

HOUSE BILL No. 5167

October 9, 2001, Introduced by Reps. Kuipers, Hager, Voorhees, DeWeese, Birkholz and Hummel and referred to the Committee on Civil Law and the Judiciary.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending the title and sections 1, 2, 3, 4, 5, 6, 6a, 7, 7a, 7b, and 11 (MCL 722.21, 722.22, 722.23, 722.24, 722.25, 722.26, 722.26a, 722.27, 722.27a, 722.27b, and 722.31), the title and sections 7a and 7b as amended by 1996 PA 19, sections 2 and 7 as amended by 1999 PA 156, sections 3, 5, and 6 as amended by 1993 PA 259, section 4 as amended by 1998 PA 482, section 6a as added by 1980 PA 434, and section 11 as added by 2000 PA 422, and by adding sections 12, 13, 14, 15, 16, 17, 18, and 19.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to declare ~~the~~ CERTAIN inherent rights of ~~minor~~ children; ~~to establish~~ A CHILD IN RELATION TO HIS OR HER PARENTS AFTER DIVORCE; TO ENCOURAGE POSTDIVORCE PARENTAL COOPERATION BY

1 REQUIRING A PROCESS TO ESTABLISH A PARENTING PLAN; TO PRESCRIBE
2 THE CONTENTS OF AND PROCEDURES FOR MODIFYING A PARENTING PLAN; TO
3 PRESCRIBE PROCEDURES TO DETERMINE rights and duties ~~to their~~
4 REGARDING A CHILD'S custody, support, ~~and~~ OR parenting time ~~in~~
5 ~~disputed actions~~ IF THE ISSUE IS IN DISPUTE; to establish rights
6 and duties to provide support for a child after the child reaches
7 the age of majority under certain circumstances; to provide for
8 certain procedure and appeals; and to repeal ~~certain~~ acts and
9 parts of acts.

10 Sec. 1. This act shall be known and may be cited as the
11 "child PARENTING PLAN OR custody DISPUTE act". ~~of 1970~~.

12 Sec. 2. As used in this act:

13 (a) "Agency" means a 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 (b) "Attorney" means, if appointed to represent a child
18 under this act, an attorney serving as the child's legal advocate
19 in a traditional attorney-client relationship with the child, as
20 governed by the Michigan rules of professional conduct. An
21 attorney defined under this subdivision owes the same duties of
22 undivided loyalty, confidentiality, and zealous representation of
23 the child's expressed wishes as the attorney would to an adult
24 client.

25 (c) "Child" means minor child and children. Subject to
26 section 4a, for purposes of providing support, child includes a
27 child and children who have reached 18 years of age.

1 (D) "DOMESTIC VIOLENCE" MEANS AN ACT OF PHYSICAL, SEXUAL, OR
2 SERIOUS EMOTIONAL ABUSE BY AN INDIVIDUAL AGAINST HIS OR HER
3 SPOUSE, OR FORMER SPOUSE, OR AGAINST ANOTHER INDIVIDUAL WITH WHOM
4 THE INDIVIDUAL HAS A CHILD IN COMMON OR WITH WHOM THE INDIVIDUAL
5 HAS RESIDED.

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

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

14 (G) "PERSONAL PROTECTION ORDER" MEANS AN ORDER ISSUED UNDER
15 SECTION 2950 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
16 MCL 600.2950.

17 (H) "SERIOUS EMOTIONAL ABUSE" MEANS ABUSE THAT WOULD CAUSE A
18 REASONABLE PERSON TO FEEL TERRORIZED, INTIMIDATED, OR
19 THREATENED.

20 (I) ~~(f)~~ "State disbursement unit" or "SDU" means the
21 entity established in section 6 of the office of child support
22 act, 1971 PA 174, MCL 400.236.

23 (J) ~~(g)~~ "Third person" means ~~any~~ AN individual other
24 than a parent.

25 Sec. 3. As used in this act, "CHILD'S best interests" ~~of~~
26 ~~the child~~ means the sum total of the following factors to be
27 considered, 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 to continue the
5 education and raising of the child in his or her religion or
6 creed, if any.

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

11 (d) The length of time the child has lived in a stable, sat-
12 isfactory environment, and the desirability of maintaining
13 continuity.

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

16 (f) The moral fitness of the parties involved.

17 (g) The mental and physical health of the parties involved.

