(d) Amount of wages earned by or other income due the custodial parent or absent parent. As used in this subdivision and subdivision (e), "income" means income as defined in section 2 of the support and parenting time

enforcement act, Act No. 295 of the Public Acts of 1982, being section 552.602 of the Michigan Compiled Laws. Both net and gross income shall be reported, regardless of method of payment.

(e) The following information concerning the person's current and former employment status: whether or not the custodial parent or absent parent is currently employed, laid off, on sick, disability, or other leave of absence, or retired, and amount of income due from an employment related benefit plan, if any.

(f) Dependent health care coverage available to the custodial parent or absent parent as a benefit of employment.

(2) A request for information under this section shall certify that the information obtained will be treated as confidential and shall not be used or released except for the purposes of administering, enforcing, and complying with state and federal laws governing child support.

(3) A former employer shall not be required to provide information concerning a person who was last employed by the former employer more than 3 years before the date of the request.

(4) This section does not require the creation or maintenance of records not otherwise required to be created or maintained, or require an employer or former employer to discover information not contained in records of, or otherwise known to, the employer or former employer.

(5) A copy of information provided to the office under this section shall be made available to the custodial parent or absent parent, or both, upon his or her request.

Sec. 19. (1) The state friend of the court bureau is created within the office of the state court administrator, 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.

(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 advisory committee, serving without compensation except as provided in subsection (4), composed of the following:

(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:

(i) Form motions, responses, and orders for use by a payer or payee in requesting the court to modify his or her child support 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 modification hearing.

(4) The advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. Advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, pursuant to the schedule for reimbursement established annually by the legislature. Meetings of the advisory committee shall be open to the public. Members of the public attending a meeting of the advisory committee 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 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. 31. (1) "Bureau" means the state friend of the court bureau created in section 19.

(2) "Chief judge" means the following:

(a) The circuit judge in a judicial circuit having only 1 circuit judge.

(b) Except in the county of Wayne, the chief judge of the circuit court in a judicial circuit having 2 or more circuit judges.

(c) 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.

(3) "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 subsection, "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.

(4) "Court" means the circuit court.

(5) "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.

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

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

(b) 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.

(c) 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.

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

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

(f) 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.

(7) "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.

(8) "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 1396g and 1396i to 1396v.

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

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

(11) "Public assistance" means aid to families with dependent children, general assistance, foster care maintenance, or a combination of those items.

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

(a) The spouse, if the support order orders support for the spouse.

(b) 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.

(c) The state department of social services, if support has been assigned to the state department.

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

(a) 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.

(b) 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.

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

(14) "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.

(15) "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.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 624 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

-----  
Secretary of the Senate.

-----  
Clerk of the House of Representatives.

Approved -----

-----  
Governor.