

HOUSE BILL No. 4691

May 31, 2017, Introduced by Reps. Runestad, Kelly, VanSingel, Lucido, Hauck, Cole and Tedder and referred to the Committee on Judiciary.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending sections 1, 2, 3, 4, 6a, 7, 7a, and 11 (MCL 722.21, 722.22, 722.23, 722.24, 722.26a, 722.27, 722.27a, and 722.31), section 2 as amended by 2015 PA 51, section 3 as amended by 2016 PA 95, section 4 as amended by 1998 PA 482, section 6a as added by 1980 PA 434, section 7 as amended by 2015 PA 52, section 7a as amended by 2016 PA 96, and section 11 as added by 2000 PA 422.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "~~child~~
2 ~~custody act of 1970~~". **"MICHIGAN SHARED PARENTING ACT"**.

3 Sec. 2. As used in this act:

4 (a) "Active duty" means that term as defined in section 101 of
5 the servicemembers civil relief act, 50 USC 511, except that
6 "active duty" includes full-time ~~national guard~~ **NATIONAL GUARD**

1 duty.

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

13 (d) "Child" means minor child and children. Subject to section
14 5b of the support and parenting time enforcement act, 1982 PA 295,
15 MCL 552.605b, for purposes of providing support, child includes a
16 child and children who have reached 18 years of age.

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

21 (i) That are designated as unaccompanied.

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

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

25 (iv) The servicemember is restricted from travel.

26 **(F) "ESTABLISHED CUSTODIAL ENVIRONMENT" MEANS THE ENVIRONMENT**
27 **OF A CHILD ESTABLISHED OVER AN APPRECIABLE TIME WHERE THE CHILD**

1 NATURALLY LOOKS TO THE PARTY FOR GUIDANCE, DISCIPLINE, THE
2 NECESSITIES OF LIFE, AND PARENTAL COMFORT.

3 (G) ~~(f)~~—"Grandparent" means a natural or adoptive parent of a
4 child's natural or adoptive parent.

5 (H) ~~(g)~~—"Guardian ad litem" means an individual whom the court
6 appoints to assist the court in determining the child's best
7 interests. A guardian ad litem does not need to be an attorney.

8 (I) "JOINT LEGAL CUSTODY" MEANS THE PARENTS SHARE DECISION-
9 MAKING AUTHORITY AS TO THE IMPORTANT DECISIONS AFFECTING THE
10 WELFARE AND WELL-BEING OF THE CHILD.

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

14 (K) "LEGAL RECOGNITION OF PARENTAGE" MEANS THAT PARENTAGE IS
15 ESTABLISHED UNDER THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
16 722.730, THE CHILD'S FATHER HAS ACKNOWLEDGED PATERNITY UNDER THE
17 ACKNOWLEDGMENT OF PATERNITY ACT, 1996 PA 305, MCL 722.1001 TO
18 722.1013, PARENTAGE IS ESTABLISHED UNDER THE MICHIGAN ADOPTION
19 CODE, CHAPTER X OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL
20 710.21 TO 710.70, OR PARENTAGE IS ESTABLISHED UNDER THE LAW OF
21 ANOTHER STATE.

22 (L) "MATERIALLY COMPROMISED" MEANS DIMINISHED OUTCOMES THAT
23 EXCEED MINOR DEVIATIONS AND THAT WOULD HAVE A SIGNIFICANT AND
24 PROFOUND IMPACT ON THE WELL-BEING OF THE CHILD.

25 (M) ~~(i)~~—"Parent" means the natural or adoptive parent of a
26 child.

27 (N) "PARENTING TIME" MEANS THE TIME THE CHILD SPENDS WITH

1 **EITHER PARENT.**

2 (O) ~~(j)~~ "State disbursement unit" or "SDU" means the entity
3 established in section 6 of the office of child support act, 1971
4 PA 174, MCL 400.236.

5 (P) "SUBSTANTIALLY EQUAL PARENTING TIME" MEANS THE CHILD
6 RESIDES FOR ALTERNATING PERIODS OF TIME WITH EACH PARENT AND THAT
7 THE COURT SEEKS TO PROVIDE BALANCE AND EQUALITY IN OVERNIGHTS, WITH
8 1 PARENT NOT TO EXCEED 200 OVERNIGHTS IN A YEAR UNLESS OTHERWISE
9 ADJUSTED FOR OR AGREED TO BY THE PARTIES.

10 (Q) ~~(k)~~ "Third person" means an individual other than a
11 parent.

12 Sec. 3. As used in this act, "best interests of the child"
13 means ~~the~~ **BOTH OF THE FOLLOWING:**

14 (A) **MAINTAINING AN ONGOING RELATIONSHIP WITH EACH PARENT AND**
15 **THE RIGHT OF THE CHILD TO A SUBSTANTIALLY EQUAL PARENTING TIME**
16 **ARRANGEMENT THAT PROMOTES A STRONG RELATIONSHIP BETWEEN A CHILD AND**
17 **HIS OR HER PARENTS.**

18 (B) **THE** sum total of the following factors to be considered,
19 evaluated, and determined by the court, **RECOGNIZING THAT BOTH**
20 **PARENTS, INDIVIDUALLY AND COLLECTIVELY, CONTRIBUTE DIRECTLY AND**
21 **FINANCIALLY AND THAT PARENTING INCLUDES A DIVISION OF LABOR:**

22 (i) ~~(a)~~ The love, affection, and other emotional ties existing
23 between the parties involved and the child.

