



SENATE BILL No. 96

January 13, 1993, Introduced by Senators HONIGMAN and WELBORN and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to amend section 7b of Act No. 91 of the Public Acts of 1970, entitled as amended "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 CHILD'S grandparent ~~of the child~~ may seek ~~an order for~~ A
7 GRANDCHILD visitation ORDER UNDER ANY OF THE FOLLOWING
8 CIRCUMSTANCES: ~~in the manner set forth in this section only if a~~
9 ~~child custody dispute with respect to that child is pending~~

~~1 before the court. If a natural parent of an unmarried child is
2 deceased, a parent of the deceased person may commence an action
3 for visitation. Adoption of the child by a stepparent under
4 chapter X of Act No. 288 of the Public Acts of 1939, being sec-
5 tions 710.21 to 710.70 of the Michigan Compiled Laws, does not
6 terminate the right of a parent of the deceased person to com-
7 mence an action for visitation.~~

8 (A) AN ACTION FOR DIVORCE, SEPARATE MAINTENANCE, OR ANNUL-
9 MENT INVOLVING THE GRANDCHILD'S PARENTS IS PENDING BEFORE THE
10 COURT.

11 (B) THE GRANDCHILD'S PARENTS ARE DIVORCED, SEPARATED UNDER A
12 JUDGMENT OF SEPARATE MAINTENANCE, OR THEIR MARRIAGE HAS BEEN
13 ANNULLED.

14 (C) THE GRANDPARENT'S CHILD IS DECEASED AND THAT CHILD IS
15 THE GRANDCHILD'S PARENT.

16 (D) LEGAL CUSTODY OF THE GRANDCHILD HAS BEEN GIVEN TO A
17 PERSON OTHER THAN THE GRANDCHILD'S PARENT, OR THE GRANDCHILD IS
18 PLACED OUTSIDE OF AND DOES NOT RESIDE IN THE HOME OF THE PARENT,
19 EXCLUDING A GRANDCHILD WHO HAS BEEN PLACED FOR ADOPTION WITH
20 OTHER THAN A STEPPARENT OR WHOSE ADOPTION BY OTHER THAN A STEP-
21 PARENT HAS BEEN LEGALLY FINALIZED.

22 (E) THE GRANDPARENT HAS PROVIDED AN ESTABLISHED CUSTODIAL
23 ENVIRONMENT FOR THE GRANDCHILD AS DESCRIBED IN SECTION 7, WHETHER
24 OR NOT THE GRANDPARENT HAD CUSTODY PURSUANT TO A COURT ORDER, AT
25 ANY TIME DURING THE LIFE OF THE GRANDCHILD.

26 (F) THE GRANDCHILD'S PARENT HAS WITHHELD VISITATION
27 OPPORTUNITIES WITH THE GRANDCHILD FROM THE GRANDPARENT TO

1 RETALIATE AGAINST THE GRANDPARENT FOR REPORTING CHILD ABUSE OR
2 NEGLECT TO A GOVERNMENTAL AUTHORITY IF THE GRANDPARENT HAS REA-
3 SONABLE CAUSE TO SUSPECT CHILD ABUSE OR NEGLECT.

4 (G) THE GRANDCHILD'S PARENT LIVES SEPARATE AND AWAY FROM THE
5 GRANDCHILD AND THE OTHER PARENT FOR MORE THAN 1 YEAR.

6 (H) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), IF THE
7 GRANDCHILD'S PARENTS HAVE NEVER BEEN MARRIED AND ARE NOT RESIDING
8 IN THE SAME HOUSEHOLD.

9 (2) ~~As used in this section, "child custody dispute"~~
10 ~~includes a proceeding in which any of the following occurs:~~ A
11 PARENT OF A PUTATIVE FATHER IS NOT PERMITTED TO SEEK AN ORDER FOR
12 GRANDCHILD VISITATION UNLESS THE PUTATIVE FATHER HAS ACKNOWLEDGED
13 PATERNITY IN WRITING, HAS BEEN DETERMINED TO BE THE FATHER BY A
14 COURT OF COMPETENT JURISDICTION, OR HAS CONTRIBUTED REGULARLY TO
15 THE SUPPORT OF THE CHILD.

