

HOUSE BILL No. 6009

May 7, 2002, Introduced by Reps. Vander Veen, Tabor, Hummel, DeRossett, Howell, Newell, Voorhees, Raczkowski, Patterson, Caul, Julian, Vear, George and Bisbee and referred to the Committee on Family and Children Services.

A bill to amend 1982 PA 294, entitled
"Friend of the court act,"
by amending sections 2, 2a, 11, and 17d (MCL 552.502, 552.502a, 552.511, and 552.517d), section 2 as amended by 1998 PA 63, section 2a as amended by 1999 PA 150, section 11 as amended by 1996 PA 266, and section 17d as amended by 1996 PA 144, and by adding section 11a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. As used in this act:

(a) "Bureau" means the state ~~friend of the~~ court FAMILY SERVICES OFFICE bureau created in section 19.

(b) "Chief judge" means the following:

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

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.

6 (c) "Citizen advisory committee" means a citizen ~~friend of~~
7 ~~the~~ court FAMILY SERVICES OFFICE advisory committee established
8 as provided in section 4.

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

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

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

(G) "COURT FAMILY SERVICES ADMINISTRATOR" MEANS THE INDIVIDUAL APPOINTED UNDER SECTION 23 AS THE HEAD OF THE COURT FAMILY SERVICES OFFICE.

(H) "COURT FAMILY SERVICES CASE" MEANS A DOMESTIC RELATIONS MATTER THAT A COURT FAMILY SERVICES OFFICE ESTABLISHES AS A COURT FAMILY SERVICES CASE AS REQUIRED UNDER SECTION 5A.

(I) "COURT FAMILY SERVICES OFFICE" OR "OFFICE" MEANS AN AGENCY CREATED IN SECTION 3.

(J) ~~(g)~~ "Current employment" means employment within 1 year before a ~~friend of the~~ court FAMILY SERVICES OFFICE request for information.

(K) "CUSTODY OR PARENTING TIME ORDER VIOLATION" MEANS 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.

(L) "DEPARTMENT" MEANS THE FAMILY INDEPENDENCE AGENCY.

(M) ~~(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~~ CHILD custody act of 1970, 1970 PA 91, MCL 722.21 to ~~722.30~~ 722.31.

(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~~ UNIFORM interstate family support act,
1996 PA 310, MCL 552.1101 to 552.1901.

(N) ~~(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 con-
cerning child custody or parenting time that arises from a domes-
tic 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.~~

(O) ~~(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. 2a. As used in this act:

(a) "Medical assistance" means medical assistance as estab-
lished under title XIX of the social security act, chapter 531,
49 Stat. 620, 42 U.S.C. 1396 to ~~1396f, 1396g-1 to~~ 1396r-6 ~~,~~
and 1396r-8 to 1396v.

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

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

1 (C) ~~(d)~~ "Public assistance" means cash assistance provided
2 under the social welfare act, 1939 PA 280, 400.1 to 400.119b.

3 (D) ~~(e)~~ "Recipient of support" means the following:

4 (i) The spouse, if the support order orders spousal
5 support.

6 (ii) The custodial parent or guardian, if the support order
7 orders support for a minor child or a child who is 18 years of
8 age or older.

9 (iii) The family independence agency, if support has been
10 assigned to that department.

11 (E) ~~(f)~~ "State advisory committee" means the committee
12 established by the bureau under section 19.

13 (F) ~~(g)~~ "State disbursement unit" or "SDU" means the
14 entity established in section 6 of the office of child support
15 act, 1971 PA 174, MCL 400.236.

16 (G) ~~(h)~~ "Support" means all of the following:

17 (i) The payment of money for a child or a spouse ordered by
18 the circuit court, whether the order is embodied in an interim,
19 temporary, permanent, or modified order or judgment. Support may
20 include payment of the expenses of medical, dental, and other
21 health care, child care expenses, and educational expenses.

22 (ii) The payment of money ordered by the circuit court under
23 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the
24 necessary expenses incurred by or for the mother in connection
25 with her confinement, for other expenses in connection with the
26 pregnancy of the mother, or for the repayment of genetic testing
27 expenses.

(iii) A surcharge accumulated under section 3a of the support and parenting time enforcement act, MCL 552.603a.

(H) ~~-(i)-~~ "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(I) ~~-(j)-~~ "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.

(J) "TITLE IV-D" MEANS PART D OF TITLE IV OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 651 TO 655, 656 TO 660, AND 663 TO 669.

Sec. 11. (1) Each office shall initiate enforcement under the support and parenting time enforcement act when ~~either~~ ANY of the following ~~applies~~ APPLY:

(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~~ MCL 552.604. 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:

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

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

4 (iii) Concurrent with enforcement initiated by the office
5 under subdivision (a).

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

7 (v) Upon receipt of a written complaint from the department
8 ~~of social services~~ if the child for whose benefit health care
9 coverage is ordered is a recipient of public assistance or medi-
10 cal assistance.

