

HOUSE BILL No. 6699

November 30, 2006, Introduced by Reps. Condino and Bieda and referred to the Committee on Judiciary.

A bill to amend 1982 PA 294, entitled
"Friend of the court act,"
by amending sections 5, 17, 17e, and 19 (MCL 552.505, 552.517,
552.517e, and 552.519), section 5 as amended by 2002 PA 571,
sections 17 and 19 as amended by 2004 PA 207, and section 17e as
added by 1998 PA 63.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Each office of the friend of the court has the
2 following duties:

3 (a) To inform each party to the domestic relations matter
4 that, unless 1 of the parties is required to participate in the
5 title IV-D child support program, they may choose not to have the
6 office of the friend of the court administer and enforce

1 obligations that may be imposed in the domestic relations matter.

2 (b) To inform each party to the domestic relations matter
3 that, unless 1 of the parties is required to participate in the
4 title IV-D child support program, they may direct the office of the
5 friend of the court to close the friend of the court case that was
6 opened in their domestic relations matter.

7 (c) To provide an informational pamphlet, in accordance with
8 the model pamphlet developed by the bureau, to each party to a
9 domestic relations matter. The informational pamphlet shall explain
10 the procedures of the court and the office; the duties of the
11 office; the rights and responsibilities of the parties, including
12 notification that each party to the dispute has the right to meet
13 with the individual investigating the dispute before that
14 individual makes a recommendation regarding the dispute; the
15 availability of and procedures used in domestic relations
16 mediation; the availability of human services in the community; the
17 availability of joint custody as described in section 6a of the
18 child custody act of 1970, 1970 PA 91, MCL 722.26a; and how to file
19 a grievance regarding the office. The informational pamphlet shall
20 be provided as soon as possible after the filing of a complaint or
21 other initiating pleading. Upon request, a party shall receive an
22 oral explanation of the informational pamphlet from the office.

23 (d) To make available to an individual form motions,
24 responses, and orders for requesting the court to modify the
25 individual's child support, custody, or parenting time order, or
26 for responding to a motion for such a modification, without
27 assistance of legal counsel. The office shall make available

1 instructions on preparing and filing each of those forms and
2 instructions on service of process and on scheduling a modification
3 hearing.

4 (e) To inform the parties of the availability of domestic
5 relations mediation if there is a dispute as to child custody or
6 parenting time.

7 (f) To inform the parents of the availability of joint custody
8 as described in section 6a of the child custody act of 1970, 1970
9 PA 91, MCL 722.26a, if there is a dispute between the parents as to
10 child custody.

11 (g) To investigate all relevant facts, and to make a written
12 report and recommendation to the parties and to the court regarding
13 child custody or parenting time, or both, if there is a dispute as
14 to child custody or parenting time, or both, and domestic relations
15 mediation is refused by either party or is unsuccessful, or if
16 ordered to do so by the court. The investigation may include
17 reports and evaluations by outside persons or agencies if requested
18 by the parties or the court, and shall include documentation of
19 alleged facts, if practicable. If requested by a party, an
20 investigation shall include a meeting with the party. A written
21 report and recommendation regarding child custody or parenting
22 time, or both, shall be based upon the factors enumerated in the
23 child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

24 (h) To investigate all relevant facts and to make a written
25 report and recommendation to the parties and their attorneys and to
26 the court regarding child support, if ordered to do so by the
27 court. The written report and recommendation shall be placed in the

1 court file. The investigation may include reports and evaluations
 2 by outside persons or agencies if requested by the parties or the
 3 court, and shall include documentation of alleged facts, if
 4 practicable. If requested by a party, an investigation shall
 5 include a meeting with the party. The child support formula
 6 developed ~~by the bureau under section 19~~ **PURSUANT TO THE CHILD**
 7 **SUPPORT FORMULA COMMISSION ACT** shall be used as a guideline in
 8 recommending child support. The written report shall include the
 9 support amount determined by application of the child support
 10 formula and all factual assumptions upon which that support amount
 11 is based. If the office of the friend of the court determines from
 12 the facts of the case that application of the child support formula
 13 would be unjust or inappropriate, the written report shall also
 14 include all of the following:

- 15 (i) An alternative support recommendation.
- 16 (ii) All factual assumptions upon which the alternative support
 17 recommendation is based, if applicable.
- 18 (iii) How the alternative support recommendation deviates from
 19 the child support formula.

- 20 (iv) The reasons for the alternative support recommendation.
- 21 (2) If a party who requests a meeting during an investigation
 22 fails to attend the scheduled meeting without good cause, the
 23 investigation may be completed without a meeting with that party.

