

Legislative Analysis



FRIEND OF THE COURT REPORT IN DIVORCE PROCEEDINGS

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House Bill 5472
Sponsor: Rep. Ken Bradstreet
Committee: Judiciary

Complete to 3-29-04

A SUMMARY OF HOUSE BILL 5472 AS INTRODUCED 2-5-04

The bill would amend Chapter 84 of the Revised Statutes of 1846, entitled "Of divorce". The bill would vest Friend of the Court offices with determining the interest of the children and the public good in a divorce proceeding, require FOC to file those determinations with the court, require FOC to provide an annual report to the State Court Administrative Office (SCAO) regarding its involvement in divorce proceedings, and define "interests of the child".

Currently, each complaint for an action for divorce must list the names and ages of children of the marriage. If there are children under 17 years of age, a copy of the summons must be served on the county prosecutor, except, in counties with a population of 500,000 or more, the summons could be served on either the prosecutor or the Friend of the Court (FOC). Instead, House Bill 5472 would require each summons to be served on the county FOC. The FOC would have to fulfill the statutory obligations previously assigned to the county prosecutor, which includes introducing evidence and appearing at a hearing to oppose the judgment of divorce if the interest of the children or the public good so required. A provision allowing the prosecutor or FOC to oppose a divorce for the public good in cases that did not involve children would be eliminated, as would a provision allowing prosecutors or their partners or the FOC from acting as a solicitor or counsel for either party in the divorce proceeding.

The FOC would have to file with the court (and provide to a party upon request) a determination of the interests of the child and the good. The FOC would also have to annually provide to the SCAO a report stating the number of court appearances, the number of children involved in each appearance, the number of divorces that were opposed as not being in the best interest of the child, and the number of divorces that were opposed as not being in the best interest of the public good.

"Interests of the child" would mean the sum total of the following factors to be considered, evaluated, and determined by the court:

- If a divorce was likely to do any of a number of listed things, such as improve, maintain, or diminish love and affection between the parents and child and reduce domestic violence or mental anguish of any of the parties involved.
- The preference of the child, if the FOC considered the child to be of sufficient age to express a preference.
- Any other factor considered by the FOC to be relevant to a particular child.

MCL 552.45

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