24 ~~— (b) The capacity and disposition of the parties involved to~~
25 ~~give the child love, affection, and guidance and to continue the~~
26 ~~education and raising of the child in his or her religion or creed,~~
27 ~~if any.~~

1 ~~—— (c) The capacity and disposition of the parties involved to~~
 2 ~~provide the child with food, clothing, medical care or other~~
 3 ~~remedial care recognized and permitted under the laws of this state~~
 4 ~~in place of medical care, and other material needs.~~

5 ~~—— (d) The length of time the child has lived in a stable,~~
 6 ~~satisfactory environment, and the desirability of maintaining~~
 7 ~~continuity.~~

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

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

11 ~~—— (g) The mental and physical health of the parties involved.~~

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

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

15 **(ii) THE CAPACITY AND A HISTORY OF THE PARENTS PROVIDING FOR,**
 16 **THROUGH FINANCIAL SUPPORT OR OTHERWISE, THE CHILD'S EDUCATION**
 17 **ENDEAVORS AND HEALTH CARE NEEDS.**

18 **(iii) THE CAPACITY AND A HISTORY OF THE PARENTS PROVIDING,**
 19 **THROUGH FINANCIAL SUPPORT OR OTHERWISE, FOOD, CLOTHING, AND OTHER**
 20 **NECESSITIES OF THE CHILD'S DAILY LIFE.**

21 **(iv) A HISTORY OF THE PARENTS MAINTAINING REGULAR AND ONGOING**
 22 **CONTACT WITH THE CHILD AND THE IMPACT ON THE CHILD IF REGULAR AND**
 23 **ONGOING CONTACT WITH THE PARENTS IS NOT MAINTAINED.**

24 **(v) THE CAPACITY AND A HISTORY OF THE PARENTS TO PROVIDE AGE-**
 25 **APPROPRIATE EMOTIONAL AND SOCIAL DEVELOPMENT.**

26 **(vi) A PARENT'S BEHAVIOR EXTENDING BEYOND REASONABLE PARENTING**
 27 **PRACTICES THAT MATERIALLY COMPROMISES THE STABILITY OF THE HOME OR**

1 THE HEALTH, SAFETY, OR WELL-BEING OF THE CHILD.

2 (vii) A MENTAL OR PHYSICAL CONDITION OF A PARENT THAT
3 MATERIALLY COMPROMISES THE STABILITY OF THE HOME OR THE HEALTH,
4 SAFETY, OR WELL-BEING OF THE CHILD.

5 (viii) THE IMPACT ON THE CHILD'S ACADEMICS IF REGULAR AND
6 ONGOING CONTACT WITH BOTH PARENTS IS NOT MAINTAINED.

7 (ix) IF A PARENT IS ENGAGED IN CRIMINAL ACTIVITY OR SUBSTANCE
8 USE THAT MATERIALLY COMPROMISES THE STABILITY OF THE HOME OR THE
9 HEALTH, SAFETY, OR WELL-BEING OF THE CHILD.

10 (x) ~~(j)~~—The willingness and ability of each of the parties to
11 facilitate and encourage a close and continuing parent-child
12 relationship between the child and the other parent or the child
13 and the parents. A court may not consider negatively for the
14 purposes of this factor any reasonable action taken by a parent to
15 protect a child or that parent from sexual assault or domestic
16 violence by the child's other parent **OR A PERSON IN THE CHILD'S**
17 **HOME.**

18 ~~—(k) Domestic violence, regardless of whether the violence was~~
19 ~~directed against or witnessed by the child.~~

20 (xi) ~~(l)~~—Any other factor considered by the court ~~to be~~
21 ~~relevant to a particular child custody dispute.~~ **THAT MAY MATERIALLY**
22 **COMPROMISE THE STABILITY OF THE HOME OR THE HEALTH, SAFETY, OR**
23 **WELL-BEING OF THE CHILD.**

24 Sec. 4. (1) In all actions involving dispute of a minor
25 child's custody, the court shall declare the child's inherent
26 rights and establish the ~~rights~~ **RESPONSIBILITIES** and duties as to
27 the child's custody, support, and parenting time in accordance with

1 this act.

2 (2) If, at any time in the proceeding, the court determines
3 that the child's best interests are inadequately represented, the
4 court may appoint a lawyer-guardian ad litem to represent the
5 child. A lawyer-guardian ad litem represents the child and has
6 powers and duties in relation to that representation as set forth
7 in section 17d of chapter XIIIA of 1939 PA 288, MCL 712A.17d. All
8 provisions of section 17d of chapter XIIIA of 1939 PA 288, MCL
9 712A.17d, apply to a lawyer-guardian ad litem appointed under this
10 act.

11 (3) In a proceeding in which a lawyer-guardian ad litem
12 represents a child, he or she may file a written report and
13 recommendation. The court may read the report and recommendation.
14 The court shall not ~~, however,~~ admit the report and recommendation
15 into evidence unless all parties stipulate the admission. The
16 parties may make use of the report and recommendation for purposes
17 of a settlement conference.

18 (4) After a determination of ability to pay, the court may
19 assess all or part of the costs and reasonable fees of the lawyer-
20 guardian ad litem against 1 or more of the parties involved in the
21 proceedings or against the money allocated from marriage license
22 fees for family counseling services under section 3 of 1887 PA 128,
23 MCL 551.103. A lawyer-guardian ad litem appointed under this
24 section shall not be paid a fee unless the court first receives and
25 approves the fee.

