

# HOUSE BILL No. 6452

September 12, 2006, Introduced by Reps. Pearce, Schuitmaker, Vander Veen, Jones, Garfield, Green, Booher, Pastor, Polidori, Zelenko and Sak and referred to the Committee on Family and Children Services.

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**  
18 **328, MCL 750.520D**. This subsection does not apply if, after the  
19 date of the conviction, the biological parents cohabit and  
20 establish a 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~~  
24 ~~of 1931~~ **THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO**  
25 **750.520E AND 750.520G**, and the victim is the individual's child,  
26 the court shall not grant parenting time with that child or a  
27 sibling of that child to that individual, unless both the child's

1 other parent and, if the court considers the child or sibling to be  
2 of sufficient age to express his or her desires, the child or  
3 sibling consent to the 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) During the time a child is with a parent to whom parenting  
24 time has been awarded, that parent shall decide all routine matters  
25 concerning the child.

26 (10) Prior to entry of a temporary order, a parent may seek an  
27 ex parte interim order concerning parenting time. If the court

1 enters an ex parte interim order concerning parenting time, the  
2 party on whose motion the ex parte interim order is entered shall  
3 have a true copy of the order served on the friend of the court and  
4 the opposing party.

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

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

25 (13) An ex parte interim order issued under this section shall  
26 contain the following notice:

27 NOTICE:

1           1. You may file a written objection to this order or a motion  
2 to modify or rescind this order. You must file the written  
3 objection or motion with the clerk of the court within 14 days  
4 after you were served with this order. You must serve a true copy  
5 of the objection or motion on the friend of the court and the party  
6 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 cannot  
9 resolve the dispute and if you wish to bring the matter before the  
10 court without the assistance of counsel, the friend of the court  
11 must provide you with form pleadings and written instructions and  
12 must schedule a hearing with the court.

13           **(14) A PARENT MAY REQUEST ELECTRONIC VISITATION IN ADDITION TO**  
14 **PARENTING TIME UNDER THIS SECTION. IF A PARENT REQUESTS ELECTRONIC**  
15 **VISITATION UNDER THIS SECTION, THE COURT MAY GRANT THAT PARENT A**  
16 **REASONABLE AMOUNT OF ELECTRONIC VISITATION WHILE THE CHILD IS IN**  
17 **THE OTHER PARENT'S CARE IF THE COURT FINDS BOTH OF THE FOLLOWING:**

18           **(A) THE EQUIPMENT FOR PROVIDING THE TYPE OF ELECTRONIC**  
19 **VISITATION REQUESTED AND THE SERVICE FOR UTILIZING THAT EQUIPMENT**  
20 **IS AVAILABLE TO BOTH PARENTS.**

21           **(B) THE ELECTRONIC VISITATION REQUESTED IS IN THE BEST**  
22 **INTERESTS OF THE CHILD.**

23           **(15) IF THE EQUIPMENT FOR PROVIDING THE TYPE OF ELECTRONIC**  
24 **VISITATION REQUESTED AND THE SERVICE FOR UTILIZING THAT EQUIPMENT**  
25 **IS NOT AVAILABLE TO BOTH PARENTS, THE COURT MAY REQUIRE THE PARENT**  
26 **REQUESTING THE ELECTRONIC VISITATION TO PROVIDE THAT EQUIPMENT AND**  
27 **SERVICE TO THE OTHER PARENT.**

1           (16) A COURT SHALL NOT USE ELECTRONIC VISITATION AS A  
2       SUBSTITUTE FOR PARENTING TIME UNDER THIS SECTION.

3           (17) AS USED IN THIS SECTION, "ELECTRONIC VISITATION" MEANS  
4       COMMUNICATION BETWEEN A PARENT AND HIS OR HER CHILD BY ELECTRONIC  
5       MAIL, INSTANT MESSAGING, VIDEO CONFERENCING, WEBCAM, OR ANY OTHER  
6       COMMUNICATION DEVICE USING THE INTERNET.