

HOUSE BILL No. 4140

January 25, 2007, Introduced by Reps. Rick Jones, Shaffer, Rocca, Steil, Green, Elsenheimer, Meekhof, Pearce, Bieda, Gaffney, Agema, Hansen, Dean and LaJoy and referred to the Committee on Families and Children's Services.

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending section 5 (MCL 722.25), as amended by 1993 PA 259.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) If a child custody dispute is between the parents,
2 between agencies, or between third persons, the best interests of
3 the child control. If the child custody dispute is between the
4 parent or parents and an agency or a third person, the court shall
5 presume that the best interests of the child are served by awarding
6 custody to the parent or parents, unless the contrary is
7 established by clear and convincing evidence.

8 (2) Notwithstanding other provisions of this act, if a child
9 custody dispute involves a child who is conceived as the result of
10 acts for which 1 of the child's biological parents is convicted of

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

12 (3) Notwithstanding other provisions of this act, if an
13 individual is convicted of criminal sexual conduct as provided in
14 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts of~~
15 ~~1931~~ **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO 750.520E**
16 **AND 750.520G**, and the victim is the individual's child, the court
17 shall not award custody of that child or a sibling of that child to
18 that individual. ~~, unless both the child's other parent and, if the~~
19 ~~court considers the child or sibling to be of sufficient age to~~
20 ~~express his or her desires, the child or sibling consent to the~~
21 ~~custody.~~