

SENATE BILL No. 141

March 17, 1987, Introduced by Senators VAUGHN and O'BRIEN and referred to the Committee on Judiciary.

A bill to amend section 7b of Act No. 91 of the Public Acts of 1970, entitled "Child custody act of 1970," as added by Act No. 340 of the Public Acts of 1982, being section 722.27b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 7b of Act No. 91 of the Public Acts of
2 1970, as added by Act No. 340 of the Public Acts of 1982, being
3 section 722.27b of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 7b. (1) ~~Except as provided in this subsection, a~~ A
6 grandparent of ~~the~~ A child may seek an order for visitation in
7 the manner set forth in this section. ~~only if a child custody~~
8 ~~dispute with respect to that child is pending before the court.~~
9 ~~if a natural parent of an unmarried child is deceased, a parent~~

~~1 of the deceased person may commence an action for visitation.~~

2 EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10), A GRANDPARENT
3 MAY SEEK AN ORDER FOR VISITATION WITH HIS OR HER GRANDCHILD UNDER
4 THIS SECTION WITHOUT REGARD TO WHETHER THE GRANDCHILD IS A NATU-
5 RAL OR ADOPTIVE CHILD OF HIS OR HER PARENTS. Adoption of the
6 child by a stepparent under THE MICHIGAN ADOPTION CODE, chapter X
7 of Act No. 288 of the Public Acts of 1939, being sections 710.21
8 to 710.70 of the Michigan Compiled Laws, does not terminate the
9 right of a ~~parent of the deceased person~~ GRANDPARENT to com-
10 mence an action for visitation.

11 (2) As used in this section, ~~"child custody dispute"~~
12 ~~includes a proceeding in which any of the following occurs.~~

13 "GRANDPARENT" MEANS A LEGAL PARENT OF A CHILD'S NATURAL OR ADOP-
14 TIVE PARENT.

15 ~~(a) The marriage of the child's parents is declared invalid~~
16 ~~or is dissolved by the court, or a court enters a decree of legal~~
17 ~~separation with regard to the marriage.~~

18 ~~(b) Legal custody of the child is given to a party other~~
19 ~~than the child's parent, or the child is placed outside of and~~
20 ~~does not reside in the home of a parent, excluding any child who~~
21 ~~has been placed for adoption with other than a stepparent, or~~
22 ~~whose adoption by other than a stepparent has been legally~~
23 ~~finalized.~~

24 (3) A grandparent seeking a grandchild visitation order may
25 commence an action for grandchild visitation ~~—~~ by complaint,
26 ~~or~~ BY complaint and motion for an order to show cause, OR IF A
27 DIVORCE OR LEGAL SEPARATION ACTION IS PENDING, BY MOTION FOR AN

1 ORDER TO SHOW CAUSE. AN ACTION FOR GRANDCHILD VISITATION SHALL
2 BE COMMENCED AS FOLLOWS:

3 (A) IF THE GRANDCHILD IS THE CHILD OF PARENTS WHO ARE
4 DIVORCING, DIVORCED, OR LEGALLY SEPARATED, THEN IN THE COURT IN
5 WHICH THE DIVORCE OR LEGAL SEPARATION ACTION WAS BROUGHT.

6 (B) IF SUBDIVISION (A) DOES NOT APPLY, THEN in the circuit
7 court in the county in which the grandchild resides. ~~If a child~~
8 ~~custody dispute is pending, the order shall be sought by motion~~
9 ~~for an order to show cause. The~~

10 (4) A complaint or motion FOR GRANDCHILD VISITATION shall be
11 accompanied by an affidavit setting forth facts supporting the
12 requested order. The grandparent shall give notice of the filing
13 to each party who has legal custody of the grandchild AND IF THE
14 NONCUSTODIAL PARENT CAN BE LOCATED, TO THE NONCUSTODIAL PARENT OF
15 THE GRANDCHILD. A party having legal custody OR A NONCUSTODIAL
16 PARENT may file an opposing affidavit. A hearing shall be held
17 by the court on its own motion or if a party so requests. At the
18 hearing, parties submitting affidavits shall be allowed an oppor-
19 tunity to be heard. At the conclusion of the hearing, if the
20 court finds that it is in the best interests of the child to
21 enter a grandchild visitation order, the court shall enter an
22 order providing for reasonable visitation of the child by the
23 grandparent by general or specific terms and conditions. If a
24 hearing is not held, the court shall enter a grandchild visita-
25 tion order only upon a finding that visitation is in the best
26 interests of the child. A grandchild visitation order shall not
27 be entered for the parents of a putative father unless the father

1 has acknowledged paternity in writing, has been adjudicated to be
2 the father by a court of competent jurisdiction, or has contrib-
3 uted regularly to the support of the child or children. The
4 court shall make a record of the reasons for a denial of a
5 requested grandchild visitation order.

6 (5) ~~-(4)-~~ A grandparent may not file more than once every 2
7 years, absent a showing of good cause, a complaint or motion
8 seeking a grandchild visitation order. If the court finds there
9 is good cause to allow a grandparent to file more than 1 com-
10 plaint or motion under this section in a 2-year period, the court
11 shall allow the filing and shall consider the complaint or
12 motion. The court may order reasonable attorney fees to the pre-
13 vailing party.

14 (6) ~~-(5)-~~ The court shall not enter an order restricting the
15 movement of the grandchild if the restriction is solely for the
16 purpose of allowing the grandparent to exercise the rights con-
17 ferred in a grandchild visitation order.

18 (7) ~~-(6)-~~ A grandchild visitation order entered in accord-
19 ance with this section shall not be considered to have created
20 parental rights in the person or persons to whom grandchild visi-
21 tation rights are granted. The entry of a grandchild visitation
22 order shall not prevent a court of competent jurisdiction from
23 acting upon the custody of the child, the parental rights of the
24 child, or the adoption of the child.

25 (8) ~~-(7)-~~ The court may enter an order modifying or termi-
26 nating a grandchild visitation order whenever such a modification
27 or termination is in the best interests of the child.

1 (9) IF A PARTY HAVING LEGAL CUSTODY FAILS TO COMPLY WITH A
2 GRANDCHILD VISITATION ORDER WITHOUT CAUSE AS DETERMINED BY A
3 COURT HEARING, THE COURT SHALL DO 1 OF THE FOLLOWING:

4 (A) MODIFY THE COURT ORDER TO MEET THE BEST INTERESTS OF THE
5 CHILD.

6 (B) APPLY A MAKEUP VISITATION POLICY PURSUANT TO SECTION 42
7 OF THE SUPPORT AND VISITATION ENFORCEMENT ACT, ACT NO. 295 OF THE
8 PUBLIC ACTS OF 1982, BEING SECTION 552.642 OF THE MICHIGAN
9 COMPILED LAWS.

10 (C) FIND THE PARTY HAVING LEGAL CUSTODY IN CONTEMPT OF COURT
11 AND ORDER THE PARTY TO PAY A FINE OF \$200.00.

12 (10) THIS SECTION DOES NOT APPLY TO A GRANDPARENT OF A CHILD
13 WHO HAS BEEN PLACED FOR ADOPTION WITH A PERSON OTHER THAN A STEP-
14 PARENT OR WHOSE ADOPTION BY A PERSON OTHER THAN A STEPPARENT HAS
15 BEEN LEGALLY FINALIZED.