

SENATE BILL No. 1299

June 17, 2004, Introduced by Senators HARDIMAN, CROPSEY, BARCIA and PATTERSON and referred to the Committee on Families and Human Services.

A bill to amend 1982 PA 294, entitled "Friend of the court act," by amending sections 1, 2, 2a, 5, 5a, 7, 9, 11, 11b, 13, 17, 19, and 28 (MCL 552.501, 552.502, 552.502a, 552.505, 552.505a, 552.507, 552.509, 552.511, 552.511b, 552.513, 552.517, 552.519, and 552.528), sections 1 and 7 as amended by 1996 PA 144, sections 2, 2a, 5, 9, 11, 13, and 17 as amended and section 5a as added by 2002 PA 571, section 11b as added and section 19 as amended by 2002 PA 569, and section 28 as added by 1996 PA 365.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "friend of the court act".

3 (2) The purposes of this act are to enumerate and describe
4 the powers and duties of the friend of the court and the office
5 of the friend of the court; to ensure that procedures adopted by

1 the friend of the court will protect the best interests of
2 children in domestic relations matters; to encourage and assist
3 parties voluntarily to resolve contested domestic relations
4 matters by agreement; to compel the enforcement of parenting time
5 ~~and custody~~ orders; and to compel the enforcement of support
6 orders, ensuring that persons legally responsible for the care
7 and support of children assume their legal obligations and
8 reducing the financial cost to this state of providing public
9 assistance funds for the care of children. This act shall be
10 construed to promote the enumerated purposes and to facilitate
11 the resolution of domestic relations matters.

12 Sec. 2. As used in this act:

13 (a) "Bureau" means the state friend of the court bureau
14 created in section 19.

15 (b) "Centralizing enforcement" means the process authorized
16 under section 10 of the office of the child support act, 1971 PA
17 174, MCL 400.231 to 400.240.

18 (c) "Chief judge" means the following:

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

21 (ii) Except in the county of Wayne, the chief judge of the
22 circuit court in a judicial circuit having 2 or more circuit
23 judges.

24 (iii) In the county of Wayne, the executive chief judge of
25 the circuit court in the third judicial circuit.

26 (d) "Citizen advisory committee" means a citizen friend of
27 the court advisory committee established as provided in section

1 4.

2 (e) "Consumer reporting agency" means a person that, for
3 monetary fees or dues, or on a cooperative nonprofit basis,
4 regularly engages in whole or in part in the practice of
5 assembling or evaluating consumer credit information or other
6 information on consumers for the purpose of furnishing consumer
7 reports to third parties, and that uses any means or facility of
8 interstate commerce for the purpose of preparing or furnishing
9 consumer reports. As used in this subdivision, "consumer report"
10 means that term as defined in section 603 of the fair credit
11 reporting act, title VI of the consumer credit protection act,
12 ~~Public Law 90 321, 15 U.S.C.~~ **15 USC** 1681a.

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

18 (g) "Court" means the circuit court.

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

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

27 (i) ~~(j)~~ "Department" means the family independence agency.

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

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

6 (ii) The family support act, 1966 PA 138, MCL 552.451 to
7 552.459.

8 (iii) Child ~~custody act of 1970~~ **parenting time act**, 1970 PA
9 91, MCL 722.21 to 722.31.

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

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

12 (vi) Revised uniform reciprocal enforcement of support act,
13 1952 PA 8, MCL 780.151 to 780.183.

14 (vii) Uniform interstate family support act, 1996 PA 310, MCL
15 552.1101 to 552.1901.

16 (k) ~~(l)~~ "Domestic relations mediation" means a process by
17 which the parties are assisted by a domestic relations mediator
18 in voluntarily formulating an agreement to resolve a dispute
19 concerning ~~child custody or~~ parenting time that arises from a
20 domestic relations matter.

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

24 (m) ~~(n)~~ "Friend of the court case" means a domestic
25 relations matter that an office establishes as a friend of the
26 court case as required under section 5a. The term "friend of the
27 court case", when used in a provision of this act, is not

1 effective until on and after the effective date of section 5a.

