

SUBSTITUTE FOR  
SENATE BILL NO. 9

A bill to amend 1970 PA 91, entitled  
"Child custody act of 1970,"  
by amending sections 2, 7, and 7a (MCL 722.22, 722.27, and  
722.27a), section 2 as amended by 2005 PA 327, section 7 as amended  
by 2005 PA 328, and section 7a as amended by 2012 PA 600.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) "Active ~~military duty~~" means ~~when a reserve unit member or~~  
3 ~~national guard unit member is called into active military duty.~~ **THAT**  
4 **TERM AS DEFINED IN SECTION 101 OF THE SERVICEMEMBERS CIVIL RELIEF**  
5 **ACT, 50 USC 511, EXCEPT THAT "ACTIVE DUTY" INCLUDES FULL-TIME**  
6 **NATIONAL GUARD DUTY.**

7       (b) "Agency" means a legally authorized public or private  
8 organization, or governmental unit or official, whether of this

1 state or of another state or country, concerned in the welfare of  
2 minor children, including a licensed child placement agency.

3 (c) "Attorney" means, if appointed to represent a child under  
4 this act, an attorney serving as the child's legal advocate in a  
5 traditional attorney-client relationship with the child, as  
6 governed by the Michigan rules of professional conduct. An attorney  
7 defined under this subdivision owes the same duties of undivided  
8 loyalty, confidentiality, and zealous representation of the child's  
9 expressed wishes as the attorney would to an adult client.

10 (d) "Child" means minor child and children. Subject to section  
11 5b of the support and parenting time enforcement act, 1982 PA 295,  
12 MCL 552.605b, for purposes of providing support, child includes a  
13 child and children who have reached 18 years of age.

14 **(E) "DEPLOYMENT" MEANS THE MOVEMENT OR MOBILIZATION OF A**  
15 **SERVICEMEMBER TO A LOCATION FOR A PERIOD OF LONGER THAN 60 DAYS AND**  
16 **NOT LONGER THAN 540 DAYS UNDER TEMPORARY OR PERMANENT OFFICIAL**  
17 **ORDERS AS FOLLOWS:**

18 **(i) THAT ARE DESIGNATED AS UNACCOMPANIED.**

19 **(ii) FOR WHICH DEPENDENT TRAVEL IS NOT AUTHORIZED.**

20 **(iii) THAT OTHERWISE DO NOT PERMIT THE MOVEMENT OF FAMILY**  
21 **MEMBERS TO THAT LOCATION.**

22 **(iv) THE SERVICEMEMBER IS RESTRICTED FROM TRAVEL.**

23 **(F) ~~(e)~~**"Grandparent" means a natural or adoptive parent of a  
24 child's natural or adoptive parent.

25 **(G) ~~(f)~~**"Guardian ad litem" means an individual whom the court  
26 appoints to assist the court in determining the child's best  
27 interests. A guardian ad litem does not need to be an attorney.

1           (H) ~~(g)~~—"Lawyer-guardian ad litem" means an attorney appointed  
2 under section 4. A lawyer-guardian ad litem represents the child,  
3 and has the powers and duties, as set forth in section 4.

4           (I) ~~(h)~~—"Parent" means the natural or adoptive parent of a  
5 child.

6           (J) ~~(i)~~—"State disbursement unit" or "SDU" means the entity  
7 established in section 6 of the office of child support act, 1971  
8 PA 174, MCL 400.236.

9           (K) ~~(j)~~—"Third person" means an individual other than a  
10 parent.

11           Sec. 7. (1) If a child custody dispute has been submitted to  
12 the circuit court as an original action under this act or has  
13 arisen incidentally from another action in the circuit court or an  
14 order or judgment of the circuit court, for the best interests of  
15 the child the court may do 1 or more of the following:

16           (a) Award the custody of the child to 1 or more of the parties  
17 involved or to others and provide for payment of support for the  
18 child, until the child reaches 18 years of age. Subject to section  
19 5b of the support and parenting time enforcement act, 1982 PA 295,  
20 MCL 552.605b, the court may also order support as provided in this  
21 section for a child after he or she reaches 18 years of age. The  
22 court may require that support payments shall be made through the  
23 friend of the court, court clerk, or state disbursement unit.