26 Sec. 6a. **(1) IF THE PARENTS RESIDE TOGETHER AT THE TIME THE**
27 **CUSTODY OR DIVORCE ACTION IS FILED, IT IS PRESUMED THAT BOTH**

1 PARENTS HAVE ESTABLISHED A CUSTODIAL ENVIRONMENT FOR THE PURPOSE OF
2 DETERMINING CUSTODY AND PARENTING TIME ARRANGEMENTS.

3 (2) IF THE PARENTS DO NOT RESIDE TOGETHER, AT THE TIME THE
4 CHILD CUSTODY ACTION OR DIVORCE ACTION IS FILED, EACH PARTY SHALL
5 BE GIVEN 90 DAYS TO NOTIFY THE COURT AND THE OTHER PARTY OF HIS OR
6 HER INTENTION TO PRESERVE HIS OR HER ESTABLISHED CUSTODIAL
7 ENVIRONMENT.

8 (3) IF A PARENT PROVIDES TIMELY NOTIFICATION AS DESCRIBED IN
9 SUBSECTION (2), THE COURT SHALL PRESUME THAT THE PARENT HAS
10 MAINTAINED THE ESTABLISHED CUSTODIAL ENVIRONMENT FOR THE PURPOSE OF
11 DETERMINING CUSTODY AND PARENTING TIME ARRANGEMENTS.

12 (4) A PARENT MAY REBUT THE PRESUMPTION OF AN ESTABLISHED
13 CUSTODIAL ENVIRONMENT UNDER SUBSECTION (1) OR (3) BY PRESENTING
14 CLEAR AND CONVINCING EVIDENCE THAT MAINTAINING THE ESTABLISHED
15 CUSTODIAL ENVIRONMENT WITH THE OTHER PARENT IS NOT IN THE CHILD'S
16 BEST INTEREST.

17 (5) IF A PARENT NOTIFIES THE COURT AFTER THE 90-DAY PERIOD
18 PROVIDED IN SUBSECTION (2), THE COURT SHALL PROVIDE THE PARENT WITH
19 AN OPPORTUNITY FOR REUNIFICATION WITH THE CHILD AND ORDER THAT AN
20 EFFORT FOR REUNIFICATION OF THE CHILD WITH THE PARENT BE MADE,
21 UNLESS THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT
22 REUNIFICATION IS NOT IN THE CHILD'S BEST INTEREST UNDER SUBSECTION
23 (11).

24 (6) IF THE PRESUMPTION OF AN ESTABLISHED CUSTODIAL ENVIRONMENT
25 UNDER SUBSECTION (1) OR (3) IS REBUTTED BECAUSE THAT PARENT WAS
26 UNAWARE OF THE PARENTAGE OR WAS UNABLE TO MAKE ROUTINE CONTACT WITH
27 THE CHILD, THE PARENT SHALL BE GIVEN 90 DAYS FROM THE DATE OF LEGAL

1 RECOGNITION OF PARENTAGE OR FROM THE DATE THE COURT REBUTS THE
 2 PRESUMPTION TO NOTIFY THE COURT THAT HE OR SHE IS ESTABLISHING HIS
 3 OR HER CUSTODIAL ENVIRONMENT.

4 (7) AFTER NOTIFICATION DESCRIBED IN SUBSECTION (2), THE COURT
 5 SHALL PROVIDE THE PARENT WITH AN OPPORTUNITY FOR UNIFICATION WITH
 6 THE CHILD AND ORDER THAT AN EFFORT FOR UNIFICATION OF THE CHILD
 7 WITH THE PARENT BE MADE, UNLESS THE COURT DETERMINES BY CLEAR AND
 8 CONVINCING EVIDENCE THAT UNIFICATION IS NOT IN THE CHILD'S BEST
 9 INTEREST UNDER SUBSECTION (11).

10 (8) EXCEPT AS PROVIDED IN SUBSECTION (6), IF THE PRESUMPTION
 11 OF AN ESTABLISHED CUSTODIAL ENVIRONMENT UNDER SUBSECTION (1) OR (3)
 12 IS REBUTTED, THE COURT SHALL ORDER REASONABLE PARENTING TIME
 13 ACCORDING TO SECTION 7A.

14 (9) ~~(1)~~—In custody disputes between parents, the parents shall
 15 be advised **BY THE COURT** of **THE PRESUMPTION OF joint LEGAL custody**
 16 **AND SUBSTANTIALLY EQUAL PARENTING TIME AND OF THE DEADLINES**
 17 **PROVIDED IN THIS SECTION.** ~~At the request of either parent, the~~
 18 ~~court shall consider an award of joint custody, and shall state on~~
 19 ~~the record the reasons for granting or denying a request. In other~~
 20 ~~eases joint custody may be considered by the court. The court shall~~
 21 ~~determine whether joint custody is in the best interest of the~~
 22 ~~child by considering the following factors:~~

23 ~~—— (a) The factors enumerated in section 3.~~

24 ~~—— (b) Whether the parents will be able to cooperate and~~
 25 ~~generally agree concerning important decisions affecting the~~
 26 ~~welfare of the child.~~

27 (10) A COURT SHALL GRANT JOINT LEGAL CUSTODY TO THE PARENTS

1 UNLESS THE PARENTS MUTUALLY CONSENT TO ANOTHER AGREEMENT OR 1
2 PARENT DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE THAT A CHILD'S
3 HEALTH, SAFETY, OR WELL-BEING WOULD LIKELY BE MATERIALLY
4 COMPROMISED. IF THE COURT DETERMINES THAT THE PARENTS, IF AWARDED
5 JOINT LEGAL CUSTODY, ARE NOT LIKELY TO COOPERATE OR AGREE
6 CONCERNING IMPORTANT DECISIONS AFFECTING THE WELFARE OF THE CHILD,
7 THE COURT MAY DO THE FOLLOWING:

8 (A) REFER THE PARENTS TO APPROPRIATE SERVICES UNTIL THE
9 PARENTS ARE ABLE TO COOPERATE AND AGREE ON IMPORTANT DECISIONS FOR
10 THE BENEFIT OF THE CHILD.