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

19 (i) The reasonable preference of the child, if the court
20 considers the child to be of sufficient age to express
21 preference.

22 (j) The willingness and ability of each of the parties to
23 facilitate and encourage a close and continuing parent-child
24 relationship between the child and the other parent or the child
25 and the parents.

26 (k) Domestic violence, regardless of whether the violence
27 was directed against or witnessed by the child.

1 (1) Any other factor considered by the court to be relevant
2 to a particular child custody dispute.

3 Sec. 4. (1) In ~~all actions~~ AN ACTION involving dispute of
4 a minor child's custody, the court shall declare the child's
5 inherent rights and establish the rights and duties as to the
6 child's custody, support, and parenting time UNDER COURT ORDER OR
7 A COURT-APPROVED PARENTING PLAN in accordance with this act.

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

18 (3) In a proceeding in which a lawyer-guardian ad litem rep-
19 resents a child, he or she may file a written report and
20 recommendation. The court may read the report and
21 recommendation. The court shall not, however, admit the report
22 and recommendation into evidence unless all parties stipulate the
23 admission. The parties may make use of the report and recommen-
24 dation for purposes of a settlement conference.

25 (4) After a determination of ability to pay, the court may
26 assess all or part of the costs and reasonable fees of the
27 lawyer-guardian ad litem against 1 or more of the parties

1 involved in the proceedings or against the money allocated from
2 marriage license fees for family counseling services under
3 section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad
4 litem appointed under this section shall not be paid a fee unless
5 the court first receives and approves the fee.

6 Sec. 5. (1) If a child custody dispute is between the par-
7 ents, between agencies, or between third persons, the CHILD'S
8 best interests ~~of the child~~ control. If the child custody dis-
9 pute is between the parent or parents and an agency or a third
10 person, the court shall presume that the CHILD'S best interests
11 ~~of the child~~ are served by awarding custody to the parent or
12 parents, unless the contrary is established by clear and convinc-
13 ing evidence. A CHILD'S CUSTODY IS NOT IN DISPUTE IF THE ISSUE
14 IS RESOLVED IN A COURT-APPROVED PARENTING PLAN AS PROVIDED IN
15 SECTION 12.

16 (2) Notwithstanding other provisions of this act, if a child
17 custody dispute involves a child who is conceived as the result
18 of acts for which 1 of the child's biological parents is con-
19 victed of criminal sexual conduct as provided in sections 520a to
20 520e and 520g of the Michigan penal code, ~~Act No. 328 of the~~
21 ~~Public Acts of 1931, being sections 750.520a to 750.520e and~~
22 ~~750.520g of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.520A
23 TO 750.520E AND 750.520G, the court shall not award custody to
24 the convicted biological parent. This subsection does not apply
25 to a conviction under section 520d(1)(a) of the Michigan penal
26 code, ~~Act No. 328 of the Public Acts of 1931, being~~
27 ~~section 750.520d of the Michigan Compiled Laws~~ 1931 PA 328,

1 MCL 750.520D. This subsection does not apply if, after the date
2 of the conviction, the biological parents cohabit and establish a
3 mutual custodial environment for the child.

4 (3) Notwithstanding other provisions of this act, if an
5 individual is convicted of criminal sexual conduct as provided in
6 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts~~
7 ~~of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO
8 750.520E AND 750.520G, and the victim is the individual's child,
9 the court shall not award custody of that child or a sibling of
10 that child to that individual, unless both the child's other
11 parent and, if the court considers the child or sibling to be of
12 sufficient age to express his or her desires, the child or sib-
13 ling consent to the custody.

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

21 (2) IF A CHILD IS THE SUBJECT OF A COURT-APPROVED PARENTING
22 PLAN AS PROVIDED IN SECTION 12, THE COURT MAY ORDER THE CHILD'S
23 PARENTS TO BE GOVERNED BY THE PARENTING PLAN WITHOUT DESIGNATING
24 EITHER PARENT AS THE LEGAL OR PHYSICAL CUSTODIAN OF THE CHILD,
25 UNLESS A DESIGNATION IS MADE UNDER SECTION 19.

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

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

8 Sec. 6a. (1) THIS SECTION DOES NOT APPLY IF A CHILD'S CUS-
9 TODY IS NOT IN DISPUTE BECAUSE THE ISSUE IS RESOLVED IN A
10 COURT-APPROVED PARENTING PLAN AS PROVIDED IN SECTION 12.

