

SENATE BILL No. 1000

March 1, 2012, Introduced by Senators MOOLENAAR, GREEN, BRANDENBURG, SCHUITMAKER, MARLEAU, JANSEN, COLBECK and WALKER 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,
10 the court shall order the parenting time terms unless the court

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

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

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

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

1 if the court considers the child or sibling to be of sufficient age
2 to express his or her desires, the child or sibling consent to the
3 parenting time.

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

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

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

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

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

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

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

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

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

1 (i) Any other relevant factors.

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

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

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

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

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

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

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

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

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

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

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

23 **(9) A PARENTING TIME ORDER SHALL CONTAIN A PROHIBITION ON**
24 **EXERCISING PARENTING TIME IN A COUNTRY THAT IS NOT A PARTY TO THE**
25 **HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD**
26 **ABDUCTION.**

27 **(10) ~~(9)~~—During the time a child is with a parent to whom**

1 parenting time has been awarded, that parent shall decide all
2 routine matters concerning the child.

3 (11) ~~(10)~~—Prior to entry of a temporary order, a parent may
4 seek an ex parte interim order concerning parenting time. If the
5 court enters an ex parte interim order concerning parenting time,
6 the party on whose motion the ex parte interim order is entered
7 shall have a true copy of the order served on the friend of the
8 court and the opposing party.

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

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

1 days after the hearing is requested.

2 (14) ~~(13)~~—An ex parte interim order issued under this section
3 shall contain the following notice:

4 NOTICE:

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

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