

the order to show cause or owes costs to the court, the cash performance bond deposited shall be transmitted to the office of the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. By depositing the cash performance bond with the officer and accepting this receipt, the recipient of this receipt waives a claim to the money under the cash performance bond following its transmittal to the friend of the court or to the SDU.

\_\_\_\_\_  
Officer: \_\_\_\_\_ Dept.: \_\_\_\_\_”.

(3) The officer receiving a cash performance bond shall in turn deposit the bond received under this section with the clerk of the court that issued the bench warrant. If the payer deposits a cash performance bond under this section, the date for a hearing to be held under subsection (4) shall be set within the time limit prescribed in the Michigan court rules.

(4) At a hearing held after a payer deposits a cash performance bond, the issues to be considered are limited to the payer’s answer to the order to show cause and, if the payer was found in contempt, to further proceedings related to the payer’s contempt. On the basis of the hearing, the court by order shall determine how much of the cash performance bond deposited under this section is to be transmitted to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. The balance, if any, shall be returned to the person who posted the cash performance bond on the payer’s behalf.

(5) If the payer fails to appear as required, the court shall order the cash performance bond forfeited and transmit the bond to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. In addition, the court may again issue a bench warrant for the further appearance of the payer as provided in section 31.

(6) The court may set aside a finding of contempt under section 31 if the court finds, based on the hearing under this section, that the payer is in compliance with the court’s order or for other good cause shown.

**552.633 Finding payer in contempt; presumption; proof of currently available resources; orders; noncompliance with arrearage payment schedule; suspension of license.**

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

(a) Committing the payer to the county jail.

(b) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.

(c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.

(d) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(e) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(f) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (1)(d) was entered and shall proceed under section 30.

**552.635 Finding payer in contempt; orders; release from county jail of unemployed payer who finds employment; noncompliance with arrearage payment schedule; suspension of license.**

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(2) Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

(a) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment or, if the person wishes to seek employment, to seek employment.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(c) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(d) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(3) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed when committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

(b) The payer is employed and completes 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (2)(b) was entered and shall proceed under section 30.

### **Effective date.**

Enacting section 1. This amendatory act takes effect June 1, 2003.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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### **[No. 568]**

### **(HB 6007)**

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 41, 42, 44, and 45 (MCL 552.602, 552.641, 552.642, 552.644, and 552.645), section 2 as amended by 1999 PA 160, sections 41 and 42 as amended by 1996 PA 25, and sections 44 and 45 as amended by 1998 PA 334, and by adding section 42a.

*The People of the State of Michigan enact:*

### **552.602 Definitions.**

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(i) A demand deposit account.

(ii) A draft account.

(iii) A checking account.

(iv) A negotiable order of withdrawal account.

(v) A share account.

(vi) A savings account.

(vii) A time savings account.

(viii) A mutual fund account.

(ix) A securities brokerage account.

(x) A money market account.

(xi) A retail investment account.

(b) “Account” does not mean any of the following:

(i) A trust.

(ii) An annuity.

(iii) A qualified individual retirement account.

(iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(v) A pension or retirement plan.

(vi) An insurance policy.

(c) “Address” means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) “Cash” means money or the equivalent of money, such as a money order, cashier’s check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) “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.

(f) “Department” means the family independence agency.

(g) “Domestic relations matter” means a circuit court proceeding as to child custody or parenting time, or child 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) 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) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) “Driver’s license” means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) “Employer” means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) “Financial asset” means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) “Financial institution” means any of the following:

(i) A state or national bank.

(ii) A state or federally chartered savings and loan association.

(iii) A state or federally chartered savings bank.

(iv) A state or federally chartered credit union.

(v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(vii) An entity regulated by the securities and exchange commission that collects funds from the public.

(viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(l) “Friend of the court act” means 1982 PA 294, MCL 552.501 to 552.535.

(m) “Friend of the court case” means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term “friend of the court case”, when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) “Income” means any of the following:

(i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker’s compensation.

(iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) “Insurer” means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) “Medical assistance” means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) “Occupational license” means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) “Office of child support” means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) “Office of the friend of the court” means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) “Order of income withholding” means an order entered by the circuit court providing for the withholding of a payer’s income to enforce a support order under this act.

(u) “Payer” means an individual who is ordered by the circuit court to pay support.

(v) “Person” means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) “Plan administrator” means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) “Political subdivision” means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) “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.

(z) “Recreational or sporting license” means a hunting, fishing, or fur harvester’s license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) “Referee” means a person who is designated as a referee under the friend of the court act.

(bb) “Source of income” means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) “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.

(dd) “State friend of the court bureau” means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) “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 incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(iii) A surcharge accumulated under section 3a.

(ff) “Support order” means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) “Title IV-D” means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) “Title IV-D agency” means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) “Work activity” means any of the following:

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

(iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(v) On-the-job training.

(vi) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to an individual.

(ix) Job skills training directly related to employment.

(x) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(xi) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(xii) The provisions of child care services to an individual who is participating in a community service program.

### **552.641 Complaint alleging custody or parenting time order violation; duties of friend of court; declining to respond to violation; circumstances; compliance with § 552.519.**

Sec. 41. (1) For a friend of the court case, a friend of the court shall do 1 or more of the following in response to an alleged custody or parenting time order violation stated in a complaint submitted under section 11b of the friend of the court act, MCL 552.511b:

(a) Apply a makeup parenting time policy established under section 42.

(b) Commence civil contempt proceedings under section 44.

(c) File a motion with the court under section 17d of the friend of the court act, MCL 552.517d, for a modification of existing parenting time provisions to ensure parenting time, unless contrary to the best interests of the child.

(d) Schedule mediation subject to section 13 of the friend of the court act, MCL 552.513.

(e) Schedule a joint meeting subject to section 42a.

(2) Notwithstanding the requirement of subsection (1), the office of the friend of the court may decline to respond to an alleged custody or parenting time order violation under any of the following circumstances:

(a) The party submitting the complaint has previously submitted 2 or more complaints alleging custody or parenting time order violations that were found to be unwarranted, costs were assessed against the party because a complaint was found to be unwarranted, and the party has not paid those costs.

(b) The alleged custody or parenting time order violation occurred more than 56 days before the complaint is submitted.

(c) The custody or parenting time order does not include an enforceable provision that is relevant to the custody or parenting time order violation alleged in the complaint.

(3) This section shall be implemented in compliance with the guidelines developed as required in section 19 of the friend of the court act, MCL 552.519.

**552.642 Makeup parenting time policy; establishment; approval; provisions of policy; notice; response; procedures.**

Sec. 42. (1) Each circuit shall establish a makeup parenting time policy under which a parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The policy does not apply until it is approved by the chief circuit judge. A makeup parenting time policy established under this section shall provide all of the following:

(a) That makeup parenting time shall be at least the same type and duration of parenting time as the parenting time that was denied, including, but not limited to, weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time.

(b) That makeup parenting time shall be taken within 1 year after the wrongfully denied parenting time was to have occurred.

(c) That the wrongfully denied parent shall choose the time of the makeup parenting time.

(d) That the wrongfully denied parent shall notify both the office of the friend of the court and the other parent in writing not less than 1 week before making use of makeup weekend or weekday parenting time or not less than 28 days before making use of makeup holiday or summer parenting time.

(2) If wrongfully denied parenting time is alleged and the friend of the court determines that action should be taken, the office of the friend of the court shall send each party a notice containing the following statement in boldfaced type of not less than 12 points:

**“FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF THE COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME POLICY ESTABLISHED BY THE COURT WILL BE APPLIED.”**

(3) If a party to the parenting time order does not respond in writing to the office of the friend of the court, within 21 days after the office sends the notice required under subsection (2), to contest the application of the makeup parenting time policy, the office of the friend of the court shall notify each party that the makeup parenting time policy applies. If a party makes a timely response to contest the application of the makeup parenting time policy, the office of the friend of the court shall utilize a procedure authorized under section 41 other than the application of the makeup parenting time policy.



**552.642a Joint meeting.**

Sec. 42a. (1) A joint meeting scheduled by the office of the friend of the court under section 41 and procedures following a joint meeting are governed by this section.

(2) A joint meeting may take place in person or by means of telecommunications equipment.

(3) Only an individual who completes the training program described in section 19(3)(b) of the friend of the court act, 1982 PA 294, MCL 552.519, shall conduct a joint meeting. At the beginning of a joint meeting, the individual conducting the joint meeting shall do the following:

(a) Advise the parties that the purpose of the meeting is for the parties to reach an accommodation.