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

20 ~~(3) The office shall send, by ordinary mail, a notice to an~~
21 ~~alleged violator of a custody or parenting time order, informing~~
22 ~~the alleged violator of the nature of the alleged violation, the~~
23 ~~proposed action under this or other applicable act, the avail-~~
24 ~~ability of domestic relations mediation, and the right to peti-~~
25 ~~tion for modification of the parenting time order. The notice~~
26 ~~shall contain the following statement in boldfaced type of not~~
27 ~~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.~~

(C) A PERSON RESPONSIBLE FOR THE ACTUAL CARE OF A CHILD
INCURS AN UNINSURED HEALTH CARE EXPENSE AND SUBMITS TO THE OFFICE
A WRITTEN COMPLAINT THAT MEETS THE REQUIREMENTS OF SUBSECTION
(2).

(2) A COMPLAINT SEEKING ENFORCEMENT FOR PAYMENT OF A HEALTH
CARE EXPENSE MUST INCLUDE INFORMATION SHOWING THAT ALL OF THE
FOLLOWING CONDITIONS HAVE BEEN MET:

1 (A) THE PERSON SUBMITTING THE COMPLAINT PAID THE UNINSURED
2 PORTION OF THE HEALTH CARE EXPENSE.

3 (B) THE PARENT AGAINST WHOM THE COMPLAINT IS DIRECTED IS
4 OBLIGATED TO PAY THE CHILD'S UNINSURED HEALTH CARE EXPENSES, A
5 DEMAND FOR PAYMENT OF THE UNINSURED PORTION WAS MADE TO THAT
6 PARENT WITHIN 28 DAYS AFTER THE INSURERS' FINAL PAYMENT OR DENIAL
7 OF COVERAGE, AND THAT PARENT DID NOT PAY THE UNINSURED PORTION
8 WITHIN 28 DAYS AFTER THE DEMAND.

9 (C) THE COMPLAINT IS SUBMITTED TO THE OFFICE ON OR BEFORE
10 THE LATER OF THE FOLLOWING:

11 (i) ONE YEAR AFTER THE EXPENSE WAS INCURRED.

12 (ii) SIX MONTHS AFTER THE INSURERS' FINAL PAYMENT OR DENIAL
13 OF COVERAGE FOR THE EXPENSE, IF ALL MEASURES NECESSARY TO SUBMIT
14 A CLAIM FOR THE HEALTH CARE EXPENSE TO ALL INSURERS THAT MIGHT BE
15 OBLIGATED TO PAY THE EXPENSE WERE COMPLETED WITHIN 2 MONTHS AFTER
16 THE EXPENSE WAS INCURRED.

17 (3) IF AN OFFICE RECEIVES A COMPLAINT THAT MEETS THE
18 REQUIREMENTS OF SUBSECTION (2), THE OFFICE SHALL SEND A COPY OF
19 THE COMPLAINT TO THE PARENT WHO IS NAMED IN THE COMPLAINT AS
20 OBLIGATED TO PAY THE CHILD'S UNINSURED HEALTH CARE EXPENSES. THE
21 OFFICE SHALL INCLUDE WITH THE COPY OF THE COMPLAINT SENT TO THAT
22 PARENT A NOTICE ADVISING THE PARENT OF THE PROVISIONS OF SUBSEC-
23 TION (4).

24 (4) IF, WITHIN 14 DAYS AFTER THE COMPLAINT AND NOTICE ARE
25 SENT TO A PARENT UNDER SUBSECTION (3), THE PARENT DOES NOT FILE
26 WITH THE OFFICE A WRITTEN OBJECTION TO THE COMPLAINT, THE AMOUNT
27 OF THE HEALTH CARE EXPENSE STATED IN THE COMPLAINT BECOMES A

1 SUPPORT ARREARAGE AND IS SUBJECT TO ANY ENFORCEMENT PROCESS
2 AVAILABLE TO COLLECT A SUPPORT ARREARAGE. IF THE PARENT FILES A
3 WRITTEN OBJECTION WITHIN THE 14-DAY TIME LIMIT, THE OFFICE SHALL
4 SET A COURT HEARING, BEFORE A JUDGE OR REFEREE, TO RESOLVE THE
5 COMPLAINT.

6 SEC. 11A. (1) AN OFFICE SHALL INITIATE ENFORCEMENT UNDER
7 THE SUPPORT AND PARENTING TIME ENFORCEMENT ACT IF THE OFFICE
8 RECEIVES A WRITTEN COMPLAINT THAT STATES SPECIFIC FACTS CONSTI-
9 TUTING A PARENTING TIME ORDER VIOLATION. UPON REQUEST OF A
10 PARENT WHO HAS THE RIGHT TO INTERACT WITH HIS OR HER CHILD UNDER
11 A CUSTODY OR PARENTING TIME ORDER, AN OFFICE SHALL ASSIST THE
12 PARENT IN PREPARING A COMPLAINT UNDER THIS SUBSECTION.

