

HOUSE BILL No. 5650

March 29, 1990, Introduced by Reps. Martin, DeMars, Bandstra, Van Regenmorter, Bennane, Stupak, Ciaramitaro, Gubow, Jondahl, Honigman and Perry Bullard and referred to the Committee on Judiciary.

A bill to amend the title and sections 2 and 7 of Act No. 91 of the Public Acts of 1970, entitled "Child custody act of 1970," section 7 as amended by Act No. 275 of the Public Acts of 1989, being sections 722.22 and 722.27 of the Michigan Compiled Laws; and to add section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2 and 7 of Act No. 91 of
2 the Public Acts of 1970, section 7 as amended by Act No. 275 of
3 the Public Acts of 1989, being sections 722.22 and 722.27 of the
4 Michigan Compiled Laws, are amended and section 4a is added to
5 read as follows:

TITLE

1

2 An act to declare the inherent rights of minor children; to
3 establish rights and duties to their custody, support and visita-
4 tion in disputed actions; TO ESTABLISH RIGHTS AND DUTIES TO PRO-
5 VIDE SUPPORT FOR A CHILD AFTER THE CHILD REACHES THE AGE OF
6 MAJORITY UNDER CERTAIN CIRCUMSTANCES; to provide for certain pro-
7 cedure and appeals; and to repeal certain acts and parts of
8 acts.

9 Sec. 2. As used in this act:

10 (a) "Child" means minor child and children. SUBJECT TO
11 SECTION 4A, FOR PURPOSES OF PROVIDING SUPPORT, CHILD INCLUDES A
12 CHILD AND CHILDREN WHO HAVE REACHED 18 YEARS OF AGE.

13 (b) "Agency" means any legally authorized, public or private
14 organization, or governmental unit or official, whether of this
15 state or of another state or country, concerned in the welfare of
16 minor children, including a licensed child placement agency.

17 (c) "Third person" means any individual other than a
18 parent.

19 SEC. 4A. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS SEC-
20 TION, A COURT MAY ORDER SUPPORT AS PROVIDED IN SECTION 7 FOR A
21 CHILD TO PROVIDE SUPPORT AFTER THE CHILD REACHES 18 YEARS OF AGE
22 FOR THE TIME THE CHILD IS REGULARLY ATTENDING HIGH SCHOOL, BUT IN
23 NO CASE AFTER THE CHILD REACHES 19 YEARS AND 6 MONTHS OF AGE. A
24 COMPLAINT OR MOTION REQUESTING SUPPORT AS PROVIDED IN THIS SEC-
25 TION MAY BE FILED AT ANY TIME BEFORE THE CHILD REACHES 19 YEARS
26 AND 6 MONTHS OF AGE.

1 (2) A PROVISION CONTAINED IN A JUDGMENT OR AN ORDER ENTERED
2 UNDER THIS ACT BEFORE THE EFFECTIVE DATE OF THIS SECTION THAT
3 PROVIDES FOR THE SUPPORT OF A CHILD AFTER THE CHILD REACHES
4 18 YEARS OF AGE, WITHOUT AN AGREEMENT OF THE PARTIES AS DESCRIBED
5 IN SUBSECTION (3), IS VALID AND ENFORCEABLE TO THE EXTENT THE
6 PROVISION PROVIDES SUPPORT FOR THE CHILD FOR THE TIME THE CHILD
7 IS REGULARLY ATTENDING HIGH SCHOOL, BUT IN NO CASE AFTER THE
8 CHILD REACHES 19 YEARS AND 6 MONTHS OF AGE.

9 (3) NOTWITHSTANDING SUBSECTION (1), A PROVISION CONTAINED IN
10 A JUDGMENT OR AN ORDER ENTERED UNDER THIS ACT BEFORE, ON, AND
11 AFTER THE EFFECTIVE DATE OF THIS SECTION THAT PROVIDES FOR THE
12 SUPPORT OF A CHILD AFTER THE CHILD REACHES 18 YEARS OF AGE IS
13 VALID AND ENFORCEABLE IF 1 OR MORE OF THE FOLLOWING APPLY:

14 (A) THE PROVISION IS CONTAINED IN THE JUDGMENT OR ORDER BY
15 AGREEMENT OF THE PARTIES AS STATED IN THE JUDGMENT OR ORDER.