11 (B) INFORM THE PARENTS THAT THE COURT MAY REVOKE JOINT LEGAL
12 CUSTODY IF THE CHILD'S HEALTH, SAFETY, OR WELL-BEING WOULD LIKELY
13 BE MATERIALLY COMPROMISED BY THE PARENTS' INABILITY TO AGREE.

14 (C) ORDER THAT NO CHANGES MAY BE MADE WITH REGARD TO THE
15 CHILD'S SCHOOLING OR OTHER IMPORTANT DECISIONS UNTIL THE PARENTS
16 ARE ABLE TO AGREE ON IMPORTANT ISSUES FOR THE BENEFIT OF THE CHILD
17 OR AGREE TO A DECISION-MAKING PROCESS OR DESIGNEE TO SETTLE
18 DISPUTES FOR THE BENEFIT OF THE CHILD.

19 (D) ANY OTHER ACTION THE COURT CONSIDERS NECESSARY TO BRING
20 THE PARENTS INTO COOPERATION FOR THE BENEFIT OF THE CHILD.

21 (11) IF AN ESTABLISHED CUSTODIAL ENVIRONMENT HAS BEEN CREATED
22 BY BOTH PARENTS, A COURT SHALL ORDER THAT IT IS IN THE BEST
23 INTERESTS OF THE CHILD TO GRANT THE PARENTS SUBSTANTIALLY EQUAL
24 PARENTING TIME UNLESS THE PARENTS CONSENT TO ANOTHER AGREEMENT OR 1
25 PARENT DEMONSTRATES BY CLEAR AND CONVINCING EVIDENCE 1 OF THE
26 FOLLOWING:

27 (A) THE CHILD HAS BEEN EXPOSED TO DOMESTIC VIOLENCE,

1 REGARDLESS OF WHETHER THE VIOLENCE WAS DIRECTED AGAINST OR
2 WITNESSED BY THE CHILD, INCLUDING VIOLENCE THE CHILD MAY BE EXPOSED
3 TO BY A FAMILY MEMBER OR AN UNRELATED PERSON WHOM THE PARENT ALLOWS
4 TO HAVE CONTACT WITH THE CHILD.

5 (B) THE CHILD WOULD LIKELY BE SUBJECTED TO CHILD ABUSE OR
6 CHILD NEGLECT AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE CHILD
7 PROTECTION LAW, 1975 PA 238, MCL 722.622.

8 (C) IF THE RELATIONSHIP BETWEEN THE CHILD AND A PARENT IS
9 MATERIALLY HARMED DURING THE CHILD'S TIME WITH THE OTHER PARENT DUE
10 TO ACTIONS THAT ATTEMPT TO FRUSTRATE THE RELATIONSHIP OR ALIENATE
11 THE CHILD FROM THE PARENT.

12 (D) A PARENT HAS KNOWINGLY MADE FALSE OR MISLEADING
13 ALLEGATIONS REGARDING CHILD ABUSE, CHILD NEGLECT, OR DOMESTIC
14 VIOLENCE IN A FAMILY COURT PROCEEDING.

15 (E) A CHILD HAS A STRONG, GENUINE, AND REASONABLE PREFERENCE
16 IF THE COURT CONSIDERS THE CHILD TO BE OF SUFFICIENT AGE AND
17 MATURITY TO EXPRESS PREFERENCE AND THAT PREFERENCE IS NOT CAUSED AS
18 A RESULT OF PARENTAL ALIENATION. PREDOMINANT WEIGHT SHALL BE GIVEN
19 TO A CHILD'S PREFERENCE AFTER HE OR SHE TURNS 16 YEARS OF AGE.

20 (12) ~~(2)~~ THE COURT SHALL ALLOW THE PARENTS SUFFICIENT TIME TO
21 CONSIDER AND DISCUSS A PARENTING TIME ARRANGEMENT. If the parents
22 agree on joint LEGAL custody AND PARENTING TIME, the court shall
23 award joint LEGAL custody AND THE PARENTING TIME AGREEMENT unless
24 the court determines on the record, based upon clear and convincing
25 evidence, that joint LEGAL custody OR THE PARENTING TIME AGREEMENT
26 is not in the best interests of the child.

27 (13) ~~(3) If the court awards joint custody,~~ IF THE PARENTS DO

1 NOT AGREE TO PARENTING TIME, the court may REFER THE PARENTS TO
2 SERVICES TO COME TO AN AGREEMENT IN THE BEST INTERESTS OF THE CHILD
3 OR include in its award a statement regarding when the child shall
4 reside with each parent, ~~or may provide that physical custody be~~
5 ~~shared by the parents~~ in a manner to assure ~~ENSURE~~ the child
6 continuing contact with both parents.

7 (14) ~~(4)~~ During the time a child resides with a parent, that
8 parent shall decide all routine matters concerning the child.

9 (15) ~~(5)~~ If there is a dispute regarding residency, ~~IF THE~~
10 PARENTS HAVE JOINT LEGAL CUSTODY, the court shall DESIGNATE 1 OF
11 THE PARENTS' ADDRESSES AS THE OFFICIAL RESIDENCE SOLELY FOR THE
12 PURPOSE OF ALL OTHER STATE OR FEDERAL STATUTES THAT REQUIRE A
13 DESIGNATION OR DETERMINATION OF CUSTODY OR RESIDENCE WITHOUT
14 RESPECT TO PARENTING TIME. THE COURT SHALL state the basis for a
15 residency award ~~DETERMINATION~~ on the record or in writing.

