

HOUSE BILL No. 4276

February 11, 1997, Introduced by Reps. Gubow, Anthony, Baade, Law, Kaza, Wojno, Schauer, Gire, Brown, Bogardus, Voorhees, Freeman, Martinez, McBryde, Goschka, Brewer, Dalman, Schroer and Baird and referred to the Committee on Judiciary.

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending sections 2 and 7b (MCL 722.22 and 722.27b), section 2
as amended by 1990 PA 245 and section 7b as amended by 1996 PA
19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 ~~-(a) "Child" means minor child and children. Subject to~~
3 ~~section 4a, for purposes of providing support, child includes a~~
4 ~~child and children who have reached 18 years of age.~~

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

1 (B) "CHILD" MEANS A MINOR CHILD AND INCLUDES, FOR PURPOSES
2 OF PROVIDING SUPPORT, A CHILD WHO HAS REACHED 18 YEARS OF AGE.

3 (C) "GRANDPARENT" MEANS A NATURAL OR ADOPTIVE PARENT OF A
4 CHILD'S NATURAL OR ADOPTIVE PARENT.

5 (D) "PARENT" MEANS THE NATURAL OR ADOPTIVE PARENT OF A
6 CHILD.

7 (E) ~~-(c)-~~ "Third person" means ~~any~~ AN individual other
8 than a parent.

9 Sec. 7b. (1) ~~Except as provided in this subsection, a~~
10 ~~grandparent of the child may seek an order for grandparenting~~
11 ~~time in the manner set forth in this section only if a child cus-~~
12 ~~tody dispute with respect to that child is pending before the~~
13 ~~court. If a natural parent of an unmarried child is deceased, a~~
14 ~~parent of the deceased person may commence an action for grand-~~
15 ~~parenting time. Adoption of the child by a stepparent under~~
16 ~~chapter X of Act No. 288 of the Public Acts of 1939, being sec-~~
17 ~~tions 710.21 to 710.70 of the Michigan Compiled Laws, does not~~
18 ~~terminate the right of a parent of the deceased person to com-~~
19 ~~mence an action for grandparenting time.~~ A CHILD'S GRANDPARENT
20 MAY SEEK A GRANDPARENTING TIME ORDER UNDER 1 OR MORE OF THE FOL-
21 LOWING CIRCUMSTANCES:

22 (A) AN ACTION FOR DIVORCE, SEPARATE MAINTENANCE, OR ANNUL-
23 MENT INVOLVING THE GRANDCHILD'S PARENTS IS PENDING BEFORE THE
24 COURT.

25 (B) THE GRANDCHILD'S PARENTS ARE DIVORCED, SEPARATED UNDER A
26 JUDGMENT OF SEPARATE MAINTENANCE, OR HAVE HAD THEIR MARRIAGE
27 ANNULLED.

1 (C) THE GRANDCHILD'S PARENT WHO IS A CHILD OF THE
2 GRANDPARENTS IS DECEASED.

3 (D) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10), LEGAL
4 CUSTODY OF THE GRANDCHILD HAS BEEN GIVEN TO A PERSON OTHER THAN
5 THE GRANDCHILD'S PARENT, OR THE GRANDCHILD IS PLACED OUTSIDE OF
6 AND DOES NOT RESIDE IN THE HOME OF A PARENT.

7 (E) THE GRANDPARENT HAS PROVIDED AN ESTABLISHED CUSTODIAL
8 ENVIRONMENT FOR THE GRANDCHILD AS DESCRIBED IN SECTION 7, WHETHER
9 OR NOT THE GRANDPARENT HAD CUSTODY UNDER A COURT ORDER, AT ANY
10 TIME DURING THE LIFE OF THE GRANDCHILD.

11 (F) THE GRANDCHILD'S PARENT HAS WITHHELD FROM THE GRANDPAR-
12 ENT OPPORTUNITIES TO VISIT WITH THE GRANDCHILD TO RETALIATE
13 AGAINST THE GRANDPARENT FOR REPORTING CHILD ABUSE OR NEGLECT TO
14 THE FAMILY INDEPENDENCE AGENCY OR A LAW ENFORCEMENT AGENCY IF THE
15 GRANDPARENT HAD REASONABLE CAUSE TO SUSPECT CHILD ABUSE OR
16 NEGLECT.

17 (G) THE GRANDCHILD'S PARENT LIVES SEPARATE AND AWAY FROM THE
18 OTHER PARENT AND GRANDCHILD FOR MORE THAN 1 YEAR.

19 (H) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), THE
20 GRANDCHILD'S PARENTS HAVE NEVER BEEN MARRIED AND ARE NOT RESIDING
21 IN THE SAME HOUSEHOLD.

