

Act No. 63
Public Acts of 1998
Approved by the Governor
April 21, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Gougeon

ENROLLED SENATE BILL No. 790

AN ACT to amend 1982 PA 294, entitled "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," 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 17e.

The People of the State of Michigan enact:

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.
- (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) "Current employment" means employment within 1 year before a friend of the court request for information.
- (h) "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) 1846 RS 84, MCL 552.1 to 552.45.
- (ii) The family support act, 1966 PA 138, MCL 552.451 to 552.459.
- (iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.30.
- (iv) 1968 PA 293, MCL 722.1 to 722.6.
- (v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.
- (vi) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.
- (vii) The uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(i) "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.

(j) "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.

(k) "Income" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

Sec. 9. (1) Except as otherwise provided in the order or judgment, after a support order is entered in a domestic relations matter, the office shall receive all payments of support orders and service fees; shall, not less than once each month, record the support payments due, paid, and past due; and shall disburse all support payments to the recipient of support within 14 days after the office receives each payment.

(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 an order entered in a domestic relations matter regarding custody, parenting time, health care coverage, or support in accordance with this act, the support and parenting time enforcement act, and supreme court rules.

(4) Upon request of a child support agency of another state, the office shall initiate and carry out certain proceedings to enforce support orders entered in the other state without the need to register the order as a domestic relations matter in this state. The order shall be enforced using automated administrative enforcement actions authorized under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

Sec. 17e. The office shall utilize guidelines provided in the child support formula developed by the state friend of the court bureau under section 19 to administratively adjust arrearage payment schedules. In making an administrative adjustment as authorized by this subsection, the office shall follow procedures to afford the payer due process including at least notice, an opportunity for an administrative hearing, and an opportunity for an appeal on the record to an independent administrative or judicial tribunal.

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 parent as defined in section 1 of the office of child support act, 1971 PA 174, MCL 400.231, who is or was employed by the employer as an employee or independent contractor shall provide all of the following information relative to the parent:

(a) Full name and address.

(b) Social security number. The requirement of this subdivision to provide a social security number with the information does not apply if the parent is exempt under federal law from obtaining a social security number or is exempt under federal or state law from disclosure of his or her social security number under these circumstances. The friend of the court shall inform the parent of this possible exemption.

(c) Date of birth.

(d) Amount of wages earned by or other income due the custodial parent or absent parent. 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) The friend of the court or his or her designee may issue an administrative subpoena to require any public or private entity doing business in the state that employs or has employed a parent to furnish any current employment information in the possession of the entity that pertains to the parent and that is needed to establish, modify, or enforce a support order. The entity's officers or employees shall furnish the information within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.

(3) A request or subpoena 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.

(4) A former employer is not 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 or subpoena for information under this section.

(5) 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.

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

(7) In the case of disobedience of a request or subpoena for information under this section, the friend of the court or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to obey a subpoena or request for information under this section, a circuit court may issue an order requiring the person or other entity to appear and to produce books, records, and papers if so ordered. Failure to obey the order of the court may be punished by the court as a contempt.

(8) An employer, former employer, or other entity is not liable under federal or state law to a person or governmental entity for a disclosure of information to the office under this section or for any other action taken by the employer, former employer, or other entity in good faith to comply with the requirements of this section.

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. The formula shall include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support.

(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, 1971 PA 174, MCL 400.231 to 400.235.

(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.

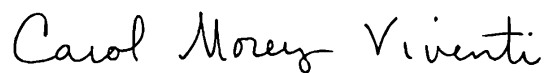
(l) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.

(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.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 803 of the 89th 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.