

SUBSTITUTE FOR
SENATE BILL NO. 790

A bill to amend 1982 PA 294, entitled "Friend of the court act," by amending sections 2, 9, 18, and 19 (MCL 552.502, 552.509, 552.518, and 552.519), sections 2 and 19 as amended by 1996 PA 366, section 9 as amended by 1996 PA 365, and section 18 as amended by 1996 PA 144, and by adding section 17d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Bureau" means the state friend of the court bureau cre-
3 ated in section 19.

4 (b) "Chief judge" means the following:

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

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

4 (iii) In the county of Wayne, the executive chief judge of
5 the circuit court in the third judicial circuit. ~~and the~~
6 ~~recorder's court of the city of Detroit.~~

7 (c) "Citizen advisory committee" means a citizen friend of
8 the court advisory committee established as provided in
9 section 4.

10 (d) "Consumer reporting agency" means a person that, for
11 monetary fees or dues, or on a cooperative nonprofit basis, regu-
12 larly engages in whole or in part in the practice of assembling
13 or evaluating consumer credit information or other information on
14 consumers for the purpose of furnishing consumer reports to third
15 parties, and that uses any means or facility of interstate com-
16 merce for the purpose of preparing or furnishing consumer
17 reports. As used in this subdivision, "consumer report" means
18 that term as defined in section 603 of the fair credit reporting
19 act, title VI of the consumer credit protection act, Public Law
20 90-321, 15 U.S.C. 1681a.

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

26 (f) "Court" means the circuit court.

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

5 (i) ~~Chapter 84 of the Revised Statutes of 1846, being sec-~~
6 ~~tions 552.1 to 552.45 of the Michigan Compiled Laws 1846 RS 84,~~
7 MCL 552.1 TO 552.45.

8 (ii) The family support act, ~~Act No. 138 of the Public Acts~~
9 ~~of 1966, being sections 552.451 to 552.459 of the Michigan~~
10 ~~Compiled Laws 1966 PA 138, MCL 552.451 TO 552.459.~~

11 (iii) The child custody act of 1970, ~~Act No. 91 of the~~
12 ~~Public Acts of 1970, being sections 722.21 to 722.29 of the~~
13 ~~Michigan Compiled Laws 1970 PA 91, MCL 722.21 TO 722.30.~~

14 (iv) ~~Act No. 293 of the Public Acts of 1968, being sections~~
15 ~~722.1 to 722.6 of the Michigan Compiled Laws 1968 PA 293, MCL~~
16 ~~722.1 TO 722.6.~~

17 (v) The paternity act, ~~Act No. 205 of the Public Acts of~~
18 ~~1956, being sections 722.711 to 722.730 of the Michigan Compiled~~
19 ~~Laws 1956 PA 205, MCL 722.711 TO 722.730.~~

20 (vi) Revised uniform reciprocal enforcement of support act,
21 ~~Act No. 8 of the Public Acts of 1952, being sections 780.151 to~~
22 ~~780.183 of the Michigan Compiled Laws 1952 PA 8, MCL 780.151 TO~~
23 ~~780.183.~~

24 (vii) THE UNIFORM INTERSTATE FAMILY SUPPORT ACT, 1996 PA
25 310, MCL 552.1101 TO 552.1901.

26 (h) "Domestic relations mediation" means a process by which
27 the parties are assisted by a domestic relations mediator in

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1 voluntarily formulating an agreement to resolve a dispute
2 concerning child custody or parenting time that arises from a
3 domestic relations matter.

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

7 Sec. 9. (1) ~~After~~ EXCEPT AS OTHERWISE PROVIDED IN THE
8 ORDER OR JUDGMENT, AFTER a support order is entered in a domestic
9 relations matter, ~~except as otherwise provided in the order or~~
10 ~~judgment,~~ the office shall receive all payments of support
11 orders and service fees; shall, not less than once each month,
12 record the support payments due, paid, and past due; and shall
13 disburse all support payments to the recipient of support within
14 14 days after the office receives each payment.

15 (2) The office shall provide annually to each party, without
16 charge, 1 statement of account upon request. Additional state-
17 ments of account shall be provided at a reasonable fee sufficient
18 to pay for the cost of reproduction. Statements provided under
19 this subsection are in addition to statements provided for admin-
20 istrative and judicial hearings.

21 (3) The office shall initiate and carry out proceedings to
22 enforce an order entered in a domestic relations matter regarding
23 custody, parenting time, health care coverage, or support in
24 accordance with this act, the support and parenting time enforce-
25 ment act, and supreme court rules.