2 (n) ~~(e)~~ "Income" means that term as defined in section 2 of
3 the support and parenting time enforcement act, 1982 PA 295, MCL
4 552.602.

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

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

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

12 (c) **"Parenting time order violation" means an individual's**
13 **act or failure to act that interferes with a parent's right to**
14 **interact with his or her child in the time, place, and manner**
15 **established in the order that governs parenting time between the**
16 **parent and the child and to which the individual accused of**
17 **interfering is subject.**

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

20 (e) ~~(d)~~ "Public assistance" means cash assistance provided
21 under the social welfare act, 1939 PA 280, 400.1 to 400.119b.

22 (f) ~~(e)~~ "Recipient of support" means the following:

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

24 (ii) The ~~custodial~~ parent **who has the greater amount of**
25 **parenting time** or guardian, if the support order orders support
26 for a minor child or a child who is 18 years of age or older.

27 (iii) The family independence agency, if support has been

1 assigned to that department.

2 **(g)** ~~—(f)—~~ "State advisory committee" means the committee
3 established by the bureau under section 19.

4 **(h)** ~~—(g)—~~ "State disbursement unit" or "SDU" means the entity
5 established in section 6 of the office of child support act, 1971
6 PA 174, MCL 400.236.

7 **(i)** ~~—(h)—~~ "Support" means all of the following:

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

13 (ii) The payment of money ordered by the circuit court under
14 the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the
15 necessary expenses incurred by or for the mother in connection
16 with her confinement, for other expenses in connection with the
17 pregnancy of the mother, or for the repayment of genetic testing
18 expenses.

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

21 **(j)** ~~—(i)—~~ "Support and parenting time enforcement act" means
22 1982 PA 295, MCL 552.601 to 552.650.

23 **(k)** ~~—(j)—~~ "Support order" means an order entered by the
24 circuit court for the payment of support in a sum certain,
25 whether in the form of a lump sum or a periodic payment.

26 **(l)** ~~—(k)—~~ "Title IV-D" means part D of title IV of the social
27 security act, ~~chapter 531, 49 Stat. 620, 42 U.S.C.~~ **42 USC 651**

1 to 655, 656 to 657, 658a to 660, and 663 to 669b.

2 (m) ~~(l)~~ "Title IV-D agency" means that term as defined in
3 section 2 of the support and parenting time enforcement act, MCL
4 552.602.

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

7 (a) To inform each party to the domestic relations matter
8 that, unless 1 of the parties is required to participate in the
9 title IV-D child support program, they may choose not to have the
10 office of the friend of the court administer and enforce
11 obligations that may be imposed in the domestic relations
12 matter.

13 (b) To inform each party to the domestic relations matter
14 that, unless 1 of the parties is required to participate in the
15 title IV-D child support program, they may direct the office of
16 the friend of the court to close the friend of the court case
17 that was opened in their domestic relations matter.

18 (c) To provide an informational pamphlet, in accordance with
19 the model pamphlet developed by the bureau, to each party to a
20 domestic relations matter. The informational pamphlet shall
21 explain the procedures of the court and the office; the duties of
22 the office; the rights and responsibilities of the parties,
23 including notification that each party to the dispute has the
24 right to meet with the individual investigating the dispute
25 before that individual makes a recommendation regarding the
26 dispute; the availability of and procedures used in domestic
27 relations mediation; the availability of human services in the

1 community; the availability of joint ~~custody~~ **parenting time** as
2 described in section 6a of the child ~~custody act of 1970~~
3 **parenting time act**, 1970 PA 91, MCL 722.26a; and how to file a
4 grievance regarding the office. The informational pamphlet shall
5 be provided as soon as possible after the filing of a complaint
6 or other initiating pleading. Upon request, a party shall
7 receive an oral explanation of the informational pamphlet from
8 the office.

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

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

20 (f) To inform the parents of the availability of joint
21 ~~custody~~ **parenting time** as described in section 6a of the child
22 ~~custody act of 1970~~ **parenting time act**, 1970 PA 91, MCL
23 722.26a, if there is a dispute between the parents as to ~~child~~
24 ~~custody~~ **parenting time**.