24           (b) Provide for reasonable parenting time of the child by the  
25 parties involved, by the maternal or paternal grandparents, or by  
26 others, by general or specific terms and conditions. Parenting time  
27 of the child by the parents is governed by section 7a.

1 (c) ~~Modify~~ **SUBJECT TO SUBSECTION (3), MODIFY** or amend its  
2 previous judgments or orders for proper cause shown or because of  
3 change of circumstances until the child reaches 18 years of age  
4 and, subject to section 5b of the support and parenting time  
5 enforcement act, 1982 PA 295, MCL 552.605b, until the child reaches  
6 19 years and 6 months of age. The court shall not modify or amend  
7 its previous judgments or orders or issue a new order so as to  
8 change the established custodial environment of a child unless  
9 there is presented clear and convincing evidence that it is in the  
10 best interest of the child. The custodial environment of a child is  
11 established if over an appreciable time the child naturally looks  
12 to the custodian in that environment for guidance, discipline, the  
13 necessities of life, and parental comfort. The age of the child,  
14 the physical environment, and the inclination of the custodian and  
15 the child as to permanency of the relationship shall also be  
16 considered. If a motion for change of custody is filed ~~during the~~  
17 ~~time~~ **WHILE** a parent is ~~in active military duty~~, the court shall not  
18 ~~enter an order modifying or amending a previous judgment or order,~~  
19 ~~or issue a new order, that changes the child's placement that~~  
20 ~~existed on the date the parent was called to active military duty,~~  
21 ~~except the court may enter a temporary custody order if there is~~  
22 ~~clear and convincing evidence that it is in the best interest of~~  
23 ~~the child. Upon a parent's return from active military duty, the~~  
24 ~~court shall reinstate the custody order in effect immediately~~  
25 ~~preceding that period of active military duty. If a motion for~~  
26 ~~change of custody is filed after a parent returns from active~~  
27 ~~military duty, the court shall not consider a parent's absence due~~

1 to that ~~military~~ **ACTIVE** duty **STATUS** in a best interest of the child  
2 determination.

3 (d) Utilize a guardian ad litem or the community resources in  
4 behavioral sciences and other professions in the investigation and  
5 study of custody disputes and consider their recommendations for  
6 the resolution of the disputes.

7 (e) Take any other action considered to be necessary in a  
8 particular child custody dispute.

9 (f) Upon petition consider the reasonable grandparenting time  
10 of maternal or paternal grandparents as provided in section 7b and,  
11 if denied, make a record of the denial.

12 (2) A judgment or order entered under this act providing for  
13 the support of a child is governed by and is enforceable as  
14 provided in the support and parenting time enforcement act, 1982 PA  
15 295, MCL 552.601 to 552.650. If this act contains a specific  
16 provision regarding the contents or enforcement of a support order  
17 that conflicts with a provision in the support and parenting time  
18 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act  
19 controls in regard to that provision.

20 (3) **AS PROVIDED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 USC**  
21 **501 TO 597B, IF A MOTION FOR CHANGE OF CUSTODY IS FILED DURING THE**  
22 **TIME A PARENT IS ACTIVE DUTY AND ON DEPLOYMENT, A PARENT MAY FILE**  
23 **AND THE COURT SHALL ENTERTAIN AN APPLICATION FOR STAY. THE COURT**  
24 **SHALL NOT ENTER AN ORDER MODIFYING OR AMENDING A PREVIOUS JUDGMENT**  
25 **OR ORDER, OR ISSUE A NEW ORDER, THAT CHANGES THE CHILD'S PLACEMENT**  
26 **THAT EXISTED ON THE DATE THE PARENT WAS CALLED TO DEPLOYMENT,**  
27 **EXCEPT THAT THE COURT MAY ENTER A TEMPORARY CUSTODY ORDER IF THERE**