26 (4) UPON REQUEST OF A CHILD SUPPORT AGENCY OF ANOTHER STATE,
27 THE OFFICE SHALL INITIATE AND CARRY OUT CERTAIN PROCEEDINGS TO

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1 ENFORCE SUPPORT ORDERS ENTERED IN THE OTHER STATE WITHOUT THE
2 NEED TO REGISTER THE ORDER AS A DOMESTIC RELATIONS MATTER IN THIS
3 STATE. THE ORDER SHALL BE ENFORCED USING AUTOMATED ADMINISTRA-
4 TIVE ENFORCEMENT ACTIONS AUTHORIZED UNDER THE SUPPORT AND PARENT-
5 ING TIME ENFORCEMENT ACT, 1982 PA 295, MCL 552.601 TO 552.650.

6 SEC. 17D. THE OFFICE SHALL UTILIZE GUIDELINES PROVIDED IN
7 THE CHILD SUPPORT FORMULA DEVELOPED BY THE STATE FRIEND OF THE
8 COURT BUREAU UNDER SECTION 19 TO ADMINISTRATIVELY ADJUST ARREAR-
9 AGE PAYMENT SCHEDULES.

10 Sec. 18. (1) Subject to subsections (3) and (4), upon the
11 request of the office of the friend of the court, any employer or
12 former employer of a ~~custodial parent or an absent~~ parent as
13 defined in section 1 of the office of child support act, ~~Act~~
14 ~~No. 174 of the Public Acts of 1971, being section 400.231 of the~~
15 ~~Michigan Compiled Laws~~ 1971 PA 174, MCL 400.231, WHO IS OR WAS
16 EMPLOYED BY THE EMPLOYER AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR
17 shall provide all of the following information relative to the
18 ~~custodial parent or absent~~ parent:

19 (a) Full name and address.

20 (b) Social security number.

21 (c) Date of birth.

22 (d) Amount of wages earned by or other income due the custo-
23 dial parent or absent parent. As used in this subdivision and
24 subdivision (e), "income" means income as defined in section 2 of
25 the support and parenting time enforcement act, ~~Act No. 295 of~~
26 ~~the Public Acts of 1982, being section 552.602 of the Michigan~~

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1 ~~Compiled Laws~~ 1982 PA 295, MCL 552.602. Both net and gross
2 income shall be reported, regardless of method of payment.

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

8 (f) Dependent health care coverage available to the custo-
9 dial parent or absent parent as a benefit of employment.

10 (2) THE FRIEND OF THE COURT OR HIS OR HER DESIGNEE MAY ISSUE
11 AN ADMINISTRATIVE SUBPOENA TO REQUIRE ANY PUBLIC OR PRIVATE
12 ENTITY DOING BUSINESS IN THE STATE TO FURNISH ANY CURRENT EMPLOY-
13 MENT INFORMATION IN THE POSSESSION OF THE ENTITY THAT PERTAINS TO
14 A PARENT AND IS NEEDED TO ESTABLISH, MODIFY, OR ENFORCE A SUPPORT
15 ORDER. THE OFFICERS OR EMPLOYEES OF THE ENTITY SHALL FURNISH THE
16 INFORMATION WITHIN 15 DAYS AFTER THE SUBPOENA IS RECEIVED BY THE
17 ENTITY. FOR PURPOSES OF THIS SUBSECTION, "CURRENT EMPLOYMENT" IS
18 DEFINED AS EMPLOYMENT WITHIN 1 YEAR OF THE FRIEND OF THE COURT
19 REQUEST.

20 (3) ~~-(2)-~~ A request OR SUBPOENA for information under this
21 section shall certify that the information obtained will be
22 treated as confidential and shall not be used or released except
23 for the purposes of administering, enforcing, and complying with
24 state and federal laws governing child support.

25 (4) ~~-(3)-~~ A former employer ~~shall~~ IS not ~~be~~ required to
26 provide information concerning a person who was last employed by

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1 the former employer more than 3 years before the date of the
2 request OR SUBPOENA FOR INFORMATION UNDER THIS SECTION.

3 (5) ~~(4)~~ This section does not require the creation or
4 maintenance of records not otherwise required to be created or
5 maintained, or require an employer or former employer to discover
6 information not contained in records of, or otherwise known to,
7 the employer or former employer.

8 (6) ~~(5)~~ A copy of information provided to the office under
9 this section shall be made available to the ~~custodial parent or~~
10 ~~absent~~ parent, ~~or both,~~ upon his or her request.

