

HOUSE BILL No. 5114

June 17, 2009, Introduced by Reps. Calley, Rogers, Rick Jones, McMillin, Pearce, Agema, Knollenberg, LeBlanc, Kurtz, Huckleberry, Horn, Green, Hansen, Bolger, Haines, Moss, Denby, Dean, Amash and Genetski and referred to the Committee on Judiciary.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending section 6a (MCL 722.26a), as added by 1980 PA 434.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6a. (1) IN A CUSTODY DISPUTE BETWEEN PARENTS, THE COURT
2 SHALL ORDER JOINT CUSTODY UNLESS EITHER OF THE FOLLOWING APPLIES:

3 (A) THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT
4 A PARENT IS UNFIT, UNWILLING, OR UNABLE TO CARE FOR THE CHILD.

5 (B) A PARENT MOVES HIS OR HER RESIDENCE OUTSIDE THE SCHOOL
6 DISTRICT THAT THE CHILD ATTENDED DURING THE 1-YEAR PERIOD PRECEDING
7 THE INITIATION OF THE ACTION AND IS UNABLE TO MAINTAIN THE CHILD'S
8 SCHOOL SCHEDULE WITHOUT INTERRUPTION. IF A PARENT IS UNABLE TO
9 MAINTAIN THE CHILD'S SCHOOL SCHEDULE, THE COURT SHALL ORDER THAT
10 THE PARENTS SUBMIT THE DISPUTE TO MEDIATION TO DETERMINE A CUSTODY
11 AGREEMENT THAT MAXIMIZES BOTH PARENTS' ABILITY TO PARTICIPATE

1 EQUALLY IN A RELATIONSHIP WITH THE CHILD WHILE ACCOMMODATING THE
 2 CHILD'S SCHOOL SCHEDULE. A PARENT MAY RESTORE JOINT CUSTODY BY
 3 DEMONSTRATING THE ABILITY TO MAINTAIN THE CHILD'S SCHOOL SCHEDULE.

4 (2) ~~(1) In~~ IF SUBSECTION (1) DOES NOT APPLY IN A custody
 5 ~~disputes~~ DISPUTE between parents, the parents shall be advised of
 6 joint custody. At the request of either parent, the court shall
 7 consider an award of joint custody, and shall state on the record
 8 the reasons for granting or denying a request. In other cases,
 9 joint custody may be considered by the court. The court shall
 10 determine whether joint custody is in the best interest of the
 11 child by considering the following factors:

12 (a) The factors enumerated in section 3.

13 (b) Whether the parents will be able to ~~cooperate~~ MAINTAIN THE
 14 CHILD'S SCHOOL SCHEDULE and generally agree concerning important
 15 decisions affecting the welfare of the child.

16 (3) ~~(2) If the parents agree on joint~~ IN WRITING TO A custody
 17 ARRANGEMENT, the court shall ~~award joint~~ GRANT THAT custody unless
 18 ~~the court determines on the record, based upon clear and convincing~~
 19 ~~evidence, that joint custody is not in the best interests of the~~
 20 ~~child~~ ARRANGEMENT.

21 (4) ~~(3) If the court awards joint custody, the court may~~ SHALL
 22 include in its award a statement regarding when the child shall
 23 ~~reside~~ RESIDES with each parent, ~~or may~~ AND SHALL provide that
 24 physical custody ~~be~~ IS shared by the parents ~~in a manner to assure~~
 25 ~~the child continuing contact with both parents~~ ALTERNATELY FOR
 26 SPECIFIC AND SUBSTANTIALLY EQUAL PERIODS OF TIME.

27 (5) ~~(4) During the time a child resides with a parent, that~~

1 parent shall decide all routine matters concerning the child.

2 (6) ~~(5)~~—If there is a dispute regarding residency, the court
3 shall state the basis for a residency award on the record or in
4 writing.

5 (7) ~~(6)~~—Joint custody ~~shall~~ **DOES** not eliminate the
6 responsibility for child support. Each parent ~~shall be~~ **IS**
7 responsible for child support based on the needs of the child and
8 the actual resources of each parent. If a parent would otherwise be
9 unable to maintain adequate housing for the child and the other
10 parent has sufficient resources, the court may order modified
11 support payments for a portion of housing expenses even during a
12 period when the child is not residing in the home of the parent
13 receiving support. An order of joint custody, in and of itself,
14 ~~shall~~ **DOES** not constitute grounds for modifying a support order.

15 (8) ~~(7)~~—As used in this section, "joint custody" means an
16 order of the court in which ~~1 or~~ both of the following ~~is~~ **ARE**
17 specified:

18 (a) That the child ~~shall reside~~ **RESIDES** alternately for
19 specific **AND SUBSTANTIALLY EQUAL** periods **OF TIME** with each ~~of the~~
20 ~~parents~~ **PARENT**.

21 (b) That the parents ~~shall~~ share decision-making authority as
22 to **ALL OF** the important decisions affecting the welfare of the
23 child, **INCLUDING, BUT NOT LIMITED TO, THE CHILD'S EDUCATION,**
24 **RELIGIOUS TRAINING, AND MEDICAL TREATMENT.**