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House Bill 4776 (Substitute H-1 as passed by the House)
Sponsor: Representative Jim Howell
House Committee: Judiciary
Senate Committee: Families and Human Services

Date Completed: 2-10-04

CONTENT

The bill would amend the Friend of the Court Act to do the following:

- Provide that a referee's interim order in a domestic relations matter could be presented to the court for entry of an interim order pending a de novo hearing.**
- Define "de novo hearing", and allow the court to consider evidence that was not addressed at a previous hearing.**
- Require the child support formula to include guidelines for deviating from the formula.**
- Delete a requirement that members of the State Advisory Committee also be members of a citizen advisory committee.**

Hearings

Under the Act, the chief judge of a circuit court may designate a referee. A referee may hear all motions in a domestic relations matter (except those pertaining to a change in spouse support) referred to the referee by the court; make a written report to the court containing a summary of testimony given, a statement of findings, and a recommended order, or make a statement of findings on the record and submit a recommended order; hold hearings as provided in the Support and Parenting Time Act; accept a voluntary acknowledgment of support liability, and review and make a recommendation to the court concerning a stipulated agreement to pay support; and recommend a default order establishing, modifying, or enforcing a support obligation.

The court is required to hold a de novo hearing on any matter that has been the subject of a referee hearing, upon the request of either party or upon the court's motion. The bill would define "de novo hearing" as "a judicial consideration of a matter based on the record of a previous hearing, including any memoranda, recommendations, or proposed orders by the referee, but may at the court's discretion be based in whole or in part on evidence that was not introduced at a previous hearing".

Under the bill, pending a de novo hearing, the referee's recommended order could be presented to the court for entry of an interim order, as provided by Supreme Court rules. The interim order would have to be served on the parties within three days and would be subject to de novo review by the court.

Currently, a party must request a de novo hearing within 21 days after the referee's recommendation is made available to the party. A request for a de novo hearing concerning an order of income withholding, however, must be made within 14 days after the

recommendation is made available to the party. Under the bill, all requests would have to be made within 21 days after a recommendation was made available to a party.

The Act specifies that the chief judge may designate as a referee the Friend of the Court (FOC); an employee of the FOC Office who is a member of the State Bar of Michigan; or, if the FOC is not an attorney, a member of the State Bar (appointed to assist the FOC). The bill would delete that provision and state that the chief judge could designate a referee.

Support Guidelines

The Act requires that State Friend of the Court Bureau to develop a formula to be used in establishing and modifying a child support amount and health care obligation. The formula must be based upon the needs of the child and the actual resources of each parent, and meet other requirements set forth in the Act. Under the bill, the formula also would have to include guidelines for deviating from the formula.

State Advisory Committee

Under the Act, the State FOC Bureau must establish a nine-member State Advisory Committee composed of three public members who have had contact with an FOC Office, three attorneys who practice primarily domestic relations law, and three human services professionals who provide family counseling. The bill would delete the requirement that each of the members be a member of a citizen advisory committee. Instead, preference would have to be given to a member of a citizen advisory committee.

MCL 552.502 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

It appears that the bill would have no fiscal impact on the Family Independence Agency. The bill would have no fiscal impact on the Judiciary.

Fiscal Analyst: Constance Cole
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.