22 ~~-(2) As used in this section, "child custody dispute"~~
23 ~~includes a proceeding in which any of the following occurs:~~

24 ~~(a) The marriage of the child's parents is declared invalid~~
25 ~~or is dissolved by the court, or a court enters a decree of legal~~
26 ~~separation with regard to the marriage.~~

1 ~~(b) Legal custody of the child is given to a party other~~
2 ~~than the child's parent, or the child is placed outside of and~~
3 ~~does not reside in the home of a parent, excluding any child who~~
4 ~~has been placed for adoption with other than a stepparent, or~~
5 ~~whose adoption by other than a stepparent has been legally~~
6 ~~finalized.~~

7 (2) THE COURT SHALL NOT PERMIT A PARENT OF A PUTATIVE FATHER
8 TO SEEK AN ORDER FOR GRANDCHILD VISITATION UNLESS THE PUTATIVE
9 FATHER HAS ACKNOWLEDGED PATERNITY IN WRITING, HAS BEEN DETERMINED
10 TO BE THE FATHER BY A COURT OF COMPETENT JURISDICTION, OR HAS
11 CONTRIBUTED REGULARLY TO THE SUPPORT OF THE GRANDCHILD.

12 (3) A grandparent seeking a grandparenting time order ~~may~~
13 SHALL commence an action for grandparenting time ~~, by complaint~~
14 ~~or complaint and motion for an order to show cause, in the cir-~~
15 ~~cuit court in the county in which the grandchild resides. If a~~
16 ~~child custody dispute is pending, the order shall be sought by~~
17 ~~motion for an order to show cause. The~~ AS FOLLOWS:

18 (A) IF THE CIRCUIT COURT HAS CONTINUING JURISDICTION OVER
19 THE GRANDCHILD, THE CHILD'S GRANDPARENT SHALL SEEK A GRANDPARENT-
20 ING TIME ORDER BY FILING A MOTION WITH THE CIRCUIT COURT IN THE
21 COUNTY WHERE THE COURT HAS CONTINUING JURISDICTION.

22 (B) IF THE CIRCUIT COURT DOES NOT HAVE CONTINUING JURISDIC-
23 TION OVER THE GRANDCHILD, THE CHILD'S GRANDPARENT SHALL SEEK A
24 GRANDPARENTING TIME ORDER BY FILING A COMPLAINT IN THE CIRCUIT
25 COURT FOR THE COUNTY WHERE THE CHILD RESIDES.

26 (4) A complaint or motion FOR GRANDPARENTING TIME shall be
27 accompanied by an affidavit setting forth facts supporting the

1 requested order. The grandparent shall give notice of the filing
2 to each ~~party~~ PERSON who has legal custody of, OR AN ORDER FOR
3 PARENTING TIME WITH, the grandchild. ~~A party having legal cus-~~
4 ~~tody may file an opposing affidavit. A hearing shall be held by~~
5 ~~the court on its own motion or if a party so requests. At the~~
6 ~~hearing, parties submitting affidavits shall be allowed an oppor-~~
7 ~~tunity to be heard. At the conclusion of the hearing, if the~~
8 ~~court finds~~ IF THE GRANDPARENT SHOWS that it is in the best
9 interests of the ~~child~~ GRANDCHILD to enter a grandparenting
10 time order, the court shall enter an order providing for reason-
11 able grandparenting time of the ~~child~~ GRANDCHILD by the grand-
12 parent by general or specific terms and conditions. ~~If a hear-~~
13 ~~ing is not held, the court shall enter a grandparenting time~~
14 ~~order only upon a finding that grandparenting time is in the best~~
15 ~~interests of the child. A grandparenting time order shall not be~~
16 ~~entered for the parents of a putative father unless the father~~
17 ~~has acknowledged paternity in writing, has been adjudicated to be~~
18 ~~the father by a court of competent jurisdiction, or has contrib-~~
19 ~~uted regularly to the support of the child or children. The~~
20 court shall make a record of the reasons for ~~a denial of a~~
21 ~~requested~~ GRANTING OR DENYING A REQUEST FOR grandparenting time.
22 ~~order.~~

23 (4) ~~A grandparent may not file more than once every 2 years,~~
24 ~~absent a showing of good cause, a complaint or motion seeking a~~
25 ~~grandparenting time order. If the court finds there is good~~
26 ~~cause to allow a grandparent to file more than 1 complaint or~~
27 ~~motion under this section in a 2-year period, the court shall~~

~~1 allow the filing and shall consider the complaint or motion. The~~
~~2 court may order reasonable attorney fees to the prevailing~~
~~3 party.~~

4 (5) IF A GRANDPARENT SEEKS A GRANDPARENTING TIME ORDER BY
5 FILING A MOTION IN A PENDING DIVORCE, SEPARATE MAINTENANCE, OR
6 ANNULMENT ACTION, ENTRY OF THE JUDGMENT OF DIVORCE, SEPARATE
7 MAINTENANCE, OR ANNULMENT DOES NOT DISMISS THE GRANDPARENT'S
8 MOTION FOR GRANDPARENTING TIME.

