

HOUSE BILL NO. 6261

December 10, 2024, Introduced by Reps. Beeler and Thompson and referred to the Committee on Families, Children and Seniors.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 2, 3, 6a, 7, and 7a (MCL 722.22, 722.23, 722.26a, 722.27, and 722.27a), section 2 as amended by 2015 PA 51, section 3 as amended by 2016 PA 95, section 6a as added by 1980 PA 434, section 7 as amended by 2015 PA 52, and section 7a as amended by 2016 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Active duty" means that term as ~~defined~~**described** in

1 section ~~101-3911~~ **(2) (A) (i)** of the servicemembers civil relief act,
2 50 USC ~~511-~~ **3911**, except that "active duty" includes full-time
3 national guard duty.

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

8 (c) "Attorney" means, if appointed to represent a child under
9 this act, an attorney serving as the child's legal advocate in a
10 traditional attorney-client relationship with the child, as
11 governed by the Michigan rules of professional conduct. An attorney
12 defined under this subdivision owes the same duties of undivided
13 loyalty, confidentiality, and zealous representation of the child's
14 expressed wishes as the attorney would to an adult client.

15 (d) "Child" means minor child and children. Subject to section
16 5b of the support and parenting time enforcement act, 1982 PA 295,
17 MCL 552.605b, for purposes of providing support, child includes a
18 child and children who have reached 18 years of age.

19 (e) "Deployment" means the movement or mobilization of a
20 servicemember to a location for a period of longer than 60 days and
21 not longer than 540 days under temporary or permanent official
22 orders as follows:

23 (i) That are designated as unaccompanied.

24 (ii) For which dependent travel is not authorized.

25 (iii) That otherwise do not permit the movement of family
26 members to that location.

27 (iv) The servicemember is restricted from travel.

28 (f) "Grandparent" means a natural or adoptive parent of a
29 child's natural or adoptive parent.

1 (g) "Guardian ad litem" means an individual whom the court
2 appoints to assist the court in determining the child's best
3 interests. A guardian ad litem does not need to be an attorney.

4 (h) "Joint legal custody" means both parents share legal
5 decision making and neither parent's rights or responsibilities are
6 superior except with respect to specified decisions as set forth by
7 the court or the parents in the final judgment or order.

8 (i) ~~(h)~~—"Lawyer-guardian ad litem" means an attorney appointed
9 under section 4. A lawyer-guardian ad litem represents the child,
10 and has the powers and duties, as set forth in section 4.

11 (j) "Legal decision making" means the legal right and
12 responsibility to make all nonemergency legal decisions for a
13 child, including those regarding education, health care, religious
14 training, and personal care decisions. For the purposes of
15 interpreting or applying an international treaty, a federal law, a
16 uniform code, or the statutes of other jurisdictions of the United
17 States, legal decision making means legal custody.

18 (k) "Maximized parenting time" means joint and equal physical
19 custody.

20 (l) ~~(i)~~—"Parent" means the natural or adoptive parent of a
21 child.

22 (m) "Sole legal decision making" means 1 parent has the legal
23 right and responsibility of legal decision making regarding the
24 child.

25 (n) ~~(j)~~—"State disbursement unit" or "SDU" means the entity
26 established in section 6 of the office of child support act, 1971
27 PA 174, MCL 400.236.

28 (o) ~~(k)~~—"Third person" means an individual other than a
29 parent.

1 Sec. 3. **(1)** As used in this act, "best interests of the child"
2 **or "child's best interests"** means the sum total of the following
3 factors to be considered, evaluated, and determined by the court:

4 (a) The love, affection, and other emotional ties existing
5 between the parties involved and the child.

6 ~~(b) The capacity and disposition of the parties involved to~~
7 ~~give the child love, affection, and guidance and to continue the~~
8 ~~education and raising of the child in his or her religion or creed,~~
9 ~~if any.~~

10 **(b) The past, present, and potential future relationship**
11 **between the parent and the child.**

12 (c) The capacity and disposition of the parties involved to
13 provide the child with food, clothing, medical care or other
14 remedial care recognized and permitted under the laws of this state
15 in place of medical care, and other material needs.

