

Legislative Analysis



FRIEND OF THE COURT, CUSTODY, & CHILD SUPPORT

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House Bill 5501

Sponsor: Rep. Mary Valentine

House Bill 5502

Sponsor: Rep. Lesia Liss

Committee: Families and Children's Services

Complete to 10-13-09

A SUMMARY OF HOUSE BILLS 5501 AND 5502 AS INTRODUCED 10-8-09

These two House bills are part of a package of bills dealing with the Friend of the Court system and child custody and support programs. They are connected to Senate Bill 99, which makes numerous changes to the Friend of the Court Act.

House Bill 5501 would amend the Child Custody Act to refer to "alternative dispute resolution," rather than "domestic relations mediation," in provisions regarding a motion for grandparenting time.

The act permits a child's grandparent to seek a grandparenting time order under certain circumstances, by filing a motion or complaint with the circuit court. A party with legal custody of the child may file an opposing affidavit. Grandparents must rebut a presumption that a parent's decision to deny grandparenting time does not create a substantial risk of harm to a child's mental, physical, or emotional health. Currently, if a court finds a grandparent has met the standard for rebutting the presumption, the grandparent's complaint or motion can be referred to mediation services. The bill would instead send the matter to alternative dispute resolution. The bill is tie-barred to Senate Bill 99.

House Bill 5502 would amend the Office of Child Support Act to require the Office of Child Support and State Court Administrative Office to contract with the Friend of the Court to provide Title IV-D services. Currently, the Office of Child Support in the Department of Human Services is the designated Title IV-D agency in the State of Michigan. Title IV-D of the federal Social Security Act deals with the enforcement of child support and parenting time orders.

The bill would also repeal Section 6a of the OCS Act, which creates the Child Support Bench Warrant Enforcement Fund and requires fees collected under Section 2529(4) of the Revised Judicature Act to be deposited in the Fund. (That section allocates to the Fund a portion of the fees that must be paid to the circuit court in custody, support, and parenting time actions.) The OCS must contract with law enforcement agencies to use the Fund to enforce civil warrants related to child support. The bill is tie-barred to Senate Bill 99.

Senate Bill 99 would amend the Friend of the Court Act to, in brief, do the following:

- Allow the court, if custody had been established, to order an investigation only if proper cause had been shown or there had been a substantial change of circumstances.
- Permit the FOC, if it conducted a child custody or parenting time investigation, to charge the parties an amount that did not exceed its actual expenses for conducting the investigation and making its report and recommendation.
- Replace references to "domestic relations mediation" with "alternative dispute resolution."
- Require a person conducting alternative dispute resolution to have qualifications prescribed by the State Court Administrative Office.
- Provide that the FOC would not have any duty related to spousal support unless the support was ordered before April 1, 2009, or it was to be paid to a party who received services under Title IV-D of the Social Security Act for the enforcement of a child support order.

For additional information, consult the analysis of Senate Bills 99, 101, and 103 through 107 by the Senate Fiscal Agency dated 3-4-09. Senate Bill 101 contains the same provisions as House Bill 5501. Senate Bill 104 contains the same provisions as House Bill 5502.

FISCAL IMPACT:

House Bill 5501 would have no fiscal impact on the judicial branch.

House Bill 5502 would eliminate the state administered Bench Warrant Enforcement Fund and would streamline collection of fee revenue, resulting in administrative savings. The Bench Warrant Enforcement Fund is funded with a portion of fees collected by the courts and transmitted to the state treasurer. The state treasurer then contracts with law enforcement agencies to enforce civil warrants related to child support, and are allowed to use 10% of the funds for administration. The fund is eliminated in HB 5502 as HB 5504 would eliminate the requirement for the courts to transmit a portion of its fee revenue to the fund and instead allow the county to use the fee revenue to fund services not eligible for title IV-D services and to fund the office of the Friend of the Court.

Senate Bill 99 would have an indeterminate, but likely positive, fiscal impact on the judicial branch. The provision allowing the Friend of the Court to charge parties for the actual costs of investigations and reports regarding child custody and parenting time would bring in an indeterminate amount of revenue to the Friend of the Court services to offset investigation costs.

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■ 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.