13 (2) WITHIN 14 DAYS AFTER AN OFFICE RECEIVES A COMPLAINT
14 UNDER SUBSECTION (1), THE OFFICE SHALL SEND A COPY OF THE COM-
15 PLAINT TO THE INDIVIDUAL ACCUSED OF INTERFERING AND EACH OTHER
16 PARTY TO THE CUSTODY OR PARENTING TIME ORDER.

17 (3) IF, IN THE OPINION OF THE OFFICE, THE FACTS AS STATED IN
18 THE COMPLAINT ALLEGE A CUSTODY OR PARENTING TIME ORDER VIOLATION
19 THAT CAN BE ADDRESSED BY TAKING AN ACTION AUTHORIZED UNDER SEC-
20 TION 41 OF THE SUPPORT AND PARENTING TIME ENFORCEMENT ACT,
21 MCL 552.641, THE OFFICE SHALL PROCEED UNDER SECTION 41 OF THE
22 SUPPORT AND PARENTING TIME ENFORCEMENT ACT, MCL 552.641.

23 Sec. 17d. (1) After a final judgment containing a parenting
24 time order ~~has been~~ IS entered in a domestic relations matter,
25 if there is ~~a~~ AN UNRESOLVED dispute as to parenting time, ~~that~~
26 ~~is not resolved voluntarily by the parties through a meeting with~~
27 ~~the office of the friend of the court under section 11 or through~~

1 ~~domestic relations mediation under section 13,~~ the office may
2 ~~petition~~ FILE A MOTION WITH the court for a modification of the
3 parenting time order. ~~A written report and recommendation shall~~
4 ~~accompany the petition.~~ (2) ~~Before a court hearing on a proposed~~
5 ~~modification of a parenting time order, the office shall notify~~
6 ~~both parties of the proposed modification and afford the parties~~
7 ~~an opportunity for review and comment.~~ THE OFFICE SHALL SEND
8 EACH PARTY TO THE PARENTING TIME ORDER NOTICE OF THE FILING OF
9 THE MOTION. WITH A MOTION FILED AND EACH NOTICE SENT UNDER THIS
10 SUBSECTION, THE OFFICE SHALL INCLUDE THE FOLLOWING:

11 (A) SUBJECT TO SUBSECTION (2), A WRITTEN REPORT AND
12 RECOMMENDATION.

13 (B) EITHER AS A SEPARATE DOCUMENT OR IN THE MOTION DOCUMENT
14 UNDER A SEPARATE HEADING, A NOTICE, IN NOT LESS THAN 12-POINT,
15 BOLDFACED TYPE, THAT STATES SUBSTANTIALLY THE FOLLOWING:

16 "A PARTY MAY OBJECT TO THE COURT FAMILY SERVICES OFFICE'S
17 RECOMMENDATION FOR MODIFICATION OF THE PARENTING TIME
18 ORDER. IF A PARTY DOES NOT OBJECT TO THE RECOMMENDATION
19 WITHIN 14 DAYS AFTER THIS NOTICE WAS SENT TO THE PARTY, THE
20 COURT FAMILY SERVICES OFFICE MAY SUBMIT TO THE COURT A PAR-
21 ENTING TIME ORDER THAT INCORPORATES THE RECOMMENDATION."

22 (2) THE OFFICE SHALL PREPARE A WRITTEN REPORT AND RECOMMEN-
23 DATION REQUIRED FOR SUBSECTION (1) AFTER MAKING AN EVALUATION
24 THAT IS COMMENSURATE WITH THE SCOPE OF THE UNRESOLVED DISPUTE AS
25 TO PARENTING TIME.

26 (3) IF, WITHIN 14 DAYS AFTER THE NOTICE UNDER SUBSECTION (1)
27 IS SENT TO EACH PARTY, NO PARTY OBJECTS TO THE RECOMMENDATION FOR

1 MODIFICATION OF THE PARENTING TIME ORDER, THE OFFICE MAY SUBMIT
2 AN ORDER, INCORPORATING THE RECOMMENDATION, TO THE COURT FOR THE
3 COURT'S ADOPTION. IF A PARTY OBJECTS WITHIN THE 14 DAYS, THE
4 MOTION FOR MODIFICATION OF THE PARENTING TIME ORDER SHALL BE
5 NOTICED FOR A HEARING BEFORE A JUDGE OR REFEREE.

6 (4) AT A HEARING ON A MOTION FILED UNDER THIS SECTION, THE
7 JUDGE OR REFEREE MAY USE STATEMENTS OF FACT IN THE OFFICE'S
8 REPORT AND RECOMMENDATION AS EVIDENCE TO PROVE A FACT RELEVANT TO
9 THE PROCEEDING, BUT ONLY IF NO OTHER EVIDENCE IS PRESENTED CON-
10 CERNING THAT FACT.