

HOUSE BILL No. 4466

April 9, 1987, Introduced by Reps. GUBOW, DeMARS, HICKNER, DeBEAUSSAERT, CIARAMITARO, ALLEN, DOBRONSKI, WILLIS BULLARD, GIRE and BARNES 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 722.7b 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 722.7b 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. A~~
2 GRANDPARENT MAY SEEK AN ORDER FOR VISITATION WITHOUT REGARD TO
3 WHETHER THE GRANDCHILD IS A NATURAL OR ADOPTIVE CHILD OF THE
4 GRANDCHILD'S PARENTS. Adoption of the child by a stepparent under
5 THE MICHIGAN ADOPTION CODE, chapter X of Act No. 288 of the
6 Public Acts of 1939, being sections 710.21 to 710.70 of the
7 Michigan Compiled Laws, does not terminate the right of a ~~parent~~
8 ~~of the deceased person~~ GRANDPARENT to commence an action for
9 visitation.

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

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

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

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

23 (3) A grandparent seeking a grandchild visitation order may
24 commence an action for grandchild visitation, by complaint, ~~or~~
25 BY complaint and motion for an order to show cause, OR IF A LEGAL
26 SEPARATION OR DIVORCE ACTION IS PENDING, BY MOTION FOR AN ORDER
27 TO SHOW CAUSE in the circuit court in the county in which the

1 grandchild resides. If a ~~child custody dispute~~ LEGAL
2 SEPARATION OR DIVORCE is pending, the order shall be sought by
3 motion for an order to show cause. The complaint or motion shall
4 be accompanied by an affidavit setting forth facts supporting the
5 requested order. The grandparent shall give notice of the filing
6 to each party who has legal custody of the grandchild. A party
7 having legal custody may file an opposing affidavit. A hearing
8 shall be held by the court on its own motion or if a party so
9 requests. At the hearing, parties submitting affidavits shall be
10 allowed an opportunity to be heard. At the conclusion of the
11 hearing, if the court finds that it is in the best interests of
12 the child to enter a grandchild visitation order, the court shall
13 enter an order providing for reasonable visitation of the child
14 by the grandparent by general or specific terms and conditions.
15 If a hearing is not held, the court shall enter a grandchild vis-
16 itation order only upon a finding that visitation is in the best
17 interests of the child. A grandchild visitation order shall not
18 be entered for the parents of a putative father unless the father
19 has acknowledged paternity in writing, has been adjudicated to be
20 the father by a court of competent jurisdiction, or has contrib-
21 uted regularly to the support of the child or children. The
22 court shall make a record of the reasons for a denial of a
23 requested grandchild visitation order.

24 (4) A grandparent may not file more than once every 2 years,
25 absent a showing of good cause, a complaint or motion seeking a
26 grandchild visitation order. If the court finds there is good
27 cause to allow a grandparent to file more than 1 complaint or

1 motion under this section in a 2-year period, the court shall
2 allow the filing and shall consider the complaint or motion. The
3 court may order reasonable attorney fees to the prevailing
4 party.

5 (5) The court shall not enter an order restricting the move-
6 ment of the grandchild if the restriction is solely for the pur-
7 pose of allowing the grandparent to exercise the rights conferred
8 in a grandchild visitation order.

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

16 (7) The court may enter an order modifying or terminating a
17 grandchild visitation order whenever such a modification or ter-
18 mination is in the best interests of the child.

19 (8) THIS SECTION DOES NOT APPLY TO A GRANDPARENT OF A CHILD
20 WHO HAS BEEN PLACED FOR ADOPTION WITH A PERSON OTHER THAN A STEP-
21 PARENT OR WHOSE ADOPTION BY A PERSON OTHER THAN A STEPPARENT HAS
22 BEEN LEGALLY FINALIZED.

23 Section 2. This amendatory act shall not take effect unless
24 Senate Bill No. _____ or House Bill No. 4467 (request
25 no. 01375'87 a) of the 84th Legislature is enacted into law.