16 (16) ~~(6)~~ Joint LEGAL custody shall ~~DOES~~ not eliminate the
17 responsibility for child support. Each parent shall ~~MUST~~ be
18 responsible for child support based on the needs of the child and
19 the actual resources of each parent. If a parent would otherwise be
20 unable to maintain adequate housing for the child and the other
21 parent has sufficient resources, the court may order modified
22 support payments for a portion of housing expenses even during a
23 period when the child is not residing in the home of the parent
24 receiving support. IF A PARENT WHO IS RESPONSIBLE FOR PAYING
25 SUPPORT WOULD OTHERWISE BE UNABLE TO MAINTAIN ADEQUATE HOUSING FOR
26 THE CHILD AND THE OTHER PARENT HAS SUFFICIENT RESOURCES, THE COURT
27 MAY REDUCE SUPPORT PAYMENTS FOR THE BENEFIT OF THE CHILD. An order

1 of joint **LEGAL** custody, in and of itself, ~~shall~~**DOES** not constitute
2 grounds for modifying a support order.

3 ~~—— (7) As used in this section, "joint custody" means an order of~~
4 ~~the court in which 1 or both of the following is specified:~~

5 ~~—— (a) That the child shall reside alternately for specific~~
6 ~~periods with each of the parents.~~

7 ~~—— (b) That the parents shall share decision-making authority as~~
8 ~~to the important decisions affecting the welfare of the child.~~

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

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

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

27 **(B)** ~~(e)~~Subject to subsection (3), modify or amend its

1 previous judgments or orders ~~for proper cause shown or because of~~
2 ~~change of circumstances~~ **ACCORDING TO SECTION 6A** until the child
3 reaches 18 years of age and, subject to section 5b of the support
4 and parenting time enforcement act, 1982 PA 295, MCL 552.605b,
5 until the child reaches 19 years and 6 months of age. ~~The court~~
6 ~~shall not modify or amend its previous judgments or orders or issue~~
7 ~~a new order so as to change the established custodial environment~~
8 ~~of a child unless there is presented clear and convincing evidence~~
9 ~~that it is in the best interest of the child. The custodial~~
10 ~~environment of a child is established if over an appreciable time~~
11 ~~the child naturally looks to the custodian in that environment for~~
12 ~~guidance, discipline, the necessities of life, and parental~~
13 ~~comfort. The age of the child, the physical environment, and the~~
14 ~~inclination of the custodian and the child as to permanency of the~~
15 ~~relationship shall also be considered.~~ If a motion for change of
16 custody is filed while a parent is active duty, the court shall not
17 consider a parent's absence due to that active duty status in a
18 best interest of the child determination.

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

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

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

1 (2) A judgment or order entered under this act providing for
2 the support of a child is governed by and is enforceable as
3 provided in the support and parenting time enforcement act, 1982 PA
4 295, MCL 552.601 to 552.650. If this act contains a specific
5 provision regarding the contents or enforcement of a support order
6 that conflicts with a provision in the support and parenting time
7 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act
8 controls in regard to that provision.

9 (3) As provided in the servicemembers civil relief act, 50 USC
10 501 to 597b, if a motion for change of **JOINT LEGAL** custody **OR**
11 **PARENTING TIME** is filed during the time a parent is on deployment,
12 a parent may file and the court shall ~~entertain~~**GRANT** an
13 application for stay. The court shall not enter an order modifying
14 or amending a previous judgment or order, or issue a new order,
15 that changes the ~~child's placement~~**JOINT LEGAL CUSTODY OR PARENTING**
16 **TIME** that existed on the date the parent was called to deployment,
17 except that the court may enter a temporary ~~custody~~**PARENTING TIME**
18 order if there is clear and convincing evidence that it is in the
19 best interests of the child. When a temporary ~~custody~~**PARENTING**
20 **TIME** order is issued under this subsection, the court may include a
21 limit on the period of time that the temporary ~~custody~~**PARENTING**
22 **TIME** order remains in effect. At any stage before final judgment in
23 the proceeding, the parent may file an application for stay or
24 otherwise request a stay of the proceedings or file an application
25 for an extension of a stay. The parent and the ~~custodial~~ child are
26 not required to be present to consider the application for stay or
27 extension of a stay. The application for stay or extension of a

1 stay is sufficient if it is a signed, written statement, certified
2 to be true under penalty of perjury. The same conditions for the
3 initial stay apply to an application for an extension of a stay.
4 The parent's duration of deployment shall not be considered in
5 making a best interest of the child determination.

6 **(4) IN ORDER TO ENSURE AND MAINTAIN THE ESTABLISHED CUSTODIAL**
7 **ENVIRONMENT AND STABILITY FOR THE CHILD, THE PARENT ON DEPLOYMENT**
8 **MAY DESIGNATE A THIRD PARTY WHO MAY EXERCISE THE DEPLOYED PARENT'S**
9 **PARENTING TIME WHILE THAT PARENT IS ON DEPLOYMENT.**

10 **(5) (4)**—The parent shall inform the court of the deployment
11 end date before or within 30 days after that deployment end date.
12 Upon notification of a parent's deployment end date, the court
13 shall reinstate the **JOINT LEGAL** custody **AND PARENTING TIME** order in
14 effect immediately preceding that period of deployment. If a motion
15 for change of **JOINT LEGAL** custody **OR PARENTING TIME** is filed after
16 a parent returns from deployment, the court shall not consider a
17 parent's absence due to that deployment in making a best interest
18 of the child determination. Future deployments shall not be
19 considered in making a best interest of the child determination.

