

Legislative Analysis



HEALTH INSURANCE COVERAGE FOR CHILD IN JUDGMENT OF DIVORCE

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House Bill 4304 (H-1) as reported from committee
House Bill 4305 (H-1) as reported from committee
Sponsor: Rep. Hank Vaupel
1st Committee: Families, Children and Seniors
2nd Committee: Ways and Means
Complete to 5-2-19

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Acts 26 and 27 of 2019)

SUMMARY:

House Bills 4304 and 4305 would amend the Support and Parenting Time Enforcement Act and the Friend of the Court Act, respectively, to revise the law concerning the provision of *health care coverage* for a child in a judgment of divorce. Among other things, the revisions would account for public health care coverage that is not a benefit of employment or bought from an insurer.

As used in the bills, *health care coverage* would mean a fee for service, health maintenance organization, preferred provider organization, or other type of *private health care coverage* or *public health care coverage*.

Private health care coverage would mean health care coverage obtained through an employer or purchased by an individual from an insurer.

Public health care coverage would mean health care coverage that is established or maintained by a local, state, or federal government, such as Medicaid or the State Children's Health Insurance program.

House Bill 4304 would amend the Supporting and Parenting Time Enforcement Act. Currently under the act, if a child support order is entered, the court must require that one or both parents obtain or maintain *health care coverage* that is available to them at a reasonable cost, as a benefit of employment, for the benefit of their minor children or, if applicable, children who are not minors. The bill would delete the underlined phrase, as well as a provision regarding a self-employed parent who maintains health care coverage.

The bill would require the court to utilize guidelines provided for in the child support formula developed under the Friend of the Court Act to determine health care coverage that is accessible to the child and available at a reasonable cost. The court could not require both parents to provide health care coverage unless the parents already provided coverage or both parents agreed to provide coverage. These provisions would not prevent the court from exercising its discretion to order health care coverage based on the child's needs and the parents' resources.

Notice to New Employers

For friend of the court cases, the act now requires the Office of the Friend of the Court to provide a parent's or payer's new employer with a notice of the order for dependent health care coverage on behalf of a parent or payer who is required to provide dependent health care coverage.

Under the bill, if the order for dependent health care coverage did not specify whether the coverage must be private health care coverage or public health care coverage, the office, when appropriate, would need to provide an employer with the notice described above unless one of the following applied:

- The parent or payer required to obtain health care coverage provided proof that coverage available through the employer is not accessible to the child or not available at a reasonable cost. Health care coverage would be presumed to be accessible and available at a reasonable cost if it met the guidelines provided in the child support formula developed under the Friend of the Court Act.
- The parent or payer required to provide health care coverage obtained and maintained health care coverage that is accessible to the child and available to parent at a reasonable cost.

Notice of Noncompliance

Under the act, if a parent fails to obtain or maintain health care coverage for his or her child as ordered by the court, the Office of the Friend of the Court, among other things, sends a notice of noncompliance to the parent.

The bill would provide that, if the order for dependent health care coverage did not specify whether that coverage must be private health care coverage or public health care coverage, the notice must state that the parent can obtain or maintain private health care coverage or public health care coverage. To the extent possible, the notice would have to provide publicly available contact information for local, state, or federal agencies that administer public health care coverage.

MCL 552.602, 552.605a, and 552.626

House Bill 4305 would amend the Friend of the Court Act. Currently under the act, the Office of the Friend of the Court must periodically review a child support order that has been entered in a friend of the court case. Among other things, the act provides for the office to review the order on its own initiative 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 is available and the order should be modified to include an order for health care coverage.

The bill would modify the above-described provision so that there would not need to be reasonable grounds concerning the availability of health care coverage, but only reasonable grounds to believe that dependent health care coverage should be modified.

The act also currently includes among the *reasonable grounds* to review an order the “probable access by an employed parent to dependent health care coverage.” The bill would amend this to read “probable access by a parent to dependent health care coverage that is accessible to the child and available at a reasonable cost.” The bill would also add that health care coverage is presumed accessible and available if it meets the guidelines provided in the child support formula developed under the act.

Under the bill, *reasonable grounds* to review an order would also include a change in the dependent health care coverage cost from the amount used in the prior child support order.

Petition for Modification of an Order

The act also requires, in cases where a support order lacks provisions for health care coverage, the Office of the Friend of the Court to petition the court for a modification to require that one or both parents obtain or maintain health care coverage for the child if either parent has health care coverage through an employer or self-employment and can cover the child at a reasonable cost. The bill would delete the underlined phrase and require the office to petition for modification when health care coverage is accessible to the child and available at a reasonable cost.

The office would have to use the guidelines provided in the child support formula developed under the act to recommend which parent would provide coverage. The office could not petition the court to require both parents to provide health care coverage unless the parents already provided coverage or both parents agreed to provide coverage. These provisions would not prevent the court from exercising its discretion to order health care coverage based on the child's needs or the parents' resources.

Child Support Formula Guidelines

The act requires the State Friend of the Court Bureau to develop and recommend guidelines regarding a formula to be used in establishing and modifying a child support amount and health care obligation. The bill would further require that the formula must include guidelines for determining which parent is required to maintain health care coverage for the child and include a presumption for determining the reasonable cost and accessibility of health care coverage.

MCL 552.502 et seq.

The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local court funding units. Costs would be incurred depending on how provisions of the bills affected caseloads in the courts and related administrative costs.

POSITIONS:

A representative of the Department of Health and Human Services testified in support of the bills. (4-10-19)

The Friend of the Court Association indicated support for the bills. (4-10-19)

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