(b) Advise the parties that the individual may recommend an order that the court may issue to resolve the dispute.

(4) At the conclusion of a joint meeting, the individual conducting the joint meeting shall do 1 of the following:

(a) If the parties reach an accommodation, record the accommodation in writing and provide a copy to each party.

(b) Submit an order to the court stating the individual's recommendation for resolving the dispute.

(5) If the individual conducting a joint meeting submits a recommended order to the court under subsection (4), the individual shall send a notice to each party who participated in the joint meeting that includes all of the following:

(a) A copy of the recommended order.

(b) Notice that the court may issue the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent.

(c) The place where and time when a written objection can be submitted.

(d) Notice that a party may waive the 21-day objection period by returning a signed copy of the recommendation.

(6) If a party files a written objection within the 21-day limit, the office shall set a court hearing, before a judge or referee, to resolve the dispute. If a party fails to file a written objection within the 21-day limit, the office shall submit the proposed order to the court for entry if the court approves it.

(7) If a hearing under subsection (6) is held before a referee, either party is entitled to a de novo hearing before a judge as provided in section 7 of the friend of the court act, MCL 552.507.

**552.644 Civil contempt proceeding to resolve dispute concerning parenting time of minor child; commencement by office of friend of court; notice; finding of violation; powers of court; duration of commitment; release; bench warrant; sanction for bad faith; judgment; payment of costs.**

Sec. 44. (1) If the office of the friend of the court determines that a procedure for resolving a parenting time dispute authorized under section 41 other than a civil contempt proceeding is unsuccessful in resolving a parenting time dispute, the office of the friend of the court shall commence a civil contempt proceeding to resolve a dispute concerning parenting time with a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a parenting time order should not be held

in contempt. The office of the friend of the court shall notify the parent who is the subject of the petition. The notice shall include at least all of the following:

(a) A list of each possible sanction if the parent is found in contempt.

(b) The right of the parent to a hearing on a proposed modification of parenting time if requested within 21 days after the date of the notice, as provided in section 45.

(2) If the court finds that either parent has violated a parenting time order without good cause, the court shall find that parent in contempt and may do 1 or more of the following:

(a) Require additional terms and conditions consistent with the court's parenting time order.

(b) After notice to both parties and a hearing, if requested by a party, on a proposed modification of parenting time, modify the parenting time order to meet the best interests of the child.

(c) Order that makeup parenting time be provided for the wrongfully denied parent to take the place of wrongfully denied parenting time.

(d) Order the parent to pay a fine of not more than \$100.00.

(e) Commit the parent to the county jail.

(f) Commit the parent to the county jail with the privilege of leaving the jail during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.

(g) If the parent holds an occupational license, driver's license, or recreational or sporting license, condition the suspension of the license, or any combination of the licenses, upon noncompliance with an order for makeup and ongoing parenting time.

(h) If available within the court's jurisdiction, order the parent to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(3) The court shall state on the record the reason the court is not ordering a sanction listed in subsection (2)(a) to (h). For the purpose of subsection (2), "good cause" includes, but is not limited to, consideration of the safety of a child or party who is governed by the parenting time order.

(4) A commitment under subsection (2)(e) or (f) shall not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt. A parent committed under subsection (2)(e) or (f) shall be released if the court has reasonable cause to believe that the parent will comply with the parenting time order.

(5) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and further hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31.

(6) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay a sanction of not more than \$250.00 for the first time the party is found to have acted in bad faith, not more than \$500.00 for the second time, and not more than \$1,000.00 for the third or a subsequent time. A sanction ordered under this subsection shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530, and shall be used to fund services that are not title IV-D services.

(7) A fine ordered under subsection (2), costs ordered under subsection (5), or a sanction ordered under subsection (6) becomes a judgment at the time they are ordered.

(8) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay the other party's costs.

**552.645 Finding of contempt for noncompliance with makeup and ongoing parenting time schedule; suspension of license; agreement; rescission of suspension order; sending copy to licensing agency; hearing to show cause; hearing on modification of parenting time.**

Sec. 45. (1) If the court enters an order under section 44(2)(g) and the parent fails to comply with the makeup and ongoing parenting time schedule, the court shall find the parent in contempt and, after notice and an opportunity for a hearing, may order suspension of the parent's license or licenses with respect to which the order under section 44(2)(g) was entered and proceed under section 30.

(2) After entry of a suspension order under subsection (1), a parent may agree to a makeup parenting time schedule. The court may order a makeup parenting time schedule if the parent demonstrates a good faith effort to comply with the parenting time order. If the court orders a makeup parenting time schedule, the court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. Within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

(3) Within 21 days after the date of the notice under section 44, a parent who is notified of a petition to show cause under section 44 may request a hearing on a proposed modification of parenting time. The court shall hold the requested hearing unless the parenting time dispute is resolved by other means. The court shall combine the hearing prescribed by this subsection with the hearing on the order to show cause unless the court finds for good cause shown on the record that the hearings should be held separately. If the court finds that the hearings should be held separately, the hearing on a proposed modification of parenting time shall be held before the hearing on the order to show cause.

**Effective date.**

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**[No. 569]**

**(HB 6009)**

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 17d and 19 (MCL 552.517d and 552.519), section 17d as amended by 1996 PA 144 and section 19 as amended by 2001 PA 193, and by adding sections 11a and 11b.

*The People of the State of Michigan enact:*

**552.511a Payment of health care expense; complaint; sending copy of complaint and notice to parent; objection; hearing.**

Sec. 11a. (1) A complaint seeking enforcement for payment of a health care expense must include information showing that all of the following conditions have been met:

(a) The parent against whom the complaint is directed is obligated to pay the child’s uninsured health care expenses, a demand for payment of the uninsured portion was made to that parent within 28 days after the insurers’ final payment or denial of coverage, and that parent did not pay the uninsured portion within 28 days after the demand.

(b) The complaint is submitted to the office on or before any of the following:

(i) One year after the expense was incurred.

(ii) Six months after the insurers’ final payment or denial of coverage for the expense, if all measures necessary to submit a claim for the health care expense to all insurers that might be obligated to pay the expense were completed within 2 months after the expense was incurred.

(iii) Six months after a parent defaults in paying for the health care expense as required under a written agreement, signed by both parents, that lists the specific bills covered by the agreement, states the amount to be paid in total, and sets forth the schedule for the payment of that amount, whether by installments or otherwise.

(2) If an office receives a complaint that meets the requirements of subsection (1), the office shall send a copy of the complaint to the parent who is named in the complaint as obligated to pay the child’s uninsured health care expenses. The office shall include with the copy of the complaint sent to that parent a notice advising the parent of the provisions of subsection (3).

(3) If, within 21 days after the complaint and notice are sent to a parent under subsection (2), the parent does not file with the office a written objection to the complaint, the amount of the health care expense stated in the complaint becomes a support arrearage and is subject to any enforcement process available to collect a support arrearage. If the parent files a written objection within the 21-day time limit, the office shall set a court hearing, before a judge or referee, to resolve the complaint.

**552.511b Custody or parenting time order violations; complaint; sending copy of complaint to individual accused of interfering; action.**

Sec. 11b. (1) An office shall initiate enforcement under the support and parenting time enforcement act if the office receives a written complaint that states specific facts constituting a custody or parenting time order violation. Upon request of a parent who has the right to interact with his or her child under a custody or parenting time order, an office shall assist the parent in preparing a complaint under this subsection.

(2) Within 14 days after an office receives a complaint under subsection (1), the office shall send a copy of the complaint to the individual accused of interfering and to each other party to the custody or parenting time order.

(3) If, in the opinion of the office, the facts as stated in the complaint allege a custody or parenting time order violation that can be addressed by taking an action authorized

under section 41 of the support and parenting time enforcement act, MCL 552.641, the office shall proceed under section 41 of the support and parenting time enforcement act, MCL 552.641.

### **552.517d Motion for modification of parenting time order.**

Sec. 17d. (1) After a final judgment containing a parenting time order is entered in a domestic relations matter for which there is an open friend of the court case, if there is an unresolved dispute as to parenting time, the office may file a motion with the court for a modification of the parenting time order. The office shall send each party to the parenting time order notice of the filing of the motion. With a motion filed and each notice sent under this subsection, the office shall include the following:

(a) Subject to subsection (2), a written report and recommendation.

(b) Either as a separate document or in the motion document under a separate heading, a notice, in not less than 12-point, boldfaced type, that states substantially the following:

“A party may object to the office of the friend of the court’s recommendation for modification of the parenting time order. If a party does not object to the recommendation within 21 days after this notice was sent to the party, the office of the friend of the court may submit to the court a parenting time order that incorporates the recommendation.”

(2) The office shall prepare a written report and recommendation required for subsection (1) after making an evaluation that is commensurate with the scope of the unresolved dispute as to parenting time.

(3) If, within 21 days after the notice under subsection (1) is sent to each party, no party objects to the recommendation for modification of the parenting time order, the office may submit an order, incorporating the recommendation, to the court for the court’s adoption. If a party objects within the 21 days, the motion for modification of the parenting time order shall be noticed for a hearing before a judge or referee.

(4) At a hearing on a motion filed under this section, the judge or referee may admit a statement of fact in the office’s report or recommendation as evidence to prove a fact relevant to the proceeding, but only if all parties stipulate to or no party objects to the admission of the statement of fact and no other evidence is presented concerning the fact to be proved.

### **552.519 State friend of the court bureau; creation; supervision and direction; main office; duties; state advisory committee; report or recommendation; reimbursement for expenses; meetings; assistance.**

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 domestic relations mediation 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 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, domestic relations mediators, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules. After September 30, 2002, 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 the 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 one office to another in situations considered appropriate by the bureau.

(g) Certify domestic relations mediation training programs as provided in section 13.

(h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, each of whom is 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 for use by an individual in requesting the court to modify his or her child support, custody, or parenting time order, or in responding to a motion for modification without the assistance of legal counsel.

(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.

(l) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court 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 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.

(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.

### **Effective date.**

Enacting section 1. This amendatory act takes effect December 1, 2002.

### **Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6011 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

**[No. 570]****(HB 6010)**

AN ACT to amend 1982 PA 295, entitled “An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts,” by amending section 2 (MCL 552.602), as amended by 1999 PA 160, and by adding section 5d.

*The People of the State of Michigan enact:*

**552.602 Definitions.**

Sec. 2. As used in this act:

(a) “Account” means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.
- (v) A share account.
- (vi) A savings account.
- (vii) A time savings account.
- (viii) A mutual fund account.
- (ix) A securities brokerage account.
- (x) A money market account.
- (xi) A retail investment account.

(b) “Account” does not mean any of the following:

- (i) A trust.
- (ii) An annuity.
- (iii) A qualified individual retirement account.
- (iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(v) A pension or retirement plan.

(vi) An insurance policy.

(c) “Address” means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) “Cash” means money or the equivalent of money, such as a money order, cashier’s check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) “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.

(f) “Department” means the family independence agency.

(g) “Domestic relations matter” means a circuit court proceeding as to child custody or parenting time, or child 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) 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) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) “Driver’s license” means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) “Employer” means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) “Financial asset” means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) “Financial institution” means any of the following:

(i) A state or national bank.

(ii) A state or federally chartered savings and loan association.

(iii) A state or federally chartered savings bank.

(iv) A state or federally chartered credit union.

(v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(vii) An entity regulated by the securities and exchange commission that collects funds from the public.

(viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(l) “Friend of the court act” means 1982 PA 294, MCL 552.501 to 552.535.

(m) “Friend of the court case” means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term “friend of the court case”, when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) “Income” means any of the following:

(i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker’s compensation.

(iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) “Insurer” means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) “Medical assistance” means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) “Occupational license” means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) “Office of child support” means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) “Office of the friend of the court” means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) “Order of income withholding” means an order entered by the circuit court providing for the withholding of a payer’s income to enforce a support order under this act.

(u) “Payer” means an individual who is ordered by the circuit court to pay support.

(v) “Person” means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) “Plan administrator” means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) “Political subdivision” means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) “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.

(z) “Recreational or sporting license” means a hunting, fishing, or fur harvester’s license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) “Referee” means a person who is designated as a referee under the friend of the court act.

(bb) “Source of income” means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) “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.

(dd) “State friend of the court bureau” means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) “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 incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(iii) A surcharge accumulated under section 3a.

(ff) “Support order” means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) “Title IV-D” means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) “Title IV-D agency” means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) “Work activity” means any of the following:

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

(iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(v) On-the-job training.

(vi) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to an individual.

(ix) Job skills training directly related to employment.

(x) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(xi) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(xii) The provisions of child care services to an individual who is participating in a community service program.

### **552.605d Support order; provisions; assignment, redirection, or abatement of support payment; notice.**

Sec. 5d. (1) On and after the effective date of the amendatory act that added this section, each support order the court enters or modifies shall include substantially the following provisions:

(a) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department.

(b) For a friend of the court case, substantially the following statements:

(i) "The office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support, subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."

(ii) "If the payer resides full-time with a child for whom support is payable under this order, support for that child abates in accordance with policies established by the state friend of the court bureau and subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d."

(2) If it is a friend of the court case, a support order that was entered before the effective date of the amendatory act that added this section shall be considered to include, by operation of law, the provisions stated in subsection (1).

(3) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department. An assignment of support to the department as required by this subsection has priority over a redirection of support authorized by this section.

(4) Subject to subsection (5), for a friend of the court case, the office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support. Subject to subsection (5), the office of the friend of the court shall abate support under a support order that is payable as support for a child who resides full-time with the payer, in accordance with policies established by the state friend of the court bureau.

(5) A party to a support order may object to redirection or abatement of support under this section. Support shall not be redirected or abated under this section until 21 days after the office of the friend of the court notifies each party of the proposed action, advising the party of the right to object. If a party objects within 21 days after the notification, support shall not be redirected or abated under this section. After an objection, the office of the friend of the court shall review the support order under section 17 of the friend of the court act, 1982 PA 294, MCL 522.517, or shall notify each party that the party may file a motion to modify support.

(6) The state friend of the court bureau may implement policies to assist offices of the friend of the court in determining when an office of the friend of the court should give notice of a proposed redirection or abatement of support under this section.

**Effective date.**

Enacting section 1. This amendatory act takes effect June 1, 2003.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**[No. 571]**

**(HB 6011)**

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, 5, 9, 11, 13, 15, 17, 17b, 17c, and 26 (MCL 552.502, 552.502a, 552.505, 552.509, 552.511, 552.513, 552.515, 552.517, 552.517b, 552.517c, and 552.526), section 2 as amended by 1998 PA 63, sections 2a and 9 as amended by 1999 PA 150, section 5 as amended by 1996 PA 365, section 11 as amended by 1996 PA 266, section 13 as amended by 1996 PA 144, section 17 as amended and sections 17b and 17c as added by 1994 PA 37, and section 26 as amended by 1996 PA 366, and by adding section 5a; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

**552.502 Definitions; B to I.**

Sec. 2. As used in this act:

- (a) “Bureau” means the state friend of the court bureau created in section 19.
- (b) “Centralizing enforcement” means the process authorized under section 10 of the office of the child support act, 1971 PA 174, MCL 400.231 to 400.240.
- (c) “Chief judge” means the following:
  - (i) The circuit judge in a judicial circuit having only 1 circuit judge.
  - (ii) Except in the county of Wayne, the chief judge of the circuit court in a judicial circuit having 2 or more circuit judges.
  - (iii) In the county of Wayne, the executive chief judge of the circuit court in the third judicial circuit.
- (d) “Citizen advisory committee” means a citizen friend of the court advisory committee established as provided in section 4.

(e) “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, title VI of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1681a.

(f) “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.

(g) “Court” means the circuit court.

(h) “Current employment” means employment within 1 year before a friend of the court request for information.

(i) “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.

(j) “Department” means the family independence agency.

(k) “Domestic relations matter” means a circuit court proceeding as to child custody or parenting time, or child 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) 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) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(l) “Domestic relations mediation” means a process by which the parties are assisted by a domestic relations mediator in voluntarily formulating an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

(m) “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.

(n) “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. The term “friend of the court case”, when used in a provision of this act, is not effective until on and after the effective date of section 5a.

