

HOUSE BILL NO. 4305

March 07, 2019, Introduced by Reps. Vaupel and Brixie and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1982 PA 294, entitled "Friend of the court act," by amending sections 2, 2a, 17, and 19 (MCL 552.502, 552.502a, 552.517, and 552.519), section 2 as amended by 2015 PA 253 and sections 2a, 17, and 19 as amended by 2009 PA 233.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Alternative dispute resolution" means a process
- 3 established under section 13 by which the parties are assisted in



1 voluntarily formulating an agreement to resolve a dispute
2 concerning child custody or parenting time that arises from a
3 domestic relations matter.

4 (b) "Bureau" means the state friend of the court bureau
5 created in section 19.

6 (c) "Centralizing enforcement" means the process authorized
7 under section 10 of the office of child support act, 1971 PA 174,
8 MCL 400.240.

9 (d) "Chief judge" means the following:

10 (i) The circuit judge in a judicial circuit having only 1
11 circuit judge.

12 (ii) The chief judge of the circuit court in a judicial circuit
13 having 2 or more circuit judges.

14 (e) "Citizen advisory committee" means a citizen friend of the
15 court advisory committee established as provided in section 4.

16 (f) "Consumer reporting agency" means a person that, for
17 monetary fees or dues, or on a cooperative nonprofit basis,
18 regularly engages in whole or in part in the practice of assembling
19 or evaluating consumer credit information or other information on
20 consumers for the purpose of furnishing consumer reports to third
21 parties, and that uses any means or facility of interstate commerce
22 for the purpose of preparing or furnishing consumer reports. As
23 used in this subdivision, "consumer report" means that term as
24 defined in section 603 of the fair credit reporting act, 15 USC
25 1681a.

26 (g) "County board" means the county board of commissioners in
27 the county served by the office. If a judicial circuit includes
28 more than 1 county, action required to be taken by the county board
29 means action by the county boards of commissioners for all counties



1 composing that circuit.

2 (h) "Court" means the circuit court.

3 (i) "Current employment" means employment within 1 year before
4 a friend of the court request for information.

5 (j) "Custody or parenting time order violation" means an
6 individual's act or failure to act that interferes with a parent's
7 right to interact with his or her child in the time, place, and
8 manner established in the order that governs custody or parenting
9 time between the parent and the child and to which the individual
10 accused of interfering is subject.

11 (k) "De novo hearing" means a new judicial consideration of a
12 matter previously heard by a referee.

13 (l) "Department" means the department of health and human
14 services.

15 (m) "Domestic relations matter" means a circuit court
16 proceeding as to child custody, parenting time, child support, or
17 spousal support, that arises out of litigation under a statute of
18 this state, including, but not limited to, the following:

19 (i) 1846 RS 84, MCL 552.1 to 552.45.

20 (ii) The family support act, 1966 PA 138, MCL 552.451 to
21 552.459.

22 (iii) The child custody act of 1970, 1970 PA 91, MCL 722.21 to
23 722.31.

24 (iv) 1968 PA 293, MCL 722.1 to 722.6.

25 (v) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

26 (vi) The revised uniform reciprocal enforcement of support act,
27 1952 PA 8, MCL 780.151 to 780.183.

28 (vii) The uniform interstate family support act, ~~(2015)~~**2015 PA**
29 **255, MCL 552.2101 to 552.2905.**



1 (n) "Friend of the court" means the person serving under
 2 section 21(1) or appointed under section 23 as the head of the
 3 office of the friend of the court.

4 (o) "Friend of the court case" means a domestic relations
 5 matter that an office establishes as a friend of the court case as
 6 required under section 5a.

7 (p) **"Health care coverage" means a fee for service, health**
 8 **maintenance organization, preferred provider organization, or other**
 9 **type of private health care coverage or public health care**
 10 **coverage.**

11 (q) ~~(p)~~—"Income" means that term as defined in section 2 of
 12 the support and parenting time enforcement act, MCL 552.602.

13 Sec. 2a. As used in this act:

14 (a) "Medical assistance" means medical assistance as
 15 established under title XIX of the social security act, 42 USC 1396
 16 to ~~1396v~~-1396w-5.

17 (b) "Office" and "office of the friend of the court" mean an
 18 agency created in section 3.

19 (c) **"Office of child support" means the office of child**
 20 **support created in section 2 of the office of child support act,**
 21 **1971 PA 174, MCL 400.232.**

22 (d) ~~(e)~~—"Payer" means a person ordered by the circuit court to
 23 pay support.

24 (e) **"Private health care coverage" means health care coverage**
 25 **obtained through an employer or purchased by an individual from an**
 26 **insurer.**

27 (f) ~~(d)~~—"Public assistance" means cash assistance provided
 28 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

29 (g) **"Public health care coverage" means health care coverage**



1 that is established or maintained by a local, state, or federal
2 government such as Medicaid established under title XIX of the
3 social security act, 42 USC 1396 to 1396w-5 or the state children's
4 health insurance program established under title XXI of the social
5 security act, 42 USC 1397aa to 1397mm.

