

Act No. 27
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**STATE OF MICHIGAN 100TH
LEGISLATURE REGULAR
SESSION OF 2019**

Introduced by Reps. Vaupel and Brixie

ENROLLED HOUSE BILL No. 4305

AN ACT to amend 1982 PA 294, entitled “An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts,” 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:

Sec. 2. As used in this act:

(a) “Alternative dispute resolution” means a process established under section 13 by which the parties are assisted in voluntarily formulating an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

(b) “Bureau” means the state friend of the court bureau created in section 19.

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

(d) “Chief judge” means the following:

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

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

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

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

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

(h) "Court" means the circuit court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2a. As used in this act:

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

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

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

(d) "Payer" means a person ordered by the circuit court to pay support.

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

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

(g) "Public health care coverage" means health care coverage that is established or maintained by a local, state, or federal government such as Medicaid established under title XIX of the social security act, 42 USC 1396 to 1396w-5 or the state children's health insurance program established under title XXI of the social security act, 42 USC 1397aa to 1397mm.

(h) "Recipient of support" means the following:

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

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

- (iii) The department, if support has been assigned to that department.
- (iv) The county, if the minor is in county-supported foster care.
- (i) "State advisory committee" means the committee established by the bureau under section 19.
- (j) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.
- (k) "Support" means all of the following:
 - (i) The payment of money for a child or a spouse ordered by the circuit court, 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.
 - (ii) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses connected to the pregnancy of the mother or the birth of the child, or for the repayment of genetic testing expenses.
 - (iii) A surcharge under section 3a of the support and parenting time enforcement act, MCL 552.603a.
 - (l) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.
 - (m) "Support order" means an order entered by the circuit court for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.
 - (n) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 669b.
 - (o) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

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

- (a) If a child is being supported in whole or in part by public assistance, not less than once each 36 months unless both of the following apply:
 - (i) The office receives notice from the department that good cause exists not to proceed with support action.
 - (ii) Neither party has requested a review.
- (b) Upon receipt of a written request from either party. Within 14 days after receipt of the review request, the office shall determine whether the order is due for review. The office is not required to act on more than 1 request received from a party each 36 months.
 - (c) If a child is receiving medical assistance, not less than once each 36 months unless either of the following applies:
 - (i) The order requires provision of health care coverage for the child and neither party has requested a review.
 - (ii) The office receives notice from the department that good cause exists not to proceed with support action and neither party has requested a review.
 - (d) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 36 months. Within 14 days after receipt of a review request, the office shall determine whether an order is due for review.
 - (e) At the direction of the court.
 - (f) At the initiative of the office, if there are reasonable grounds to believe that the amount of child support awarded in the judgment should be modified or that dependent health care coverage should be modified, or both. Reasonable grounds to review an order under this subdivision include any of the following:
 - (i) Temporary or permanent changes in the physical custody of a child that the court has not ordered.
 - (ii) Increased or decreased need of the child.
 - (iii) Probable access by a parent to dependent health care coverage that is accessible to the child and available at a reasonable cost. Health care coverage is presumed accessible to the child and presumed available at a reasonable cost if it meets the guidelines provided in the child support formula developed by the bureau under section 19.
 - (iv) Changed dependent health care coverage cost from the amount used in the prior child support order.
 - (v) Changed financial conditions of a recipient of support or a payer, including any of the following:
 - (A) Application for or receipt of public assistance, unemployment compensation, or worker's compensation.
 - (B) Incarceration or release from incarceration after a criminal conviction and sentencing to a term of more than 1 year. Within 14 days after receiving information that a recipient of support or payer is incarcerated or released from incarceration as described in this sub subparagraph, the office shall initiate a review of the order.
 - (vi) That the order was based on incorrect facts.

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

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

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

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

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

(b) The court previously determined that application of the formula was unjust or inappropriate and the office determines that the facts of the case and the reasons for and amount of the prior deviation remain unchanged.

