SUBSTITUTE FOR

HOUSE BILL NO. 4071

A bill to amend 1970 PA 91, entitled "Child custody act of 1970,"

by amending section 7a (MCL 722.27a), as amended by 2012 PA 600.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7a. (1) Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the 2 best interests of a child for the child to have a strong 3 relationship with both of his or her parents. Except as otherwise 4 provided in this section, parenting time shall be granted to a 5 parent in a frequency, duration, and type reasonably calculated to 6 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

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determines on the record by clear and convincing evidence that the
 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.

(4) Notwithstanding other provisions of this act, if a 6 proceeding regarding parenting time involves a child who is 7 conceived as the result of acts for which 1 of the child's 8 biological parents is convicted of criminal sexual conduct as 9 10 provided in sections 520a to 520e and 520g of the Michigan penal 11 code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, the court 12 shall not grant parenting time to the convicted biological parent. This subsection does not apply to a conviction under section 13 14 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520d. This subsection does not apply if, after the date of the 15 conviction, the biological parents cohabit and establish a mutual 16 custodial environment for the child. 17

(5) Notwithstanding other provisions of this act, if an 18 19 individual is convicted of criminal sexual conduct as provided in 20 sections 520a to 520e and 520g of the Michigan penal code, 1931 PA 21 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the 22 individual's child, the court shall not grant parenting time with 23 that child or a sibling of that child to that individual, unless 24 both the child's other parent and, if the court considers the child 25 or sibling to be of sufficient age to express his or her desires, 26 the child or sibling consent to the parenting time.

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(6) The court may consider the following factors when

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determining the frequency, duration, and type of parenting time to
 be granted:

3 (a) The existence of any special circumstances or needs of the4 child.

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

8 (c) The reasonable likelihood of abuse or neglect of the child9 during parenting time.

10 (d) The reasonable likelihood of abuse of a parent resulting11 from the exercise of parenting time.

12 (e) The inconvenience to, and burdensome impact or effect on,13 the child of traveling for purposes of parenting time.

14 (f) Whether a parent can reasonably be expected to exercise15 parenting time in accordance with the court order.

16 (g) Whether a parent has frequently failed to exercise17 reasonable parenting time.

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

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(i) Any other relevant factors.

25 (7) Parenting time shall be granted in specific terms if26 requested by either party at any time.

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(8) A parenting time order may contain any reasonable terms or

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conditions that facilitate the orderly and meaningful exercise of
 parenting time by a parent, including 1 or more of the following:

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

5 (c) Restrictions on the presence of third persons during6 parenting time.

7 (d) Requirements that the child be ready for parenting time at8 a specific time.

9 (e) Requirements that the parent arrive for parenting time and10 return the child from parenting time at specific times.

(f) Requirements that parenting time occur in the presence ofa third person or agency.

(g) Requirements that a party post a bond to assure compliancewith a parenting time order.

15 (h) Requirements of reasonable notice when parenting time will16 not occur.

17 (i) Any other reasonable condition determined to be18 appropriate in the particular case.

19 (9) Except as provided in this subsection, a parenting time 20 order shall contain a prohibition on exercising parenting time in a 21 country that is not a party to the Hague convention CONVENTION on 22 the civil aspects of international child abduction. CIVIL ASPECTS 23 OF INTERNATIONAL CHILD ABDUCTION. This subsection does not apply if 24 both parents provide the court with written consent to allow a 25 parent to exercise parenting time in a country that is not a party 26 to the Hague convention CONVENTION on the civil aspects of international child abduction.CIVIL ASPECTS OF INTERNATIONAL CHILD 27

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

1 ABDUCTION.

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

5 (11) Prior to entry of a temporary order, a parent may seek an 6 ex parte interim order concerning parenting time. If the court 7 enters an ex parte interim order concerning parenting time, the 8 party on whose motion the ex parte interim order is entered shall 9 have a true copy of the order served on the friend of the court and 10 the opposing party.

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

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

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a motion to modify or rescind the ex parte interim order and
 requests a hearing, the court shall resolve the dispute within 28
 days after the hearing is requested.