20 **(6) (5)**—If the deploying parent and the other parent share
21 **JOINT LEGAL** custody, the deploying parent must notify the other
22 parent of an upcoming deployment within a reasonable period of
23 time.

24 ~~Sec. 7a. (1) Parenting time shall be granted in accordance~~
25 ~~with the best interests of the child. A PARENTING TIME ORDER MAY~~
26 ~~CONTAIN ANY REASONABLE TERM OR CONDITION THAT FACILITATES THE~~
27 ~~ORDERLY AND MEANINGFUL EXERCISE OF PARENTING TIME BY A PARENT,~~

1 INCLUDING 1 OR MORE OF THE FOLLOWING:

2 (A) DIVISION OF THE RESPONSIBILITY TO TRANSPORT THE CHILD.

3 (B) DIVISION OF THE COST OF TRANSPORTING THE CHILD.

4 (C) RESTRICTION ON THE PRESENCE OF THIRD PERSONS DURING
5 PARENTING TIME, IF IT IS DETERMINED BY THE COURT TO IMPACT THE
6 HEALTH, SAFETY, OR WELL-BEING OF THE CHILD.

7 (D) REQUIREMENT THAT THE CHILD BE READY FOR PARENTING TIME AT
8 A SPECIFIC TIME.

9 (E) REQUIREMENT THAT THE PARENT ARRIVE FOR PARENTING TIME AND
10 RETURN THE CHILD FROM PARENTING TIME AT SPECIFIC TIMES.

11 (F) REQUIREMENT THAT PARENTING TIME OCCUR IN THE PRESENCE OF A
12 THIRD PERSON.

13 (G) REQUIREMENT THAT A PARENT POST A BOND TO ENSURE COMPLIANCE
14 WITH A PARENTING TIME ORDER.

15 (H) REQUIREMENT OF REASONABLE NOTICE WHEN PARENTING TIME WILL
16 NOT OCCUR.

17 (I) ANY OTHER REASONABLE CONDITION DETERMINED TO BE
18 APPROPRIATE IN THE PARTICULAR CASE.

19 (2) 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 ON THE CIVIL
22 ASPECTS OF INTERNATIONAL CHILD ABDUCTION. THIS SUBSECTION DOES NOT
23 APPLY IF BOTH PARENTS PROVIDE THE COURT WITH WRITTEN CONSENT TO
24 ALLOW A PARENT TO EXERCISE PARENTING TIME IN A COUNTRY THAT IS NOT
25 A PARTY TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF
26 INTERNATIONAL CHILD ABDUCTION.

27 (3) IF THE COURT AWARDS SUBSTANTIALLY EQUAL PARENTING TIME,

1 PARENTING TIME SHALL BE GRANTED IN ACCORDANCE WITH THE BEST
2 INTERESTS OF THE CHILD AND THE PROVISIONS OF SECTION 6A.

3 (4) IF THE COURT ORDERS A PARENTING TIME ARRANGEMENT OTHER
4 THAN SUBSTANTIALLY EQUAL PARENTING TIME TO BOTH PARTIES,
5 SUBSECTIONS (5) TO (12) APPLY.

6 (5) It is presumed to be in the best interests of a child for
7 the child to have a strong relationship with both of his or her
8 parents. Except as otherwise provided in this section, parenting
9 time shall be granted to a parent in a frequency, duration, and
10 type reasonably calculated to promote a strong relationship between
11 the child and the parent granted parenting time.

12 (6) ~~(2)~~—If the parents of a child agree on parenting time
13 terms, the court shall order the parenting time terms unless the
14 court determines on the record by clear and convincing evidence
15 that the parenting time terms are not in the best interests of the
16 child.

17 (7) ~~(3)~~—A child has a right to parenting time with a parent
18 unless it is shown on the record by clear and convincing evidence
19 that it would endanger the child's physical, mental, or emotional
20 health.

21 (8) ~~(4)~~—Notwithstanding other provisions of this act, if a
22 proceeding regarding parenting time involves a child who is
23 conceived as the result of acts for which 1 of the child's
24 biological parents is convicted of criminal sexual conduct as
25 provided in sections 520a to 520e and 520g of the Michigan penal
26 code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, or a
27 substantially similar statute of another state or the federal

1 government, or is found by clear and convincing evidence in a fact-
2 finding hearing to have committed acts of nonconsensual sexual
3 penetration, the court shall not grant parenting time to that
4 biological parent. This subsection does not apply to a conviction
5 under section 520d(1)(a) of the Michigan penal code, 1931 PA 328,
6 MCL 750.520d. This subsection does not apply if, after the date of
7 the conviction, or the date of the finding in a fact-finding
8 hearing described in this subsection, the biological parents
9 cohabit and establish a mutual custodial environment for the child.

10 (9) ~~(5)~~—A parent may assert an affirmative defense of the
11 provisions of subsection ~~(4)~~—(8) in a proceeding brought by the
12 offending parent regarding a child described in subsection ~~(4)~~—(8).

13 (10) ~~(6)~~—Notwithstanding other provisions of this act, if an
14 individual is convicted of criminal sexual conduct as provided in
15 sections 520a to 520e and 520g of the Michigan penal code, 1931 PA
16 328, MCL 750.520a to 750.520e and 750.520g, and the victim is the
17 individual's child, the court shall not grant parenting time with
18 that child or a sibling of that child to that individual, unless
19 both the child's other parent and, if the court considers the child
20 or sibling to be of sufficient age to express his or her desires,
21 the child or sibling consent to the parenting time.

