

HOUSE BILL No. 6305

September 17, 2002, Introduced by Rep. Wojno and referred to the Committee on Family and Children Services.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 7, 7a, and 9 (MCL 722.27, 722.27a, and 722.29), section 7 as amended by 2001 PA 108, section 7a as amended by 1996 PA 19, and section 9 as amended by 1999 PA 156.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) If a child custody dispute has been submitted
2 to the circuit court as an original action under this act or has
3 arisen incidentally from another action in the circuit court or
4 an order or judgment of the circuit court, for the best interests
5 of the child the court may do 1 or more of the following:

6 (a) Award the custody of the child to 1 or more of the par-
7 ties involved or to others and provide for payment of support for
8 the child, until the child reaches 18 years of age. Subject to
9 section 5b of the support and parenting time enforcement act,

1 1982 PA 295, MCL 552.605b, the court may also order support as
2 provided in this section for a child after he or she reaches
3 18 years of age. The court may require that support payments
4 shall be made through the friend of the ~~court~~ CHILD, court
5 clerk, or state disbursement unit.

6 (b) Provide for reasonable parenting time of the child by
7 the parties involved, by the maternal or paternal grandparents,
8 or by others, by general or specific terms and conditions.
9 Parenting time of the child by the parents is governed by
10 section 7a.

11 (c) Modify or amend its previous judgments or orders for
12 proper cause shown or because of change of circumstances until
13 the child reaches 18 years of age and, subject to section 5b of
14 the support and parenting time enforcement act, 1982 PA 295, MCL
15 552.605b, until the child reaches 19 years and 6 months of age.
16 The court shall not modify or amend its previous judgments or
17 orders or issue a new order so as to change the established cus-
18 todial environment of a child unless there is presented clear and
19 convincing evidence that it is in the best interest of the
20 child. The custodial environment of a child is established if
21 over an appreciable time the child naturally looks to the custo-
22 dian in that environment for guidance, discipline, the necessi-
23 ties of life, and parental comfort. The age of the child, the
24 physical environment, and the inclination of the custodian and
25 the child as to permanency of the relationship shall also be
26 considered.

1 (d) Utilize a guardian ad litem or the community resources
2 in behavioral sciences and other professions in the investigation
3 and study of custody disputes and consider their recommendations
4 for the resolution of the disputes.

5 (e) Take any other action considered to be necessary in a
6 particular child custody dispute.

7 (f) Upon petition consider the reasonable grandparenting
8 time of maternal or paternal grandparents as provided in section
9 7b and, if denied, make a record of the denial.

10 (2) A judgment or order entered under this act providing for
11 the support of a child is governed by and is enforceable as pro-
12 vided in the support and parenting time enforcement act, 1982 PA
13 295, MCL 552.601 to 552.650. If this act contains a specific
14 provision regarding the contents or enforcement of a support
15 order that conflicts with a provision in the support and parent-
16 ing time enforcement act, 1982 PA 295, MCL 552.601 to 552.650,
17 this act controls in regard to that provision.

18 Sec. 7a. (1) Parenting time shall be granted in accordance
19 with the best interests of the child. It is presumed to be in
20 the best interests of a child for the child to have a strong
21 relationship with both of his or her parents. Except as other-
22 wise provided in this section, parenting time shall be granted to
23 a parent in a frequency, duration, and type reasonably calculated
24 to promote a strong relationship between the child and the parent
25 granted parenting time.

26 (2) If the parents of a child agree on parenting time terms,
27 the court shall order the parenting time terms unless the court

1 determines on the record by clear and convincing evidence that
2 the parenting time terms are not in the best interests of the
3 child.

4 (3) A child has a right to parenting time with a parent
5 unless it is shown on the record by clear and convincing evidence
6 that it would endanger the child's physical, mental, or emotional
7 health.

8 (4) Notwithstanding other provisions of this act, if a pro-
9 ceeding regarding parenting time involves a child who is con-
10 ceived as the result of acts for which 1 of the child's biologi-
11 cal parents is convicted of criminal sexual conduct as provided
12 in sections 520a to 520e and 520g of the Michigan penal code,
13 ~~Act No. 328 of the Public Acts of 1931, being sections 750.520a~~
14 ~~to 750.520e and 750.520g of the Michigan Compiled Laws 1931~~
15 PA 328, MCL 750.520A TO 750.520E AND 750.520G, the court shall
16 not grant parenting time to the convicted biological parent.
17 This subsection does not apply to a conviction under
18 section 520d(1)(a) of ~~Act No. 328 of the Public Acts of 1931,~~
19 ~~being section 750.520d of the Michigan Compiled Laws~~ THE
20 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520D. This subsection
21 does not apply if, after the date of the conviction, the biologi-
22 cal parents cohabit and establish a mutual custodial environment
23 for the child.

24 (5) Notwithstanding other provisions of this act, if an
25 individual is convicted of criminal sexual conduct as provided in
26 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts~~
27 ~~of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO

1 750.520E AND 750.520G, and the victim is the individual's child,
2 the court shall not grant parenting time with that child or a
3 sibling of that child to that individual, unless both the child's
4 other parent and, if the court considers the child or sibling to
5 be of sufficient age to express his or her desires, the child or
6 sibling consent to the parenting time.