25 (g) To investigate all relevant facts, and to make a written
26 report and recommendation to the parties and to the court
27 regarding ~~child custody or~~ parenting time, ~~or both,~~ if there

1 is a dispute as to ~~child custody or~~ parenting time, ~~or both,~~
2 and domestic relations mediation is refused by either party or is
3 unsuccessful, or if ordered to do so by the court. The
4 investigation may include reports and evaluations by outside
5 persons or agencies if requested by the parties or the court, and
6 shall include documentation of alleged facts, if practicable. If
7 requested by a party, an investigation shall include a meeting
8 with the party. A written report and recommendation regarding
9 ~~child custody or~~ parenting time, ~~or both,~~ shall be based upon
10 the factors enumerated in the child ~~custody act of 1970~~
11 **parenting time act**, 1970 PA 91, MCL 722.21 to 722.31.

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

1 written report shall also include all of the following:

2 (i) An alternative support recommendation.

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

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

7 (iv) The reasons for the alternative support recommendation.

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

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

22 (2) The parties to a domestic relations matter are not
23 required to have a friend of the court case opened or maintained
24 for their domestic relations matter. With their initial
25 pleadings, the parties to a domestic relations matter may file a
26 motion for the court to order the office of the friend of the
27 court not to open a friend of the court case for the domestic

1 relations matter. If the parties to a domestic relations matter
2 file a motion under this subsection, the court shall issue that
3 order unless the court determines 1 or more of the following:

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

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

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

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

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

25 (3) If a friend of the court case is not opened for a
26 domestic relations matter, the parties to the domestic relations
27 matter have full responsibility for administration and

1 enforcement of the obligations imposed in the domestic relations
2 matter.

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

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

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

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

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

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

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

27 (g) The parties have not filed with the court a document,

1 signed by each party, that includes a list of the friend of the
2 court services and an acknowledgment that the parties are
3 choosing to do without those services.

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

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

21 (7) If a party to a domestic relations matter for which there
22 is not an open friend of the court case applies for services from
23 the office of the friend of the court or applies for public
24 assistance, the office of the friend of the court shall open or
25 reopen a friend of the court case. If the office of the friend
26 of the court opens or reopens a friend of the court case as
27 required by this subsection, the court shall issue an order in

1 that domestic relations matter that contains the provisions
2 required by this act and by the support and parenting time
3 enforcement act for a friend of the court case.

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

12 Sec. 7. (1) The chief judge may designate as referee the
13 friend of the court; an employee of the office who is a member of
14 the state bar of Michigan; or, under section 22, a member of the
15 state bar of Michigan.

16 (2) A referee may do all of the following:

17 (a) Hear all motions in a domestic relations matter, except
18 motions pertaining to an increase or decrease in spouse support,
19 referred to the referee by the court.

20 (b) Administer oaths, compel the attendance of witnesses and
21 the production of documents, and examine witnesses and parties.

22 (c) Make a written, signed report to the court containing a
23 summary of testimony given, a statement of findings, and a
24 recommended order; or make a statement of findings on the record
25 and submit a recommended order.

26 (d) Hold hearings as provided in the support and parenting
27 time enforcement act, ~~Act No. 295 of the Public Acts of 1982,~~

1 ~~being sections 552.601 to 552.650 of the Michigan Compiled Laws~~
2 **1982 PA 295, MCL 552.601 to 552.650.** The referee shall make a
3 record of each hearing held.

4 (e) Accept a voluntary acknowledgment of support liability,
5 and review and make a recommendation to the court concerning a
6 stipulated agreement to pay support.

7 (f) Recommend a default order establishing, modifying, or
8 enforcing a support obligation in a domestic relations matter.

9 (3) If ordered by the court, or if stipulated by the parties,
10 a referee shall make a transcript, verified by oath, of each
11 hearing held. The cost of preparing a transcript shall be
12 apportioned equally between the parties, unless otherwise ordered
13 by the court.

