



# SENATE BILL No. 623

June 15, 1995, Introduced by Senators BERRYMAN, GEAKE, HART, DINGELL, HOFFMAN, GOUGEON, SHUGARS, STILLE, MC MANUS, BYRUM and EMMONS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend the title and sections 4, 7, 7a, and 7b of Act No. 91 of the Public Acts of 1970, entitled as amended "Child custody act of 1970," section 7 as amended by Act No. 293 of the Public Acts of 1990, section 7a as amended by Act No. 259 of the Public Acts of 1993, and section 7b as added by Act No. 340 of the Public Acts of 1982, being sections 722.24, 722.27, 722.27a, and 722.27b of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 4, 7, 7a, and 7b of Act  
2 No. 91 of the Public Acts of 1970, section 7 as amended by Act  
3 No. 293 of the Public Acts of 1990, section 7a as amended by Act  
4 No. 259 of the Public Acts of 1993, and section 7b as added by  
5 Act No. 340 of the Public Acts of 1982, being sections 722.24,

1 722.27, 722.27a, and 722.27b of the Michigan Compiled Laws, are  
2 amended to read as follows:

3 TITLE

4 An act to declare the inherent rights of minor children; to  
5 establish rights and duties to their custody, support, and  
6 ~~visitation~~ PARENTING TIME in disputed actions; to establish  
7 rights and duties to provide support for a child after the child  
8 reaches the age of majority under certain circumstances; to pro-  
9 vide for certain procedure and appeals; and to repeal certain  
10 acts and parts of acts.

11 Sec. 4. In all actions now pending or hereafter filed in a  
12 circuit court involving dispute of custody of a minor child, the  
13 court shall declare the inherent rights of the child and estab-  
14 lish the rights and duties as to custody, support, and  
15 ~~visitation~~ PARENTING TIME of the child in accordance with this  
16 act.

17 Sec. 7. (1) If a child custody dispute has been submitted  
18 to the circuit court as an original action under this act or has  
19 arisen incidentally from another action in the circuit court or  
20 an order or judgment of the circuit court, for the best interests  
21 of the child the court may DO 1 OR MORE OF THE FOLLOWING:

22 (a) Award the custody of the child to 1 or more of the par-  
23 ties involved or to others and provide for payment of support for  
24 the child, until the child reaches 18 years of age. Subject to  
25 section 4a, the court may also order support as provided in this  
26 section for a child after he or she reaches 18 years of age. The

1 court may require that support payments shall be made through the  
2 friend of the court or clerk of the court.

3 (b) Provide for reasonable ~~visitation~~ PARENTING TIME of  
4 the child by the parties involved, the maternal or paternal  
5 grandparents, or by others, by general or specific terms and  
6 conditions. ~~Visitation~~ PARENTING TIME of the child by the par-  
7 ents shall be governed by section 7a.

8 (c) Modify or amend its previous judgments or orders for  
9 proper cause shown or because of change of circumstances until  
10 the child reaches 18 years of age, and, subject to section 4a,  
11 until the child reaches 19 years and 6 months of age. The court  
12 shall not modify or amend its previous judgments or orders or  
13 issue a new order so as to change the established custodial envi-  
14 ronment of a child unless there is presented clear and convincing  
15 evidence that it is in the best interest of the child. The cus-  
16 todial environment of a child is established if over an apprecia-  
17 ble time the child naturally looks to the custodian in that envi-  
18 ronment for guidance, discipline, the necessities of life, and  
19 parental comfort. The age of the child, the physical environ-  
20 ment, and the inclination of the custodian and the child as to  
21 permanency of the relationship shall also be considered.

22 (d) Utilize the community resources in behavioral sciences  
23 and other professions in the investigation and study of custody  
24 disputes and consider their recommendations for the resolution of  
25 the disputes.

1 (e) Appoint a guardian ad litem or counsel for the child and  
2 assess the costs and reasonable fees against 1 or more parties  
3 involved, totally or partially.

4 (f) Take any other action considered to be necessary in a  
5 particular child custody dispute.

6 (g) Upon petition consider the reasonable ~~visitation~~  
7 GRANDPARENTING TIME of maternal or paternal grandparents and, if  
8 denied, make a record of such denial.

9 (2) Except as otherwise provided in this section, the court  
10 shall order support in an amount determined by application of the  
11 child support formula developed by the state friend of the court  
12 bureau. The court may enter an order that deviates from the for-  
13 mula if the court determines from the facts of the case that  
14 application of the child support formula would be unjust or inap-  
15 propriate and sets forth in writing or on the record all of the  
16 following:

17 (a) The support amount determined by application of the  
18 child support formula.

