

SENATE BILL No. 1258

May 9, 2006, Introduced by Senators PATTERSON, CROPSEY and BISHOP and referred to the Committee on Judiciary.

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 best interests of the child. It is presumed to be in the
3 best interests of a child for the child to have a strong
4 relationship with both of his or her parents. Except as otherwise
5 provided in this section, parenting time shall be granted to a
6 parent in a frequency, duration, and type reasonably calculated to
7 promote a strong relationship between the child and the parent
8 granted parenting time.

9 (2) If the parents of a child agree on parenting time terms,

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

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

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

22 (5) Notwithstanding other provisions of this act, if an
23 individual is convicted of criminal sexual conduct as provided in
24 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts~~
25 ~~of 1931~~ **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO**
26 **750.520E AND 750.520G**, and the victim is the individual's child,
27 the court shall not grant parenting time with that child or a

1 sibling of that child to that individual, unless both the child's
2 other parent and, if the court considers the child or sibling to be
3 of sufficient age to express his or her desires, the child or
4 sibling consent to the parenting time.

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

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

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

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

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

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

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

21 (g) Whether a parent has frequently failed to exercise
22 reasonable parenting time.

23 (h) The threatened or actual detention of the child with the
24 intent to retain or conceal the child from the other parent or from
25 a third person who has legal custody. A custodial parent's
26 temporary residence with the child in a domestic violence shelter
27 shall not be construed as evidence of the custodial parent's intent

1 to retain or conceal the child from the other parent.

2 (i) Any other relevant factors.

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

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

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

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

10 (c) Restrictions on the presence of third persons during
11 parenting time.

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

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

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

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

20 (h) Requirements of reasonable notice when parenting time will
21 not occur.

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

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

27 (10) Prior to entry of a temporary order, a parent may seek an

1 ex parte interim order concerning parenting time. If the court
2 enters an ex parte interim order concerning parenting time, the
3 party on whose motion the ex parte interim order is entered shall
4 have a true copy of the order served on the friend of the court and
5 the opposing party.

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

13 (12) If the opposing party files a written objection to the ex
14 parte interim order, the friend of the court shall attempt to
15 resolve the dispute within 14 days after receiving it. If the
16 matter cannot be resolved, the friend of the court shall provide
17 the opposing party with a form motion and order with written
18 instructions for their use in modifying or rescinding the ex parte
19 order without assistance of counsel. If the opposing party wishes
20 to proceed without assistance of counsel, the friend of the court
21 shall schedule a hearing with the court that shall be held within
22 21 days after the filing of the motion. If the opposing party files
23 a motion to modify or rescind the ex parte interim order and
24 requests a hearing, the court shall resolve the dispute within 28
25 days after the hearing is requested.

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

NOTICE:

1
2 1. You may file a written objection to this order or a motion
3 to modify or rescind this order. You must file the written
4 objection or motion with the clerk of the court within 14 days
5 after you were served with this order. You must serve a true copy
6 of the objection or motion on the friend of the court and the party
7 who obtained the order.

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

14 (14) A PARENT MAY REQUEST ELECTRONIC VISITATION IN ADDITION TO
15 PARENTING TIME UNDER THIS SECTION. IF A PARENT REQUESTS ELECTRONIC
16 VISITATION UNDER THIS SECTION, THE COURT MAY GRANT THAT PARENT A
17 REASONABLE AMOUNT OF ELECTRONIC VISITATION WHILE THE CHILD IS IN
18 THE OTHER PARENT'S CARE IF THE COURT FINDS BOTH OF THE FOLLOWING:

19 (A) THE EQUIPMENT FOR PROVIDING THE TYPE OF ELECTRONIC
20 VISITATION REQUESTED IS AVAILABLE TO BOTH PARENTS.

21 (B) THE ELECTRONIC VISITATION REQUESTED IS IN THE BEST
22 INTERESTS OF THE CHILD.

23 (15) A COURT SHALL NOT USE ELECTRONIC VISITATION AS A
24 SUBSTITUTE FOR PARENTING TIME UNDER THIS SECTION.

25 (16) AS USED IN THIS SECTION, "ELECTRONIC VISITATION" MEANS
26 COMMUNICATION BETWEEN A PARENT AND HIS OR HER CHILD BY TELEPHONE,
27 ELECTRONIC MAIL, INSTANT MESSAGING, VIDEO CONFERENCING, WEBCAM, OR

1 ANY OTHER ELECTRONIC COMMUNICATION DEVICE.