9 (6) THE COURT MAY REFER A COMPLAINT OR MOTION FOR GRANDPAR-
10 ENTING TIME FILED UNDER THIS SECTION TO THE FRIEND OF THE COURT
11 MEDIATION SERVICE UNDER SECTION 13 OF THE FRIEND OF THE COURT
12 ACT, 1982 PA 294, MCL 552.513. IF THE COMPLAINT OR MOTION IS
13 REFERRED TO THE FRIEND OF THE COURT MEDIATION SERVICE AND NO SET-
14 TLEMENT IS REACHED THROUGH FRIEND OF THE COURT MEDIATION WITHIN A
15 REASONABLE TIME AFTER THE DATE OF REFERRAL, THE COMPLAINT OR
16 MOTION SHALL BE HEARD BY THE COURT AS PROVIDED IN THIS SECTION.

17 (7) ~~-(5)-~~ The court shall not enter an order ~~restricting~~
18 ~~the movement of the grandchild if the restriction~~ PROHIBITING A
19 PERSON WHO HAS LEGAL CUSTODY OF A CHILD FROM CHANGING THE DOMI-
20 CILE OF THE CHILD IF THE PROHIBITION is solely for the purpose of
21 allowing ~~the~~ A grandparent to exercise the rights conferred in
22 a grandparenting time order.

23 (8) ~~-(6)-~~ A grandparenting time order entered in accordance
24 with this section ~~shall not be considered to have created~~ DOES
25 NOT CREATE parental rights in the ~~person or persons~~ INDIVIDUAL
26 OR INDIVIDUALS to whom grandparenting time rights are granted.
27 The entry of a grandparenting time order ~~shall~~ DOES not prevent

1 a court of competent jurisdiction from acting upon the custody of
2 the child, the parental rights of the child, or the adoption of
3 the child.

4 (9) ~~-(7) The~~ AFTER A HEARING, THE court may enter an order
5 modifying or terminating a grandparenting time order whenever
6 ~~such~~ THERE IS A CHANGE OF CIRCUMSTANCES AND a modification or
7 termination is in the best interests of the child.

8 (10) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ADOP-
9 TION OF A CHILD OR PLACEMENT OF A CHILD FOR ADOPTION UNDER THE
10 MICHIGAN ADOPTION CODE, CHAPTER X OF 1939 PA 288, MCL 710.21 TO
11 710.70, TERMINATES THE RIGHT OF A GRANDPARENT TO COMMENCE AN
12 ACTION FOR GRANDPARENTING TIME WITH THAT CHILD. ADOPTION OF A
13 CHILD OR PLACEMENT OF A CHILD FOR ADOPTION BY A STEPPARENT OR BY
14 A PERSON WHO IS RELATED TO THE CHILD WITHIN THE FIFTH DEGREE BY
15 MARRIAGE, BLOOD, OR ADOPTION UNDER THE MICHIGAN ADOPTION CODE,
16 CHAPTER X OF 1939 PA 288, MCL 710.21 TO 710.70, DOES NOT TERMI-
17 NATE THE RIGHT OF A GRANDPARENT TO COMMENCE AN ACTION FOR GRAND-
18 PARENTING TIME WITH THAT CHILD.

19 (11) A GRANDPARENT SHALL NOT FILE MORE THAN ONCE EVERY 2
20 YEARS, ABSENT A SHOWING OF GOOD CAUSE, A COMPLAINT OR MOTION
21 SEEKING A GRANDPARENTING TIME ORDER. IF THE COURT FINDS THERE IS
22 GOOD CAUSE TO ALLOW A GRANDPARENT TO FILE MORE THAN 1 COMPLAINT
23 OR MOTION UNDER THIS SECTION IN A 2-YEAR PERIOD, THE COURT SHALL
24 ALLOW THE FILING AND SHALL CONSIDER THE COMPLAINT OR MOTION.

25 (12) UPON MOTION OF A PERSON, THE COURT MAY AWARD COSTS AND
26 FEES AS PROVIDED IN SECTION 2591 OF THE REVISED JUDICATURE ACT OF
27 1961, 1961 PA 236, MCL 600.2591.

1 Enacting section 1. This amendatory act does not take
2 effect unless Senate Bill No. _____ or House Bill No. _____
3 (request no. 00822'97 a) of the 89th Legislature is enacted into
4 law.