

SUBSTITUTE FOR
SENATE BILL NO. 966

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending section 7a (MCL 722.27a), as amended by 1996 PA 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7a. (1) Parenting time shall be granted in accordance
2 with the **child's** best interests. ~~of the child.~~ It is presumed
3 to be in the **child's** best interests ~~of a child~~ for the child to
4 have a strong relationship with both of his or her parents.
5 Except as otherwise provided in this section, parenting time
6 shall be granted to a parent in a frequency, duration, and type
7 reasonably calculated to promote a strong relationship between
8 the child and the parent granted parenting time.
9 (2) With the approval and at the direction of the supreme
10 court, the state court administrative office shall develop and
11 make available a form for use by a parent in completing a

Senate Bill No. 966 as amended September 28, 2004

1 parenting plan. The form shall be made available by the court to
2 the parents of the minor child. The form shall indicate the
3 subject matter to be addressed in a parenting plan and shall
4 contain a sworn statement signed by each parent that the proposed
5 parenting plan is proposed in good faith. A form developed under
6 this subsection shall contain notice that either party may obtain
7 legal counsel.

8 (3) Except as provided in subsection (11), if the parents
9 create a parenting plan as provided in subsection (2), the
10 parenting plan shall be filed with the court before a hearing on
11 or determination of issues regarding a child. Failure of a party
12 to file a parenting plan is not evidence << >> of that
13 party's willingness and ability to facilitate and encourage a
14 close and continuing parent-child relationship between the child
15 and the other party under section 3.

16 (4) ~~-(2)-~~ If the **child's** parents ~~of a child~~ agree on
17 parenting time terms, the court shall order the parenting time
18 terms unless the court determines on the record by clear and
19 convincing evidence that the parenting time terms **provided in**
20 **subsections (2) and (3)** are not in the **child's** best interests.
21 ~~of the child.~~ ~~-(3)-~~ A child has a right to parenting time with a
22 parent unless it is shown on the record by clear and convincing
23 evidence that it would endanger the child's physical, mental, or
24 emotional health.

25 (5) ~~-(4)-~~ Notwithstanding other provisions of this act, if a
26 proceeding regarding parenting time involves a child who is
27 conceived as the result of acts for which 1 of the child's

1 biological parents is convicted of criminal sexual conduct as
2 provided in sections 520a to 520e and 520g of the Michigan penal
3 code, ~~Act No. 328 of the Public Acts of 1931, being sections~~
4 ~~750.520a to 750.520e and 750.520g of the Michigan Compiled Laws~~
5 **1931 PA 328, MCL 750.520a to 750.520e and 750.520g**, the court
6 shall not grant parenting time to the convicted biological
7 parent. This subsection does not apply to a conviction under
8 section 520d(1)(a) of ~~Act No. 328 of the Public Acts of 1931,~~
9 ~~being section 750.520d of the Michigan Compiled Laws~~ **the**
10 **Michigan penal code, 1931 PA 328, MCL 750.520d.** This subsection
11 does not apply if, after the date of the conviction, the
12 biological parents cohabit and establish a mutual custodial
13 environment for the child.

14 (6) ~~—(5)—~~ Notwithstanding other provisions of this act, if an
15 individual is convicted of criminal sexual conduct as provided in
16 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts~~
17 ~~of 1931~~ **the Michigan penal code, 1931 PA 328, MCL 750.520a to**
18 **750.520e and 750.520g**, and the victim is the individual's child,
19 the court shall not grant parenting time with that child or a
20 sibling of that child to that individual, unless both the child's
21 other parent and, if the court considers the child or sibling to
22 be of sufficient age to express his or her desires, the child or
23 sibling consent to the parenting time.

24 (7) ~~—(6)—~~ The court may consider the following factors when
25 determining the frequency, duration, and type of parenting time
26 to be granted:

27 (a) The existence of ~~any~~ special circumstances or needs of

1 the child.

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

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

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

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

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

13 (g) Whether a parent has frequently failed to exercise
14 reasonable parenting time.

15 (h) The threatened or actual detention of the child with the
16 intent to retain or conceal the child from the other parent or
17 from a third person who has legal custody. A custodial parent's
18 temporary residence with the child in a domestic violence shelter
19 ~~shall~~ **is** not ~~be construed as~~ evidence of the custodial
20 parent's intent to retain or conceal the child from the other
21 parent.

22 (i) Any other relevant factors.

23 **(8)** ~~-(7)-~~ Parenting time shall be granted in specific terms
24 if requested by either party at any time.

25 **(9)** ~~-(8)-~~ A parenting time order may contain any reasonable
26 terms or conditions that facilitate the orderly and meaningful
27 exercise of parenting time by a parent, including 1 or more of

1 the following:

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

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

4 (c) Restrictions on the presence of third persons during
5 parenting time.

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

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

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

12 (g) Requirements that a party post a bond to assure
13 compliance with a parenting time order.

14 (h) Requirements of reasonable notice when parenting time
15 will not occur.

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

18 (10) ~~—(9)—~~ During the time a child is with a parent to whom
19 parenting time has been awarded, that parent shall decide all
20 routine matters concerning the child.

21 (11) ~~—(10)— Prior to~~ **Before** entry of a temporary order **or**
22 **parenting plan under subsection (2)**, a parent may seek an ex
23 parte interim order concerning parenting time. If the court
24 enters an ex parte interim order concerning parenting time, the
25 party on whose motion the ex parte interim order is entered shall
26 have a true copy of the order served on the friend of the court
27 and the opposing party.

1 (12) ~~—(11)—~~ If the opposing party objects to the ex parte
2 interim order, he or she shall file with the clerk of the court
3 within 14 days after receiving notice of the order a written
4 objection to, or a motion to modify or rescind, the ex parte
5 interim order. The opposing party shall have a true copy of the
6 written objection or motion served on the friend of the court and
7 the party who obtained the ex parte interim order.

8 (13) ~~—(12)—~~ If the opposing party files a written objection
9 to the ex parte interim order, the friend of the court shall
10 attempt to resolve the dispute within 14 days after receiving
11 it. If the matter cannot be resolved, the friend of the court
12 shall provide the opposing party with a form motion and order
13 with written instructions for their use in modifying or
14 rescinding the ex parte order without assistance of counsel. If
15 the opposing party wishes to proceed without assistance of
16 counsel, the friend of the court shall schedule a hearing with
17 the court that shall be held within 21 days after the filing of
18 the motion. If the opposing party files a motion to modify or
19 rescind the ex parte interim order and requests a hearing, the
20 court shall resolve the dispute within 28 days after the hearing
21 is requested.

22 (14) ~~—(13)—~~ An ex parte interim order issued under this
23 section shall contain the following notice:

24 NOTICE:

25 1. You may file a written objection to this order or a
26 motion to modify or rescind this order. You must file the
27 written objection or motion with the clerk of the court within 14

1 days after you were served with this order. You must serve a
2 true copy of the objection or motion on the friend of the court
3 and the party who obtained the order.

4 2. If you file a written objection, the friend of the court
5 must try to resolve the dispute. If the friend of the court
6 cannot resolve the dispute and if you wish to bring the matter
7 before the court without the assistance of counsel, the friend of
8 the court must provide you with form pleadings and written
9 instructions and must schedule a hearing with the court.

10 Enacting section 1. This amendatory act takes effect
11 October 1, 2004.

12 Enacting section 2. This amendatory act does not take
13 effect unless House Bill No. 5471 of the 92nd Legislature is
14 enacted into law.