(o) “Income” means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

### **552.502a Definitions; M to T.**

Sec. 2a. As used in this act:

(a) “Medical assistance” means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

- (b) “Office” and “office of the friend of the court” mean an agency created in section 3.
- (c) “Payer” means a person ordered by the circuit court to pay support.
- (d) “Public assistance” means cash assistance provided under the social welfare act, 1939 PA 280, 400.1 to 400.119b.
- (e) “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 family independence agency, if support has been assigned to that department.
- (f) “State advisory committee” means the committee established by the bureau under section 19.
- (g) “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.
- (h) “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 incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.
- (iii) A surcharge accumulated under section 3a of the support and parenting time enforcement act, MCL 552.603a.
- (i) “Support and parenting time enforcement act” means 1982 PA 295, MCL 552.601 to 552.650.
- (j) “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.
- (k) “Title IV-D” means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.
- (l) “Title IV-D agency” means that term as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

### **552.505 Duties of friend of the court; failure of party to attend scheduled meeting.**

Sec. 5. (1) Each office of the friend of the court has the following duties:

- (a) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may choose not to have the office of the friend of the court administer and enforce obligations that may be imposed in the domestic relations matter.
- (b) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may direct the office of the friend of the court to close the friend of the court case that was opened in their domestic relations matter.
- (c) To provide an informational pamphlet, in accordance with the model pamphlet developed by the bureau, to each party to a domestic relations matter. The informational

pamphlet shall explain the procedures of the court and the office; the duties of the office; the rights and responsibilities of the parties, including notification that each party to the dispute has the right to meet with the individual investigating the dispute before that individual makes a recommendation regarding the dispute; the availability of and procedures used in domestic relations mediation; the availability of human services in the community; the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a; and how to file a grievance regarding the office. The informational pamphlet shall be provided as soon as possible after the filing of a complaint or other initiating pleading. Upon request, a party shall receive an oral explanation of the informational pamphlet from the office.

(d) To make available to an individual form motions, responses, and orders for requesting the court to modify the individual's child support, custody, or parenting time order, or for responding to a motion for such a modification, without assistance of legal counsel. The office shall make available instructions on preparing and filing each of those forms and instructions on service of process and on scheduling a modification hearing.

(e) To inform the parties of the availability of domestic relations mediation if there is a dispute as to child custody or parenting time.

(f) To inform the parents of the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a, if there is a dispute between the parents as to child custody.

(g) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court regarding child custody or parenting time, or both, if there is a dispute as to child custody or parenting time, or both, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. A written report and recommendation regarding child custody or parenting time, or both, shall be based upon the factors enumerated in the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(h) To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the office of the friend of the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

(i) An alternative support recommendation.

(ii) All factual assumptions upon which the alternative support recommendation is based, if applicable.

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

(iv) The reasons for the alternative support recommendation.



(2) If a party who requests a meeting during an investigation fails to attend the scheduled meeting without good cause, the investigation may be completed without a meeting with that party.

### **552.505a Open friend of the court case; closure.**

Sec. 5a. (1) Except as required by this section, an office of the friend of the court shall open and maintain a friend of the court case for a domestic relations matter. If there is an open friend of the court case for a domestic relations matter, the office of the friend of the court shall administer and enforce the obligations of the parties to the friend of the court case as provided in this act. If there is not an open friend of the court case for a domestic relations matter, the office of the friend of the court shall not administer or enforce an obligation of a party to the domestic relations matter.

(2) The parties to a domestic relations matter are not required to have a friend of the court case opened or maintained for their domestic relations matter. With their initial pleadings, the parties to a domestic relations matter may file a motion for the court to order the office of the friend of the court not to open a friend of the court case for the domestic relations matter. If the parties to a domestic relations matter file a motion under this subsection, the court shall issue that order unless the court determines 1 or more of the following:

(a) A party to the domestic relations matter is eligible for title IV-D services because of the party's current or past receipt of public assistance.

(b) A party to the domestic relations matter applies for title IV-D services.

(c) A party to the domestic relations matter requests that the office of the friend of the court open and maintain a friend of the court case for the domestic relations matter, even though the party may not be eligible for title IV-D services because the domestic relations matter involves, by way of example and not limitation, only spousal support, child custody, parenting time, or child custody and parenting time.

(d) There exists in the domestic relations matter evidence of domestic violence or uneven bargaining positions and evidence that a party to the domestic relations matter has chosen not to apply for title IV-D services against the best interest of either the party or the party's child.

(e) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.

(3) If a friend of the court case is not opened for a domestic relations matter, the parties to the domestic relations matter have full responsibility for administration and enforcement of the obligations imposed in the domestic relations matter.

(4) The parties to a friend of the court case may file a motion for the court to order the office of the friend of the court to close their friend of the court case. The court shall issue an order that the office of the friend of the court shall close the friend of the court case unless the court determines 1 or more of the following:

(a) A party to the friend of the court case objects.

(b) A party to the friend of the court case is eligible for title IV-D services because the party is receiving public assistance.

(c) A party to the friend of the court case is eligible for title IV-D services because the party received public assistance and an arrearage is owed to the governmental entity that provided the public assistance.

(d) The friend of the court case record shows that, within the previous 12 months, a child support arrearage or custody or parenting time order violation has occurred in the case.

(e) Within the previous 12 months, a party to the friend of the court case has reopened a friend of the court case.

(f) There exists in the friend of the court case evidence of domestic violence or uneven bargaining positions and evidence that a party to the friend of the court case has chosen to close the case against the best interest of either the party or the party's child.

(g) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.

(5) The closure of a friend of the court case does not release a party from the party's obligations imposed in the underlying domestic relations matter. The parties to a closed friend of the court case assume full responsibility for administration and enforcement of obligations imposed in the underlying domestic relations matter.

(6) If a party to the underlying domestic relations matter wants to ensure that child support payments made after a friend of the court case is closed will be taken into account in any possible future office of the friend of the court enforcement action, the child support payments must be made through the SDU. If the parties choose to continue to have child support payments made through the SDU, the office of the friend of the court shall not close its friend of the court case until each party provides the SDU with the information necessary to process the child support payments required in the underlying domestic relations matter.

(7) If a party to a domestic relations matter for which there is not an open friend of the court case applies for services from the office of the friend of the court or applies for public assistance, the office of the friend of the court shall open or reopen a friend of the court case. If the office of the friend of the court opens or reopens a friend of the court case as required by this subsection, the court shall issue an order in that domestic relations matter that contains the provisions required by this act and by the support and parenting time enforcement act for a friend of the court case.

(8) If the parties to a domestic relations matter file a motion under subsection (2) or (4), the friend of the court shall advise the parties in writing as to the services that the office of the friend of the court is not required to provide. The state court administrative office shall develop and make available a form for use by an office of the friend of the court under this subsection and a document for use by parties to a domestic relations matter under subsection (2) or (4).

**552.509 Duties of office regarding support payments; transition to state disbursement unit; providing statement of account to parties; initiating and carrying out proceedings to enforce order entered in domestic relations matter; enforcement orders entered in other state.**

Sec. 9. (1) Except as otherwise provided in subsections (2) and (3) or in the order or judgment, after a support order is entered in a friend of the court case, the office shall receive each payment and service fee under the support order; shall, not less than once each month, record each support payment due, paid, and past due; and shall disburse each support payment to the recipient of support within 14 days after the office receives each payment or within the federally mandated time frame, whichever is shorter.

(2) An office shall receive support order and service fee payments, and shall disburse support, as required by subsection (1) until the state disbursement unit implements support and fee receipt and disbursement for the cases administered by that office. At the family independence agency's direction and in cooperation with the SDU, an office shall continue support and fee receipt and support disbursement to facilitate the transition of that responsibility to the SDU as directed in, and in accordance with the transition schedule developed as required by, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(3) After SDU support and fee receipt and disbursement is implemented in a circuit court circuit, the office for that court may accept a support payment made in cash or by cashier's check or money order. If the office accepts such a payment, the office shall transmit the payment to the SDU and shall inform the payer of the SDU's location and the requirement to make payments through the SDU.

(4) Promptly after November 3, 1999, each office shall establish and maintain the support order and account records necessary to enforce support orders and necessary to record obligations, support and fee receipt and disbursement, and related payments. Each office shall provide the SDU with access to those records and shall assist the SDU to resolve support and fee receipt and disbursement problems related to inadequate identifying information.

(5) The office shall provide annually to each party, without charge, 1 statement of account upon request. Additional statements of account shall be provided at a reasonable fee sufficient to pay for the cost of reproduction. Statements provided under this subsection are in addition to statements provided for administrative and judicial hearings.