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

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

(8) If a support order lacks provisions for health care coverage, the office shall petition the court for a modification to require that 1 or both parents obtain or maintain health care coverage for the benefit of each child who is subject to the support order when health care coverage is accessible to the child and available at a reasonable cost. The office shall use the guidelines provided for in the child support formula developed by the bureau under section 19 to recommend which parent provides health care coverage that is accessible to the child and available at a reasonable cost. The office shall not petition the court to require both parents to provide health care coverage under this subsection unless both parents already provide coverage or both agree to provide coverage. This subsection does not prevent the court from exercising its discretion to order health care coverage based on the child's needs or the parent's resources.

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

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

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

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

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

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

(ii) Orientation programs for clients of the office.

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

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

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

(vi) A formula to be used in establishing and modifying a child support amount and health care obligation. The formula shall be based upon the needs of the child and the actual resources of each parent. The formula shall establish a minimum threshold for modification of a child support amount. The formula shall consider the child care and dependent health care coverage costs of each parent. The formula shall include guidelines for determining which parent is required to maintain health care coverage for the child and include a presumption for determining the reasonable cost and accessibility of health care coverage. The formula shall include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support.

(b) Provide training programs for the friend of the court, providers of alternative dispute resolution, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules. The training programs shall include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(c) Gather and monitor relevant statistics.

(d) Annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the legislature and to each office

and shall be made available to the public. The annual report required by this subdivision shall include, but is not limited to, all of the following:

- (i) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each citizen advisory committee during the preceding year.
- (ii) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all citizen advisory committees in this state during the preceding year.
- (iii) An identification of problems that impede the efficiency of the activities and functioning of the citizen advisory committees and the satisfaction of the users of the committees' services.
- (e) Develop and recommend guidelines to be used by an office in determining whether or not parenting time has been wrongfully denied by the custodial parent.
- (f) Develop standards and procedures for the transfer of part or all of the responsibilities for a case from 1 office to another in situations considered appropriate by the bureau.
- (g) Certify alternative dispute resolution training programs.
- (h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, giving preference to a member of a citizen advisory committee:
 - (i) Three public members who have had contact with an office of the friend of the court.
 - (ii) Three attorneys who are members of the state bar of Michigan and whose practices are primarily domestic relations law. Not more than 1 attorney may be a circuit court judge.
 - (iii) Three human service professionals who provide family counseling.
- (i) Cooperate with the office of child support in developing and implementing a statewide information system as provided in the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.
- (j) Develop and make available guidelines to assist the office of the friend of the court in determining the appropriateness in individual cases of the following:
 - (i) Imposing a lien or requiring the posting of a bond, security, or other guarantee to secure the payment of support.
 - (ii) Implementing the offset of a delinquent payer's state income tax refund.
- (k) Develop and provide the office of the friend of the court with all of the following:
 - (i) Form motions, responses, and orders to be used by a party, without the assistance of legal counsel, in making or responding to a motion for a payment plan under section 5e of the support and parenting time enforcement act, MCL 552.605e, or for the modification of a child support, custody, or parenting time order, including a domicile or residence provision.
 - (ii) Instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.
 - (iii) Guidelines for imputing income for the calculation of child support.
- (l) Develop guidelines for, and encourage the use of, plain language within the office including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.
- (m) In consultation with the domestic and sexual violence prevention and treatment board created in section 2 of 1978 PA 389, MCL 400.1502, develop guidelines for the implementation of section 41 of the support and parenting time enforcement act, MCL 552.641, that take into consideration at least all of the following regarding the parties and each child involved in a dispute governed by section 41 of the support and parenting time enforcement act, MCL 552.641:
 - (i) Domestic violence.
 - (ii) Safety of the parties and child.
 - (iii) Uneven bargaining positions of the parties.
- (n) Coordinate the provision of title IV-D services by the friend of the court and cooperate with the office of child support in providing those services.
- (4) The state advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. The bureau shall make a state advisory committee report or recommendation available to the public. State advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, under the schedule for reimbursement established annually by the legislature. A state advisory committee meeting is open to the public. A member of the public attending a state advisory committee meeting shall be given a reasonable opportunity to address the committee on any issue under consideration by the committee. If a vote is to be taken by the state advisory committee, the opportunity to address the committee shall be given before the vote is taken.

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

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4304 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 4304, referred to in enacting section 1, was filed with the Secretary of State June 20, 2019, and became 2019 PA 26, lmd. Eff. June 20, 2019.