

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CATHERINE A. DOETSCH, n/k/a CATHERINE  
A. CLOUGHERTY,

Plaintiff-Appellant,

v

THOMAS G. DOETSCH,

Defendant-Appellee.

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UNPUBLISHED  
January 30, 2001

No. 216342  
Wayne Circuit Court  
LC No. 91-114264-DM

Before: Collins, P.J., and Doctoroff and White, JJ.

PER CURIAM.

Plaintiff appeals by leave granted from the trial court's August 20, 1998, order that modified the parties' judgment of divorce by applying the shared economic responsibility formula to reduce defendant's child support obligation from \$237 to \$146 a week. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff argues on appeal that the trial court's entry of an order modifying defendant's support obligation by applying the shared economic responsibility formula (SERF) contravenes the plain language of the child support guidelines because there was no showing of a change in circumstances. Plaintiff further argues that both the Friend of the Court and the trial court failed to follow the mandatory procedure for modification of a child support order. We agree and remand for further proceedings.

Upon petition of a parent, a trial court may modify a child support order "as the circumstances of the parents, and the benefit of the children require." MCL 552.17(1); MSA 25.97(1). A child support order must be based upon application of the Michigan Child Support Formula as drafted by the Friend of the Court pursuant to legislative mandate. MCL 722.717(3); MSA 25.497(3); MCL 552.519; MSA 25.176(19); *Ghidotti v Barber*, 459 Mich 189, 200; 586 NW2d 883 (1998). Modification of a child support order is a matter within the trial court's discretion, although the trial court must abide by the statutory framework of MCL 552.17; MSA 25.97 in exercising this discretion. *Burba v Burba (After Remand)*, 461 Mich 637, 647; 610 NW2d 873 (2000).

The SERF provision of the child support guidelines provides in pertinent part:

The economic sharing formula should only be applied to support orders entered concurrent with an initial custody/parenting time determination or to modifications of custody/parenting time based upon changed circumstances. It shall not be retroactively applied to existing orders. [Emphasis in original.]

Here, the trial court adopted the Friend of the Court's recommendation and applied the SERF for the first time in its August 20, 1998, order modifying the judgment of divorce to reduce defendant's child support obligation. Defendant argues that application of the SERF was justified by the earlier February 1997 order increasing defendant's parenting time, but defendant apparently did not request application of the SERF at that time. In any event, neither the Friend of the Court nor the trial court made any specific findings regarding changed circumstances to warrant the modification. Moreover, it is unclear whether the modification was intended to be retroactive, in plain contravention of the guidelines, although the effect of such a modification was obviated by the court's statement that defendant waived any right to reimbursement of overpayments.

Recently, in *Burba, supra*, the Michigan Supreme Court addressed the issue of child support modification and expressly held that the Friend of the Court and the trial court must fully comply with the child support guidelines and the statutory procedure for modification. *Id.* at 645-651. In that case, neither the FOC nor the trial court had adequately fulfilled their statutory duty to memorialize and explain their holding, resulting in the *Burba* Court remanding the matter to the trial court. The same result must obtain here. This matter is remanded to the trial court for further proceedings consistent with the child support guidelines, the applicable statutes, and the relevant case law. On remand, the trial court is directed to consider anew the petition for modification of defendant's child support obligation.

Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jeffrey G. Collins  
/s/ Martin M. Doctoroff  
/s/ Helene N. White