24 Sec. 17. (1) After a final judgment containing a child support
 25 order has been entered in a friend of the court case, the office
 26 shall periodically review the order, as follows:

- 27 (a) If a child is being supported in whole or in part by

1 public assistance, not less than once each 36 months unless both of
2 the following apply:

3 (i) The office receives notice from the department that good
4 cause exists not to proceed with support action.

5 (ii) Neither party has requested a review.

6 (b) At the initiative of the office, if there are reasonable
7 grounds to believe that the amount of child support awarded in the
8 judgment should be modified or that dependent health care coverage
9 is available and the support order should be modified to include an
10 order for health care coverage. Reasonable grounds to review an
11 order under this subdivision include temporary or permanent changes
12 in the physical custody of a child that the court has not ordered,
13 increased or decreased need of the child, probable access by an
14 employed parent to dependent health care coverage, or changed
15 financial conditions of a recipient of support or a payer
16 including, but not limited to, application for or receipt of public
17 assistance, unemployment compensation, or worker's compensation; or
18 incarceration or release from incarceration after a criminal
19 conviction and sentencing to a term of more than 1 year. Within 14
20 days after receiving information that a recipient of support or
21 payer is incarcerated or released from incarceration as described
22 in this subsection, the office shall initiate a review of the
23 order. A review initiated by the office under this subdivision does
24 not preclude the recipient of support or payer from requesting a
25 review under subdivision (d).

26 (c) At the direction of the court.

27 (d) Upon receipt of a written request from either party.

1 Within 14 days after receipt of the review request, the office
2 shall determine whether the order is due for review. The office is
3 not required to investigate more than 1 request received from a
4 party each 36 months.

5 (e) If a child is receiving medical assistance, not less than
6 once each 36 months unless either of the following applies:

7 (i) The order requires provision of health care coverage for
8 the child and neither party has requested a review.

9 (ii) The office receives notice from the ~~family independence~~
10 ~~agency~~ **DEPARTMENT OF HUMAN SERVICES** that good cause exists not to
11 proceed with support action and neither party has requested a
12 review.

13 (f) If requested by the initiating state for a recipient of
14 services in that state under title IV-D, not less than once each 36
15 months. Within 14 days after receipt of a review request, the
16 office shall determine whether an order is due for review.

17 (2) Within 180 days after determining that a review is
18 required under subsection (1), the office shall send notices as
19 provided in section 17b, conduct a review, and obtain a
20 modification of the order if appropriate.

21 (3) The office shall use the child support formula developed
22 ~~by the bureau under section 19~~ **PURSUANT TO THE CHILD SUPPORT**
23 **FORMULA COMMISSION ACT** in calculating the child support award.

24 (4) The office shall petition the court if modification is
25 determined to be necessary unless either of the following applies:

26 (a) The difference between the existing and projected child
27 support award is within the minimum threshold for modification of a

1 child support amount as established by the formula.

2 (b) The court previously determined that application of the
3 formula was unjust or inappropriate and the office determines that
4 the facts of the case and the reasons and amount of the prior
5 deviation remain unchanged.

6 (5) The notice under section 17b(3) constitutes a petition for
7 modification of the support order and shall be filed with the
8 court.

9 (6) If the office determines there should be no change in the
10 order and a party objects to the determination in writing to the
11 office within 21 days after the date of the notice provided for in
12 section 17b(3), the office shall schedule a hearing before the
13 court.

14 (7) If a support order lacks provisions for health care
15 coverage, the office shall petition the court for a modification to
16 require that 1 or both parents obtain or maintain health care
17 coverage for the benefit of each child who is subject to the
18 support order if either of the following is true:

19 (a) Either parent has health care coverage available, as a
20 benefit of employment, for the benefit of the child at a reasonable
21 cost.

22 (b) Either parent is self-employed, maintains health care
23 coverage for himself or herself, and can obtain health care
24 coverage for the benefit of the child at a reasonable cost.

25 (8) The office shall determine the costs to each parent for
26 dependent health care coverage and child care costs and shall
27 disclose those costs in the recommendation under section 17b(3).

1 Sec. 17e. The office shall utilize guidelines provided in the
2 child support formula developed ~~by the state friend of the court~~
3 ~~bureau under section 19~~ **PURSUANT TO THE CHILD SUPPORT FORMULA**
4 **COMMISSION ACT** to administratively adjust arrearage payment
5 schedules. In making an administrative adjustment as authorized by
6 this subsection, the office shall follow procedures to afford the
7 payer due process including at least notice, an opportunity for an
8 administrative hearing, and an opportunity for an appeal on the
9 record to an independent administrative or judicial tribunal.

10 Sec. 19. (1) The state friend of the court bureau is created
11 within the state court administrative office, under the supervision
12 and direction of the supreme court.

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

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

15 (a) Develop and recommend guidelines for conduct, operations,
16 and procedures of the office and its employees, including, but not
17 limited to, the following:

18 (i) Case load and staffing standards for employees who perform
19 domestic relations mediation functions, investigation and
20 recommendation functions, referee functions, enforcement functions,
21 and clerical functions.

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

23 (iii) Public educational programs regarding domestic relations
24 law and community resources, including financial and other
25 counseling, and employment opportunities.

26 (iv) Procedural changes in response to the type of grievances
27 received by an office.

1 (v) Model pamphlets and procedural forms, that shall be
2 distributed to each office.

3 ~~(vi) A formula to be used in establishing and modifying a child~~
4 ~~support amount and health care obligation. The formula shall be~~
5 ~~based upon the needs of the child and the actual resources of each~~
6 ~~parent. The formula shall establish a minimum threshold for~~
7 ~~modification of a child support amount. The formula shall consider~~
8 ~~the child care and dependent health care coverage costs of each~~
9 ~~parent. The formula shall include guidelines for setting and~~
10 ~~administratively adjusting the amount of periodic payments for~~
11 ~~overdue support, including guidelines for adjustment of arrearage~~
12 ~~payment schedules when the current support obligation for a child~~
13 ~~terminates and the payer owes overdue support.~~

14 (b) Provide training programs for the friend of the court,
15 domestic relations mediators, and employees of the office to better
16 enable them to carry out the duties described in this act and
17 supreme court rules. After September 30, 2002, the training
18 programs shall include training in the dynamics of domestic
19 violence and in handling domestic relations matters that have a
20 history of domestic violence.

21 (c) Gather and monitor relevant statistics.

22 (d) Annually issue a report containing a detailed summary of
23 the types of grievances received by each office, and whether the
24 grievances are resolved or outstanding. The report shall be
25 transmitted to the legislature and to each office and shall be made
26 available to the public. The annual report required by this
27 subdivision shall include, but is not limited to, all of the

1 following:

2 (i) An evaluative summary, supplemented by applicable
3 quantitative data, of the activities and functioning of each
4 citizen advisory committee during the preceding year.

5 (ii) An evaluative summary, supplemented by applicable
6 quantitative data, of the activities and functioning of the
7 aggregate of all citizen advisory committees in the state during
8 the preceding year.

9 (iii) An identification of problems that impede the efficiency
10 of the activities and functioning of the citizen advisory
11 committees and the satisfaction of the users of the committees'
12 services.

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

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

19 (g) Certify domestic relations mediation training programs as
20 provided in section 13.

21 (h) Establish a 9-person state advisory committee, serving
22 without compensation except as provided in subsection (4), composed
23 of the following members, giving preference to a member of a
24 citizen advisory committee:

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

27 (ii) Three attorneys who are members of the state bar of

1 Michigan and whose practices are primarily domestic relations law.

2 Not more than 1 attorney may be a circuit court judge.

3 (iii) Three human service professionals who provide family
4 counseling.

5 (i) Cooperate with the office of child support in developing
6 and implementing a statewide information system as provided in the
7 office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

8 (j) Develop and make available guidelines to assist the office
9 of the friend of the court in determining the appropriateness in
10 individual cases of the following:

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

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

15 (k) Develop and provide the office of the friend of the court
16 with all of the following:

17 (i) Form motions, responses, and orders for use by an
18 individual in requesting the court to modify his or her child
19 support, custody, or parenting time order, or in responding to a
20 motion for modification without the assistance of legal counsel.

21 (ii) Instructions on preparing and filing the forms,
22 instructions on service of process, and instructions on scheduling
23 a support, custody, or parenting time modification hearing.

24 (iii) Guidelines for imputing income for the calculation of
25 child support.

26 (l) Develop guidelines for, and encourage the use of, plain
27 language within the office of the friend of the court including,

1 but not limited to, the use of plain language in forms and
2 instructions within the office and in statements of account
3 provided as required in section 9.

4 (m) In consultation with the domestic violence prevention and
5 treatment board created in section 2 of 1978 PA 389, MCL 400.1502,
6 develop guidelines for the implementation of section 41 of the
7 support and parenting time enforcement act, MCL 552.641, that take
8 into consideration at least all of the following regarding the
9 parties and each child involved in a dispute governed by section 41
10 of the support and parenting time enforcement act, MCL 552.641:

11 (i) Domestic violence.

12 (ii) Safety of the parties and child.

13 (iii) Uneven bargaining positions of the parties.

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

27 (5) The bureau may call upon each office of the friend of the

1 court for assistance in performing the duties imposed in this
2 section.

3 Enacting section 1. This amendatory act does not take effect
4 unless Senate Bill No.____ or House Bill No. 6698(request no.
5 03402'05) of the 93rd Legislature is enacted into law.