1 IS CLEAR AND CONVINCING EVIDENCE THAT IT IS IN THE BEST INTERESTS  
2 OF THE CHILD. AT ANY STAGE BEFORE FINAL JUDGMENT IN THE PROCEEDING,  
3 THE PARENT MAY FILE AN APPLICATION FOR STAY OR OTHERWISE REQUEST A  
4 STAY OF THE PROCEEDINGS OR FILE AN APPLICATION FOR AN EXTENSION OF  
5 A STAY. THE PARENT, THE PARENT'S CUSTODIAL DESIGNEE, AND THE  
6 CUSTODIAL CHILD ARE NOT REQUIRED TO BE PRESENT TO CONSIDER THE  
7 APPLICATION FOR STAY OR EXTENSION OF A STAY. THE APPLICATION FOR  
8 STAY OR EXTENSION OF A STAY IS SUFFICIENT IF IT IS A SIGNED,  
9 WRITTEN STATEMENT, CERTIFIED TO BE TRUE UNDER PENALTY OF PERJURY.  
10 THE SAME CONDITIONS FOR THE INITIAL STAY APPLY TO AN APPLICATION  
11 FOR AN EXTENSION OF A STAY. THE PARENT'S DURATION OF DEPLOYMENT,  
12 PRISONER OF WAR STATUS, OR BEING MISSING IN ACTION BUT NOT DECLARED  
13 DEAD BY A COURT SHALL NOT BE CONSIDERED IN MAKING A BEST INTEREST  
14 OF THE CHILD DETERMINATION. THE PARENT SHALL INFORM THE COURT OF  
15 THE DEPLOYMENT END DATE BEFORE OR WITHIN 30 DAYS AFTER THAT  
16 DEPLOYMENT END DATE, AND THE STAY SHALL BE ADJUSTED TO NOT LESS  
17 THAN 90 DAYS AFTER THE DEPLOYMENT END DATE. UPON A PARENT'S RETURN  
18 FROM DEPLOYMENT, THE COURT SHALL REINSTATE THE CUSTODY ORDER IN  
19 EFFECT IMMEDIATELY PRECEDING THAT PERIOD OF DEPLOYMENT. IF A MOTION  
20 FOR CHANGE OF CUSTODY IS FILED AFTER A PARENT RETURNS FROM  
21 DEPLOYMENT, THE COURT SHALL NOT CONSIDER A PARENT'S ABSENCE DUE TO  
22 THAT DEPLOYMENT IN MAKING A BEST INTEREST OF THE CHILD  
23 DETERMINATION. FUTURE DEPLOYMENTS SHALL NOT BE CONSIDERED IN MAKING  
24 A BEST INTEREST OF THE CHILD DETERMINATION.

25 (4) IF A TEMPORARY CUSTODY ORDER ISSUED UNDER SUBSECTION (3)  
26 DOES NOT ADDRESS WHEN THAT ORDER TERMINATES OR IF AN AGREEMENT  
27 BETWEEN THE PARTIES TO TERMINATE A TEMPORARY CUSTODY ORDER ISSUED

1 UNDER SUBSECTION (3) HAS NOT BEEN FILED, THE TEMPORARY CUSTODY  
2 ORDER TERMINATES 60 DAYS AFTER THE PARENT WHO HAS RETURNED FROM  
3 DEPLOYMENT GIVES NOTICE TO THE OTHER PARENT OR THE PARENT'S  
4 CUSTODIAL DESIGNEE THAT THE PARENT HAS RETURNED FROM DEPLOYMENT.

5 (5) IF THE DEPLOYING PARENT AND THE OTHER PARENT SHARE  
6 PHYSICAL CUSTODY, THE DEPLOYING PARENT MUST NOTIFY THE OTHER PARENT  
7 OF AN UPCOMING DEPLOYMENT WITHIN A REASONABLE PERIOD OF TIME.

8 Sec. 7a. (1) Parenting time shall be granted in accordance  
9 with the best interests of the child. It is presumed to be in the  
10 best interests of a child for the child to have a strong  
11 relationship with both of his or her parents. Except as otherwise  
12 provided in this section, parenting time shall be granted to a  
13 parent in a frequency, duration, and type reasonably calculated to  
14 promote a strong relationship between the child and the parent  
15 granted parenting time.

16 (2) If the parents of a child agree on parenting time terms,  
17 the court shall order the parenting time terms unless the court  
18 determines on the record by clear and convincing evidence that the  
19 parenting time terms are not in the best interests of the child.

