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Senate Bill 530 (as enacted)

**PUBLIC ACT 382 of 2014**

Sponsor: Senator Bruce Caswell

Senate Committee: Families, Seniors and Human Services

House Committee: Families, Children, and Seniors

Date Completed: 2-26-15

### **CONTENT**

**The bill amends the Friend of the Court Act to do the following:**

- **Delete provisions that require Friend of the Court (FOC) offices to receive payments and service fees.**
- **Require the Office of Child Support, rather than an FOC office, to report arrearage amounts to consumer reporting agencies and make current support information available to them.**
- **Require an approved alternative dispute resolution plan to include screening for domestic violence and other safety concerns, as well as an option for domestic relations mediation.**
- **Require a person who provides domestic relations mediation to have the minimum qualifications that currently apply to people who provide alternative dispute resolution, and delete the current qualifications for mediators.**
- **Require other employees who conduct alternative dispute resolution to have the qualifications to conduct a joint meeting scheduled by an FOC office.**
- **Revise the requirement for compensation of an attorney who is appointed to assist a Friend of the Court.**
- **Require each Friend of the Court office to submit grievance reports annually, instead of biannually, to the State FOC Bureau.**
- **Delete a requirement that Friend of the Court offices provide public access to a report of grievances prepared by the FOC Bureau.**

The bill will take effect on March 17, 2015.

#### Receipt of Payment & Service Fees

The bill deletes provisions that required Friend of the Court offices, after the entry of a support order in an FOC case, to receive each payment and service fee under the order, record each payment due, paid, and past due, and disburse each payment to the support recipient within 14 days of receiving the payment or within the federally mandated time frame, whichever was shorter. The Friend of the Court offices were required to receive payments until the State Disbursement Unit (SDU) began receiving and disbursing payments and service fees through the transition required in the Office of Child Support Act.

(That Act establishes the State Disbursement Unit as the direct responsibility of the Office of Child Support, which is in the Department of Human Services. The State Disbursement Unit is the single location to which a payer or source of income must send support or fee payments, and is responsible for disbursing support payments to a recipient of support. The transition to the SDU began in 1999 and was required to be completed after two years.)

The Friend of the Court Act also allows an FOC office to accept a support payment. If it does so, the office must forward the payment to the SDU and inform the payer of the SDU's location and the requirement to make payments through the SDU. The bill retains these provisions.

#### Reporting to Consumer Reporting Agencies

The Act requires Friend of the Court offices to report to a consumer reporting agency the arrearage amount for each payer with a support arrearage of two or more months. The Act permits FOC offices to make support information available to a consumer reporting agency concerning any other payer who requests the report.

A Friend of the Court office may not make information available unless it determines that the agency receiving the report has produced satisfactory evidence that the agency is a consumer reporting agency and has sufficient capability to systematically and timely make accurate use of the information.

Before making the initial support information available under these provisions, the Friend of the Court office must give the payer notice of the proposed action, the amount of the arrearage, the payer's right to a review, and the payer's ability to avoid the reporting of the arrearage by paying it within 21 days after the notice was sent.

The Act also requires an office, upon request of a consumer reporting agency or the payer, to make current support information of an individual payer available to the agency.

The bill transfers these responsibilities from the Friend of the Court offices to the Office of Child Support (referred to as the Title IV-D agency).

The bill also requires the Office of Child Support, rather than the State Court Administrative Office, to determine what support information should be provided to a consumer reporting agency and to establish the policies and procedures for making support information available.

#### Domestic Relation Mediation & Alternative Dispute Resolution

The Act requires the Friend of the Court office, in an FOC case, to provide alternative dispute resolution (ADR) to assist the parties in voluntarily settling a dispute concerning child custody or parenting time. The ADR must be provided according to a plan approved by the chief judge and the State Court Administrative Office (SCAO).

Under the bill, a party may be required by court order to meet with a person conducting alternative dispute resolution. Currently, a party may not be required to do so.

