



**House
Legislative
Analysis
Section**

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**CREATE SPOUSAL SUPPORT
FORMULA**

**House Bill 5628 (Substitute H-2)
First Analysis (5-23-96)**

**Sponsor: Rep. Michelle McManus
Committee: Judiciary and Civil Rights**

THE APPARENT PROBLEM:

Currently, the state Friend of the Court (FOC) Bureau, in the State Court Administrative Office, is required by law to develop and recommend guidelines for conduct, operations, and procedures of the office and its employees, including, but not limited to, certain case load and staffing standards for employees performing certain functions (domestic relations mediation, investigation and recommendation, referee, enforcement, and clerical), client orientation programs, public educational programs regarding domestic relations law and community resources, procedural changes in response to the kind of grievances received by an office, model pamphlets and procedural forms (which are distributed to each office), and a formula to be used in establishing and modifying child support amounts and health care obligations. The child support formula must be based on the needs of the child and the actual resources of each parent, must establish a minimum threshold for modification of a child support amount, and must consider the child care and dependent health care coverage costs of each parent. The statutorily-established FOC advisory committee statute appointed a subcommittee to develop the child support formula, and the initial draft of the Child Support Guidelines reportedly was ready in 1987, with the final set of guidelines taking effect in December 1990.

Some people believe that a spousal support (i.e. alimony) formula also should be developed, and legislation has been introduced that would do this.

THE CONTENT OF THE BILL:

The bill would amend the Friend of the Court Act to require the state Friend of the Court Bureau (in the State Court Administrative Office) to develop and recommend a formula to be used in establishing and modifying spousal support amounts. The formula would have to be based on, and include a consideration of, all of the following:

(1) The needs of the recipient spouse, including health care expenses;

(2) The relative needs and earning ability of each spouse; and

(3) The amount of child support the payer was required to pay for children involved in the same action.

In addition, the bill would increase the requirements for the human service professionals who serve on the nine-person friend of the court bureau advisory committee. Currently, the committee consists of three public members who have had contact with an office of the friend of the court, three attorneys (not more than one of whom could be a circuit court judge) whose practices are primarily domestic relations law, and three human service professionals who provide family counseling. The bill would require that the three human service professional members each have a postgraduate degree, be licensed or registered by the state, and provide family counseling.

Tie-bar. The bill could not take effect unless five other bills were enacted into law: House Bill 4432, which would eliminate no-fault divorces under certain circumstances; House Bill 5627, which would mandate the electronic funds transfer of child support; House Bill 5634, which would consolidate provisions governing child support orders in the Support and Parenting Time Enforcement Act; House Bill 5635, which would require marriage education or a longer waiting period before a marriage license was issued; and House Bill 5637, which would enact a parenting plan act.

MCL 552.519

FISCAL IMPLICATIONS:

Fiscal information is not available. (5-22-96)

ARGUMENTS:

For:

The bill, which is part of a proposed divorce and friend of the court legislative package, would add an important

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and necessary statutory provision. Although some groups have criticized the Michigan Child Support Guidelines, these guidelines have provided uniform procedures for child support establishment and modification. A similar need exists with respect to alimony ("spousal support"), which, reportedly, varies widely across the state. In addition, according to the Friend of the Court Bureau, the provisions regarding human services professionals (requiring that they be licensed and have postgraduate degrees) essentially would put into statute what now is in fact.

Response:

While the uniformity that could be provided by statewide guidelines would be useful, testimony before the House Subcommittee on Divorce and Friend of the Court Issues (of the standing House Committee on Judiciary and Civil Rights) by the 17th Judicial Circuit Friend of the Court pointed out that under existing law, at least partly because there are no alimony guidelines, alimony is seldom ordered (he estimated that alimony is ordered in less than ten percent of divorce cases). As a result, some people believe that, in the absence of alimony guidelines, attorneys get child support awards which are significantly greater than the reasonable needs of the child, using child support awards in these cases partly as disguised alimony payments. The bill could result in a substantial increase in the number of cases with alimony ordered to be paid. If so, existing child support awards which appear to be significantly greater than the reasonable needs of children might need to be examined. In addition, this bill would significantly increase the collection, disbursement, and enforcement activities of the friend of the court (which, reportedly, currently is prohibited from being involved in alimony modifications). This could require additional funding to meet this increase in responsibility.

POSITIONS:

There are no positions at present.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.