22 (11) ~~(7)~~—The court ~~may~~ **SHALL** consider the following factors
23 when determining the frequency, duration, and type of parenting
24 time to be granted:

25 (a) The existence of any special circumstances or needs of the
26 child.

27 (b) Whether the child is a nursing child less than 6 months of

1 age. ~~7, or less than 1 year of age if the child receives substantial~~
 2 ~~nutrition through nursing.~~

3 (c) The reasonable likelihood of **CHILD** abuse or **CHILD** neglect
 4 of the child during parenting time.

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

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

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

11 (g) Whether a parent has frequently failed to exercise
 12 reasonable parenting time.

13 (h) The threatened or actual detention of the child with the
 14 intent to retain or conceal the child from the other parent **WHO HAS**
 15 **JOINT LEGAL CUSTODY** or from a third person who has legal custody. A
 16 custodial parent's temporary residence with the child in a domestic
 17 violence shelter shall not be construed as evidence of the
 18 custodial parent's intent to retain or conceal the child from the
 19 other parent.

20 (i) Any other relevant factors.

21 **(12)** ~~(8)~~—Parenting time shall be granted in specific terms if
 22 requested by either party at any time.

23 ~~—(9) A parenting time order may contain any reasonable terms or~~
 24 ~~conditions that facilitate the orderly and meaningful exercise of~~
 25 ~~parenting time by a parent, including 1 or more of the following:~~

26 ~~—(a) Division of the responsibility to transport the child.~~

27 ~~—(b) Division of the cost of transporting the child.~~

1 ~~—— (c) Restrictions on the presence of third persons during~~
2 ~~parenting time.~~

3 ~~—— (d) Requirements that the child be ready for parenting time at~~
4 ~~a specific time.~~

5 ~~—— (e) Requirements that the parent arrive for parenting time and~~
6 ~~return the child from parenting time at specific times.~~

7 ~~—— (f) Requirements that parenting time occur in the presence of~~
8 ~~a third person or agency.~~

9 ~~—— (g) Requirements that a party post a bond to assure compliance~~
10 ~~with a parenting time order.~~

11 ~~—— (h) Requirements of reasonable notice when parenting time will~~
12 ~~not occur.~~

13 ~~—— (i) Any other reasonable condition determined to be~~
14 ~~appropriate in the particular case.~~

15 ~~—— (10) Except as provided in this subsection, a parenting time~~
16 ~~order shall contain a prohibition on exercising parenting time in a~~
17 ~~country that is not a party to the Hague Convention on the Civil~~
18 ~~Aspects of International Child Abduction. This subsection does not~~
19 ~~apply if both parents provide the court with written consent to~~
20 ~~allow a parent to exercise parenting time in a country that is not~~
21 ~~a party to the Hague Convention on the Civil Aspects of~~
22 ~~International Child Abduction.~~

23 **(13)** ~~(11)~~ During the time a child is with a parent to whom
24 parenting time has been awarded, that parent shall decide all
25 routine matters concerning the child.

26 **(14)** ~~(12)~~ Prior to entry of a temporary order, a parent may
27 seek an ex parte interim order concerning parenting time. If the

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

5 (15) ~~(13)~~—If the opposing party objects to the ex parte
6 interim order, he or she shall file with the clerk of the court
7 within 14 days after receiving notice of the order a written
8 objection to, or a motion to modify or rescind, the ex parte
9 interim order. The opposing party shall have a true copy of the
10 written objection or motion served on the friend of the court and
11 the party who obtained the ex parte interim order.

12 (16) ~~(14)~~—If the opposing party files a written objection to
13 the ex parte interim order, the friend of the court shall attempt
14 to 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 (17) ~~(15)~~—An ex parte interim order issued under this section
26 shall 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 **(18)** ~~(16)~~—As provided in the servicemembers civil relief act,
14 50 USC 501 to 597b, if a motion for change of parenting time is
15 filed during the time a parent is on deployment, a parent may file
16 and the court shall ~~entertain~~ **GRANT** an application for stay. The
17 court shall presume that the best interests of the child are served
18 by not entering an order modifying or amending a previous judgment
19 or order, or issuing a new order, that changes the parenting time
20 that existed on the date the parent was called to deployment,
21 unless the contrary is established by clear and convincing
22 evidence, at which time the court may enter a temporary parenting
23 time order. When a temporary parenting time order is issued under
24 this subsection, the court may include a limit on the period of
25 time that the temporary parenting time order remains in effect. At
26 any stage before final judgment in the proceeding, the parent may
27 file an application for stay or otherwise request a stay of

1 proceedings or file an application for an extension of a stay. The
2 parent and the custodial child are not required to be present to
3 consider the application for stay or extension of a stay. The
4 application for stay or extension of a stay is sufficient if it is
5 a signed, written statement, certified to be true under penalty of
6 perjury. The same conditions for the initial stay apply to
7 applications for an extension of a stay.

