

Act No. 365
Public Acts of 1996
Approved by the Governor
July 2, 1996
Filed with the Secretary of State
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**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Geake, Dingell, Steil, Gougeon, Hoffman, Shugars and McManus

ENROLLED SENATE BILL No. 585

AN ACT to amend sections 3, 5, and 9 of Act No. 294 of the Public Acts of 1982, entitled as amended "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment 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; to prescribe certain duties of certain employers and former employers; and to repeal certain acts and parts of acts," sections 5 and 9 as amended by Act No. 144 of the Public Acts of 1996, being sections 552.503, 552.505, and 552.509 of the Michigan Compiled Laws; and to add section 28.

The People of the State of Michigan enact:

Section 1. Sections 3, 5, and 9 of Act No. 294 of the Public Acts of 1982, sections 5 and 9 as amended by Act No. 144 of the Public Acts of 1996, being sections 552.503, 552.505, and 552.509 of the Michigan Compiled Laws, are amended and section 28 is added to read as follows:

Sec. 3. (1) There is created in each judicial circuit of this state an office of the friend of the court, except as provided in subsection (2).

(2) If each county in a multicounty judicial circuit has a separate office of the friend of the court on the day before the effective date of this act, each county in that circuit shall have a separate office of the friend of the court on the effective date of this act. If a vacancy occurs in the position of the friend of the court in such a county, the chief judge may merge the office of the friend of the court in that county with the office of the friend of the court in another county of the judicial circuit.

(3) The head of each office is the friend of the court serving under section 21(1) or appointed pursuant to section 23.

(4) Except as provided in this subsection, the friend of the court is an employee of the circuit court in the judicial circuit served by the friend of the court. The friend of the court for the third judicial circuit, and for any other judicial circuit in which the employees serving in the court are paid by the state, is an employee of the state judicial council.

(5) The duties of the office shall be performed under the direction and supervision of the chief judge.

(6) Each friend of the court shall take all necessary steps to adopt office procedures to implement this act, supreme court rules, and the recommendations of the bureau. Office of the friend of the court duties shall be performed in accordance with the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

(7) An office of the friend of the court must be open to the public making available all of the office's services not less than 20 hours each month during nontraditional office hours. This subsection shall not be construed to require an office of the friend of the court to be open for a greater number of hours than before the effective date of the requirement under this subsection.

Sec. 5. (1) Before adjudication of a domestic relations matter, the office of the friend of the court has the following duties:

(a) 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, Act No. 91 of the Public Acts of 1970, being section 722.26a of the Michigan Compiled Laws; 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.

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

(c) To inform the parents of the availability of joint custody as described in section 6a of Act No. 91 of the Public Acts of 1970, if there is a dispute between the parents as to child custody.

(d) 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 Act No. 91 of the Public Acts of 1970, being sections 722.21 to 722.29 of the Michigan Compiled Laws.

(e) 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.

Sec. 9. (1) After a support order is entered in a domestic relations matter except as otherwise provided in the order or judgment, the office shall receive all payments of support orders and service fees; shall, not less than once each month, record the support payments due, paid, and past due; and shall disburse all support payments to the recipient of support within 14 days after the office receives each payment.

(2) 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.

(3) The office shall initiate and carry out proceedings to enforce an order entered in a domestic relations matter 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.

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

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

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

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

(d) The number of custody recommendations recommending physical custody to the mother, the father, or a third party.

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

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

Section 2. This amendatory act shall take effect January 1, 1997.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.