11 (7) IN THE CASE OF DISOBEDIENCE OF A REQUEST OR SUBPOENA FOR
12 INFORMATION UNDER THIS SECTION, THE FRIEND OF THE COURT OR HIS OR
13 HER DESIGNEE MAY PETITION THE CIRCUIT COURT IN THE COUNTY IN
14 WHICH THE INQUIRY IS BEING MADE TO REQUIRE THE PRODUCTION OF
15 BOOKS, PAPERS, AND DOCUMENTS. ANY CIRCUIT COURT OF THE STATE
16 MAY, IN THE CASE OF REFUSAL TO OBEY A SUBPOENA OR REQUEST FOR
17 INFORMATION UNDER THIS SECTION, ISSUE AN ORDER REQUIRING THE
18 PERSON OR OTHER ENTITY TO APPEAR AND TO PRODUCE BOOKS, RECORDS,
19 AND PAPERS IF SO ORDERED. FAILURE TO OBEY THE ORDER OF THE COURT
20 MAY BE PUNISHED BY THE COURT AS A CONTEMPT.

21 (8) AN EMPLOYER, FORMER EMPLOYER, OR OTHER ENTITY IS NOT
22 LIABLE UNDER FEDERAL OR STATE LAW TO A PERSON OR GOVERNMENTAL
23 ENTITY FOR A DISCLOSURE OF INFORMATION TO THE OFFICE UNDER THIS
24 SECTION OR FOR ANY OTHER ACTION TAKEN BY THE EMPLOYER, FORMER
25 EMPLOYER, OR OTHER ENTITY IN GOOD FAITH TO COMPLY WITH THE
26 REQUIREMENTS OF THIS SECTION.

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

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

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

6 (a) Develop and recommend guidelines for conduct, opera-
7 tions, and procedures of the office and its employees, including,
8 but not limited to, the following:

9 (i) Case load and staffing standards for employees who per-
10 form domestic relations mediation functions, investigation and
11 recommendation functions, referee functions, enforcement func-
12 tions, and clerical functions.

13 (ii) Orientation programs for clients of the office.

14 (iii) Public educational programs regarding domestic rela-
15 tions law and community resources, including financial and other
16 counseling, and employment opportunities.

17 (iv) Procedural changes in response to the type of griev-
18 ances received by an office.

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

21 (vi) A formula to be used in establishing and modifying a
22 child support amount and health care obligation. The formula
23 shall be based upon the needs of the child and the actual
24 resources of each parent. The formula shall establish a minimum
25 threshold for modification of a child support amount. The for-
26 mula shall consider the child care and dependent health care
27 coverage costs of each parent. THE FORMULA SHALL INCLUDE

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1 GUIDELINES FOR SETTING AND ADMINISTRATIVELY ADJUSTING THE AMOUNT
2 OF PERIODIC PAYMENTS FOR OVERDUE SUPPORT, INCLUDING GUIDELINES
3 FOR ADJUSTMENT OF ARREARAGE PAYMENT SCHEDULES WHEN THE CURRENT
4 SUPPORT OBLIGATION FOR A CHILD TERMINATES AND THE PAYER OWES
5 OVERDUE SUPPORT.

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

10 (c) Gather and monitor relevant statistics.

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

18 (i) An evaluative summary, supplemented by applicable quan-
19 titative data, of the activities and functioning of each citizen
20 advisory committee during the preceding year.

21 (ii) An evaluative summary, supplemented by applicable quan-
22 titative data, of the activities and functioning of the aggregate
23 of all citizen advisory committees in the state during the pre-
24 ceding year.

25 (iii) An identification of problems that impede the effi-
26 ciency of the activities and functioning of the citizen advisory

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1 committees and the satisfaction of the users of the committees'
2 services.

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

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

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

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

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

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

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

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

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

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

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

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

10 (i) Form motions, responses, and orders for use by an indi-
11 vidual in requesting the court to modify his or her child sup-
12 port, custody, or parenting time order, or in responding to a
13 motion for modification without the assistance of legal counsel.

14 (ii) Instructions on preparing and filing the forms,
15 instructions on service of process, and instructions on schedul-
16 ing a support, custody, or parenting time modification hearing.

17 (l) Develop guidelines for, and encourage the use of, plain
18 language within the office of the friend of the court including,
19 but not limited to, the use of plain language in forms and
20 instructions within the office and in statements of account pro-
21 vided as required in section 9.

22 (4) The state advisory committee established under subsec-
23 tion (3)(h) shall advise the bureau in the performance of its
24 duties under this section. The bureau shall make a state
25 advisory committee report or recommendation available to the
26 public. State advisory committee members shall be reimbursed for
27 their expenses for mileage, meals, and, if necessary, lodging,

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1 under the schedule for reimbursement established annually by the
2 legislature. A state advisory committee meeting is open to the
3 public. A member of the public attending a state advisory com-
4 mittee meeting shall be given a reasonable opportunity to address
5 the committee on any issue under consideration by the committee.
6 If a vote is to be taken by the state advisory committee, the
7 opportunity to address the committee shall be given before the
8 vote is taken.

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