14 (4) A copy of each report, recommendation, transcript, and
15 any supporting documents or a summary of supporting documents
16 prepared or used by the friend of the court or an employee of the
17 office shall be made available to the attorney for each party and
18 to each of the parties before the court takes any action on a
19 recommendation made under this section or section 5. In a ~~child~~
20 ~~custody~~ **parenting time** dispute, the parties shall be informed of
21 whether a ~~custody~~ **parenting time** preference expressed by the
22 child was considered, evaluated, and determined by the court, but
23 the parties shall not be informed of the preference expressed by
24 the child under section 3 of the child ~~custody act of 1970, Act~~
25 ~~No. 91 of the Public Acts of 1970, being section 722.23 of the~~
26 ~~Michigan Compiled Laws~~ **parenting time act, 1970 PA 91, MCL**
27 **722.23.** If a guardian is appointed for a child, the guardian

1 shall be informed whether a ~~custody~~ **parenting time** preference
2 expressed by the child was considered, evaluated, and determined
3 by the court, and, if so, the preference expressed. The manner
4 and time within which this material is made available shall be
5 determined by supreme court rule.

6 (5) The court shall hold a de novo hearing on any matter that
7 has been the subject of a referee hearing, upon the written
8 request of either party or upon motion of the court. The request
9 of a party shall be made within 21 days after the recommendation
10 of the referee is made available to that party under subsection
11 (4), except that a request for a de novo hearing concerning an
12 order of income withholding shall be made within 14 days after
13 the recommendation of the referee is made available to the party
14 under subsection (4).

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

24 (2) An office shall receive support order and service fee
25 payments, and shall disburse support, as required by subsection
26 (1) until the state disbursement unit implements support and fee
27 receipt and disbursement for the cases administered by that

1 office. At the family independence agency's direction and in
2 cooperation with the SDU, an office shall continue support and
3 fee receipt and support disbursement to facilitate the transition
4 of that responsibility to the SDU as directed in, and in
5 accordance with the transition schedule developed as required by,
6 the office of child support act, 1971 PA 174, MCL 400.231 to
7 400.240.

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

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

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

1 provided for administrative and judicial hearings.

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

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

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

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

26 (i) Despite the existence of the arrearage, an order of
27 income withholding is effective and payment is being made under

1 the order of income withholding in the amount required under the
2 order.

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

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

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

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

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

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

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

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

22 (c) A person legally responsible for the actual care of a
23 child incurs an uninsured health care expense and submits to the
24 office a written complaint that meets the requirements of section
25 11a.

26 (2) An arrearage amount that arises at the moment a court
27 issues an order imposing or modifying support, because the order

1 relates back to a petition or motion filing date, shall not be
2 considered as an arrearage for the purpose of initiating support
3 enforcement measures, centralizing enforcement, or other action
4 required or authorized in response to a support arrearage under
5 this act or the support and parenting time enforcement act,
6 unless the payer fails to become current with the court ordered
7 support payments within 2 months after entry of the order
8 imposing or modifying support.

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

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

21 (3) If, in the opinion of the office, the facts as stated in
22 the complaint allege a ~~custody or~~ parenting time order
23 violation that can be addressed by taking an action authorized
24 under section 41 of the support and parenting time enforcement
25 act, MCL 552.641, the office shall proceed under section 41 of
26 the support and parenting time enforcement act, MCL 552.641.

27 Sec. 13. (1) The office shall provide, either directly or

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

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

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

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

4 (a) One or more of the following:

5 (i) A license or a limited license to engage in the practice
6 of psychology under parts 161 and 182 of the public health code,
7 1978 PA 368, MCL 333.16101 to 333.16349 and 333.18201 to
8 333.18237, or a master's degree in counseling, social work, or
9 marriage and family counseling; and successful completion of the
10 training program provided by the bureau under section 19(3)(b).

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

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

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

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

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

4 (d) Knowledge of child development, clinical issues relating
5 to children, the effects of divorce on children, and ~~child~~
6 ~~custody~~ **parenting time** research.

7 Sec. 17. (1) After a final judgment containing a child
8 support order has been entered in a friend of the court case, the
9 office shall periodically review the order, as follows:

10 (a) If a child is being supported in whole or in part by
11 public assistance, not less than once each 24 months unless both
12 of the following apply:

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

15 (ii) Neither party has requested a review.

