

# HOUSE BILL No. 6021

September 13, 1990, Introduced by Reps. Gubow, Ciaramitaro, Stabenow, Berman, Kosteva, Trim and Fitzgerald and referred to the Committee on Judiciary.

A bill to amend sections 5 and 31 of Act No. 294 of the Public Acts of 1982, entitled as amended

"Friend of the court act,"

section 5 as amended by Act No. 273 of the Public Acts of 1989 and section 31 as amended by Act No. 208 of the Public Acts of 1985, being sections 552.505 and 552.531 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 5 and 31 of Act No. 294 of the Public  
2 Acts of 1982, section 5 as amended by Act No. 273 of the Public  
3 Acts of 1989 and section 31 as amended by Act No. 208 of the  
4 Public Acts of 1985, being sections 552.505 and 552.531 of the  
5 Michigan Compiled Laws, are amended to read as follows:

1       Sec. 5. (1) Before adjudication of a domestic relations  
2 matter, the office of the friend of the court shall have the  
3 following duties:

4       (a) To provide an informational pamphlet, in accordance with  
5 the model pamphlet developed by the bureau, to each party to a  
6 domestic relations matter. The informational pamphlet shall  
7 explain the procedures of the court and the office; the duties of  
8 the office; the rights and responsibilities of the parties; the  
9 availability of and procedures used in domestic relations media-  
10 tion; the availability of human services in the community; the  
11 availability of joint custody as described in section 6a of the  
12 child custody act of 1970, Act No. 91 of the Public Acts of 1970,  
13 being section 722.26a of the Michigan Compiled Laws; and how to  
14 file a grievance regarding the office. The informational pam-  
15 phlet shall be provided as soon as possible after the filing of a  
16 complaint or other initiating pleading. Upon request, a party  
17 shall receive an oral explanation of the informational pamphlet  
18 from the office.

19       (b) To inform the parties of the availability of domestic  
20 relations mediation if there is a dispute as to child custody or  
21 visitation.

22       (c) To inform the parents of the availability of joint cus-  
23 tody as described in section 6a of Act No. 91 of the Public Acts  
24 of 1970, if there is a dispute between the parents as to child  
25 custody.

26       (d) To investigate all relevant facts, and to make a written  
27 report and recommendation to the parties and to the court

1 regarding child custody or visitation, or both, if there is a  
2 dispute as to child custody or visitation, or both, and domestic  
3 relations mediation is refused by either party or is unsuccessful,  
4 or if ordered to do so by the court. The investigation may  
5 include reports and evaluations by outside persons or agencies if  
6 requested by the parties or the court, and shall include documentation  
7 of alleged facts, if practicable. A written report and  
8 recommendation regarding child custody or visitation, or both,  
9 shall be based upon the factors enumerated in Act No. 91 of the  
10 Public Acts of 1970, being sections 722.21 to 722.29 of the  
11 Michigan Compiled Laws.

12 (e) To investigate all relevant facts and to make a written  
13 report and recommendation to the parties and their attorneys and  
14 to the court regarding child support, if ordered to do so by the  
15 court. The written report and recommendation shall be placed in  
16 the court file. The investigation may include reports and evaluations  
17 by outside persons or agencies if requested by the parties  
18 or the court, and shall include documentation of alleged facts,  
19 if practicable. The child support formula developed by the  
20 bureau under section 19 shall be used as a guideline in recommending  
21 child support. The written report shall include the support  
22 amount determined by application of the child support formula  
23 and all factual assumptions upon which that support amount  
24 is based. If the office of the friend of the court determines  
25 from the facts of the case that application of the child support  
26 formula would be unjust or inappropriate, the written report  
27 shall also include all of the following:

1 (i) An alternative support recommendation.

2 (ii) All factual assumptions upon which the alternative sup-  
3 port recommendation is based, if applicable.

4 (iii) How the alternative support recommendation deviates  
5 from the child support formula.

6 (iv) The reasons for the alternative support  
7 recommendation.

8 (2) FOR PURPOSES OF SUBSECTION (1)(D) OR (E), "COURT"  
9 INCLUDES THE PROBATE COURT WHEN ACTING PURSUANT TO SECTION 402 OF  
10 THE REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978,  
11 BEING SECTION 700.402 OF THE MICHIGAN COMPILED LAWS.

12 Sec. 31. (1) "Bureau" means the state friend of the court  
13 bureau created in section 19.

14 (2) "Chief judge" means the following:

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

17 (b) Except in the county of Wayne, the chief judge of the  
18 circuit court in a judicial circuit having 2 or more circuit  
19 judges.

20 (c) In the county of Wayne, the executive chief judge of the  
21 circuit court in the third judicial circuit and the recorder's  
22 court of the city of Detroit.