7 (6) The court may consider the following factors when deter-
8 mining the frequency, duration, and type of parenting time to be
9 granted:

10 (a) The existence of any special circumstances or needs of
11 the child.

12 (b) Whether the child is a nursing child less than 6 months
13 of age, or less than 1 year of age if the child receives substan-
14 tial nutrition through nursing.

15 (c) The reasonable likelihood of abuse or neglect of the
16 child during parenting time.

17 (d) The reasonable likelihood of abuse of a parent resulting
18 from the exercise of parenting time.

19 (e) The inconvenience to, and burdensome impact or effect
20 on, the child of traveling for purposes of parenting time.

21 (f) Whether a parent can reasonably be expected to exercise
22 parenting time in accordance with the court order.

23 (g) Whether a parent has frequently failed to exercise rea-
24 sonable parenting time.

25 (h) The threatened or actual detention of the child with the
26 intent to retain or conceal the child from the other parent or
27 from a third person who has legal custody. A custodial parent's

1 temporary residence with the child in a domestic violence shelter
2 shall not be construed as evidence of the custodial parent's
3 intent to retain or conceal the child from the other parent.

4 (i) Any other relevant factors.

5 (7) Parenting time shall be granted in specific terms if
6 requested by either party at any time.

7 (8) A parenting time order may contain any reasonable terms
8 or conditions that facilitate the orderly and meaningful exercise
9 of parenting time by a parent, including 1 or more of the
10 following:

11 (a) Division of the responsibility to transport the child.

12 (b) Division of the cost of transporting the child.

13 (c) Restrictions on the presence of third persons during
14 parenting time.

15 (d) Requirements that the child be ready for parenting time
16 at a specific time.

17 (e) Requirements that the parent arrive for parenting time
18 and return the child from parenting time at specific times.

19 (f) Requirements that parenting time occur in the presence
20 of a third person or agency.

21 (g) Requirements that a party post a bond to assure compli-
22 ance with a parenting time order.

23 (h) Requirements of reasonable notice when parenting time
24 will not occur.

25 (i) Any other reasonable condition determined to be appro-
26 priate in the particular case.

1 (9) During the time a child is with a parent to whom
2 parenting time has been awarded, that parent shall decide all
3 routine matters concerning the child.

4 (10) ~~Prior to~~ BEFORE entry of a temporary order, a parent
5 may seek an ex parte interim order concerning parenting time. If
6 the court enters an ex parte interim order concerning parenting
7 time, the party on whose motion the ex parte interim order is
8 entered shall have a true copy of the order served on the friend
9 of the ~~court~~ CHILD and the opposing party.

10 (11) If the opposing party objects to the ex parte interim
11 order, he or she shall file with the clerk of the court within 14
12 days after receiving notice of the order a written objection to,
13 or a motion to modify or rescind, the ex parte interim order.
14 The opposing party shall have a true copy of the written objec-
15 tion or motion served on the friend of the ~~court~~ CHILD and the
16 party who obtained the ex parte interim order.

17 (12) If the opposing party files a written objection to the
18 ex parte interim order, the friend of the ~~court~~ CHILD shall
19 attempt to resolve the dispute within 14 days after receiving
20 it. If the matter cannot be resolved, the friend of the ~~court~~
21 CHILD shall provide the opposing party with a form motion and
22 order with written instructions for their use in modifying or
23 rescinding the ex parte order without assistance of counsel. If
24 the opposing party wishes to proceed without assistance of coun-
25 sel, the friend of the ~~court~~ CHILD shall schedule a hearing
26 with the court that shall be held within 21 days after the filing
27 of the motion. If the opposing party files a motion to modify or

1 rescind the ex parte interim order and requests a hearing, the
2 court shall resolve the dispute within 28 days after the hearing
3 is requested.

4 (13) An ex parte interim order issued under this section
5 shall contain the following notice:

6 NOTICE:

7 1. You may file a written objection to this order or a
8 motion to modify or rescind this order. You must file the writ-
9 ten objection or motion with the clerk of the court within 14
10 days after you were served with this order. You must serve a
11 true copy of the objection or motion on the friend of the ~~court~~
12 CHILD and the party who obtained the order.

13 2. If you file a written objection, the friend of the
14 ~~court~~ CHILD must try to resolve the dispute. If the friend of
15 the ~~court~~ CHILD cannot resolve the dispute and if you wish to
16 bring the matter before the court without the assistance of coun-
17 sel, the friend of the ~~court~~ CHILD must provide you with form
18 pleadings and written instructions and must schedule a hearing
19 with the court.

20 Sec. 9. The department, the SDU, and each office of the
21 friend of the ~~court~~ CHILD shall cooperate in the transition to
22 the centralized receipt and disbursement of support and fees. An
23 office of the friend of the court shall continue to receive and
24 disburse support and fees through the transition, based on the
25 schedule developed as required by section ~~6~~ 7 of the office of
26 child support act, 1971 PA 174, MCL ~~400.236~~ 400.237, and

1 modifications to that schedule as the department considers
2 necessary.

3 Enacting section 1. This amendatory act does not take
4 effect unless Senate Bill No. _____ or House Bill No. 6317
5 (request no. 07684'02) of the 91st Legislature is enacted into
6 law.