

Act No. 349  
Public Acts of 2020  
Approved by the Governor  
December 30, 2020  
Filed with the Secretary of State  
December 30, 2020  
EFFECTIVE DATE: December 30, 2021

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

Introduced by Senator Bizon

**ENROLLED SENATE BILL No. 1091**

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 section 17 (MCL 552.517), as amended by 2019 PA 27, and by adding section 17f.

*The People of the State of Michigan enact:*

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 use a procedure provided in section 17b to 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 every 36 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) Upon receipt of a written request from either party. Within 14 days after receipt of the review request, the

office shall determine whether the order is due for review. The office is not required to act on more than 1 request received from a party every 36 months.

(c) If a child is receiving medical assistance, not less than once every 36 months unless either of the following applies:

(i) The order requires providing 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.

(d) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 36 months. Within 14 days after receipt of a review request, the office must determine whether an order is due for review.

(e) At the direction of the court.

(f) 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 should be modified, or both. Reasonable grounds to review an order under this subdivision include any of the following:

(i) Temporary or permanent changes in the physical custody of a child that the court has not ordered.

(ii) Increased or decreased need of the child.

(iii) Probable access by a parent to dependent health care coverage that is accessible to the child and available at a reasonable cost. Health care coverage is presumed accessible to the child and presumed available at a reasonable cost if it meets the guidelines provided in the child support formula developed by the bureau under section 19.

(iv) Changed dependent health care coverage cost from the amount used in the previous child support order.

(v) Changed financial conditions of a recipient of support or a payer, including application for or receipt of public assistance, unemployment compensation, or worker's compensation.

(vi) That the order was based on incorrect facts.

(2) A review initiated by the office under subsection (1)(f) does not preclude the recipient of support or payer from requesting a review under subsection (1)(b).

(3) Within 180 days after determining that a review is required under subsection (1), the office must obtain a modification of the order if appropriate.

(4) The office must use the child support formula developed by the bureau under section 19 in calculating the child support award under section 17b.

(5) The office must petition the court if modification is determined to be necessary under section 17b unless either of the following applies:

(a) The difference between the existing and projected child support award is less than 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 that the facts of the case and the reasons for and amount of the previous deviation remain unchanged.

(6) The notice under section 17b(3) constitutes a petition for modification of the support order and must be filed with the court.

(7) 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 21 days after the date of the notice provided for in section 17b(3), the office must schedule a hearing before the court.

(8) If a support order lacks provisions for health care coverage, the office must 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 when health care coverage is accessible to the child and available at a reasonable cost. The office must use the guidelines provided for in the child support formula developed by the bureau under section 19 to recommend which parent provides health care coverage that is accessible to the child and available at a reasonable cost. The office must not petition the court to require both parents to provide health care coverage under this subsection unless both parents already provide coverage or both agree to provide coverage. This subsection does not prevent the court from exercising its discretion to order health care coverage based on the child's needs or the parent's resources.

(9) The office must determine the costs to each parent for dependent health care coverage and child care costs and must disclose those costs in the recommendation under section 17b(3).

Sec. 17f. (1) The monthly amount of support payable under an order must be abated, by operation of law, effective the later of the effective date of the amendatory act that added this section or the date the payer becomes incarcerated for 180 consecutive days or more and does not have the ability to pay support. The abatement terminates according to subsection (9). Both of the following apply:

(a) It is presumed that the payer does not have the ability to pay the monthly amount of support payable under an order.

(b) If the payer has the ability to pay support, the abatement under this section does not apply.

(2) Notwithstanding section 17(1), if the payer has income or assets, the friend of the court shall initiate a review and modification according to sections 17 and 17b.

(3) The friend of the court must send a notice of abatement according to this section to the payer and recipient of support. The notice of abatement must include the effective date of the abatement and reason to object. The notice of abatement must be filed with the court. The payer and recipient of support have 21 days to object in writing based on mistake of fact or mistake of identity.

(4) The friend of the court shall not adjust the records to reflect the abatement under this section until 21 days after the friend of the court notifies each party of the proposed action and each party's right to object.

(5) Upon receipt of an objection, the friend of the court shall not adjust the records as described in subsection (4). The friend of the court shall conduct an administrative review and consider only a mistake of fact or mistake of identity in its review. If the friend of the court finds no mistake of fact or mistake of identity, the friend of the court must notify the payer and recipient of support of the administrative review determination and that subsection (1) applies. The payer or recipient of support may object to the review determination by filing a motion in the circuit court that issued the support order within 21 days after the review determination notice.

(6) If a motion is not filed in the circuit court within 21 days after the review determination notice, the friend of the court must adjust the record to reflect the abatement under this section.

(7) If the friend of the court finds a mistake of fact or mistake of identity during the administrative review required by subsection (5), the friend of the court must notify the payer and recipient of support of the administrative review determination and take action appropriate to the mistake. The review determination must be filed with the court.

(8) The adjustment to the record described in subsections (4) and (6) cannot exceed the payer's monthly amount of support and the past due support.

(9) When the payer is released from incarceration, the monthly amount of support payable under the order remains abated until the order is modified. Both of the following apply:

(a) Absent good cause to the contrary, a support payment under a modified support order is due no sooner than the first day of the first month following the 90th day after release from incarceration.

(b) Notwithstanding any law to the contrary, a support payment due under a modified support order entered after the 90th day after release from incarceration, may be effective on the first day of the first month following the 90th day after release from incarceration. If the effective date is determined according to this subsection, the amount of support for each month since the effective date to the present date must be calculated using the actual resources of each parent during each month.

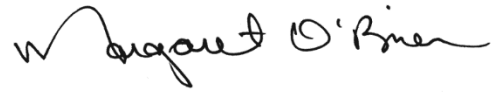
(10) Upon learning the payer is released from incarceration, the friend of the court must initiate a review within 30 days according to subsections (2) to (9) of sections 17 and 17b.

(11) The state court administrative office under the supervision and direction of the supreme court may implement a policy to assist offices of the friend of the court in implementing the abatement of support under this section. The state court administrative office must develop forms for use by offices of the friend of the court and parties to implement this section.

(12) The department of corrections and any local unit of government operating a jail must provide the title IV-D agency with the record necessary to identify payers who are or will be incarcerated for 180 consecutive days or more, the crime for which the payers are incarcerated, the payers' release date, and any information or record that assists in implementing this section as determined by the title IV-D agency. As used in this subsection, "jail" means that term as defined in section 62 of the corrections code of 1953, 1953 PA 232, MCL 791.262.

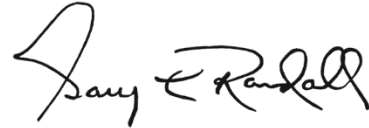
Enacting section 1. This amendatory act takes effect 1 year after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1090 of the 100th Legislature is enacted into law.



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Secretary of the Senate



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Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor