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CUSTODY AND PARENTING TIME ORDER VIOLATIONS

House Bill 6007

Sponsor: Rep. Andrew Raczkowski

Committee: Civil Law and the Judiciary

Complete to 5-7-02

A SUMMARY OF HOUSE BILL 6007 AS INTRODUCED 5-7-02

The bill would amend the Support and Parenting Time Enforcement Act (Public Act 295 of 1982). Among other changes, the bill would rename the Friend of the Court as the "Court Family Services Office".

The bill would define "custody or parenting time order violation" to mean an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child, and to which the individual accused of interfering is subject.

Duties of the Court Family Services Office. Under the act, with certain exceptions, in a dispute regarding parenting time, the Friend of the Court is required to apply a makeup parenting time policy, commence a civil action, or petition the court for a modification of existing parenting time provisions. The bill states that the Court Family Services Office would take any of the actions above in response to a custody or parenting time order violation. In addition to the above actions, the office would be allowed to schedule a mediation hearing or schedule a joint meeting.

The bill would delete a provision that requires the Friend of the Court to include a written report and recommendation with its petition to modify an existing order. The bill would also delete a provision that states that the Friend of the Court is not required to take any of the above actions listed in the act if the parties resolve their dispute through an informal joint meeting or through domestic relations mediation.

The bill would add that the Court Family Service Office would be allowed to not respond to an alleged custody or parenting time order violation under the following circumstances:

- The complaining party has previously submitted at least two other complaints alleging a custody or parenting time order violation that were found to be unwarranted; the party was assessed costs because a complaint was not warranted; and he or she has not paid those costs.
- The alleged violation occurred more than 56 days before the complaint was submitted.
- The order does not include any enforceable provision that is considered to be relevant to the alleged violation.

The act requires each circuit to establish a makeup parenting time policy that allows a noncustodial parent who has been wrongfully denied parenting time to make up the time at a

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later date. The bill would add that, among other requirements listed in the act, the policy would have to include that the noncustodial parent notify the Court Family Services Office and the custodial parent in writing prior to using makeup time. The bill retains a provision that if the noncustodial parent plans to use a makeup weekend or weekday, the office and the custodial parent would have to be notified at least one week beforehand. However, the bill would require the noncustodial parent to provide notification at least 28 days (rather than 30 days) prior to a makeup holiday or summer.

The bill would delete a requirement that the Friend of the Court keep an accurate record of alleged parenting time arrears. The bill would also delete a requirement that the noncustodial parent give the Friend of the Court written notice of an alleged, wrongfully denied parenting time within seven days of the denial.

Under the act, if a wrongfully denied parenting time is alleged, and the Friend of the Court determines that action should be taken, the office is required to notify the custodial parent within five days that a failure to respond to the notification within seven days shall be considered to be an agreement that the parenting time was indeed wrongfully denied. Under the bill, the custodial parent would be notified that he or she would have to respond in writing within 14 days. The custodial parent would also be notified that the makeup parenting time established by the court would be applied if he or she fails to respond to the notification.

The bill would delete a provision (and other related provisions) that requires a hearing to be held by a referee or a circuit court judge if the custodial parent makes a timely reply contesting the alleged wrongful denial of parenting time.

The bill would add that if a party to the parenting time order does *not* respond in writing to the Court Family Services Office within 14 days, the office would notify each party that the makeup parenting time policy applies. In addition, if a party made a timely response to the notification, the office would be required to commence a civil action, petition the court, schedule mediation, or schedule a joint meeting.

Joint Meeting. The bill would add a section pertaining to the procedures for a joint meeting, which could either take place in person or through telecommunications equipment. At the start of the meeting, the parties would be advised that the purpose of the meeting is to reach some sort of accommodation, and that the individual conducting the meeting could recommend an order that the court could issue to resolve the dispute.

If the parties reached an accommodation, that accommodation would be recorded in writing with each party receiving a copy. If the parties did not reach an agreement, the individual conducting the meeting would submit to the court his or her recommendation resolving the dispute. If the individual issued a recommendation to the court, he or she would notify each party that participated in the joint meeting. The notification would include a copy of the recommendation; notice that the court could issue the recommended order unless a party objects to the recommendation within 14 days; when and where a written objection could be submitted; and notice that the party could waive the 14-day objection by returning a signed copy of the

recommendation. If a party filed a written objection within the 14-day period, the Court Family Services Office would set a court hearing, before a judge or referee, to resolve the dispute.

Civil Contempt Proceedings. Under the act, if the Friend of the Court determines that applying makeup parenting time does not resolve a dispute, the office is required to commence a civil contempt proceeding to resolve the dispute. Under the bill, if the Court Family Services Office determined that any of the allowable actions listed above (applying the makeup policy; petitioning to modify an existing parenting time order; scheduling mediation; scheduling a joint meeting), with the exception of commencing a civil proceeding, did not resolve the parenting time dispute, the office would then be required to commence a civil proceeding to resolve the dispute.

The bill would require the court to assess costs not exceeding \$250 if the court finds that a party to a parenting time dispute has acted in bad faith. These costs or other fines could be enforced through periodic garnishment.

MCL 552.602

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.