16 ~~(d) The length of time the child has lived in a stable,~~
17 ~~satisfactory environment, and the desirability of maintaining~~
18 ~~continuity.~~

19 ~~(e) The permanence, as a family unit, of the existing or~~
20 ~~proposed custodial home or homes.~~

21 ~~(f) The moral fitness of the parties involved.~~

22 **(d) The child's adjustment to home, school, and community.**

23 **(e)** ~~(g)~~ The mental and physical health of the parties
24 involved.

25 ~~(h) The home, school, and community record of the child.~~

26 **(f) Which parent is more likely to allow the child frequent,**
27 **meaningful, and continuing contact with the other parent. This**
28 **subdivision does not apply if the court determines that a parent is**
29 **acting in good faith to protect the child from witnessing an act of**

1 domestic violence or being a victim of domestic violence, child
2 abuse, or child neglect.

3 (g) Whether 1 parent intentionally misled the court to cause
4 an unnecessary delay, to increase the cost of litigation, or to
5 persuade the court to give a legal decision making or a parenting
6 time preference to that parent.

7 (h) Domestic violence, regardless of whether the violence was
8 directed against or witnessed by the child.

9 (i) The nature and extent of coercion or duress used by a
10 parent in obtaining an agreement regarding legal decision making or
11 parenting time.

12 (j) ~~(i)~~ The reasonable preference of the child, if the court
13 considers the child to be of sufficient age to express preference.

14 ~~(j) The willingness and ability of each of the parties to~~
15 ~~facilitate and encourage a close and continuing parent-child~~
16 ~~relationship between the child and the other parent or the child~~
17 ~~and the parents. A court may not consider negatively for the~~
18 ~~purposes of this factor any reasonable action taken by a parent to~~
19 ~~protect a child or that parent from sexual assault or domestic~~
20 ~~violence by the child's other parent.~~

21 ~~(k) Domestic violence, regardless of whether the violence was~~
22 ~~directed against or witnessed by the child.~~

23 (k) Whether either parent was convicted of an act of false
24 reporting of child abuse or child neglect.

25 (l) Any other factor considered by the court to be relevant to
26 a particular child custody dispute, including, but not limited to,
27 the following:

28 (i) Moral fitness of the parties involved.

29 (ii) Capacity of either party to raise the child in the party's

1 religion or creed.

2 (2) In a contested child custody case, the court shall make
3 specific findings on the record about all relevant factors and the
4 reasons for which the decision is in the child's best interests.

5 Sec. 6a. (1) In custody disputes between parents, the parents
6 ~~shall must~~ be advised ~~of that~~ the court shall adopt a parenting
7 plan with the presumption that joint custody is in the child's best
8 interests. ~~At the request of either parent, the~~ The court shall
9 ~~consider an award of joint custody. , and shall~~ If joint custody is
10 not awarded, the court shall state on the record the ~~reasons~~ reason
11 for ~~granting or denying a request.~~ joint custody. In other cases
12 custody disputes that are not solely between parents, the court may
13 consider joint custody ~~may be considered by the court. The court~~
14 and shall determine whether joint custody is in the child's best
15 interest ~~of the child~~ interests by considering the following
16 factors:

17 (a) The factors enumerated in section 3.

18 (b) Whether the parents will be able to cooperate and
19 generally agree concerning important decisions affecting the
20 welfare of the child.

21 (2) ~~If the parents agree on joint custody, the court shall~~
22 ~~award joint custody unless the court determines on the record,~~
23 ~~based upon clear and convincing evidence, that joint custody is not~~
24 ~~in the best interests of the child.~~ Consistent with the child's best
25 interests, the court shall adopt a parenting plan that provides for
26 both parents to share joint legal custody of the child and that
27 provides maximized parenting time. The court shall not show
28 preference to a parent in a proposed parenting plan because of the
29 parent's or child's gender.

1 ~~(3) If the court awards joint custody, the court may include~~
 2 ~~in its award a statement regarding when the child shall reside with~~
 3 ~~each parent, or may provide that physical custody be shared by the~~
 4 ~~parents in a manner to assure the child continuing contact with~~
 5 ~~both parents.~~ **Unless the court determines that it is not in the**
 6 **child's best interests, the court shall award joint physical**
 7 **custody to the parents.**

8 (4) During the time a child resides with a parent, that parent
 9 shall decide all routine matters concerning the child.

