



HOUSE BILL No. 5636

February 27, 1996, Introduced by Reps. Ryan, McBryde, Kukuk, Walberg, Horton, Hammerstrom, Voorhees, Sikkema, Gernaat, Gustafson, Law, Bodem, DeMars, Lowe, Nye, Middaugh, DeLange, Cropsey, Bush, McManus, Green, Dalman and Jersevic and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 3, 4, and 6 of Act No. 91 of the Public Acts of 1970, entitled as amended

"Child custody act of 1970,"

sections 3 and 6 as amended by Act No. 259 of the Public Acts of 1993, being sections 722.23, 722.24, and 722.26 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 4, and 6 of Act No. 91 of the Public
2 Acts of 1970, sections 3 and 6 as amended by Act No. 259 of the
3 Public Acts of 1993, being sections 722.23, 722.24, and 722.26 of
4 the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 3. As used in this act, "best interests of the child"
6 means the sum total of the following factors to be considered,
7 evaluated, and determined by the court:

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

3 (b) The capacity and disposition of the parties involved to
4 give the child love, affection, and guidance. ~~and~~

5 (C) THE CAPACITY AND DISPOSITION OF THE PARTIES INVOLVED to
6 continue the education and raising of the child in his or her
7 religion or creed, if any.

8 (D) ~~(c)~~ The capacity and disposition of the parties
9 involved to provide the child with food, clothing, medical care
10 or other remedial care recognized and permitted under the laws of
11 this state in place of medical care, and other material needs.

12 (E) ~~(d)~~ The length of time the child has lived in a
13 stable, satisfactory environment, and the desirability of main-
14 taining continuity.

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

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

18 (H) ~~(g)~~ The mental and physical health of the parties
19 involved.

20 (I) ~~(h)~~ The home, school, and community record of the
21 child.

22 (J) ~~(i)~~ The reasonable preference of the child, if the
23 court considers the child to be of sufficient age to express
24 preference.

25 (K) ~~(j)~~ The willingness and ability of each of the parties
26 to facilitate and encourage a close and continuing parent-child

1 relationship between the child and the other parent or the child
2 and the parents.

3 (L) ~~(K)~~ Domestic violence, regardless of whether the vio-
4 lence was directed against or witnessed by the child.

5 (M) ~~(L)~~ Any other factor considered by the court to be
6 relevant to a particular child custody dispute.

7 Sec. 4. (1) In ~~all actions now pending or hereafter~~ AN
8 ACTION filed in a circuit court involving dispute of custody of a
9 minor child, the court shall declare the inherent rights of the
10 child and establish the rights and duties as to custody, support,
11 and ~~visitation~~ PARENTING TIME of the child in accordance with
12 this act AND THE PARENTING PLAN ACT.

13 Sec. 6. (1) This act is equitable in nature and shall be
14 liberally construed and applied to establish promptly the rights
15 of the child and the rights and duties of the parties involved.
16 This act applies to all circuit court child custody disputes and
17 actions, whether original or incidental to other actions. Those
18 disputes and actions shall have precedence for hearing and
19 assignment for trial over other civil actions.

20 (2) IF A CHILD IS THE SUBJECT OF A COURT ORDERED PARENTING
21 PLAN AS PROVIDED IN THE PARENTING PLAN ACT, THE COURT MAY ORDER
22 THE CHILD'S PARENTS TO BE GOVERNED BY THE PARENTING PLAN WITHOUT
23 DESIGNATING EITHER PARENT AS LEGAL OR PHYSICAL CUSTODIAN OF THE
24 CHILD EXCEPT FOR A DESIGNATION MADE UNDER SECTION 24 OF THE PAR-
25 ENTING PLAN ACT.

26 (3) ~~(2)~~ Except as otherwise provided in section 6b or 6e,
27 if the circuit court of this state does not have prior continuing

1 jurisdiction over a child, the action shall be submitted to the
2 circuit court of the county where the child resides or may be
3 found by complaint or complaint and motion for order to show
4 cause. An application for a writ of habeas corpus or for a war-
5 rant in its place to obtain custody of a child shall not be
6 granted unless it appears that this act is inadequate and inef-
7 fective to resolve the particular child custody dispute.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. _____ or House Bill No. 5637 (request
10 no. 05706'95) of the 88th Legislature is enacted into law.