(6) The office shall initiate and carry out proceedings to enforce an order in a friend of the court case regarding custody, parenting time, health care coverage, or support in accordance with this act, the support and parenting time enforcement act, and supreme court rules.

(7) Upon request of a child support agency of another state, the office shall initiate and carry out certain proceedings to enforce support orders entered in the other state without the need to register the order as a friend of the court case in this state. The order shall be enforced using automated administrative enforcement actions authorized under the support and parenting time enforcement act.

### **552.511 Initiating enforcement of support order and custody or parenting time order; procedure; arrearage.**

Sec. 11. (1) Each office shall initiate 1 or more support enforcement measures under the support and parenting time enforcement act when 1 of the following applies:

(a) Except as otherwise provided in this subdivision, the arrearage under the support order is equal to or greater than the monthly amount of support payable under the order. If the support order was entered *ex parte*, an office shall not initiate enforcement under this subdivision until the office receives a copy of proof of service for the order and at least 1 month has elapsed since the date of service. An office is not required to initiate enforcement under this subdivision if 1 or more of the following circumstances exist:

(i) Despite the existence of the arrearage, an order of income withholding is effective and payment is being made under the order of income withholding in the amount required under the order.

(ii) Despite the existence of the arrearage and even though an order of income withholding is not effective, payment is being made in the amount required under the order.

(iii) One or more support enforcement measures have been initiated and an objection to 1 or more of those measures has not been resolved.

(b) A parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court. The office shall initiate enforcement under this subdivision at the following times:

(i) Within 60 days after the entry of a support order containing health care coverage provisions.

(ii) When a review is conducted as provided in section 17.

(iii) Concurrent with enforcement initiated by the office under subdivision (a).

(iv) Upon receipt of a written complaint from a party.

(v) Upon receipt of a written complaint from the department if the child for whose benefit health care coverage is ordered is a recipient of public assistance or medical assistance.

(c) A person legally responsible for the actual care of a child incurs an uninsured health care expense and submits to the office a written complaint that meets the requirements of section 11a.

(2) An arrearage amount that arises at the moment a court issues an order imposing or modifying support, because the order relates back to a petition or motion filing date, shall not be considered as an arrearage for the purpose of initiating support enforcement measures, centralizing enforcement, or other action required or authorized in response to a support arrearage under this act or the support and parenting time enforcement act, unless the payer fails to become current with the court ordered support payments within 2 months after entry of the order imposing or modifying support.

### **552.513 Domestic relations mediation; services; agreement; consent order; confidentiality of communications; minimum qualifications of mediator.**

Sec. 13. (1) The office shall provide, either directly or by contract, domestic relations mediation to assist the parties in settling voluntarily a dispute concerning child custody or parenting time that arises in a friend of the court case. Parties shall not be required to meet with a domestic relations mediator. The service may be provided directly by the office only if such a service is in place on July 1, 1983, if the service is not available from a private source, or if the court can demonstrate that providing the service within the friend of the court office is cost beneficial. Any expansion of existing services provided by the court on July 1, 1983 shall be provided by an individual meeting the domestic relations mediator minimum qualifications listed under subsection (4).

(2) If an agreement is reached by the parties through domestic relations mediation, a consent order incorporating the agreement shall be prepared by an employee of the office who is a member of the state bar of Michigan; under section 22, by a member of the state bar of Michigan; or by the attorney for 1 of the parties. The consent order shall be provided to, and shall be entered by, the court.

(3) Except as provided in subsection (2), a communication between a domestic relations mediator and a party to a domestic relations mediation is confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between the parties in the presence of the mediator.

(4) A domestic relations mediator who performs mediation under this act shall have all of the following minimum qualifications:

(a) One or more of the following:

(i) A license or a limited license to engage in the practice of psychology under parts 161 and 182 of the public health code, 1978 PA 368, MCL 333.16101 to 333.16349 and 333.18201 to 333.18237, or a master's degree in counseling, social work, or marriage and family counseling; and successful completion of the training program provided by the

bureau under section 19(3)(b).

(ii) Not less than 5 years of experience in family counseling, preferably in a setting related to the areas of responsibility of the friend of the court and preferably to reflect the ethnic population to be served, and successful completion of the training program provided by the bureau under section 19(3)(b).

(iii) A graduate degree in a behavioral science and successful completion of a domestic relations mediation training program certified by the bureau with not less than 40 hours of classroom instruction and 250 hours of practical experience working under the direction of a person who has successfully completed a program certified by the bureau.

(iv) Membership in the state bar of Michigan and successful completion of the training program provided by the bureau under section 19(3)(b).

(b) Knowledge of the court system of this state and the procedures used in domestic relations matters.

(c) Knowledge of other resources in the community to which the parties to a domestic relations matter can be referred for assistance.

(d) Knowledge of child development, clinical issues relating to children, the effects of divorce on children, and child custody research.

#### **552.515 Performance by mediator of certain functions involving party prohibited.**

Sec. 15. An employee of the office who performs domestic relations mediation in a friend of the court case involving a particular party shall not perform referee functions, investigation and recommendation functions, or enforcement functions as to any domestic relations matter involving that party.

#### **552.517 Review of child support order after final judgment; notices and conduct of review; modification order; certain determinations requiring report; contents of report; petition for modification; scheduling of hearing; objection to determination of no change in order; petition to require dependent health care coverage; costs.**

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 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 24 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) 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 is available and the support order should be modified to include an order for health care coverage. Reasonable grounds to review an order under this subdivision include temporary or permanent changes in the physical custody of a child that the court has not ordered, increased or decreased need of the child, probable access by an employed parent to dependent health care coverage, or changed financial conditions of a recipient or a payer of child support including, but not limited to, application for or receipt of public assistance, unemployment compensation, or worker's compensation.

(c) Upon receipt of a written request from either party. Within 15 days after receipt of the review request, the office shall determine whether the order is due for review. The

office is not required to investigate more than 1 request received from a party each 24 months.

(d) If a child is receiving medical assistance, not less than once each 24 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.

(e) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 24 months. Within 15 days after receipt of a review request, the office shall determine whether an order is due for review.

(2) Within 180 days after determining that a review is required under subsection (1), the office shall send notices as provided in section 17b(2) and (3), conduct a review, and obtain a modification of the order if appropriate.

(3) The office shall use the child support formula developed by the bureau under section 19 in calculating the child support award. If the office determines from the facts of the case that application of the child support formula would be unjust or inappropriate, or that income should not be based on actual income earned by the parties, the office shall prepare a written report that includes all of the following:

(a) The support amount, based on actual income earned by the parties, determined by application of the child support formula and all factual assumptions upon which that support amount is based.

(b) An alternative support recommendation and all factual assumptions upon which the alternative support recommendation is based.

(c) How the alternative support recommendation deviates from the child support formula.

(d) The reasons for the alternative support recommendation.

(e) All evidence known to the friend of the court that the individual is or is not able to earn the income imputed to him or her.

(4) The office shall petition the court if modification is determined to be necessary under subsection (3) unless either of the following applies:

(a) The difference between the existing and projected child support award is within 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 under subsection (3) that the facts of the case and the reasons and amount of the prior deviation remain unchanged.

(5) A petition for modification may be made at the same time the parties are provided with notice under section 17b(3). A hearing held on a proposed modification shall be scheduled no earlier than 30 days after the date of the notice provided for in section 17b(3).

(6) 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 30 days after the date of the notice provided for in section 17b(3), the office shall schedule a hearing before the court.

(7) 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 if either of

the following is true:

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

(b) Either parent is self-employed, maintains health care coverage for himself or herself, and can obtain health care coverage for the benefit of the child at a reasonable cost.

(8) 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 report under section 17b(4).

**552.517b Review of order; notice of right to request; notice of review; notice of increase or decrease in amount of child support, modification to order health care, or determination of no change in order; availability of documents.**

Sec. 17b. (1) Each party subject to a child support order shall be notified of the right to request a review of the order as provided in section 17, and the place and manner in which to make the request. For a friend of the court case, the notice shall be provided by the office or, pursuant to court rule, by the plaintiff, using the informational pamphlet required under section 5. The notice shall be sent to the party's last known address.

(2) The office shall notify each party of a review of a child support order under section 17 at least 30 days before the review is conducted. The notice shall request income, expense, or other information as needed from the party to conduct the review and shall specify the date by which that information is due. The notice shall be sent to each party to his or her last known address.

