

Act No. 377
Public Acts of 1988
Approved by the Governor
December 20, 1988
Filed with the Secretary of State
December 21, 1988

**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Reps. Ciaramitaro and Stabenow

ENROLLED HOUSE BILL No. 5028

AN ACT to amend section 7 of Act No. 91 of the Public Acts of 1970, entitled "An act to declare the inherent rights of minor children; to establish rights and duties to their custody, support and visitation in disputed actions; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts," as amended by Act No. 215 of the Public Acts of 1985, being section 722.27 of the Michigan Compiled Laws; and to add section 7a.

The People of the State of Michigan enact:

Section 1. Section 7 of Act No. 91 of the Public Acts of 1970, as amended by Act No. 215 of the Public Acts of 1985, being section 722.27 of the Michigan Compiled Laws, is amended and section 7a is added to read as follows:

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

(a) Award the custody of the child to 1 or more of the parties involved or to others and provide for payment of support for the child, until the child reaches 18 years of age. The court may require that support payments shall be made through the friend of the court or clerk of the court.

(b) Provide for reasonable visitation of the child by the parties involved, the maternal or paternal grandparents, or by others, by general or specific terms and conditions. Visitation of the child by the parents shall be governed by section 7a.

(c) Modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered.

(d) Utilize the community resources in behavioral sciences and other professions in the investigation and study of custody disputes and consider their recommendations for the resolution of the disputes.

(e) Appoint a guardian ad litem or counsel for the child and assess the costs and reasonable fees against 1 or more parties involved, totally or partially.

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

(g) Upon petition consider the reasonable visitation of maternal or paternal grandparents and, if denied, make a record of such denial.

(2) For the purposes of this act, "support" may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses. The court shall require that 1 or both parents of a child who is the subject of a petition under this section shall obtain or maintain any health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the child. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the child, if available at a reasonable cost.

(3) A judgment or order entered under this act providing for the support of a child is enforceable as provided in the support and visitation enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

Sec. 7a. (1) Visitation shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except as otherwise provided in this section, visitation shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted visitation.

(2) If the parents of a child agree on visitation terms, the court shall order the visitation terms unless the court determines on the record by clear and convincing evidence that the visitation terms are not in the best interests of the child.

(3) A child shall have a right to visitation with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health.

(4) The court may consider the following factors when determining the frequency, duration, and type of visitation to be granted:

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

(b) Whether the child is a nursing child less than 6 months of age, or less than 1 year of age if the child receives substantial nutrition through nursing.

(c) The reasonable likelihood of abuse or neglect of the child during visitation.

(d) The reasonable likelihood of abuse of a parent resulting from the exercise of visitation.

(e) The inconvenience to, and burdensome impact or effect on, the child of traveling to and from the visitation time.

(f) Whether the visiting parent can reasonably be expected to exercise visitation in accordance with the court order.

(g) Whether the visiting parent has frequently failed to exercise reasonable visitation.

(h) The threatened or actual detention of the child with the intent to retain or conceal the child from the other parent. A custodial parent's temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent's intent to retain or conceal the child from the other parent.

(i) Any other relevant factors.

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

(6) A visitation order may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of visitation by a parent, including 1 or more of the following:

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

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

(c) Restrictions on the presence of third persons during visitation.

(d) Requirements that the child be ready for visitation at a specific time.

(e) Requirements that the parent arrive for visitation and return the child from visitation at specific times.

(f) Requirements that visitation occur in the presence of a third person or agency.

(g) Requirements that a party post a bond to assure compliance with a visitation order.

(h) Requirements of reasonable notice when visitation will not occur.

(i) Any other reasonable condition determined to be appropriate in the particular case.

(7) During the time a child is with a parent to whom visitation has been awarded, that parent shall decide all routine matters concerning the child.

(8) Prior to entry of a temporary order, a parent may seek an ex parte interim order concerning visitation. If the court enters an ex parte interim order concerning visitation, the party on whose motion the ex parte interim order is entered shall have a true copy of the order served on the friend of the court and the opposing party.

(9) If the opposing party objects to the ex parte interim order, he or she shall file with the clerk of the court within 14 days after receiving notice of the order a written objection to, or a motion to modify or rescind, the ex parte interim order. The opposing party shall have a true copy of the written objection or motion served on the friend of the court and the party who obtained the ex parte interim order.

(10) If the opposing party files a written objection to the ex parte interim order, the friend of the court shall attempt to resolve the dispute within 14 days after receiving it. If the matter cannot be resolved, the friend of the court shall provide the opposing party with a form motion and order with written instructions for their use in modifying or rescinding the ex parte order without assistance of counsel. If the opposing party wishes to proceed without assistance of counsel, the friend of the court shall schedule a hearing with the court that shall be held within 21 days after the filing of the motion.

(11) If the opposing party files a motion to modify or rescind the ex parte interim order and requests a hearing, the court shall resolve the dispute within 28 days after the hearing is requested.

(12) An ex parte interim order issued pursuant to this section shall contain the following notice:

NOTICE:

1. You may file a written objection to the order or a motion to modify or rescind the order.
2. The written objection or motion must be filed with the clerk of the court within 14 days after you were served with the order. A true copy of the objection or motion shall be served on the friend of the court and the party who obtained the order.
3. If you file a written objection, the friend of the court shall try to resolve the dispute. If the friend of the court cannot resolve the dispute and if you wish to bring the matter before the court without the assistance of counsel, the friend of the court shall provide you with form pleadings and written instructions and schedule a hearing with the court.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