The bill requires an approved plan to include a screening process for domestic violence, the existence of a protection order between the parties, child abuse or neglect, and other safety concerns, as well as a method to address those concerns. (As used in this provision, "protection order" means a personal protection order issued for domestic violence or stalking; a foreign protection order (issued by a court of another state, an Indian tribe, or a U.S. territory to protect a person from violence, harassment, or contact); or a condition of pretrial release, probation, or parole issued to protect a named individual.)

The bill also requires each approved ADR plan to include an option for domestic relations mediation, and to include minimum qualifications and training requirements for ADR and domestic relations mediation providers. (Currently, a plan must include minimum qualifications and training requirements for ADR providers.)

The Act requires an employee of the Friend of the Court office or another person who provides ADR under an approved plan to have specified qualifications (knowledge of the court system

and procedures used in domestic relations matters; knowledge of other resources in the community to which the parties may be referred for assistance; and other qualifications as prescribed by the SCAO). Under the bill, this requirement applies to a Friend of the Court employee or a person who conducts domestic relations mediation. In addition to the specified qualifications, the employee or other person must have other qualifications as prescribed by the chief judge of the circuit court.

The Act also establishes minimum qualifications for a domestic relations mediator who performs mediation under an approved plan (a license to engage in the practice of psychology, at least five years of experience in family counseling, a graduate degree in behavioral science, or membership in the State Bar; knowledge of the court system and procedures used in domestic relations matters; knowledge of other community resources; and knowledge of child development, clinical issues relating to children, the effects of divorce on children, and child custody research). The bill deletes these provisions.

Under the bill, employees of the Friend of the Court who conduct any other form of alternative dispute resolution must have the qualifications to conduct a joint meeting as described in Section 42a of the Support and Parenting Time Enforcement Act. (That section governs joint meetings scheduled by the Friend of the Court in response to an alleged violation of a parenting time or custody order or in an attempt to expedite the resolution of support issues. Only a person who completes a training program described in Section 19(3)(b) of the Friend of the Court Act may conduct a joint meeting. That section requires the State Friend of the Court Bureau, within the SCAO, to provide training programs for the Friend of the Court, providers of alternative dispute resolution, and FOC employees, including training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.)

#### Attorney Compensation

Under the Friend of the Court Act, if the Friend of the Court serving a judicial circuit is not an attorney who is a member of the State Bar of Michigan and the office does not employ such an attorney, the chief judge may appoint an attorney who is a member of the State Bar to assist the Friend of the Court when necessary.

An appointed attorney must be compensated in a reasonable amount, based on time and expenses, to be determined by the county board or boards of commissioners of the judicial circuit.

The bill instead requires an appointed attorney to be compensated according to Section 27 of the FOC Act. (That section requires the compensation and expenses of the Friend of the Court and employees to be fixed by the chief judge as provided in the Revised Judicature Act, and paid by the county treasurer from the general fund and the Friend of the Court fund of the county or counties served.)

#### Grievance Reports

The Friend of the Court Act sets forth procedures to be used by a party who has a grievance regarding FOC office operations or employees. Each FOC office must maintain a record of grievances received and a record of whether a grievance is decided or outstanding.

The records must be transmitted to the Friend of the Court Bureau biannually. The bill requires the reports to be transmitted annually.

The Act requires the FOC Bureau to prepare an annual report containing a detailed summary of the types of grievances received and whether they are resolved or outstanding. The bill deletes a requirement that each FOC office provide public access to this report.

**FISCAL IMPACT**

The Department of Human Services does not anticipate that the provisions in the bill will result in any costs or savings to the State or local units of government, as the changes are technical in nature. While the bill strikes language in the Act that refers to a 14-day standard of promptness for disbursement of child support payments, the Department is required to comply with the Federal standard of promptness, which requires received payments to be disbursed within two business days. Therefore, eliminating the 14-day standard will not affect the State's eligibility for Federal Title IV-D funding incentives.

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