

HOUSE BILL No. 5028

October 5, 1987, Introduced by Reps. Ciaramitaro and Stabenow and referred to the Committee on Judiciary.

A bill to amend sections 4 and 7 of Act No. 91 of the Public Acts of 1970, entitled "Child custody act of 1970," section 7 as amended by Act No. 215 of the Public Acts of 1985, being sections 722.24 and 722.27 of the Michigan Compiled Laws; and to add section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4 and 7 of Act No. 91 of the Public
2 Acts of 1970, section 7 as amended by Act No. 215 of the Public
3 Acts of 1985, being sections 722.24 and 722.27 of the Michigan
4 Compiled Laws, are amended and section 7a is added to read as
5 follows:

6 Sec. 4. In all actions now pending or hereafter filed in
7 ~~a~~ circuit court involving A dispute ~~of~~ CONCERNING custody of
8 a minor child, the court shall declare the inherent rights of the

1 child and establish the rights and duties as to custody, support,
2 and visitation of the child in accordance with this act. UNLESS
3 OTHERWISE ESTABLISHED, PARENTS ARE PRESUMED FIT.

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

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

14 (b) Provide for reasonable visitation of the child by the
15 parties involved, the maternal or paternal grandparents, or by
16 others, by general or specific terms and conditions. VISITATION
17 OF THE CHILD BY THE PARENTS SHALL BE GOVERNED BY SECTION 7A.

18 (c) Modify or amend its previous judgments or orders for
19 proper cause shown or because of change of circumstances until
20 the child reaches 18 years of age. The court shall not modify or
21 amend its previous judgments or orders or issue a new order so as
22 to change the established custodial environment of a child unless
23 there is presented clear and convincing evidence that it is in
24 the best interest of the child. The custodial environment of a
25 child is established if over an appreciable time the child natu-
26 rally looks to the custodian in that environment for guidance,
27 discipline, the necessities of life, and parental comfort. The

1 age of the child, the physical environment, and the inclination
2 of the custodian and the child as to permanency of the relation-
3 ship shall also be considered.

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

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

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

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

16 (2) For the purposes of this act, "support" may include pay-
17 ment of the expenses of medical, dental, and other health care,
18 child care expenses, and educational expenses. The court shall
19 require that 1 or both parents of a child who is the subject of a
20 petition under this section shall obtain or maintain any health
21 care coverage that is available to them at a reasonable cost, as
22 a benefit of employment, for the benefit of the child. If a
23 parent is self-employed and maintains health care coverage, the
24 court shall require the parent to obtain or maintain dependent
25 coverage for the benefit of the child, if available at a reason-
26 able cost.

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

6 SEC. 7A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)
7 OR UNLESS THE PARENTS AGREE OTHERWISE, REASONABLE VISITATION PRO-
8 VIDED TO A PARENT, WHETHER BY GENERAL OR SPECIFIC TERMS AND CON-
9 DITIONS, SHALL NOT BE LESS THAN 50 HOURS WITHIN A 2-WEEK PERIOD
10 AND SHALL INCLUDE OVERNIGHT VISITATION.

11 (2) FOR GOOD CAUSE SHOWN, THE COURT MAY RESTRICT VISITATION
12 TO LESS THAN 50 HOURS WITHIN A 2-WEEK PERIOD, IMPOSE UPON VISITA-
13 TION OTHER TERMS AND CONDITIONS, OR BOTH. THE COURT SHALL STATE
14 ON THE RECORD ITS REASONS FOR RESTRICTING, OR IMPOSING OTHER
15 TERMS AND CONDITIONS UPON, VISITATION.

16 (3) THE COURT MAY CONSIDER, BUT IS NOT LIMITED TO CONSIDER-
17 ING, THE FOLLOWING FACTORS WHEN RESTRICTING VISITATION OR IMPOS-
18 ING UPON IT OTHER TERMS AND CONDITIONS:

19 (A) THE EXISTENCE OF ANY SPECIAL CIRCUMSTANCES OR NEEDS OF
20 THE CHILD INCLUDING, BUT NOT LIMITED TO:

21 (i) SPECIAL HEALTH CARE NEEDS.

22 (ii) THE CHILD'S EMPLOYMENT SCHEDULE.

23 (iii) WHETHER THE CHILD IS A NURSING CHILD LESS THAN 6
24 MONTHS OF AGE.

25 (B) WHETHER THE VISITATION TIME USUALLY INVOLVES INTERACTION
26 BETWEEN THE CHILD AND THE VISITING PARENT.

1 (C) THE REASONABLE LIKELIHOOD OF ABUSE OR NEGLECT OF THE
2 CHILD DURING VISITATION.

3 (D) THE INCONVENIENCE TO, AND BURDENSOME IMPACT OR EFFECT
4 ON, THE CHILD OF TRAVELING TO AND FROM THE VISITATION TIME.

5 (E) WHETHER THE VISITING PARENT CAN REASONABLY BE EXPECTED
6 TO EXERCISE VISITATION IN EVERY 2-WEEK PERIOD.

7 (F) WHETHER THE VISITING PARENT HAS FREQUENTLY FAILED TO
8 EXERCISE REASONABLE VISITATION.

9 (G) THE THREATENED OR ACTUAL DETENTION OF THE CHILD WITH THE
10 INTENT TO RETAIN OR CONCEAL THE CHILD FROM THE OTHER PARENT.

11 (4) IF THE COURT RESTRICTS VISITATION TO LESS THAN 50 HOURS
12 WITHIN A 2-WEEK PERIOD, IMPOSES UPON IT OTHER TERMS AND CONDI-
13 TIONS, OR DOES BOTH, IN A PREJUDGMENT EX PARTE INTERIM ORDER, IT
14 SHALL DO SO IN A SEPARATE ORDER. THE INTERIM ORDER SHALL PROVIDE
15 THE VISITING PARENT WITH NOTICE OF HIS OR HER RIGHT TO FILE A
16 MOTION TO RESCIND OR MODIFY THE INTERIM ORDER, AND NOTICE OF THE
17 REQUIREMENT THAT THE MOTION BE FILED WITHIN 14 DAYS AFTER THE
18 VISITING PARENT IS SERVED WITH THE INTERIM ORDER. IF THE VISIT-
19 ING PARENT MOVES TO MODIFY OR RESCIND THE ORDER WITHIN 14 DAYS
20 AFTER SERVICE OF THE EX PARTE INTERIM ORDER, THE ORDER AUTOMATI-
21 CALLY EXPIRES 30 DAYS AFTER THE FILING OF THE MOTION UNLESS A
22 HEARING IS HELD ON THE OBJECTIONS TO THE ORDER BY THE COURT OR A
23 REFEREE WITHIN 30 DAYS AFTER THE FILING OF THE MOTION.

24 (5) IF THE VISITING PARENT DOES NOT OBJECT IN WRITING WITHIN
25 14 DAYS AFTER BEING SERVED WITH THE PREJUDGMENT EX PARTE INTERIM
26 ORDER, THE ORDER AUTOMATICALLY BECOMES A TEMPORARY VISITATION

1 ORDER, AND SHALL REMAIN EFFECTIVE UNTIL FURTHER ORDER OF THE
2 COURT.