19 (b) How the support order deviates from the child support  
20 formula.

21 (c) The value of property or other support awarded in lieu  
22 of the payment of child support, if applicable.

23 (d) The reasons why application of the child support formula  
24 would be unjust or inappropriate in the case.

25 (3) Subsection (2) does not prohibit the court from entering  
26 a support order that is agreed to by the parties and that

1 deviates from the child support formula, if the requirements of  
2 subsection (2) are met.

3 (4) Beginning January 1, 1991, each support order entered,  
4 modified, or amended by the court shall provide that each party  
5 shall keep the office of the friend of the court informed of both  
6 of the following:

7 (a) The name and address of his or her current source of  
8 income. As used in this subdivision, "source of income" means  
9 that term as defined in section 2 of the support and ~~visitation~~  
10 PARENTING TIME enforcement act, Act No. 295 of the Public Acts of  
11 1982, being section 552.602 of the Michigan Compiled Laws.

12 (b) Any health care coverage that is available to him or her  
13 as a benefit of employment or that is maintained by him or her;  
14 the name of the insurance company, health care organization, or  
15 health maintenance organization; the policy, certificate, or con-  
16 tract number; and the names and birth dates of the persons for  
17 whose benefit he or she maintains health care coverage under the  
18 policy, certificate, or contract.

19 (5) For the purposes of this act, "support" may include pay-  
20 ment of the expenses of medical, dental, and other health care,  
21 child care expenses, and educational expenses. The court shall  
22 require ~~that~~ 1 or both parents of a child who is the subject of  
23 a petition under this section ~~shall~~ TO obtain or maintain any  
24 health care coverage that is available to them at a reasonable  
25 cost, as a benefit of employment, for the benefit of the child.  
26 If a parent is self-employed and maintains health care coverage,  
27 the court shall require the parent to obtain or maintain

1 dependent coverage for the benefit of the child, if available at  
2 a reasonable cost.

3 (6) A judgment or order entered under this act providing for  
4 the support of a child is enforceable as provided in ~~the support~~  
5 ~~and visitation enforcement act,~~ Act No. 295 of the Public Acts  
6 of 1982, being sections 552.601 to 552.650 of the Michigan  
7 Compiled Laws.

8 Sec. 7a. (1) ~~Visitation~~ PARENTING TIME shall be granted  
9 in accordance with the best interests of the child. It is pre-  
10 sumed to be in the best interests of a child for the child to  
11 have a strong relationship with both of his or her parents.  
12 Except as otherwise provided in this section, ~~visitation~~  
13 PARENTING TIME shall be granted to a parent in a frequency, dura-  
14 tion, and type reasonably calculated to promote a strong rela-  
15 tionship between the child and the parent granted ~~visitation~~  
16 PARENTING TIME.

17 (2) If the parents of a child agree on ~~visitation~~  
18 PARENTING TIME terms, the court shall order the ~~visitation~~  
19 PARENTING TIME terms unless the court determines on the record by  
20 clear and convincing evidence that the ~~visitation~~ PARENTING  
21 TIME terms are not in the best interests of the child.

22 (3) A child has a right to ~~visitation~~ PARENTING TIME with  
23 a parent unless it is shown on the record by clear and convincing  
24 evidence that it would endanger the child's physical, mental, or  
25 emotional health.

26 (4) Notwithstanding other provisions of this act, if a  
27 proceeding regarding ~~visitation~~ PARENTING TIME involves a child

1 who is conceived as the result of acts for which 1 of the child's  
2 biological parents is convicted of criminal sexual conduct as  
3 provided in sections 520a to 520e and 520g of the Michigan penal  
4 code, Act No. 328 of the Public Acts of 1931, being  
5 sections 750.520a to 750.520e and 750.520g of the Michigan  
6 Compiled Laws, the court shall not grant ~~visitation~~ PARENTING  
7 TIME to the convicted biological parent. This subsection does  
8 not apply to a conviction under section 520d(1)(a) of ~~the~~  
9 ~~Michigan penal code,~~ Act No. 328 of the Public Acts of 1931,  
10 being section 750.520d of the Michigan Compiled Laws. This sub-  
11 section does not apply if, after the date of the conviction, the  
12 biological parents cohabit and establish a mutual custodial envi-  
13 ronment for the child.