23 (3) "Consumer reporting agency" means any person that, for  
24 monetary fees, dues, or on a cooperative nonprofit basis, regu-  
25 larly engages in whole or in part in the practice of assembling  
26 or evaluating consumer credit information or other information on  
27 consumers for the purpose of furnishing consumer reports to third

1 parties, and that uses any means or facility of interstate  
2 commerce for the purpose of preparing or furnishing consumer  
3 reports. As used in this subsection, "consumer report" means  
4 that term as defined in section 603 of title VI of the consumer  
5 credit protection act, Public Law 90-321, 15 U.S.C. 1681a.

6 (4) "Court" means the circuit court.

7 (5) "Domestic relations mediation" means a process by which  
8 the parties are assisted by a domestic relations mediator in vol-  
9 untarily formulating an agreement to resolve a dispute concerning  
10 child custody or visitation that arises from a domestic relations  
11 matter.

12 (6) "Domestic relations matter" means ~~any~~ BOTH OF THE  
13 FOLLOWING:

14 (A) A circuit court proceeding as to child custody or visi-  
15 tation, or child or spouse support, that arises out of litigation  
16 under any statute of this state, including but not limited to the  
17 following:

18 (i) ~~(a)~~ Chapter 84 of the Revised Statutes of 1846, being  
19 sections 552.1 to 552.45 of the Michigan Compiled Laws.

20 (ii) ~~(b)~~ The family support act, Act No. 138 of the Public  
21 Acts of 1966, being sections 552.451 to 552.459 of the Michigan  
22 Compiled Laws.

23 (iii) ~~(c)~~ The child custody act of 1970, Act No. 91 of the  
24 Public Acts of 1970, being sections 722.21 to 722.29 of the  
25 Michigan Compiled Laws.

26 (iv) ~~(d)~~ Act No. 293 of the Public Acts of 1968, being  
27 sections 722.1 to 722.6 of the Michigan Compiled Laws.

1       (v) ~~(e)~~ The paternity act, Act No. 205 of the Public Acts  
2 of 1956, being sections 722.711 to 722.730 of the Michigan  
3 Compiled Laws.

4       (vi) ~~(f) Uniform~~ REVISED UNIFORM reciprocal enforcement of  
5 support act, Act No. 8 of the Public Acts of 1952, being sections  
6 780.151 to ~~780.174~~ 780.183 of the Michigan Compiled Laws.

7       (B) A PROBATE COURT PROCEEDING WHEN ACTING PURSUANT TO  
8 SECTION 402 OF THE REVISED PROBATE CODE, ACT NO. 642 OF THE  
9 PUBLIC ACTS OF 1978, BEING SECTIONS 700.402 OF THE MICHIGAN  
10 COMPILED LAWS, AS TO CHILD CUSTODY, VISITATION, OR SUPPORT.

11       (7) "Friend of the court" means the person serving under  
12 section 21(1) or appointed pursuant to section 23, as the head of  
13 the office of the friend of the court.

14       (8) "Office" and "office of the friend of the court" mean  
15 the agency created in section 3.

16       (9) "Payer" means a person ordered by the circuit court OR  
17 PROBATE COURT to pay support.

18       (10) "Public assistance" means aid to families with depen-  
19 dent children, general assistance, foster care maintenance, or a  
20 combination of those items.

21       (11) "Recipient of support" means the following:

22       (a) The spouse, if the support order orders support for the  
23 spouse.

24       (b) The custodial parent or guardian, if the support order  
25 orders support for a minor child.

26       (c) The state department of social services, if support has  
27 been assigned to the state department.

(12) "Support" means either of the following:

(a) The payment of money for a child or a spouse ordered by the circuit court OR THE PAYMENT OF MONEY FOR A CHILD ORDERED BY THE PROBATE COURT WHEN ACTING PURSUANT TO SECTION 402 OF THE REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.402 OF THE MICHIGAN COMPILED LAWS, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(b) The payment of money ordered by the circuit court under the paternity act, Act No. 205 of the Public Acts of 1956, being sections 722.711 to 722.730 of the Michigan Compiled Laws, for the necessary expenses incurred by or for the mother in connection with her confinement or of other expenses in connection with the pregnancy of the mother.

(13) "Support and visitation enforcement act" means Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(14) "Support order" means any order entered by the circuit court OR BY THE PROBATE COURT WHEN ACTING PURSUANT TO SECTION 402 OF THE REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978, BEING SECTION 700.402 OF THE MICHIGAN COMPILED LAWS, for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.

1       Section 2. This amendatory act shall not take effect unless  
2 all of the following bills of the 85th Legislature are enacted  
3 into law:

4       (a) Senate Bill No. 1039.

5       (b) Senate Bill No. \_\_\_\_ or House Bill No. \_\_\_\_ (request  
6 no. 06023'90).