8 **(19) IN ORDER TO ENSURE AND MAINTAIN THE ESTABLISHED CUSTODIAL**
9 **ENVIRONMENT AND STABILITY FOR THE CHILD, THE PARENT ON DEPLOYMENT**
10 **MAY DESIGNATE A THIRD PARTY WHO MAY EXERCISE THE DEPLOYED PARENT'S**
11 **PARENTING TIME WHILE THAT PARENT IS ON DEPLOYMENT.**

12 **(20)** ~~(17)~~—The parent shall inform the court of the deployment
13 end date before or within 30 days after that deployment end date.
14 Upon notification of a parent's deployment end date, the court
15 shall reinstate the parenting time order in effect immediately
16 preceding that period of deployment. If a motion for change of
17 parenting time is filed after a parent returns from deployment, the
18 court shall not consider a parent's absence due to that deployment
19 in making a determination regarding change of parenting time.
20 Future deployments shall not be considered in making a best
21 interest of the child determination.

22 **(21)** ~~(18)~~—If the deploying parent and the other parent share
23 custody, the deploying parent must notify the other parent of an
24 upcoming deployment within a reasonable period of time.

25 **(22)** ~~(19)~~—As used in this section, "offending parent" means a
26 parent who has been convicted of criminal sexual conduct as
27 described in subsection ~~(4)~~ **(8)** or who has been found by clear and

1 convincing evidence in a fact-finding hearing to have committed
2 acts of nonconsensual sexual penetration as described in subsection
3 ~~(4)~~ **(8)**.

4 Sec. 11. (1) A child whose parental custody is governed by
5 court order has, for the purposes of this section, a legal
6 residence with each parent. Except as otherwise provided in this
7 section, a parent of a child whose custody is governed by court
8 order shall not change a legal residence of the child to a location
9 that is more than ~~100~~**40** miles from the child's legal residence **OR**
10 **SCHOOL** at the time of the commencement of the action in which the
11 ~~order is issued.~~**UNLESS THE COURT DETERMINES FOR THE BENEFIT OF THE**
12 **CHILD THAT THE DISTANCE OF 40 MILES WOULD NEGATIVELY AFFECT THE**
13 **CHILD'S ACCESS TO PARENTING TIME, PARENTAL INVOLVEMENT IN THE**
14 **CHILD'S SCHOOL, OR THE CHILD'S ABILITY TO ACCESS HIS OR HER ROUTINE**
15 **SUPPORT GROUPS AND EXTRACURRICULAR ACTIVITIES. THE DISTANCE OF 40**
16 **MILES IS DETERMINED AS MEASURED BY A VEHICLE'S ODOMETER UNLESS**
17 **OTHERWISE AGREED TO BY THE PARTIES.**

18 (2) A parent's change of a child's legal residence is not
19 restricted by subsection (1) if the other parent consents to, or if
20 the court, after complying with subsection (4), permits, the
21 residence change. This section does not apply if the order
22 governing the child's custody grants sole legal custody to 1 of the
23 child's parents.

24 (3) This section does not apply if, at the time of the
25 commencement of the action in which the custody order is issued,
26 the child's 2 residences were more than ~~100~~**40** miles apart. This
27 section does not apply if the legal residence change results in the

1 child's 2 legal residences being closer to each other than before
2 the change.

3 (4) Before permitting a legal residence change otherwise
4 restricted by subsection (1), ~~the court shall consider each of the~~
5 ~~following factors, with the child as the primary focus in the~~
6 ~~court's deliberations:~~ **THE PARENT REQUESTING THE CHANGE MUST PROVE**
7 **THE FOLLOWING BY CLEAR AND CONVINCING EVIDENCE:**

8 (a) ~~Whether the~~ **THE** legal residence change has the capacity to
9 improve the quality of life for both the child and the relocating
10 parent.

11 (b) The degree to which each parent has complied with, and
12 utilized his or her time under, a court order governing parenting
13 time with the child, and ~~whether~~ **THAT** the **MOVING** parent's plan to
14 change the child's legal residence is **NOT** inspired by that parent's
15 desire to defeat or frustrate the parenting time schedule.

16 (c) ~~The degree to which the court is satisfied that, if~~ **IF** the
17 court permits the legal residence change, it is possible to order a
18 modification of the parenting time schedule and other arrangements
19 governing the child's schedule in a manner that can provide an
20 adequate basis for preserving and ~~fostering the parental~~
21 ~~relationship between the child and each parent; and whether~~ **EACH**
22 **PARENT'S ESTABLISHED CUSTODIAL ENVIRONMENT AND THAT** each parent is
23 likely to comply with the modification.

24 (d) The extent to which the parent opposing the legal
25 residence change is motivated by a desire to secure a financial
26 advantage with respect to a support obligation.

27 (e) ~~Domestic~~ **THAT NO DOMESTIC** violence, regardless of whether

1 the violence was directed against or witnessed by the child **IS**
2 **LIKELY TO EXIST IN THE MOVING PARENT'S NEW RESIDENCE.**

3 (5) Each order determining or modifying custody or parenting
4 time of a child ~~shall~~ **MAY** include a provision stating the parent's
5 agreement as to how a change in either of the child's legal
6 residences will be handled. If ~~such a~~ **THAT** provision is included in
7 the order and a child's legal residence change is done in
8 compliance with that provision, this section does not apply. If the
9 parents do not agree on ~~such a~~ **THAT** provision, the court shall
10 include in the order the following provision: "A parent whose
11 custody or parenting time of a child is governed by this order
12 shall not change the legal residence of the child except in
13 compliance with section 11 of the ~~"Child Custody Act of 1970",~~
14 **"MICHIGAN SHARED PARENTING ACT"**, 1970 PA 91, MCL 722.31.".

15 (6) If this section applies to a change of a child's legal
16 residence and the parent seeking to change that legal residence
17 needs to seek a safe location from the threat of domestic violence,
18 the parent may move to ~~such a~~ **SAFE** location with the child until
19 the court makes a determination under this section.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.