

# HOUSE BILL No. 5646

March 10, 1998, Introduced by Rep. Nye and referred to the Committee on Judiciary.

A bill to amend 1982 PA 294, entitled  
"Friend of the court act,"  
by amending the title and sections 2, 19, 24, and 26 (MCL  
552.502, 552.519, 552.524, and 552.526), as amended by 1996 PA  
366, and by adding section 4b; and to repeal acts and parts of  
acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 1 TITLE

2 An act to revise and consolidate the laws relating to the  
3 friend of the court; to provide for the appointment or removal of  
4 the friend of the court; to create the office of the friend of  
5 the court; to establish the rights, powers, and duties of the  
6 friend of the court and the office of the friend of the court; to  
7 establish a state friend of the court bureau and to provide the  
8 powers and duties of the bureau; to prescribe powers and duties

1 of the circuit court and of certain state and local agencies and  
2 officers; ~~to establish friend of the court citizen advisory~~  
3 ~~committees;~~ to prescribe certain duties of certain employers and  
4 former employers; and to repeal acts and parts of acts.

5 Sec. 2. As used in this act:

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

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

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

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

14 (iii) In the county of Wayne, the executive chief judge of  
15 the circuit court in the third judicial circuit and the  
16 recorder's court of the city of Detroit.

17 ~~-(c) "Citizen advisory committee" means a citizen friend of~~  
18 ~~the court advisory committee established as provided in section~~  
19 ~~4.~~

20 (C) ~~-(d)-~~ "Consumer reporting agency" means a person that,  
21 for monetary fees or dues, or on a cooperative nonprofit basis,  
22 regularly engages in whole or in part in the practice of assembl-  
23 ing or evaluating consumer credit information or other informa-  
24 tion on consumers for the purpose of furnishing consumer reports  
25 to third parties, and that uses any means or facility of inter-  
26 state commerce for the purpose of preparing or furnishing  
27 consumer reports. As used in this subdivision, "consumer report"

1 means that term as defined in section 603 of the fair credit  
2 reporting act, title VI of the consumer credit protection act,  
3 Public Law 90-321, 15 U.S.C. 1681a.

4 (D) ~~(e)~~ "County board" means the county board of commis-  
5 sioners in the county served by the office. If a judicial cir-  
6 cuit includes more than 1 county, action required to be taken by  
7 the county board means action by the county boards of commission-  
8 ers for all counties composing that circuit.

9 (E) ~~(f)~~ "Court" means the circuit court.

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

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

17 (ii) The family support act, ~~Act No. 138 of the Public Acts~~  
18 ~~of 1966, being sections 552.451 to 552.459 of the Michigan~~  
19 ~~Compiled Laws 1966 PA 138, MLC 552.451 TO 552.459.~~

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

23 (iv) ~~Act No. 293 of the Public Acts of 1968, being sections~~  
24 ~~722.1 to 722.6 of the Michigan Compiled Laws 1968 PA 293, MCL~~  
25 ~~722.1 TO 722.6.~~

1 (v) The paternity act, ~~Act No. 205 of the Public Acts of~~  
2 ~~1956, being sections 722.711 to 722.730 of the Michigan Compiled~~  
3 ~~Laws~~ 1956 PA 205, MCL 722.711 TO 722.730.

4 (vi) Revised uniform reciprocal enforcement of support act,  
5 ~~Act No. 8 of the Public Acts of 1952, being sections 780.151 to~~  
6 ~~780.183 of the Michigan Compiled Laws~~ 1952 PA 8, MCL 780.151 TO  
7 780.183.

8 (G) ~~(h)~~ "Domestic relations mediation" means a process by  
9 which the parties are assisted by a domestic relations mediator  
10 in voluntarily formulating an agreement to resolve a dispute con-  
11 cerning child custody or parenting time that arises from a domes-  
12 tic relations matter.

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

16 SEC. 4B. ON THE EFFECTIVE DATE OF THIS SECTION, A CITIZEN  
17 FRIEND OF THE COURT ADVISORY COMMITTEE ESTABLISHED PURSUANT TO  
18 FORMER SECTION 4 IS ABOLISHED.

19 Sec. 19. (1) The state friend of the court bureau is cre-  
20 ated within the state court administrative office, under the  
21 supervision and direction of the supreme court.

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

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

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

1       (i) Case load and staffing standards for employees who  
2 perform domestic relations mediation functions, investigation and  
3 recommendation functions, referee functions, enforcement func-  
4 tions, and clerical functions.

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

6       (iii) Public educational programs regarding domestic rela-  
7 tions law and community resources, including financial and other  
8 counseling, and employment opportunities.

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

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

13       (vi) A formula to be used in establishing and modifying a  
14 child support amount and health care obligation. The formula  
15 shall be based upon the needs of the child and the actual  
16 resources of each parent. The formula shall establish a minimum  
17 threshold for modification of a child support amount. The for-  
18 mula shall consider the child care and dependent health care cov-  
19 erage costs of each parent.

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

24       (c) Gather and monitor relevant statistics.