14 (5) Notwithstanding other provisions of this act, if an  
15 individual is convicted of criminal sexual conduct as provided in  
16 sections 520a to 520e and 520g of Act No. 328 of the Public Acts  
17 of 1931 and the victim is the individual's child, the court shall  
18 not grant ~~visitation~~ PARENTING TIME with that child or a sib-  
19 ling of that child to that individual, unless both the child's  
20 other parent and, if the court considers the child or sibling to  
21 be of sufficient age to express his or her desires, the child or  
22 sibling consent to the ~~visitation~~ PARENTING TIME.

23 (6) The court may consider the following factors when deter-  
24 mining the frequency, duration, and type of ~~visitation~~  
25 PARENTING TIME to be granted:

26 (a) The existence of any special circumstances or needs of  
27 the child.

1 (b) Whether the child is a nursing child less than 6 months  
2 of age, or less than 1 year of age if the child receives substan-  
3 tial nutrition through nursing.

4 (c) The reasonable likelihood of abuse or neglect of the  
5 child during ~~visitation~~ PARENTING TIME.

6 (d) The reasonable likelihood of abuse of a parent resulting  
7 from the exercise of ~~visitation~~ PARENTING TIME.

8 (e) The inconvenience to, and burdensome impact or effect  
9 on, the child of traveling ~~to and from the visitation~~ FOR PUR-  
10 POSES OF PARENTING time.

11 (f) Whether ~~the visiting~~ A parent can reasonably be  
12 expected to exercise ~~visitation~~ PARENTING TIME in accordance  
13 with the court order.

14 (g) Whether ~~the visiting~~ A parent has frequently failed to  
15 exercise reasonable ~~visitation~~ PARENTING TIME.

16 (h) The threatened or actual detention of the child with the  
17 intent to retain or conceal the child from the other parent or  
18 from a third person who has legal custody. A custodial parent's  
19 temporary residence with the child in a domestic violence shelter  
20 shall not be construed as evidence of the custodial parent's  
21 intent to retain or conceal the child from the other parent.

22 (i) Any other relevant factors.

23 (7) ~~Visitation~~ PARENTING TIME shall be granted in specific  
24 terms if requested by either party at any time.

25 (8) A ~~visitation~~ PARENTING TIME order may contain any rea-  
26 sonable terms or conditions that facilitate the orderly and



1 meaningful exercise of ~~visitation~~ PARENTING TIME by a parent,  
2 including 1 or more of the following:

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

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

5 (c) Restrictions on the presence of third persons during  
6 ~~visitation~~ PARENTING TIME.

7 (d) Requirements that the child be ready for ~~visitation~~  
8 PARENTING TIME at a specific time.

9 (e) Requirements that the parent arrive for ~~visitation~~  
10 PARENTING TIME and return the child from ~~visitation~~ PARENTING  
11 TIME at specific times.

12 (f) Requirements that ~~visitation~~ PARENTING TIME occur in  
13 the presence of a third person or agency.

14 (g) Requirements that a party post a bond to assure compli-  
15 ance with a ~~visitation~~ PARENTING TIME order.

16 (h) Requirements of reasonable notice when ~~visitation~~  
17 PARENTING TIME will not occur.

18 (i) Any other reasonable condition determined to be appro-  
19 priate in the particular case.

20 (9) During the time a child is with a parent to whom  
21 ~~visitation~~ PARENTING TIME has been awarded, that parent shall  
22 decide all routine matters concerning the child.

23 (10) Prior to entry of a temporary order, a parent may seek  
24 an ex parte interim order concerning ~~visitation~~ PARENTING  
25 TIME. If the court enters an ex parte interim order concerning  
26 ~~visitation~~ PARENTING TIME, the party on whose motion the ex

1 parte interim order is entered shall have a true copy of the  
2 order served on the friend of the court and the opposing party.

3 (11) If the opposing party objects to the ex parte interim  
4 order, he or she shall file with the clerk of the court within 14  
5 days after receiving notice of the order a written objection to,  
6 or a motion to modify or rescind, the ex parte interim order.  
7 The opposing party shall have a true copy of the written objec-  
8 tion or motion served on the friend of the court and the party  
9 who obtained the ex parte interim order.