6 (h) ~~(e)~~—"Recipient of support" means the following:

7 (i) The spouse, if the support order orders spousal support.

8 (ii) The custodial parent or guardian, if the support order
9 orders support for a minor child or a child who is 18 years of age
10 or older.

11 (iii) The department, ~~of human services,~~ if support has been
12 assigned to that department.

13 (iv) The county, if the minor is in county-supported foster
14 care.

15 (i) ~~(f)~~—"State advisory committee" means the committee
16 established by the bureau under section 19.

17 (j) ~~(g)~~—"State disbursement unit" or "SDU" means the entity
18 established in section 6 of the office of child support act, 1971
19 PA 174, MCL 400.236.

20 (k) ~~(h)~~—"Support" means all of the following:

21 (i) The payment of money for a child or a spouse ordered by the
22 circuit court, whether the order is embodied in an interim,
23 temporary, permanent, or modified order or judgment. Support may
24 include payment of the expenses of medical, dental, and other
25 health care, child care expenses, and educational expenses.

26 (ii) The payment of money ordered by the circuit court under
27 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the
28 necessary expenses connected to the pregnancy of the mother or the
29 birth of the child, or for the repayment of genetic testing



1 expenses.

2 (iii) A surcharge under section 3a of the support and parenting
3 time enforcement act, MCL 552.603a.

4 (l) ~~(i)~~—"Support and parenting time enforcement act" means 1982
5 PA 295, MCL 552.601 to 552.650.

6 (m) ~~(j)~~—"Support order" means an order entered by the circuit
7 court for the payment of support in a sum certain, whether in the
8 form of a lump sum or a periodic payment.

9 (n) ~~(k)~~—"Title IV-D" means part D of title IV of the social
10 security act, 42 USC 651 to 669b.

11 (o) ~~(l)~~—"Title IV-D agency" means that term as defined in
12 section 2 of the support and parenting time enforcement act, MCL
13 552.602.

14 Sec. 17. (1) After a final judgment containing a child support
15 order has been entered in a friend of the court case, the office
16 shall use a procedure provided in section 17b to periodically
17 review the order, as follows:

18 (a) If a child is being supported in whole or in part by
19 public assistance, not less than once each 36 months unless both of
20 the following apply:

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

23 (ii) Neither party has requested a review.

24 (b) Upon receipt of a written request from either party.
25 Within 14 days after receipt of the review request, the office
26 shall determine whether the order is due for review. The office is
27 not required to act on more than 1 request received from a party
28 each 36 months.

29 (c) If a child is receiving medical assistance, not less than



1 once each 36 months unless either of the following applies:

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

4 (ii) The office receives notice from the department ~~of human~~
5 ~~services~~ that good cause exists not to proceed with support action
6 and neither party has requested a review.

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

11 (e) At the direction of the court.

12 (f) At the initiative of the office, if there are reasonable
13 grounds to believe that the amount of child support awarded in the
14 judgment should be modified or that dependent health care coverage
15 ~~is available and the support order should be modified, to include~~
16 ~~an order for health care coverage. or both.~~ Reasonable grounds to
17 review an order under this subdivision include any of the
18 following:

19 (i) Temporary or permanent changes in the physical custody of a
20 child that the court has not ordered.

21 (ii) Increased or decreased need of the child.

22 (iii) Probable access by ~~an employed a~~ parent to dependent
23 health care coverage **that is accessible to the child and available**
24 **at a reasonable cost. Health care coverage is presumed accessible**
25 **to the child and presumed available at a reasonable cost if it**
26 **meets the guidelines provided in the child support formula**
27 **developed by the bureau under section 19.**

28 (iv) Changed dependent health care coverage cost from the
29 amount used in the prior child support order.



1 (v) ~~(iv)~~ Changed financial conditions of a recipient of support
2 or a payer, including any of the following:

3 (A) Application for or receipt of public assistance,
4 unemployment compensation, or worker's compensation.

5 (B) Incarceration or release from incarceration after a
6 criminal conviction and sentencing to a term of more than 1 year.
7 Within 14 days after receiving information that a recipient of
8 support or payer is incarcerated or released from incarceration as
9 described in this sub-subparagraph, the office shall initiate a
10 review of the order.

11 (vi) ~~(v)~~ That the order was based on incorrect facts.

12 (2) A review initiated by the office under subsection (1)(f)
13 does not preclude the recipient of support or payer from requesting
14 a review under subsection (1)(b).

15 (3) Within 180 days after determining that a review is
16 required under subsection (1), the office shall obtain a
17 modification of the order if appropriate.

18 (4) The office shall use the child support formula developed
19 by the bureau under section 19 in calculating the child support
20 award under section 17b.

21 (5) The office shall petition the court if modification is
22 determined to be necessary under section 17b unless either of the
23 following applies:

24 (a) The difference between the existing and projected child
25 support award is less than the minimum threshold for modification
26 of a child support amount as established by the formula.