4 (14) An ex parte interim order issued under this section shall5 contain the following notice:

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NOTICE:

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

13 2. If you file a written objection, the friend of the court 14 must try to resolve the dispute. If the friend of the court cannot 15 resolve the dispute and if you wish to bring the matter before the 16 court without the assistance of counsel, the friend of the court 17 must provide you with form pleadings and written instructions and 18 must schedule a hearing with the court.

19 (15) AS PROVIDED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 USC 501 TO 597B, IF A MOTION FOR CHANGE OF PARENTING TIME IS FILED 20 21 DURING THE TIME A PARENT IS ON DEPLOYMENT, A PARENT MAY FILE AND 22 THE COURT SHALL ENTERTAIN AN APPLICATION FOR STAY. THE COURT SHALL 23 PRESUME THAT THE BEST INTERESTS OF THE CHILD ARE SERVED BY NOT ENTERING AN ORDER MODIFYING OR AMENDING A PREVIOUS JUDGMENT OR 24 ORDER, OR ISSUING A NEW ORDER, THAT CHANGES THE PARENTING TIME THAT 25 26 EXISTED ON THE DATE THE PARENT WAS CALLED TO DEPLOYMENT, UNLESS THE 27 CONTRARY IS ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE, AT WHICH

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TIME THE COURT MAY ENTER A TEMPORARY PARENTING TIME ORDER. WHEN A 1 2 TEMPORARY PARENTING TIME ORDER IS ISSUED UNDER THIS SUBSECTION, THE 3 COURT MAY INCLUDE A LIMIT ON THE PERIOD OF TIME THAT THE TEMPORARY 4 PARENTING TIME ORDER REMAINS IN EFFECT. AT ANY STAGE BEFORE FINAL 5 JUDGMENT IN THE PROCEEDING, THE PARENT MAY FILE AN APPLICATION FOR 6 STAY OR OTHERWISE REQUEST A STAY OF PROCEEDINGS OR FILE AN 7 APPLICATION FOR AN EXTENSION OF A STAY. THE PARENT AND THE CUSTODIAL CHILD ARE NOT REQUIRED TO BE PRESENT TO CONSIDER THE 8 9 APPLICATION FOR STAY OR EXTENSION OF A STAY. THE APPLICATION FOR STAY OR EXTENSION OF A STAY IS SUFFICIENT IF IT IS A SIGNED, 10 11 WRITTEN STATEMENT, CERTIFIED TO BE TRUE UNDER PENALTY OF PERJURY. 12 THE SAME CONDITIONS FOR THE INITIAL STAY APPLY TO APPLICATIONS FOR 13 AN EXTENSION OF A STAY.

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14 (16) THE PARENT SHALL INFORM THE COURT OF THE DEPLOYMENT END 15 DATE BEFORE OR WITHIN 30 DAYS AFTER THAT DEPLOYMENT END DATE. UPON 16 NOTIFICATION OF A PARENT'S DEPLOYMENT END DATE, THE COURT SHALL REINSTATE THE PARENTING TIME ORDER IN EFFECT IMMEDIATELY PRECEDING 17 THAT PERIOD OF DEPLOYMENT. IF A MOTION FOR CHANGE OF PARENTING TIME 18 19 IS FILED AFTER A PARENT RETURNS FROM DEPLOYMENT, THE COURT SHALL 20 NOT CONSIDER A PARENT'S ABSENCE DUE TO THAT DEPLOYMENT IN MAKING A 21 DETERMINATION REGARDING CHANGE OF PARENTING TIME. FUTURE 22 DEPLOYMENTS SHALL NOT BE CONSIDERED IN MAKING A BEST INTEREST OF 23 THE CHILD DETERMINATION.

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

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Enacting section 1. This amendatory act takes effect 90 days

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after the date it is enacted into law. 1

Enacting section 2. This amendatory act does not take effect 2 unless all of the following bills of the 98th Legislature are 3 4 enacted into law:

5 (a) Senate Bill No. 9.

(b) Senate Bill No.____ or House Bill No. 4482 (request no. 6 7 02061'15).