

**SUBSTITUTE FOR
HOUSE BILL NO. 5100**

(As amended October 5, 2005)

[A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending sections 2 and 7 (MCL 722.22 and 722.27),
section 2 as amended by 2004 PA 542 and section 7 as amended by 2001 PA
108.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Agency" means a legally authorized public or private
3 organization, or governmental unit or official, whether of this
4 state or of another state or country, concerned in the welfare of
5 minor children, including a licensed child placement agency.

6 (b) "Attorney" means, if appointed to represent a child under
7 this act, an attorney serving as the child's legal advocate in a

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1 traditional attorney-client relationship with the child, as
2 governed by the Michigan rules of professional conduct. An attorney
3 defined under this subdivision owes the same duties of undivided
4 loyalty, confidentiality, and zealous representation of the child's
5 expressed wishes as the attorney would to an adult client.

6 (c) "Child" means minor child and children. Subject to section
7 5b of the support and parenting time enforcement act, 1982 PA 295,
8 MCL 552.605b, for purposes of providing support, child includes a
9 child and children who have reached 18 years of age.

10 (D) **["ACTIVE MILITARY DUTY"] MEANS WHEN A RESERVE UNIT MEMBER OR**
11 **NATIONAL GUARD UNIT MEMBER IS CALLED INTO ACTIVE MILITARY DUTY.**

12 (E) ~~—(d)—~~ "Grandparent" means a natural or adoptive parent of
13 a child's natural or adoptive parent.

14 (F) ~~—(e)—~~ "Guardian ad litem" means an individual whom the
15 court appoints to assist the court in determining the child's best
16 interests. A guardian ad litem does not need to be an attorney.

17 (G) ~~—(f)—~~ "Lawyer-guardian ad litem" means an attorney
18 appointed under section 4. A lawyer-guardian ad litem represents
19 the child, and has the powers and duties, as set forth in section
20 4.

21 (H) ~~—(g)—~~ "Parent" means the natural or adoptive parent of a
22 child.

23 (I) ~~—(h)—~~ "State disbursement unit" or "SDU" means the entity
24 established in section 6 of the office of child support act, 1971
25 PA 174, MCL 400.236.

26 (J) ~~—(i)—~~ "Third person" means an individual other than a
27 parent.

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

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

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

25 (c) Modify or amend its previous judgments or orders for
26 proper cause shown or because of change of circumstances until the
27 child reaches 18 years of age and, subject to section 5b of the

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support and parenting time enforcement act, 1982 PA 295, MCL

552.605b, until the child reaches 19 years and 6 months of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child.

The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency

of the relationship shall also be considered. [IF A MOTION FOR CHANGE OF CUSTODY IS FILED DURING THE TIME A PARENT IS IN ACTIVE MILITARY DUTY, THE COURT SHALL NOT ENTER AN ORDER MODIFYING OR AMENDING A PREVIOUS JUDGMENT OR ORDER, OR ISSUE A NEW ORDER, THAT CHANGES THE CHILD'S PLACEMENT THAT EXISTED ON THE DATE THE PARENT WAS CALLED TO ACTIVE MILITARY DUTY UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE THAT IT IS THE BEST INTEREST OF THE CHILD. IN MAKING THIS BEST INTEREST OF THE CHILD DETERMINATION, THE COURT SHALL NOT CONSIDER A PARENT'S ABSENCE DUE TO ACTIVE MILITARY DUTY IN FAVOR OF OR AGAINST EITHER PARTY.]

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

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

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

(2) A judgment or order entered under this act providing for the support of a child is governed by and is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific

1 provision regarding the contents or enforcement of a support order
2 that conflicts with a provision in the support and parenting time
3 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act
4 controls in regard to that provision.