(3) After a review of a child support order has been conducted, the office shall notify each party of a proposed increase or decrease in the amount of child support, a proposed modification to order health care coverage, or a determination that there should be no change in the order. Notice of an increase or decrease in child support or a modification to order health care coverage can be provided by or with a copy of the petition for modification. The notice shall also inform the parties of both of the following:

(a) That the party may object to the proposed modification or determination that there should be no change in the order at a hearing before a referee or the court.

(b) The time, place, and manner in which to raise objections.

(4) The office shall make available to each party and his or her attorney a copy of the written report, transcript, recommendation, and supporting documents or a summary of supporting documents prepared or used by the office under section 17 before the court modifies a support order.

**552.517c Review of support order in another state; procedures.**

Sec. 17c. (1) If Michigan is the initiating state in an interstate friend of the court case involving child support, the office shall determine whether a review of a support order in another state is appropriate in accordance with section 17 and is appropriate based upon the residence and jurisdiction of the parties.

(2) If the office determines that a review of a support order in another state is appropriate, the office shall obtain income, expense, and other information needed to conduct the review from the requesting party or recipient of public assistance or medical assistance.

(3) The office shall initiate a request for a review within 20 calendar days after receipt of the information requested under subsection (2).

(4) The office shall forward to a party who resides in Michigan a copy of each notice issued by the responding state in conjunction with the review and modification of a support order, which notice is sent to the office for distribution.

**552.526 Grievance procedure; records; public access to report of grievances; powers and duties of citizen advisory committee.**

Sec. 26. (1) A party to a friend of the court case who has a grievance concerning office operations or employees shall utilize the following grievance procedure:

(a) File the grievance, in writing, with the appropriate friend of the court office. The office shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the office shall respond to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(b) A party who is not satisfied with the decision of the office under subdivision (a) may file a further grievance, in writing, with the chief judge. The chief judge shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the court shall respond to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(2) Each office shall maintain a record of grievances received and a record of whether the grievance is decided or outstanding. The record shall be transmitted not less than biannually to the bureau. Each office shall provide public access to the report of grievances prepared by the bureau under section 19.

(3) In addition to the grievance procedure provided in subsection (1), a party to a friend of the court case who has a grievance concerning office operations may file, at any time during the proceedings, the grievance in writing with the appropriate citizen advisory committee. In its discretion, the citizen advisory committee shall conduct a review or investigation of, or hold a formal or informal hearing on, a grievance submitted to the committee. The citizen advisory committee may delegate its responsibility under this subsection to subcommittees appointed as provided in section 4a.

(4) In addition to action taken under subsection (3), the citizen advisory committee shall establish a procedure for randomly selecting grievances submitted directly to the office of the friend of the court. The citizen advisory committee shall review the response of the office to these grievances and report its findings to the court and the county board, either immediately or in the committee's annual report.

(5) The citizen advisory committee shall examine the grievances filed with the friend of the court under this section and shall review or investigate each grievance that alleges that a decision was made based on gender rather than the best interests of the child.

(6) If a citizen advisory committee reviews or investigates a grievance, the committee shall respond to the grievance as soon as practicable.

(7) A grievance filed under subsection (3) is limited to office operations, and the citizen advisory committee shall inform an individual who files with the committee a grievance that concerns an office employee or a court or office decision or recommendation regarding a specific case that such a matter is not a proper subject for a grievance.

**Repeal of § 552.517a.**

Enacting section 1. Section 17a of the friend of the court act, 1982 PA 294, MCL 552.517a, is repealed.



**Effective date.**

Enacting section 2. (1) Sections 2, 2a, 5, 9, 11, 13, 15, 17, 17b, 17c, and 26 of the friend of the court act, MCL 552.502, 552.502a, 552.505, 552.509, 552.511, 552.513, 552.515, 552.517, 552.517b, 552.517c, and 552.526, as amended by this amendatory act, take effect June 1, 2003.

(2) Section 5a of the friend of the court act, MCL 552.505a, as added by this amendatory act, takes effect December 1, 2002.

**Conditional effective date.**

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

- (a) House Bill No. 6008.
- (b) House Bill No. 6009.
- (c) House Bill No. 6010.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**Compiler's note:** The bills referred to in enacting section 3 were enacted into law as follows:

House Bill No. 6008 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 564, Eff. Mar. 31, 2003.

House Bill No. 6009 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 569, Eff. Dec. 1, 2002.

House Bill No. 6010 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 570, Eff. June 1, 2003.

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**[No. 572]****(HB 6012)**

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 3, 3a, 4, 5a, 7, 10, 17, 19, 24, 24a, and 26 (MCL 552.602, 552.603, 552.603a, 552.604, 552.605a, 552.607, 552.610, 552.617, 552.619, 552.624, 552.624a, and 552.626), section 2 as amended by 1999 PA 160, sections 3 and 26 as amended and section 5a as added by 2001 PA 106, section 3a as amended by 1996 PA 120, sections 4, 7, 17, and 19 as amended and section 24a as added by 1998 PA 334, and section 24 as added by 1985 PA 210.

*The People of the State of Michigan enact:*

**552.602 Definitions.**

Sec. 2. As used in this act:

(a) "Account" means any of the following:

- (i) A demand deposit account.
- (ii) A draft account.
- (iii) A checking account.
- (iv) A negotiable order of withdrawal account.

(v) A share account.

(vi) A savings account.

(vii) A time savings account.

(viii) A mutual fund account.

(ix) A securities brokerage account.

(x) A money market account.

(xi) A retail investment account.

(b) “Account” does not mean any of the following:

(i) A trust.

(ii) An annuity.

(iii) A qualified individual retirement account.

(iv) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(v) A pension or retirement plan.

(vi) An insurance policy.

(c) “Address” means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) “Cash” means money or the equivalent of money, such as a money order, cashier’s check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) “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.

(f) “Department” means the family independence agency.

(g) “Domestic relations matter” means a circuit court proceeding as to child custody or parenting time, or child 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) 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) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(vii) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) “Driver’s license” means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) “Employer” means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) “Financial asset” means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) “Financial institution” means any of the following:

(i) A state or national bank.

(ii) A state or federally chartered savings and loan association.

(iii) A state or federally chartered savings bank.

(iv) A state or federally chartered credit union.

(v) An insurance company.

(vi) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(vii) An entity regulated by the securities and exchange commission that collects funds from the public.

(viii) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(ix) Another entity that collects funds from the public.

(l) “Friend of the court act” means 1982 PA 294, MCL 552.501 to 552.535.

(m) “Friend of the court case” means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term “friend of the court case”, when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) “Income” means any of the following:

(i) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker’s compensation.

(iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) “Insurer” means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(i) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(ii) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(iii) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) “Medical assistance” means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) “Occupational license” means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that

allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) “Office of child support” means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) “Office of the friend of the court” means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) “Order of income withholding” means an order entered by the circuit court providing for the withholding of a payer’s income to enforce a support order under this act.

(u) “Payer” means an individual who is ordered by the circuit court to pay support.

(v) “Person” means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) “Plan administrator” means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) “Political subdivision” means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) “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.

(z) “Recreational or sporting license” means a hunting, fishing, or fur harvester’s license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) “Referee” means a person who is designated as a referee under the friend of the court act.

(bb) “Source of income” means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) “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.

(dd) “State friend of the court bureau” means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) “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 incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(iii) A surcharge accumulated under section 3a.

(ff) “Support order” means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) “Title IV-D” means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) “Title IV-D agency” means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) “Work activity” means any of the following:

(i) Unsubsidized employment.

(ii) Subsidized private sector employment.

(iii) Subsidized public sector employment.

(iv) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(v) On-the-job training.

(vi) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(vii) Community service programs.

(viii) Vocational educational training, not to exceed 12 months with respect to an individual.

(ix) Job skills training directly related to employment.

(x) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(xi) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(xii) The provisions of child care services to an individual who is participating in a community service program.

### **552.603 Support order; enforcement.**

Sec. 3. (1) A support order issued by a court of this state shall be enforced as provided in this act.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter is a judgment on and after the date the support amount is due as prescribed in section 5c, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

(3) This section does not apply to an ex parte interim support order or a temporary support order entered under supreme court rule.

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 5 of the friend of the court act, MCL 552.505.

(5) This section does not prohibit a court approved agreement between the parties to retroactively modify a support order. This section does not limit other enforcement remedies available under this or another act.

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter shall include all of the following:

(a) Substantially the following statement: “Except as otherwise provided in section 3 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603, a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support amounts that are past due as provided in section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a.”.