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

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

25 (3) A grandparent seeking a grandchild visitation order
26 ~~may~~ SHALL commence an action for grandchild visitation AS
27 FOLLOWS: ~~, by complaint or complaint and motion for an order to~~

~~1 show cause, in the circuit court in the county in which the
2 grandchild resides. If a child custody dispute is pending, the
3 order shall be sought by motion for an order to show cause.~~

4 (A) IF THE CIRCUIT COURT HAS CONTINUING JURISDICTION OVER A
5 CHILD, THE CHILD'S GRANDPARENT SHALL SEEK A GRANDCHILD VISITATION
6 ORDER BY FILING A MOTION FOR VISITATION WITH THE CIRCUIT COURT IN
7 THE COUNTY WHERE THE COURT HAS CONTINUING JURISDICTION.

8 (B) IF THE CIRCUIT COURT DOES NOT HAVE CONTINUING JURISDIC-
9 TION OVER A CHILD, THE CHILD'S GRANDPARENT SHALL SEEK A GRAND-
10 CHILD VISITATION ORDER BY FILING A COMPLAINT IN THE CIRCUIT COURT
11 IN THE COUNTY WHERE THE GRANDCHILD RESIDES.

12 (4) The complaint or motion FOR VISITATION shall be accom-
13 panied by an affidavit setting forth facts supporting the
14 requested order. The grandparent shall give notice of the filing
15 to each ~~party~~ PERSON who has legal custody OR AN ORDER FOR
16 VISITATION of the grandchild. ~~A party having legal custody may
17 file an opposing affidavit. A hearing shall be held by the court
18 on its own motion or if a party so requests. At the hearing,
19 parties submitting affidavits shall be allowed an opportunity to
20 be heard. At the conclusion of the hearing, if the court finds-~~
21 IF THE GRANDPARENT SHOWS that it is in the best interests of the
22 ~~child~~ GRANDCHILD to enter a grandchild visitation order, the
23 court shall enter an order providing for reasonable visitation of
24 the child by the grandparent by general or specific terms and
25 conditions. ~~If a hearing is not held, the court shall enter a
26 grandchild visitation order only upon a finding that visitation
27 is in the best interests of the child. A grandchild visitation~~

~~1 order shall not be entered for the parents of a putative father~~
~~2 unless the father has acknowledged paternity in writing, has been~~
~~3 adjudicated to be the father by a court of competent jurisdic-~~
~~4 tion, or has contributed regularly to the support of the child or~~
~~5 children.~~ The court shall make a record of the reasons for ~~a~~
~~6 denial of a requested~~ GRANTING OR DENYING A REQUEST FOR grand-
~~7 child visitation. order.~~

~~8 (4) A grandparent may not file more than once every 2~~
~~9 years, absent a showing of good cause, a complaint or motion~~
~~10 seeking a grandchild visitation order. If the court finds there~~
~~11 is good cause to allow a grandparent to file more than 1 com-~~
~~12 plaint or motion under this section in a 2 year period, the court~~
~~13 shall allow the filing and shall consider the complaint or~~
~~14 motion. The court may order reasonable attorney fees to the pre-~~
~~15 vailing party.~~

~~16 (5) IF A GRANDPARENT SEEKS A GRANDCHILD VISITATION ORDER BY~~
~~17 FILING A MOTION FOR VISITATION IN A PENDING DIVORCE, SEPARATE~~
~~18 MAINTENANCE, OR ANNULMENT ACTION, ENTRY OF THE JUDGMENT OF~~
~~19 DIVORCE, SEPARATE MAINTENANCE, OR ANNULMENT IS NOT A DISMISSAL OF~~
~~20 THE GRANDPARENT'S MOTION.~~

~~21 (6) A COMPLAINT OR MOTION FOR VISITATION FILED UNDER THIS~~
~~22 ACT MAY BE REFERRED BY THE COURT TO THE FRIEND OF THE COURT MEDI-~~
~~23 ATION SERVICE UNDER SECTION 13 OF THE FRIEND OF THE COURT ACT,~~
~~24 ACT NO. 294 OF THE PUBLIC ACTS OF 1982, BEING SECTION 552.513 OF~~
~~25 THE MICHIGAN COMPILED LAWS. IF THE COMPLAINT IS REFERRED TO THE~~
~~26 FRIEND OF THE COURT MEDIATION SERVICE, AND IF NO SETTLEMENT IS~~
~~27 REACHED THROUGH FRIEND OF THE COURT MEDIATION WITHIN 30 DAYS~~

1 AFTER THE DATE OF REFERRAL, THE COMPLAINT OR MOTION FOR
2 VISITATION SHALL BE HEARD BY THE COURT AS OTHERWISE PROVIDED IN
3 THIS SECTION.

