

**FRIEND OF THE COURT; RENAME;  
ALLOW FOR OPT-OUT**

**House Bill 6011**  
**Sponsor: Rep. Laura Toy**  
**Committee: Family and Children  
Services**

**Complete to 5-9-02**

**A SUMMARY OF HOUSE BILL 6011 AS INTRODUCED 5-7-02**

The bill would amend the Friend of the Court Act (Public Act 294 of 1982). Specifically, the bill would re-title the act to be known as the “Court Family Services Office Act”, and amend other references to the Friend of the Court accordingly. In addition, the bill would allow parties to a domestic relations matter to opt-out of the Friend of the Court system, and would clarify provisions pertaining to the initiation of enforcement proceedings.

Adjudication of a Domestic Relations Matter. The bill would provide that before the adjudication of a domestic relations matter, the court would be required to determine if a court family services case is or must be opened. In addition, the act requires certain duties of the Friend of the Court before the adjudication of a domestic relations matter. The bill would require the Court Family Services Office to inform each party that they could choose not to have the office administer and enforce obligations that could be imposed in a domestic relations matter, unless one of them is required to participate in a Title IV-D child support program. (“Title IV-D” refers to provisions of the federal Social Security Act under which child support collections are paid to the state when a custodial parent is receiving [or has received] public assistance. Title IV-D also provides certain services such as the Federal Parent Locator Service, used in connection with enforcement of child custody in cases of parental kidnapping.) In addition, the office would be required to inform each party that they could direct the office to close their case, unless one of them is required to participate in a Title IV-D child support program. Furthermore, the office would be required to make available to individuals certain forms regarding the modification of child support, custody, or parenting time, without the assistance of legal counsel. The office would also include instructions on preparing and filing those forms, instructions for service of process, and scheduling a modification hearing.

Opt-Out Provisions. Under the bill, with certain exceptions, a Court Family Services Office would not be required to open or maintain a case for a domestic relations matter. Likewise, with certain exceptions, parties to a domestic relations matter would not be required to have a court family services case opened or maintained. If a case were not opened, the parties would be responsible for the administration and enforcement of any obligations imposed in the domestic relations matter.

The Court Family Services Office would be required to open and maintain a case involving any of the following:

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- A party who is eligible for Title IV-D services because of his or her current or past receipt of public assistance.

- A party who applies for Title IV-D services.

- A party who requests that the office open and maintain a case, even though the party might not be eligible to receive Title IV-D services.

- There exists evidence of domestic violence or uneven bargaining positions and the court determines that a party has chosen not to apply for Title IV-D services, against the best interest of either party or the child.

The Court Family Services Office could not close a case if any of the following were true:

- A party objects.

- A party is eligible for IV-D services because he or she is receiving public assistance.

- A party is eligible for IV-D services because he or she received public assistance and an arrearage is owed to the governmental entity that provided the assistance.

- Records indicate that within the previous 12 months, a child support arrearage or custody or parenting time order violation has occurred.

- Within the previous 12 months, a party has reopened a case.

- There exists evidence of domestic violence or uneven bargaining positions and the court determines that a party has chosen to close a case against the best interest of either party or a child of the party.

Case closure would not release a party from his or her obligations imposed in the domestic relations matter. A Court Family Services Office would be required to reopen a case if a party applies for services from the office or applies for and receives public assistance.

If a party would like to ensure that the child supports payments that have been made after a case has been closed will be considered in any possible future enforcement action, the payments would have to be made through the State Disbursement Unit (SDU). In such a case, the office would close a case until each party provides the SDU with the information necessary to process the child support payments.

Initiating Enforcement Proceedings. The act requires a Court Family Services Office to initiate enforcement proceedings under certain circumstances, except when there is an income withholding order in place. The bill would clarify that the office would not be required to initiate enforcement proceedings under the following circumstances:

- Despite an arrearage, there is an effective income withholding and payments are being made in the amount required under the support order.

- Despite an arrearage and an ineffective income withholding, payments are being made in the amount required in the support order.

- There are one or more enforcement measures initiated and there is an objection to one or more of those enforcement measures.

MCL 552.501 et al.

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