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

23 (4) Notwithstanding other provisions of this act, if a  
24 proceeding regarding parenting time involves a child who is  
25 conceived as the result of acts for which 1 of the child's  
26 biological parents is convicted of criminal sexual conduct as  
27 provided in sections 520a to 520e and 520g of the Michigan penal

1 code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, the court  
2 shall not grant parenting time to the convicted biological parent.  
3 This subsection does not apply to a conviction under section  
4 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d.  
5 This subsection does not apply if, after the date of the  
6 conviction, the biological parents cohabit and establish a mutual  
7 custodial environment for the child.

8 (5) Notwithstanding other provisions of this act, if an  
9 individual is convicted of criminal sexual conduct as provided in  
10 sections 520a to 520e and 520g of the Michigan penal code, 1931 PA  
11 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the  
12 individual's child, the court shall not grant parenting time with  
13 that child or a sibling of that child to that individual, unless  
14 both the child's other parent and, if the court considers the child  
15 or sibling to be of sufficient age to express his or her desires,  
16 the child or sibling consent to the parenting time.

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

20 (a) The existence of any special circumstances or needs of the  
21 child.

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

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

27 (d) The reasonable likelihood of abuse of a parent resulting



1 from the exercise of parenting time.

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

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

6 (g) Whether a parent has frequently failed to exercise  
7 reasonable parenting time.

8 (h) The threatened or actual detention of the child with the  
9 intent to retain or conceal the child from the other parent or from  
10 a third person who has legal custody. A custodial parent's  
11 temporary residence with the child in a domestic violence shelter  
12 shall not be construed as evidence of the custodial parent's intent  
13 to retain or conceal the child from the other parent.

14 (i) Any other relevant factors.

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

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

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

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

22 (c) Restrictions on the presence of third persons during  
23 parenting time.

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

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

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

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

5 (h) Requirements of reasonable notice when parenting time will  
6 not occur.

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

9 (9) Except as provided in this subsection, a parenting time  
10 order shall contain a prohibition on exercising parenting time in a  
11 country that is not a party to the Hague convention on the civil  
12 aspects of international child abduction. This subsection does not  
13 apply if both parents provide the court with written consent to  
14 allow a parent to exercise parenting time in a country that is not  
15 a party to the Hague convention on the civil aspects of  
16 international child abduction.

17 (10) During the time a child is with a parent to whom  
18 parenting time has been awarded, that parent shall decide all  
19 routine matters concerning the child.

20 (11) Prior to entry of a temporary order, a parent may seek an  
21 ex parte interim order concerning parenting time. If the court  
22 enters an ex parte interim order concerning parenting time, the  
23 party on whose motion the ex parte interim order is entered shall  
24 have a true copy of the order served on the friend of the court and  
25 the opposing party.

26 (12) If the opposing party objects to the ex parte interim  
27 order, he or she shall file with the clerk of the court within 14

1 days after receiving notice of the order a written objection to, or  
2 a motion to modify or rescind, the ex parte interim order. The  
3 opposing party shall have a true copy of the written objection or  
4 motion served on the friend of the court and the party who obtained  
5 the ex parte interim order.

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

19 (14) An ex parte interim order issued under this section shall  
20 contain the following notice:

21 NOTICE:

22 1. You may file a written objection to this order or a motion  
23 to modify or rescind this order. You must file the written  
24 objection or motion with the clerk of the court within 14 days  
25 after you were served with this order. You must serve a true copy  
26 of the objection or motion on the friend of the court and the party  
27 who obtained the order.

1           2. If you file a written objection, the friend of the court  
2 must try to resolve the dispute. If the friend of the court cannot  
3 resolve the dispute and if you wish to bring the matter before the  
4 court without the assistance of counsel, the friend of the court  
5 must provide you with form pleadings and written instructions and  
6 must schedule a hearing with the court.