16 (b) At the initiative of the office, if there are reasonable
17 grounds to believe that the amount of child support awarded in
18 the judgment should be modified or that dependent health care
19 coverage is available and the support order should be modified to
20 include an order for health care coverage. Reasonable grounds to
21 review an order under this subdivision include temporary or
22 permanent changes in the ~~physical custody~~ **parenting time** of a
23 child that the court has not ordered, increased or decreased need
24 of the child, probable access by an employed parent to dependent
25 health care coverage, or changed financial conditions of a
26 recipient or a payer of child support including, but not limited
27 to, application for or receipt of public assistance, unemployment

1 compensation, or worker's compensation.

2 (c) Upon receipt of a written request from either party.
3 Within 15 days after receipt of the review request, the office
4 shall determine whether the order is due for review. The office
5 is not required to investigate more than 1 request received from
6 a party each 24 months.

7 (d) If a child is receiving medical assistance, not less than
8 once each 24 months unless either of the following applies:

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

11 (ii) The office receives notice from the department that good
12 cause exists not to proceed with support action and neither party
13 has requested a review.

14 (e) If requested by the initiating state for a recipient of
15 services in that state under title IV-D, not less than once each
16 24 months. Within 15 days after receipt of a review request, the
17 office shall determine whether an order is due for review.

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

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

1 report that includes all of the following:

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

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

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

11 (d) The reasons for the alternative support recommendation.

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

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

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

21 (b) The court previously determined that application of the
22 formula was unjust or inappropriate and the office determines
23 under subsection (3) that the facts of the case and the reasons
24 and amount of the prior deviation remain unchanged.

25 (5) A petition for modification may be made at the same time
26 the parties are provided with notice under section 17b(3). A
27 hearing held on a proposed modification shall be scheduled no

1 earlier than 30 days after the date of the notice provided for in
2 section 17b(3).

3 (6) If the office determines there should be no change in the
4 order and a party objects to the determination in writing to the
5 office within 30 days after the date of the notice provided for
6 in section 17b(3), the office shall schedule a hearing before the
7 court.

8 (7) If a support order lacks provisions for health care
9 coverage, the office shall petition the court for a modification
10 to require that 1 or both parents obtain or maintain health care
11 coverage for the benefit of each child who is subject to the
12 support order if either of the following is true:

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

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

19 (8) The office shall determine the costs to each parent for
20 dependent health care coverage and child care costs and shall
21 disclose those costs in the report under section 17b(4).

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

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

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

27 (a) Develop and recommend guidelines for conduct, operations,

1 and procedures of the office and its employees, including, but
2 not limited to, the following:

3 (i) Case load and staffing standards for employees who
4 perform domestic relations mediation functions, investigation and
5 recommendation functions, referee functions, enforcement
6 functions, and clerical functions.

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

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

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

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

15 (vi) A formula to be used in establishing and modifying a
16 child support amount and health care obligation. The formula
17 shall be based upon the needs of the child and the actual
18 resources of each parent. The formula shall establish a minimum
19 threshold for modification of a child support amount. The
20 formula shall consider the child care and dependent health care
21 coverage costs of each parent. The formula shall include
22 guidelines for setting and administratively adjusting the amount
23 of periodic payments for overdue support, including guidelines
24 for adjustment of arrearage payment schedules when the current
25 support obligation for a child terminates and the payer owes
26 overdue support.

27 (b) Provide training programs for the friend of the court,

1 domestic relations mediators, and employees of the office to
2 better enable them to carry out the duties described in this act
3 and supreme court rules. After September 30, 2002, the training
4 programs shall include training in the dynamics of domestic
5 violence and in handling domestic relations matters that have a
6 history of domestic violence.

7 (c) Gather and monitor relevant statistics.

8 (d) Annually issue a report containing a detailed summary of
9 the types of grievances received by each office, and whether the
10 grievances are resolved or outstanding. The report shall be
11 transmitted to the legislature and to each office and shall be
12 made available to the public. The annual report required by this
13 subdivision shall include, but is not limited to, all of the
14 following:

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

18 (ii) An evaluative summary, supplemented by applicable
19 quantitative data, of the activities and functioning of the
20 aggregate of all citizen advisory committees in the state during
21 the preceding year.