10 ~~(5) If there is a dispute regarding residency, joint physical~~
 11 **custody is not awarded,** the court shall state the basis for a
 12 ~~residency award not awarding joint physical custody~~ on the record
 13 or in writing.

14 (6) Joint custody ~~shall~~ **does** not eliminate the responsibility
 15 for child support. Each parent ~~shall be~~ **is** responsible for child
 16 support based on the needs of the child and the actual resources of
 17 each parent. If a parent would otherwise be unable to maintain
 18 adequate housing for the child and the other parent has sufficient
 19 resources, the court may order modified support payments for a
 20 portion of housing expenses even during a period when the child is
 21 not residing in the home of the parent receiving support. An order
 22 of joint custody, in and of itself, ~~shall not constitute~~ **is not**
 23 grounds for modifying a support order.

24 (7) As used in this section, "joint **physical** custody" means an
 25 order of the court in which ~~1 or both of the following is~~
 26 ~~specified:~~ **the court specifies**

27 ~~(a) That~~ **that** the child shall reside alternately for **equal**
 28 specific periods with each of the parents.

29 ~~(b) That the parents shall share decision making authority as~~

~~to the important decisions affecting the welfare of the child.~~

Sec. 7. (1) If a child custody dispute has been submitted to the circuit court as an original action under this act or has arisen incidentally from another action in the circuit court or an order or judgment of the circuit court, **and the court finds that maximized parenting time is not in the child's best interests, then** for the **child's** best interests, ~~of the child~~ the court may do 1 or more of the following:

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

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

(c) Subject to subsection (3), modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age and, subject to section 5b of the 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

1 presented clear and convincing evidence that it is in the **child's**
2 best ~~interest of the child.~~ **interests**. The custodial environment of
3 a child is established if over an appreciable time the child
4 naturally looks to the custodian in that environment for guidance,
5 discipline, the necessities of life, and parental comfort. The
6 **child's** age, ~~of the child,~~ the physical environment, and the
7 inclination of the custodian and the child as to permanency of the
8 relationship ~~shall~~ **must** also be considered. If a motion for change
9 of custody is filed while a parent is active duty, the court shall
10 not consider a parent's absence due to that active duty status in a
11 **child's** best ~~interest of the child~~ **interests** determination.

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

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

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

21 (2) A judgment or order entered under this act providing for
22 the support of a child is governed by and is enforceable as
23 provided in the support and parenting time enforcement act, 1982 PA
24 295, MCL 552.601 to 552.650. If this act contains a specific
25 provision regarding the contents or enforcement of a support order
26 that conflicts with a provision in the support and parenting time
27 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act
28 controls in regard to that provision.

29 (3) As provided in the servicemembers civil relief act, 50 USC

~~501 to 597b, 3901 to 4043,~~ if a motion for change of custody is
 filed during the time a parent is on deployment, a parent may file
 and the court shall entertain an application for stay. 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 deployment,
 except that the court may enter a temporary custody order if there
 is clear and convincing evidence that it is in the **child's** best
 interests. ~~of the child.~~ When a temporary custody order is issued
 under this subsection, the court may include a limit on the period
 of time that the temporary custody order remains in effect. At any
 stage before final judgment in the proceeding, the parent may file
 an application for stay or otherwise request a stay of the
 proceedings or file an application for an extension of a stay. The
 parent and the custodial child are not required to be present to
 consider the application for stay or extension of a stay. The
 application for stay or extension of a stay is sufficient if it is
 a signed, written statement, certified to be true under penalty of
 perjury. The same conditions for the initial stay apply to an
 application for an extension of a stay. The parent's duration of
 deployment ~~shall~~ **must** not be considered in making a **child's** best
~~interest of the child~~ **interests** determination.

(4) The parent ~~shall~~ **must** inform the court of the deployment
 end date before or ~~within~~ **by not later than** 30 days after that
 deployment end date. Upon notification of a parent's deployment end
 date, the court shall reinstate the custody order in effect
 immediately preceding that period of deployment. If a motion for
 change of custody is filed after a parent returns from deployment,
 the court shall not consider a parent's absence due to that

1 deployment in making a best interest of the child determination.
2 Future deployments ~~shall~~**must** not be considered in making a **child's**
3 ~~best interest of the child~~**interests** determination.