27 (b) The court previously determined that application of the
28 formula was unjust or inappropriate and the office determines that
29 the facts of the case and the reasons for and amount of the prior



1 deviation remain unchanged.

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

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

10 (8) If a support order lacks provisions for health care
11 coverage, the office shall petition the court for a modification to
12 require that 1 or both parents obtain or maintain health care
13 coverage for the benefit of each child who is subject to the
14 support order ~~if either of the following is true:~~**when health care**
15 **coverage is accessible to the child and available at a reasonable**
16 **cost. The office shall use the guidelines provided for in the child**
17 **support formula developed by the bureau under section 19 to**
18 **recommend which parent provides health care coverage that is**
19 **accessible to the child and available at a reasonable cost. The**
20 **office shall not petition the court to require both parents to**
21 **provide health care coverage under this subsection unless both**
22 **parents already provide coverage or both agree to provide coverage.**
23 **This subsection does not prevent the court from exercising its**
24 **discretion to order health care coverage based on the child's needs**
25 **or the parent's resources.**

26 ~~(a) Either parent has health care coverage available, as a~~
27 ~~benefit of employment, for the benefit of the child at a reasonable~~
28 ~~cost.~~

29 ~~(b) Either parent is self-employed, maintains health care~~



1 ~~coverage for himself or herself, and can obtain health care~~
2 ~~coverage for the benefit of the child at a reasonable cost.~~

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

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

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

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

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

14 (i) Case load and staffing standards for employees who perform
15 alternative dispute resolution functions, investigation and
16 recommendation functions, referee functions, enforcement functions,
17 and clerical functions.

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

19 (iii) Public educational programs regarding domestic relations
20 law and community resources, including financial and other
21 counseling, and employment opportunities.

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

24 (v) Model pamphlets and procedural forms, which shall be
25 distributed to each office.

26 (vi) A formula to be used in establishing and modifying a child
27 support amount and health care obligation. The formula shall be
28 based upon the needs of the child and the actual resources of each
29 parent. The formula shall establish a minimum threshold for



1 modification of a child support amount. The formula shall consider
2 the child care and dependent health care coverage costs of each
3 parent. **The formula shall include guidelines for determining which**
4 **parent is required to maintain health care coverage for the child**
5 **and include a presumption for determining the reasonable cost and**
6 **accessibility of health care coverage.** The formula shall include
7 guidelines for setting and administratively adjusting the amount of
8 periodic payments for overdue support, including guidelines for
9 adjustment of arrearage payment schedules when the current support
10 obligation for a child terminates and the payer owes overdue
11 support.

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

19 (c) Gather and monitor relevant statistics.

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

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



1 (ii) An evaluative summary, supplemented by applicable
2 quantitative data, of the activities and functioning of the
3 aggregate of all citizen advisory committees in this state during
4 the preceding year.

5 (iii) An identification of problems that impede the efficiency
6 of the activities and functioning of the citizen advisory
7 committees and the satisfaction of the users of the committees'
8 services.

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

12 (f) Develop standards and procedures for the transfer of part
13 or all of the responsibilities for a case from ~~one~~¹ office to
14 another in situations considered appropriate by the bureau.

15 (g) Certify alternative dispute resolution training programs.

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

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

22 (ii) Three attorneys who are members of the state bar of
23 Michigan and whose practices are primarily domestic relations law.
24 Not more than 1 attorney may be a circuit court judge.

25 (iii) Three human service professionals who provide family
26 counseling.

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



1 (j) Develop and make available guidelines to assist the office
2 of the friend of the court in determining the appropriateness in
3 individual cases of the following:

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

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

8 (k) Develop and provide the office of the friend of the court
9 with all of the following:

10 (i) Form motions, responses, and orders to be used by a party,
11 without the assistance of legal counsel, in making or responding to
12 a motion for a payment plan under section 5e of the support and
13 parenting time enforcement act, MCL 552.605e, or for the
14 modification of a child support, custody, or parenting time order,
15 including a domicile or residence provision.

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

19 (iii) Guidelines for imputing income for the calculation of
20 child support.

21 (l) Develop guidelines for, and encourage the use of, plain
22 language within the office ~~of the friend of the court~~ including,
23 but not limited to, the use of plain language in forms and
24 instructions within the office and in statements of account
25 provided as required in section 9.

26 (m) In consultation with the domestic **and sexual** violence
27 prevention and treatment board created in section 2 of 1978 PA 389,
28 MCL 400.1502, develop guidelines for the implementation of section
29 41 of the support and parenting time enforcement act, MCL 552.641,



1 that take into consideration at least all of the following
2 regarding the parties and each child involved in a dispute governed
3 by section 41 of the support and parenting time enforcement act,
4 MCL 552.641:

5 (i) Domestic violence.

6 (ii) Safety of the parties and child.

7 (iii) Uneven bargaining positions of the parties.

8 (n) Coordinate the provision of title IV-D services by the
9 friend of the court and cooperate with the office of child support
10 in providing those services.

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

24 (5) The bureau may call upon each office of the friend of the
25 court for assistance in performing the duties imposed in this
26 section.