22 (iii) An identification of problems that impede the
23 efficiency of the activities and functioning of the citizen
24 advisory committees and the satisfaction of the users of the
25 committees' services.

26 (e) Develop and recommend guidelines to be used by an office
27 in determining whether or not parenting time has been wrongfully

1 denied **1 parent** by the ~~custodial~~ **other** parent.

2 (f) Develop standards and procedures for the transfer of part
3 or all of the responsibilities for a case from one office to
4 another in situations considered appropriate by the bureau.

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

7 (h) Establish a 9-person state advisory committee, serving
8 without compensation except as provided in subsection (4),
9 composed of the following members, each of whom is a member of a
10 citizen advisory committee:

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

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

16 (iii) Three human service professionals who provide family
17 counseling.

18 (i) Cooperate with the office of child support in developing
19 and implementing a statewide information system as provided in
20 the office of child support act, 1971 PA 174, MCL 400.231 to
21 400.240.

22 (j) Develop and make available guidelines to assist the
23 office of the friend of the court in determining the
24 appropriateness in individual cases of the following:

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

27 (ii) Implementing the offset of a delinquent payer's state

1 income tax refund.

2 (k) Develop and provide the office of the friend of the court
3 with all of the following:

4 (i) Form motions, responses, and orders for use by an
5 individual in requesting the court to modify his or her child
6 support ~~—, custody,~~ or parenting time order, or in responding to
7 a motion for modification without the assistance of legal
8 counsel.

9 (ii) Instructions on preparing and filing the forms,
10 instructions on service of process, and instructions on
11 scheduling a support ~~—, custody,~~ or parenting time modification
12 hearing.

13 (l) Develop guidelines for, and encourage the use of, plain
14 language within the office of the friend of the court including,
15 but not limited to, the use of plain language in forms and
16 instructions within the office and in statements of account
17 provided as required in section 9.

18 (m) In consultation with the domestic violence prevention and
19 treatment board created in section 2 of 1978 PA 389, MCL
20 400.1502, develop guidelines for the implementation of section 41
21 of the support and parenting time enforcement act, MCL 552.641,
22 that take into consideration at least all of the following
23 regarding the parties and each child involved in a dispute
24 governed by section 41 of the support and parenting time
25 enforcement act, MCL 552.641:

26 (i) Domestic violence.

27 (ii) Safety of the parties and child.

1 (iii) Uneven bargaining positions of the parties.

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

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

19 Sec. 28. Each office of the friend of the court shall
20 compile data on the number and type of complaints regarding
21 support and parenting time. The data shall include, but need not
22 be limited to, the number of cases in which a party fails to
23 appear at a show cause hearing and the number of cases in which a
24 bench warrant is issued for failure to appear. The data compiled
25 under this section shall be transmitted at least annually in a
26 report to the office of the state court administrator. The
27 following specific information shall also be compiled:

1 (a) The number of state or federal income tax intercepts
2 subsequently found to be based on inaccurate information or
3 employee error.

4 (b) The number of support orders modified due to inaccurate
5 information or employee error.

6 (c) The number of grievances filed in a calendar year, the
7 nature of each grievance, the judicial response to each
8 grievance, and any sanction imposed as a result of each
9 grievance.

10 (d) The number of ~~custody~~ **parenting time** recommendations
11 recommending ~~physical custody~~ **parenting time** to the mother, the
12 father, or a third party.

13 (e) The number of makeup parenting time petitions filed, the
14 number of hearings held on makeup parenting time petitions, the
15 number of instances makeup parenting time is ordered, and the
16 amount of makeup parenting time that is ordered.

17 (f) The number of reviews completed in a calendar year.

18 Enacting section 1. This amendatory act takes effect
19 January 1, 2005.

20 Enacting section 2. This amendatory act does not take
21 effect unless

22 House Bill No. 5949
23 of the 92nd Legislature is enacted into
law.