

SENATE BILL No. 1202

March 3, 2010, Introduced by Senators BASHAM, HUNTER and GLEASON and referred to the Committee on Families and Human 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~~ **EXCEPT AS PROVIDED IN SECTION 7C OF THE**
2 **PATERNITY ACT, 1956 PA 205, MCL 722.717C, IF** a child custody
3 dispute is between the parents, between agencies, or between third
4 persons, the best interests of the child control. If the child
5 custody dispute is between the parent or parents and an agency or a
6 third person, the court shall presume that the best interests of
7 the child are served by awarding custody to the parent or parents,
8 unless the contrary is established by clear and convincing
9 evidence.

(2) Notwithstanding other provisions of this act, if a child custody dispute involves a child who is conceived as the result of acts for which 1 of the child's biological parents is convicted of criminal sexual conduct as provided in sections 520a to 520e and 520g of the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931 PA 328, being sections MCL 750.520a to 750.520e and 750.520g, of the Michigan Compiled Laws,~~ the court shall not award custody to the convicted biological parent. This subsection does not apply ~~to~~ ~~a conviction~~ **IF THE PARENT IS CONVICTED** under section 520d(1)(a) of the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931 PA 328, being section MCL 750.520d. of the Michigan Compiled Laws.~~ This subsection does not apply if, after the date of the conviction, the biological parents cohabit and establish a mutual custodial environment for the child.

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

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1201

of the 95th Legislature is enacted into law.