25       (d) Annually issue a report containing a detailed summary of  
26 the types of grievances received by each office, and whether the  
27 grievances are resolved or outstanding. The report shall be

1 transmitted to the legislature and to each office and shall be  
2 made available to the public. ~~The annual report required by~~  
3 ~~this subdivision shall include, but is not limited to, all of the~~  
4 ~~following:~~

5 ~~(i) An evaluative summary, supplemented by applicable quan-~~  
6 ~~titative data, of the activities and functioning of each citizen~~  
7 ~~advisory committee during the preceding year.~~

8 ~~(ii) An evaluative summary, supplemented by applicable quan-~~  
9 ~~titative data, of the activities and functioning of the aggregate~~  
10 ~~of all citizen advisory committees in the state during the pre-~~  
11 ~~ceding year.~~

12 ~~(iii) An identification of problems that impede the effi-~~  
13 ~~ciency of the activities and functioning of the citizen advisory~~  
14 ~~committees and the satisfaction of the users of the committees'~~  
15 ~~services.~~

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

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

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

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

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

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

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

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

13       (j) Develop and make available guidelines to assist the  
14 office of the friend of the court in determining the appropriate-  
15 ness in individual cases of the following:

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

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

20       (k) Develop and provide the office of the friend of the  
21 court with ~~all~~ BOTH of the following:

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

26       (ii) Instructions on preparing and filing the forms,  
27 instructions on service of process, and instructions on

1 scheduling a support, custody, or parenting time modification  
2 hearing.

3 (1) Develop guidelines for, and encourage the use of, plain  
4 language within the office of the friend of the court including,  
5 but not limited to, the use of plain language in forms and  
6 instructions within the office and in statements of account pro-  
7 vided as required in section 9.

8 (4) The state advisory committee established under subsec-  
9 tion (3)(h) shall advise the bureau in the performance of its  
10 duties under this section. The bureau shall make a state  
11 advisory committee report or recommendation available to the  
12 public. State advisory committee members shall be reimbursed for  
13 their expenses for mileage, meals, and, if necessary, lodging,  
14 under the schedule for reimbursement established annually by the  
15 legislature. A state advisory committee meeting is open to the  
16 public. A member of the public attending a state advisory com-  
17 mittee meeting shall be given a reasonable opportunity to address  
18 the committee on any issue under consideration by the committee.  
19 If a vote is to be taken by the state advisory committee, the  
20 opportunity to address the committee shall be given before the  
21 vote is taken.

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

25 Sec. 24. (1) The chief judge annually shall review the per-  
26 formance record of each friend of the court serving that circuit  
27 to determine whether the friend of the court is guilty of



1 misconduct, neglect of statutory duty, or failure to carry out  
2 written orders of the court relative to a statutory duty; whether  
3 the purposes of this act are being met; and whether the duties of  
4 the friend of the court are being carried out in a manner that  
5 reflects the needs of the community being served. Public notice  
6 of the annual review shall be given.

7 (2) Members of the public may submit written comments to the  
8 chief judge or county board relating to the criteria in subsec-  
9 tion (1). ~~The citizen advisory committee may advise the court~~  
10 ~~and the county board regarding the criteria in subsection (1).~~  
11 The court shall prepare a written evaluation, which shall include  
12 a summary of any public comments received. ~~and of any citizen~~  
13 ~~advisory committee report or recommendation. The court and~~  
14 ~~county board may also, in a written response, address the recom-~~  
15 ~~mendation of the citizen's advisory committee concerning the gen-~~  
16 ~~eral operations of the citizen's advisory committee.~~ The friend  
17 of the court and the bureau shall each receive a copy of the  
18 evaluation. The friend of the court shall have an opportunity to  
19 make a written response to the evaluation. A copy of the  
20 response shall be included with the evaluation.

21 Sec. 26. (1) A party to a domestic relations matter who has  
22 a grievance concerning office operations or employees shall uti-  
23 lize the following grievance procedure:

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

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

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

11 (2) Each office shall maintain a record of grievances  
12 received and a record of whether the grievance is decided or  
13 outstanding. The record shall be transmitted not less than bian-  
14 nually to the bureau. Each office shall provide public access to  
15 the report of grievances prepared by the bureau under section  
16 19.

17 ~~-(3) In addition to the grievance procedure provided in sub-~~  
18 ~~section (1), a party to a domestic relations matter who has a~~  
19 ~~grievance concerning office operations may file, at any time~~  
20 ~~during the proceedings, the grievance in writing with the appro-~~  
21 ~~priate citizen advisory committee. In its discretion, the citi-~~  
22 ~~zen advisory committee shall conduct a review or investigation~~  
23 ~~of, or hold a formal or informal hearing on, a grievance submit-~~  
24 ~~ted to the committee. The citizen advisory committee may dele-~~  
25 ~~gate its responsibility under this subsection to subcommittees~~  
26 ~~appointed as provided in section 4a.~~

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

8       ~~(5) The citizen advisory committee shall examine the griev-~~  
9 ~~ances filed with the friend of the court under this section and~~  
10 ~~shall review or investigate each grievance that alleges that a~~  
11 ~~decision was made based on gender rather than the best interests~~  
12 ~~of the child.~~

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

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

22       Enacting section 1. Sections 4 and 4a of the friend of the  
23 court act, 1982 PA 294, MCL 552.504 and 552.504a, are repealed.