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

23 (13) An ex parte interim order issued ~~pursuant to~~ UNDER  
24 this section shall contain the following notice:

25

NOTICE:

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

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

13 Sec. 7b. (1) Except as provided in this subsection, a  
14 grandparent of the child may seek an order for ~~visitation~~  
15 GRANDPARENTING TIME in the manner set forth in this section only  
16 if a child custody dispute with respect to that child is pending  
17 before the court. If a natural parent of an unmarried child is  
18 deceased, a parent of the deceased person may commence an action  
19 for ~~visitation~~ GRANDPARENTING TIME. Adoption of the child by a  
20 stepparent under chapter X of Act No. 288 of the Public Acts of  
21 1939, being sections 710.21 to 710.70 of the Michigan Compiled  
22 Laws, does not terminate the right of a parent of the deceased  
23 person to commence an action for ~~visitation~~ GRANDPARENTING  
24 TIME.

25 (2) As used in this section, "child custody dispute"  
26 includes a proceeding in which any of the following occurs:

1 (a) The marriage of the child's parents is declared invalid  
2 or is dissolved by the court, or a court enters a decree of legal  
3 separation with regard to the marriage.

4 (b) Legal custody of the child is given to a party other  
5 than the child's parent, or the child is placed outside of and  
6 does not reside in the home of a parent, excluding any child who  
7 has been placed for adoption with other than a stepparent, or  
8 whose adoption by other than a stepparent has been legally  
9 finalized.

10 (3) A grandparent seeking a ~~grandchild visitation~~  
11 GRANDPARENTING TIME order may commence an action for ~~grandchild~~  
12 ~~visitation~~ GRANDPARENTING TIME, by complaint or complaint and  
13 motion for an order to show cause, in the circuit court in the  
14 county in which the grandchild resides. If a child custody dis-  
15 pute is pending, the order shall be sought by motion for an order  
16 to show cause. The complaint or motion shall be accompanied by  
17 an affidavit setting forth facts supporting the requested order.  
18 The grandparent shall give notice of the filing to each party who  
19 has legal custody of the grandchild. A party having legal cus-  
20 tody may file an opposing affidavit. A hearing shall be held by  
21 the court on its own motion or if a party so requests. At the  
22 hearing, parties submitting affidavits shall be allowed an oppor-  
23 tunity to be heard. At the conclusion of the hearing, if the  
24 court finds that it is in the best interests of the child to  
25 enter a ~~grandchild visitation~~ GRANDPARENTING TIME order, the  
26 court shall enter an order providing for reasonable ~~visitation~~  
27 GRANDPARENTING TIME of the child by the grandparent by general or

1 specific terms and conditions. If a hearing is not held, the  
2 court shall enter a ~~grandchild-visitation~~ GRANDPARENTING TIME  
3 order only upon a finding that ~~visitation~~ GRANDPARENTING TIME  
4 is in the best interests of the child. A ~~grandchild-visitation~~  
5 GRANDPARENTING TIME order shall not be entered for the parents of  
6 a putative father unless the father has acknowledged paternity in  
7 writing, has been adjudicated to be the father by a court of com-  
8 petent jurisdiction, or has contributed regularly to the support  
9 of the child or children. The court shall make a record of the  
10 reasons for a denial of a requested ~~grandchild-visitation~~  
11 GRANDPARENTING TIME order.

12 (4) A grandparent may not file more than once every 2 years,  
13 absent a showing of good cause, a complaint or motion seeking a  
14 ~~grandchild-visitation~~ GRANDPARENTING TIME order. If the court  
15 finds there is good cause to allow a grandparent to file more  
16 than 1 complaint or motion under this section in a 2-year period,  
17 the court shall allow the filing and shall consider the complaint  
18 or motion. The court may order reasonable attorney fees to the  
19 prevailing party.

20 (5) The court shall not enter an order restricting the move-  
21 ment of the grandchild if the restriction is solely for the pur-  
22 pose of allowing the grandparent to exercise the rights conferred  
23 in a ~~grandchild-visitation~~ GRANDPARENTING TIME order.

24 (6) A ~~grandchild-visitation~~ GRANDPARENTING TIME order  
25 entered in accordance with this section shall not be considered  
26 to have created parental rights in the person or persons to whom  
27 ~~grandchild-visitation~~ GRANDPARENTING TIME rights are granted.

1 The entry of a ~~grandchild visitation~~ GRANDPARENTING TIME order  
2 shall not prevent a court of competent jurisdiction from acting  
3 upon the custody of the child, the parental rights of the child,  
4 or the adoption of the child.

5 (7) The court may enter an order modifying or terminating a  
6 ~~grandchild visitation~~ GRANDPARENTING TIME order whenever such a  
7 modification or termination is in the best interests of the  
8 child.

9 Section 2. This amendatory act shall not take effect unless  
10 Senate Bill No. 624  
11 of the 88th Legislature is enacted into law.