7           (15) AS PROVIDED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50  
8 USC 501 TO 597B, IF A MOTION FOR CHANGE OF PARENTING TIME IS FILED  
9 DURING THE TIME A PARENT IS ACTIVE DUTY AND ON DEPLOYMENT, A PARENT  
10 MAY FILE AND THE COURT SHALL ENTERTAIN AN APPLICATION FOR STAY. THE  
11 COURT SHALL PRESUME THAT THE BEST INTERESTS OF THE CHILD ARE SERVED  
12 BY NOT ENTERING AN ORDER MODIFYING OR AMENDING A PREVIOUS JUDGMENT  
13 OR ORDER, OR ISSUING A NEW ORDER, THAT CHANGES THE PARENTING TIME  
14 THAT EXISTED ON THE DATE THE PARENT WAS CALLED TO DEPLOYMENT,  
15 UNLESS THE CONTRARY IS ESTABLISHED BY CLEAR AND CONVINCING  
16 EVIDENCE, AT WHICH TIME THE COURT MAY ENTER A TEMPORARY PARENTING  
17 TIME ORDER. AT ANY STAGE BEFORE FINAL JUDGMENT IN THE PROCEEDING,  
18 THE PARENT OR THE PARENT'S CUSTODIAL DESIGNEE MAY FILE AN  
19 APPLICATION FOR STAY OR OTHERWISE REQUEST A STAY OF PROCEEDINGS OR  
20 FILE AN APPLICATION FOR AN EXTENSION OF A STAY. THE PARENT, THE  
21 PARENT'S CUSTODIAL DESIGNEE, AND THE CUSTODIAL CHILD ARE NOT  
22 REQUIRED TO BE PRESENT TO CONSIDER THE APPLICATION FOR STAY OR  
23 EXTENSION OF A STAY. THE APPLICATION FOR STAY OR EXTENSION OF A  
24 STAY IS SUFFICIENT IF IT IS A SIGNED, WRITTEN STATEMENT, CERTIFIED  
25 TO BE TRUE UNDER PENALTY OF PERJURY. THE SAME CONDITIONS FOR THE  
26 INITIAL STAY APPLY TO APPLICATIONS FOR AN EXTENSION OF A STAY. THE  
27 PARENT SHALL INFORM THE COURT OF THE DEPLOYMENT END DATE BEFORE OR

1 WITHIN 30 DAYS AFTER THAT DEPLOYMENT END DATE, AND THE STAY SHALL  
2 BE ADJUSTED TO NOT LESS THAN 90 DAYS AFTER THE DEPLOYMENT END DATE.  
3 UPON A PARENT'S RETURN FROM DEPLOYMENT, THE COURT SHALL REINSTATE  
4 THE PARENTING TIME ORDER IN EFFECT IMMEDIATELY PRECEDING THAT  
5 PERIOD OF DEPLOYMENT. IF A MOTION FOR CHANGE OF PARENTING TIME IS  
6 FILED AFTER A PARENT RETURNS FROM DEPLOYMENT, THE COURT SHALL NOT  
7 CONSIDER A PARENT'S ABSENCE DUE TO THAT DEPLOYMENT IN MAKING A  
8 DETERMINATION REGARDING CHANGE OF PARENTING TIME. FUTURE  
9 DEPLOYMENTS SHALL NOT BE CONSIDERED IN MAKING A BEST INTEREST OF  
10 THE CHILD DETERMINATION.

11 (16) IF A TEMPORARY PARENTING TIME ORDER ISSUED UNDER  
12 SUBSECTION (15) DOES NOT ADDRESS WHEN THAT ORDER TERMINATES OR IF  
13 AN AGREEMENT BETWEEN THE PARTIES TO TERMINATE A TEMPORARY PARENTING  
14 TIME ORDER ISSUED UNDER SUBSECTION (15) HAS NOT BEEN FILED, THE  
15 TEMPORARY PARENTING TIME ORDER TERMINATES 60 DAYS AFTER THE PARENT  
16 WHO HAS RETURNED FROM DEPLOYMENT GIVES NOTICE TO THE OTHER PARENT  
17 OR THE PARENT'S CUSTODIAL DESIGNEE THAT THE PARENT HAS RETURNED  
18 FROM DEPLOYMENT.

19 (17) IF THE DEPLOYING PARENT AND THE OTHER PARENT SHARE  
20 PHYSICAL CUSTODY, THE DEPLOYING PARENT MUST NOTIFY THE OTHER PARENT  
21 OF AN UPCOMING DEPLOYMENT WITHIN A REASONABLE PERIOD OF TIME.

22 Enacting section 1. This amendatory act takes effect 90 days  
23 after the date it is enacted into law.