(b) Notice informing the payer of the imposition of liens by operation of law and that the payer’s real and personal property can be encumbered or seized if an arrearage accrues in an amount greater than the amount of periodic support payments payable under the payer’s support order for the time period specified in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(7) Each support order that is an order in a friend of the court case shall include all of the following:

(a) A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that individual report the new address and his or her telephone number in writing to the friend of the court.

(b) A requirement that both the payer and payee notify the office of the friend of the court if he or she holds an occupational license and if he or she holds a driver’s license.

(c) The name, address, and telephone number of the payer’s and payee’s current sources of income.

(d) A requirement that both the payer and payee inform the office of the friend of the court of his or her social security number and driver’s license number. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.

(e) Notice that an order for dependent health care coverage takes effect immediately and will be sent to the parent’s current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.

(8) A support order shall not accrue interest.

### **552.603a Support payment; addition of past due rate; application.**

Sec. 3a. (1) For a friend of the court case, as of January 1 and July 1 of each year, a surcharge calculated at an 8% annual rate shall be added to support payments that are past due as of those dates. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 1 month’s support for purposes of assessing the surcharge. A surcharge under

this subsection shall not be added to support ordered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the time period to the date of the support order.

(2) Upon receiving money for payment of support, the friend of the court shall apply the amount received first to current support and then to any support arrearage including any surcharges imposed under this section.

**552.604 Support order to provide for order of income withholding; order of income withholding by operation of law; notice; effective date of order.**

Sec. 4. (1) After July 1, 1983, each support order entered or modified by the circuit court shall provide for an order of income withholding.

(2) Each support order entered by the circuit court on or before July 1, 1983 shall be considered to provide for an order of income withholding by operation of law, and income withholding shall be implemented under the same circumstances and enforced in the same manner as in the case of orders of income withholding required by subsection (1). The office of the friend of the court shall send notice of the provisions of this subsection by ordinary mail to each payer under a support order entered by the circuit court on or before July 1, 1983 to whom this subsection applies.

(3) An order of income withholding in a support order including consideration of any abatements of support entered or modified after December 31, 1990, shall take effect immediately unless 1 of the following applies:

(a) The court finds, upon notice and hearing, that there is good cause for the order of income withholding not to take effect immediately. For purposes of this subdivision, a finding of good cause shall be based on at least all of the following:

(i) A written and specific finding by the court why immediate income withholding would not be in the child's best interests.

(ii) Proof of timely payment of previously ordered support, if applicable.

(iii) For a friend of the court case, an agreement by the payer that he or she shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(b) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall not take effect immediately.

(ii) An alternative payment arrangement.

(iii) For a friend of the court case, that the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(4) Except as otherwise provided in subsection (3)(a) or (b), an order of income withholding in an ex parte interim support order shall take effect after the expiration of 21 days after the order has been served on the opposite party unless the opposite party files a written objection to the ex parte interim support order during that 21-day period.

(5) An order of income withholding that does not take effect immediately as provided in this section shall take effect when the requirement of section 7 is met.

(6) The court for cause or at the request of the payer may order the withholding of income to take effect immediately.

(7) An order of income withholding in a support order entered on or before December 31, 1990 shall take effect when the requirement of section 7 is met.

### **552.605a Information to be provided to office of the friend of the court; health care coverage; bond.**

Sec. 5a. (1) For a friend of the court case, a child support order entered or modified by the court shall provide that each party shall keep the office of the friend of the court informed of both of the following:

(a) The name and address of his or her current source of income.

(b) Health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, nonprofit health care corporation, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(2) If a child support order is entered, the court shall require that 1 or both parents obtain or maintain health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(3) A court may require either parent to file a bond with 1 or more sufficient sureties, in a sum to be fixed by the court, guaranteeing payment of child support.

### **552.607 Notice of arrearage to payer; contents; sending copy of notice to recipient; request for hearing; delaying order of income withholding; time of hearing; de novo hearing; consolidation of hearings; completion of proceedings.**

Sec. 7. (1) For a friend of the court case, if the arrearage under a support order reaches the arrearage amount that requires the initiation of 1 or more support enforcement measures as provided in section 11 of the friend of the court act, MCL 552.511, the office of the friend of the court immediately shall send notice of the arrearage to the payer by ordinary mail to his or her last known address. The notice to the payer shall contain the following information:

(a) The amount of the arrearage.

(b) That the payer's income is subject to income withholding and the amount to be withheld.

(c) That income withholding will be applied to current and subsequent employers and periods of employment and other sources of income.



(d) That the order of income withholding is effective and notice to withhold income will be sent to the payer's source of income.

(e) That the payer may request a hearing within 21 days after the date of the notice to contest the withholding, but only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(f) That if the hearing is held before a referee, the payer has a right to a de novo hearing before a circuit court judge.

(g) That if the payer believes that the amount of support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.

(3) A payer to whom notice is sent under subsection (1), within 21 days after the date on which the notice was sent, may request a hearing on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(4) A referee or circuit judge shall hold a hearing requested under this section within 14 days after the date of the request. If at the hearing the payer establishes that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, the referee or circuit judge may direct that the order of income withholding be rescinded until such time as the referee or judge determines.

(5) If the hearing provided under subsection (4) is held before a referee, either party may request a de novo hearing as provided in section 7 of the friend of the court act, MCL 552.507.

(6) If a petition for modification of the support order is filed by or on behalf of a payer and is pending at the date scheduled for a hearing under subsection (4), the court may consolidate the hearing under subsection (4) and a hearing on the petition for modification.

(7) All proceedings under this section shall be completed within 45 days after the date that notice was sent under subsection (1), unless otherwise permitted by the court upon a showing of good cause.

### **552.610 Payer to give friend of court name and address of employer.**

Sec. 10. For a friend of the court case, the payer shall give to the office of the friend of the court at the time the order of income withholding is issued the name and address of his or her employer. The payer shall immediately give to the office of the friend of the court notice of the name and address of any subsequent employer.

### **552.617 Notice of support modification; changing amount assigned or withheld.**

Sec. 17. For a friend of the court case, if the court orders a modification in support and an order of income withholding has been entered under this act, the office of the friend of the court shall give to a source of income to which notice of income withholding was sent under section 11 a notice of the modification by ordinary mail or by electronic means as agreed by the source of income and the office of the friend of the court. The amount assigned or withheld shall be changed to conform with the court ordered modification 7 days after receipt of the notice of modification.

**552.619 Modifying support order to exclude support for child of whom payer awarded sole custody; suspension or termination of order of income withholding; circumstances prohibiting written agreement; effectiveness of order of income withholding; refund of money improperly withheld.**

Sec. 19. (1) If the court awards to the payer sole custody of a child for whom the payer has been previously ordered to pay support and a previously accumulated arrearage under the support order for that child does not exist, the court shall modify any existing support order to exclude support ordered to be paid by that payer for that particular child. If an existing support order does not provide for support to any other child of whom the payer does not have custody, for support to a former spouse, or for payments of confinement or pregnancy expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The office of the friend of the court shall suspend or terminate an order of income withholding under any of the following circumstances:

(a) The location of the child and custodial parent cannot be determined for a period of 60 days or more, and the friend of the court case is being closed.

(b) The court determines that there is no further support obligation.

(c) When otherwise determined by the court, upon a showing of good cause, and if the court determines that such suspension or termination is not contrary to the best interests of the child. In making a determination under this subdivision, the court may consider the previous payment record of the payer, evidence of the payer's intent to make regular and timely support payments, and any other factors considered relevant by the court. However, the payment of arrearages under the support order shall not be the sole reason for termination of an order of income withholding.

(d) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(i) The order of income withholding shall be suspended.

(ii) An alternative payment arrangement.

(iii) For a friend of the court case, the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(3) The parties shall not enter into a written agreement under subsection (2)(d) if either of the following circumstances exists:

(a) There is a support arrearage.

(b) An order of income withholding was previously suspended or terminated and subsequently implemented due to the payer's failure to pay support.

(4) If a written agreement is entered into under subsection (2)(d), the order of income withholding shall take effect when an arrearage in support payments as agreed to under the written agreement reaches the arrearage amount that would require the initiation of 1 or more support enforcement measures if the case were a friend of the court case, as provided in section 11 of the friend of the court act, MCL 552.511.

(5) The court may suspend or terminate an order of income withholding if the custodial parent moves out of the state without court authorization.