16 (B) THE PROVISION IS CONTAINED IN THE JUDGMENT OR ORDER BY
17 AGREEMENT OF THE PARTIES AS EVIDENCED BY THE APPROVAL OF THE
18 JUDGMENT OR ORDER BY THE PARTIES OR THEIR ATTORNEYS.

19 (C) THE PROVISION IS CONTAINED IN THE JUDGMENT OR ORDER BY
20 WRITTEN AGREEMENT SIGNED BY THE PARTIES.

21 (D) THE PROVISION IS CONTAINED IN THE JUDGMENT OR ORDER BY
22 ORAL AGREEMENT OF THE PARTIES AS STATED ON THE RECORD BY THE PAR-
23 TIES OR THEIR ATTORNEYS.

24 Sec. 7. (1) If a child custody dispute has been submitted
25 to the circuit court as an original action under this act or has
26 arisen incidentally from another action in the circuit court or

1 an order or judgment of the circuit court, for the best interests
2 of the child the court may:

3 (a) Award the custody of the child to 1 or more of the par-
4 ties involved or to others and provide for payment of support for
5 the child, until the child reaches 18 years of age. SUBJECT TO
6 SECTION 4A, THE COURT MAY ALSO ORDER SUPPORT AS PROVIDED IN THIS
7 SECTION FOR A CHILD AFTER HE OR SHE REACHES 18 YEARS OF AGE. The
8 court may require that support payments shall be made through the
9 friend of the court or clerk of the court.

10 (b) Provide for reasonable visitation of the child by the
11 parties involved, the maternal or paternal grandparents, or by
12 others, by general or specific terms and conditions. Visitation
13 of the child by the parents shall be governed by section 7a.

14 (c) Modify or amend its previous judgments or orders for
15 proper cause shown or because of change of circumstances until
16 the child reaches 18 years of age, AND, SUBJECT TO SECTION 4A,
17 UNTIL THE CHILD REACHES 19 YEARS AND 6 MONTHS OF AGE. The court
18 shall not modify or amend its previous judgments or orders or
19 issue a new order so as to change the established custodial envi-
20 ronment of a child unless there is presented clear and convincing
21 evidence that it is in the best interest of the child. The cus-
22 todial environment of a child is established if over an apprecia-
23 ble time the child naturally looks to the custodian in that envi-
24 ronment for guidance, discipline, the necessities of life, and
25 parental comfort. The age of the child, the physical environ-
26 ment, and the inclination of the custodian and the child as to
27 permanency of the relationship shall also be considered.

1 (d) Utilize the community resources in behavioral sciences
2 and other professions in the investigation and study of custody
3 disputes and consider their recommendations for the resolution of
4 the disputes.

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

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

10 (g) Upon petition consider the reasonable visitation of
11 maternal or paternal grandparents and, if denied, make a record
12 of such denial.

13 (2) The court shall order support in an amount determined by
14 application of the child support formula developed by the state
15 friend of the court bureau, except that the court may enter an
16 order that deviates from the formula under either of the follow-
17 ing circumstances:

18 (a) If the court determines from the facts of the case that
19 application of the child support formula would be unjust or inap-
20 propriate and sets forth in writing or on the record all of the
21 following:

22 (i) The support amount determined by application of the
23 child support formula.

24 (ii) How the support order deviates from the child support
25 formula.

26 (iii) The value of property or other support awarded in lieu
27 of the payment of child support, if applicable.

1 (iv) The court's reasons for its determination.

2 (b) If the parties agree to a different amount, provided
3 that the party receiving child support is not a recipient of
4 public assistance.

5 (3) For the purposes of this act, "support" may include pay-
6 ment of the expenses of medical, dental, and other health care,
7 child care expenses, and educational expenses. The court shall
8 require that 1 or both parents of a child who is the subject of a
9 petition under this section shall obtain or maintain any health
10 care coverage that is available to them at a reasonable cost, as
11 a benefit of employment, for the benefit of the child. If a
12 parent is self-employed and maintains health care coverage, the
13 court shall require the parent to obtain or maintain dependent
14 coverage for the benefit of the child, if available at a reason-
15 able cost.

16 (4) A judgment or order entered under this act providing for
17 the support of a child is enforceable as provided in the support
18 and visitation enforcement act, Act No. 295 of the Public Acts of
19 1982, being sections 552.601 to 552.650 of the Michigan Compiled
20 Laws.

21 Section 2. This amendatory act shall not take effect unless
22 House Bill No. 5287 of the 85th Legislature is enacted into law.