4 (7) ~~-(5)-~~ The court shall not enter an order ~~restricting~~
5 ~~the movement of the grandchild if the restriction~~ PROHIBITING A
6 PERSON WHO HAS LEGAL CUSTODY OF A CHILD FROM CHANGING THE DOMI-
7 CILE OF THE CHILD IF THE PROHIBITION is solely for the purpose of
8 allowing ~~the~~ A grandparent to exercise the rights conferred in
9 a grandchild visitation order.

10 (8) ~~-(6)-~~ A grandchild visitation order entered in accord-
11 ance with this section shall not be considered to have created
12 parental rights in the person or persons to whom grandchild visi-
13 tation rights are granted. The entry of a grandchild visitation
14 order ~~shall~~ DOES not prevent a court of competent jurisdiction
15 from acting upon the custody of the child, the parental rights of
16 the child, or the adoption of the child.

17 (9) ~~-(7)-The~~ AFTER A HEARING, THE court may enter an order
18 modifying or terminating a grandchild visitation order whenever
19 ~~such~~ THERE IS A CHANGE OF CIRCUMSTANCES AND a modification or
20 termination is in the best interests of the child.

21 (10) ADOPTION OF THE CHILD BY A STEPPARENT UNDER THE
22 MICHIGAN ADOPTION CODE, CHAPTER X OF ACT NO. 288 OF THE PUBLIC
23 ACTS OF 1939, BEING SECTIONS 710.21 TO 710.70 OF THE MICHIGAN
24 COMPILED LAWS, DOES NOT TERMINATE THE RIGHT OF A GRANDPARENT TO
25 COMMENCE AN ACTION FOR VISITATION.

26 (11) THIS SECTION DOES NOT APPLY TO A GRANDPARENT OF A CHILD
27 WHO HAS BEEN PLACED FOR ADOPTION WITH A PERSON OTHER THAN A

1 STEPPARENT OR WHOSE ADOPTION BY A PERSON OTHER THAN A STEPPARENT
2 HAS BEEN LEGALLY FINALIZED.

3 (12) A GRANDPARENT MAY NOT FILE MORE THAN ONCE EVERY 2
4 YEARS, ABSENT A SHOWING OF GOOD CAUSE, A COMPLAINT OR MOTION
5 SEEKING A GRANDCHILD VISITATION ORDER. IF THE COURT FINDS THERE
6 IS GOOD CAUSE TO ALLOW A GRANDPARENT TO FILE MORE THAN 1 COM-
7 PLAINT OR MOTION UNDER THIS SECTION IN A 2-YEAR PERIOD, THE COURT
8 SHALL ALLOW THE FILING AND SHALL CONSIDER THE COMPLAINT OR
9 MOTION.

10 (13) UPON MOTION OF A PARTY, IF THE COURT FINDS THAT A PARTY
11 HAS ASSERTED A VEXATIOUS CLAIM OR DEFENSE, THE COURT MAY AWARD
12 COURT COSTS AND REASONABLE ATTORNEY FEES TO THE PREVAILING
13 PARTY. AS USED IN THIS SUBSECTION, "VEXATIOUS" MEANS THAT AT
14 LEAST 1 OF THE FOLLOWING CONDITIONS IS MET:

15 (A) A PARTY ACTED TO HARASS, EMBARRASS, OR CAUSE HARDSHIP TO
16 ANOTHER PARTY.

17 (B) A PARTY HAD NO FACTUAL OR LEGAL BASIS FOR HIS OR HER
18 CLAIM OR DEFENSE.

19 (14) AS USED IN THIS SECTION:

20 (A) "GRANDPARENT" MEANS A NATURAL OR ADOPTIVE PARENT OF A
21 CHILD'S NATURAL OR ADOPTIVE PARENT.

22 (B) "PARENT" MEANS THE NATURAL OR ADOPTIVE PARENT OF A
23 CHILD.

24 Section 2. This amendatory act shall not take effect unless
25 Senate Bill No. 97

26 of the 87th Legislature is enacted into law.