(6) The office of the friend of the court shall promptly refund money that has been improperly withheld.

### **552.624 Offset proceedings against delinquent payer's tax refunds.**

Sec. 24. For a friend of the court case, if a support arrearage has accrued, the office of the friend of the court may request the office of child support to initiate offset proceedings against the delinquent payer's state tax refunds and federal income tax refunds as provided in section 3a of the office of child support act, 1971 PA 174, MCL 400.233a.

### **552.624a Proceedings to set aside transfer of title or ownership of property without fair consideration.**

Sec. 24a. For a friend of the court case, if a support arrearage has accrued and there is reason to believe the payer transferred title or ownership of real or personal property without fair consideration, the title IV-D agency shall initiate proceedings to have the transfer set aside as provided in the uniform fraudulent transfer act, 1998 PA 434, MCL 566.31 to 566.43, or obtain a settlement in the form of full payment of the arrearage or in periodic repayments as is possible in the best interest of the recipient of support.

### **552.626 Notice of income withholding; failure of parent to obtain or maintain health care coverage for child; duties of friend of the court.**

Sec. 26. (1) For a friend of the court case, within 2 business days after a new hire report is entered into the state directory of new hires, as created under section 453A of title IV-D, 42 U.S.C. 653a, or a payer's or parent's employer is otherwise identified, the office shall, when appropriate, provide the new employer with a notice of income withholding or a notice of the order for dependent health care coverage, or both, on behalf of a payer who is subject to income withholding or a parent or payer who is required to provide dependent health care coverage.

(2) If an order for dependent health care coverage was entered before September 30, 2001, the office shall, at the time notice of the order is sent to the employer under subsection (1), provide the payer or parent with instructions on how to request a review or hearing to contest the availability of dependent health care coverage at a reasonable cost.

(3) Notwithstanding subsection (2), if a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the office of the friend of the court shall, as applicable, do either of the following:

(a) Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.

(b) Send notice of noncompliance to the parent. The notice shall contain all of the following information:

(i) That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent does either of the following within 21 days after mailing of the notice:

(A) Submits written proof to the friend of the court of the child's enrollment in a health care coverage plan.

(B) Requests a hearing to determine the availability or reasonable cost of the health care coverage.

(ii) That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

**Effective date.**

Enacting section 1. This amendatory act takes effect December 1, 2002.

**Conditional effective date.**

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6004 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**Compiler's note:** House Bill No. 6004, referred to in enacting section 2, was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 565, Eff. Dec. 1, 2002.

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**[No. 573]**

**(HB 6017)**

AN ACT to amend 1939 PA 280, entitled “An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates,” (MCL 400.1 to 400.119b) by adding section 43b.

*The People of the State of Michigan enact:*

**400.43b Office of inspector general; establishment as criminal justice agency; duties.**

Sec. 43b. An office of inspector general is established as a criminal justice agency in the family independence agency. The primary duty of the inspector general is to investigate cases of alleged fraud within the department. The inspector general shall also perform the following activities:

(a) Investigate fraud, waste, and abuse in the programs administered by the family independence agency.

(b) Make referrals for prosecution and disposition of appropriate cases as determined by the inspector general.

(c) Review administrative policies, practices, and procedures.

(d) Make recommendations to improve program integrity and accountability.

**Effective date.**

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**[No. 574]**

**(HB 6020)**

AN ACT to amend 1966 PA 138, entitled “An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents; to provide for the termination of the effectiveness of the orders; and to provide for the payment of fees and assessment of costs in those cases,” by amending the title and sections 2 and 8a (MCL 552.452 and 552.458a), the title as amended by 1990 PA 237, section 2 as amended by 2001 PA 111, and section 8a as added by 1999 PA 158.

*The People of the State of Michigan enact:*

TITLE

An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents and to enter orders governing custody and parenting time for those children; to provide for the termination of the effectiveness of the support orders; and to provide for the payment of fees and assessment of costs in those cases.

**552.452 Hearing; order; contents; burden of proving lack of ability to provide support; amount; enforcement of order; custody and parenting time.**

Sec. 2. (1) Upon the hearing of the complaint, in the manner of a motion, the court may enter an order as it determines proper for the support of the petitioner and the minor child or children of the parties as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605. The order shall provide that payment shall be made to the friend of the court or the state disbursement unit. If the parent complained of opposes the entry of the order upon the ground that he or she is without sufficient financial ability to provide necessary shelter, food, care, clothing, and other support for his or her spouse and child or children, the burden of proving this lack of ability is on the parent against whom the complaint is made. The order shall state in separate paragraphs

the amount of support for the petitioner until the further order of the court, and the amount of support for each child until each child reaches 18 years of age or until the further order of the court. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for the child after the child reaches 18 years of age, or until the further order of the court.

(2) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(3) If there is no dispute regarding a child's custody, the court shall include in an order for support issued under this act specific provisions governing custody of and parenting time for the child in accordance with the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31. If there is a dispute regarding custody of and parenting time for the child, the court shall include in an order for support issued under this act specific temporary provisions governing custody of and parenting time for the child. Pending a hearing on or other resolution of the dispute, the court may refer the matter to the office of the friend of the court for a written report and recommendation as provided in section 5 of the friend of the court act, 1982 PA 294, MCL 552.505. In a dispute regarding custody of and parenting time for a child, the prosecuting attorney is not required to represent either party regarding the dispute.

### **552.458a Transition to centralized receipt and disbursement of support and fees.**

Sec. 8a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7 of the office of child support act, 1971 PA 174, MCL 400.237, and modifications to that schedule as the department considers necessary.

#### **Effective date.**

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.

Approved October 3, 2002.

Filed with Secretary of State October 3, 2002.

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**[No. 575]**

**(HB 5896)**

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to

prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing,” by amending section 12a (MCL 125.2162a), as added by 2000 PA 248.

*The People of the State of Michigan enact:*

**125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement.**

Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

- (i) Grants of preferences for access to and commercialization of intellectual property.
- (ii) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.
- (iii) Donations of services.
- (iv) Access to telecommunication facilities and other infrastructure.
- (v) Financial commitments.
- (vi) Access to faculty, staff, and students.
- (vii) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

- (i) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(ii) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(iii) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(i) A commitment to new business formation.

(ii) The clustering of businesses, technology, and research.

(iii) The opportunity for and costs of development of properties under common ownership or control.

(iv) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(v) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(p)(iii) and (v).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(aa).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.



(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) An agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsection (9), the Michigan economic development corporation shall not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation shall give priority to applications that include new business activity.

(11) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(12) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsection (9) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan

economic development corporation after the effective date of the amendatory act that added this subdivision. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) after the effective date of the amendatory act that added this subdivision.

This act is ordered to take immediate effect.  
Approved October 3, 2002.  
Filed with Secretary of State October 3, 2002.

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**[No. 576]**

**(HB 4147)**

AN ACT to amend 1947 PA 359, entitled “An act to authorize the incorporation of charter townships; to provide a municipal charter therefor; to prescribe the powers and functions thereof; and to prescribe penalties and provide remedies,” by amending section 31 (MCL 42.31).

*The People of the State of Michigan enact:*

**42.31 Local or public improvements; approval; determination of necessity; special assessments; bonds.**

Sec. 31. Each charter township may make local or public improvements by paving streets that are not a part of the county highway system, laying curbs and gutters, installing elevated structures for foot travel over highways within the township with the written approval of the director of the state transportation department if the highways are state highways or with the written approval of the board of county road commissioners if the highways are county roads, laying sidewalks, installing solid waste disposal systems, steam generation and distribution, paving streets that are a part of the county highway system with the consent of and according to specifications of the county road commission, laying storm and sanitary sewers and separating storm water drainage and footing drains from sanitary sewers on privately owned property for a public purpose, installing water systems, and installing street and highway lighting systems, and further may maintain or operate these improvements. The township board of each charter township may determine the necessity of the local or public improvement and may determine that the whole or any part of the expense of the local or public improvement shall be defrayed by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement. A special assessment under this section shall be made in all respects as provided for the making of special assessments under 1954 PA 188, MCL 41.721 to 41.738. Each charter township may borrow money and issue bonds therefor in anticipation of the payment of special assessments, which may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the township. Bonds issued under this act shall be issued in accordance with 1954 PA 188, MCL 41.721 to 41.738.

This act is ordered to take immediate effect.  
Approved October 3, 2002.  
Filed with Secretary of State October 3, 2002.