4 (5) If the deploying parent and the other parent share
5 custody, the deploying parent must notify the other parent of an
6 upcoming deployment within a reasonable period of time.

7 Sec. 7a. (1) Parenting time ~~shall~~**must** be granted in
8 accordance with the **child's** best interests. ~~of the child.~~ It is
9 presumed to be in the **child's** best interests ~~of a child~~ for the
10 child to have a strong relationship with both of his or her
11 parents. Except as otherwise provided in this section, parenting
12 time ~~shall~~**must** be granted to a parent in a frequency, duration,
13 and type reasonably calculated to promote a strong relationship
14 ~~between the child and the parent granted parenting time.~~**both**
15 **parents unless the court determines by clear and convincing**
16 **evidence that maximized parenting time is not in the child's best**
17 **interests.**

18 (2) ~~If the parents of a child agree on parenting time terms,~~
19 ~~the court shall order the parenting time terms unless the court~~
20 ~~determines on the record by clear and convincing evidence that the~~
21 ~~parenting time terms are not in the best interests of the child.~~**The**
22 **preferred schedule for maximized parenting time is for the child to**
23 **reside with 1 parent for 1 week, then with the other parent for 1**
24 **week. An alternate schedule is for the child to reside with 1**
25 **parent for 2 days, the other parent for 2 days, then 3 more days**
26 **with 1 parent. Holidays must be split equally between both parents.**
27 **If a preferred or alternate schedule causes an issue for school**
28 **attendance, the parents shall agree on a solution. If the parents**
29 **cannot come to an agreement, the court shall rule on the issue in a**

1 **manner that is as close to equal parenting time as possible.**

2 (3) A child has a right to parenting time with a parent unless
3 it is shown on the record by clear and convincing evidence that it
4 would endanger the child's physical, mental, or emotional health.

5 (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 provided in sections 520a to 520e and 520g of the Michigan penal
10 code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a
11 substantially similar statute of another state or the federal
12 government, or is found by clear and convincing evidence in a fact-
13 finding hearing to have committed acts of nonconsensual sexual
14 penetration, the court shall not grant parenting time to that
15 biological parent. This subsection does not apply to a conviction
16 under section 520d(1)(a) of the Michigan penal code, 1931 PA 328,
17 MCL 750.520d. This subsection does not apply if, after the date of
18 the conviction, or the date of the finding in a fact-finding
19 hearing described in this subsection, the biological parents
20 cohabit and establish a mutual custodial environment for the child.

21 (5) A parent may assert an affirmative defense of the
22 provisions of subsection (4) in a proceeding brought by the
23 offending parent regarding a child described in subsection (4).

24 (6) Notwithstanding other provisions of this act, if an
25 individual is convicted of criminal sexual conduct as provided in
26 sections 520a to 520e and 520g of the Michigan penal code, 1931 PA
27 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the
28 individual's child, the court shall not grant parenting time with
29 that child or a sibling of that child to that individual, unless

1 both the child's other parent and, if the court considers the child
2 or sibling to be of sufficient age to express his or her desires,
3 the child or sibling consent to the parenting time.

4 (7) ~~The~~ **If the court determines by clear and convincing**
5 **evidence that maximized parenting time is not in the child's best**
6 **interests, the** court may consider the following factors when
7 determining the frequency, duration, and type of parenting time to
8 be granted:

9 (a) The existence of ~~any~~ **the child's** special circumstances or
10 needs. ~~of the child.~~

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

14 (c) The reasonable likelihood of **child** abuse or **child** neglect
15 of the child during parenting time.

16 (d) The reasonable likelihood of abuse of a parent resulting
17 from the exercise of parenting time.

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

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

22 (g) Whether a parent has frequently failed to exercise
23 reasonable parenting time.

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

1 (i) Any other relevant factors.

2 (8) Parenting time ~~shall~~**must** be granted in specific terms ~~if~~
3 ~~requested by either party at any time.~~**unless the court determines**
4 **specific terms are not in the child's best interests.**

5 (9) A parenting time order may contain any reasonable terms or
6 conditions that facilitate the orderly and meaningful exercise of
7 parenting time by a parent, including 1 or more of the following:

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

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

10 (c) Restrictions on the presence of third persons during
11 parenting time.

12 (d) Requirements that the child be ready for parenting time at
13 a specific time.

14 (e) Requirements that the parent arrive for parenting time and
15 return the child from parenting time at specific times.

16 (f) Requirements that parenting time occur in the presence of
17 a third person or agency.

18 (g) Requirements that a party post a bond to ~~assure~~**ensure**
19 compliance with a parenting time order.

20 (h) Requirements of reasonable notice when parenting time will
21 not occur.

22 (i) Any other reasonable condition determined to be
23 appropriate in the particular case.

24 (10) Except as provided in this subsection, a parenting time
25 order ~~shall~~**must** contain a prohibition on exercising parenting time
26 in a country that is not a party to the Hague Convention on the
27 Civil Aspects of International Child Abduction. This subsection
28 does not apply if both parents provide the court with written
29 consent to allow a parent to exercise parenting time in a country

1 that is not a party to the Hague Convention on the Civil Aspects of
2 International Child Abduction.

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

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

12 (13) If the opposing party objects to the ex parte interim
13 order, ~~he or she shall~~ **the opposing party shall** file with the clerk
14 of the court ~~within~~ **by not later than** 14 days after receiving
15 notice of the order a written objection to, or a motion to modify
16 or rescind, the ex parte interim order. The opposing party shall
17 have a true copy of the written objection or motion served on the
18 friend of the court and the party who obtained the ex parte interim
19 order.

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

1 the motion. If the opposing party files a motion to modify or
2 rescind the ex parte interim order and requests a hearing, the
3 court shall resolve the dispute ~~within~~**by not later than** 28 days
4 after the hearing is requested.

5 (15) An ex parte interim order issued under this section ~~shall~~
6 **must** contain the following notice:

7 NOTICE:

8 1. You may file a written objection to this order or a motion
9 to modify or rescind this order. You must file the written
10 objection or motion with the clerk of the court ~~within~~**by not later**
11 **than** 14 days after you were served with this order. You must serve
12 a true copy of the objection or motion on the friend of the court
13 and the party who obtained the order.

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

20 (16) As provided in the servicemembers civil relief act, 50
21 USC ~~501 to 597b,~~**3901 to 4043**, if a motion for change of parenting
22 time is filed during the time a parent is on deployment, a parent
23 may file and the court shall entertain an application for stay. The
24 court shall presume that the **child's** best interests ~~of the child~~
25 are served by not entering an order modifying or amending a
26 previous judgment or order, or issuing a new order, that changes
27 the parenting time that existed on the date the parent was called
28 to deployment, unless the contrary is established by clear and
29 convincing evidence, at which time the court may enter a temporary

1 parenting time order. When a temporary parenting time order is
2 issued under this subsection, the court may include a limit on the
3 period of time that the temporary parenting time order remains in
4 effect. At any stage before final judgment in the proceeding, the
5 parent may file an application for stay or otherwise request a stay
6 of proceedings or file an application for an extension of a stay.
7 The parent and the custodial child are not required to be present
8 to consider the application for stay or extension of a stay. The
9 application for stay or extension of a stay is sufficient if it is
10 a signed, written statement, certified to be true under penalty of
11 perjury. The same conditions for the initial stay apply to
12 applications for an extension of a stay.

13 (17) The parent ~~shall~~**must** inform the court of the deployment
14 end date before or ~~within~~**by not later than** 30 days after that
15 deployment end date. Upon notification of a parent's deployment end
16 date, the court shall reinstate the parenting time order in effect
17 immediately preceding that period of deployment. If a motion for
18 change of parenting time is filed after a parent returns from
19 deployment, the court shall not consider a parent's absence due to
20 that deployment in making a determination regarding change of
21 parenting time. Future deployments ~~shall~~**must** not be considered in
22 making a best interest of the child determination.

23 (18) If the deploying parent and the other parent share
24 custody, the deploying parent ~~must~~**shall** notify the other parent of
25 an upcoming deployment within a reasonable period of time.

26 (19) As used in this section, "offending parent" means a
27 parent who has been convicted of criminal sexual conduct as
28 described in subsection (4) or who has been found by clear and
29 convincing evidence in a fact-finding hearing to have committed

- 1 acts of nonconsensual sexual penetration as described in subsection
- 2 (4) .