11 (2) ~~(1)~~ In custody disputes between parents, the parents
12 shall be advised of joint custody. At the request of either
13 parent, the court shall consider an award of joint custody, and
14 shall state on the record the reasons for granting or denying a
15 request. In other cases joint custody may be considered by the
16 court. The court shall determine whether joint custody is in the
17 CHILD'S best ~~interest of the child~~ INTERESTS by considering the
18 following factors:

19 (a) The factors enumerated in section 3.

20 (b) Whether the parents will be able to cooperate and gener-
21 ally agree concerning important decisions affecting the welfare
22 of the child.

23 (3) ~~(2)~~ If the parents agree on joint custody, the court
24 shall award joint custody unless the court determines on the
25 record, based upon clear and convincing evidence, that joint cus-
26 tody is not in the CHILD'S best interests. ~~of the child.~~

1 (4) ~~(3)~~ If the court awards joint custody, the court may
2 include in its award a statement regarding when the child shall
3 reside with each parent, or may provide that physical custody be
4 shared by the parents in a manner to assure the child continuing
5 contact with both parents. ~~(4)~~ During the time a child resides
6 with a parent, that parent shall decide all routine matters con-
7 cerning the child.

8 (5) If there is a dispute regarding residency, the court
9 shall state the basis for a residency award on the record or in
10 writing.

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

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

24 (a) That the child ~~shall reside~~ RESIDES alternately for
25 specific periods with each of the parents.

1 (b) That the parents ~~shall~~ share decision-making authority
2 as to the important decisions affecting the welfare of the
3 child.

4 Sec. 7. (1) If a child custody dispute has been submitted
5 to the circuit court as an original action under this act or has
6 arisen incidentally from another action in the circuit court or
7 an order or judgment of the circuit court, for the CHILD'S best
8 interests ~~of the child~~ the court may do 1 or more of the
9 following:

10 (a) Award the custody of the child to 1 or more of the par-
11 ties involved or to others. ~~and provide for payment of support~~
12 ~~for the child, until the child reaches 18 years of age. Subject~~
13 ~~to section 4a, the court may also order support as provided in~~
14 ~~this section for a child after he or she reaches 18 years of~~
15 ~~age. The court may require that support payments shall be made~~
16 ~~through the friend of the court, court clerk, or state disburse-~~
17 ~~ment unit.~~

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

23 (c) Modify or amend its previous judgments or orders for
24 proper cause shown or because of change of circumstances until
25 the child reaches 18 years of age. ~~and, subject to section 4a,~~
26 ~~until the child reaches 19 years and 6 months of age.~~ The court
27 shall not modify or amend its previous judgments or orders or

1 issue a new order so as to change the established custodial
2 environment of a child unless there is presented clear and con-
3 vincing evidence that it is in the CHILD'S best ~~interest of the~~
4 ~~child~~ INTERESTS. The custodial environment of a child is estab-
5 lished if over an appreciable time the child naturally looks to
6 the custodian in that environment for guidance, discipline, the
7 necessities of life, and parental comfort. The age of the child,
8 the physical environment, and the inclination of the custodian
9 and the child as to permanency of the relationship shall also be
10 considered.

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

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

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

20 (2) IF A CHILD CUSTODY DISPUTE IS SUBMITTED AS PROVIDED IN
21 SUBSECTION (1) OR A PARENTING PLAN IS FILED FOR APPROVAL AS PRO-
22 VIDED IN SECTION 12, IN ADDITION TO DETERMINING THE CHILD'S CUS-
23 TODY OR APPROVING A PARENTING PLAN, FOR THE CHILD'S BEST INTER-
24 ESTS, THE COURT MAY DO THE FOLLOWING:

25 (A) PROVIDE FOR PAYMENT OF SUPPORT FOR THE CHILD UNTIL THE
26 CHILD REACHES 18 YEARS OF AGE. SUBJECT TO SECTION 4A, THE COURT
27 MAY ALSO ORDER SUPPORT AS PROVIDED IN THIS SECTION FOR A CHILD

1 AFTER THE CHILD REACHES 18 YEARS OF AGE. THE COURT MAY REQUIRE
2 SUPPORT PAYMENTS TO BE MADE THROUGH THE FRIEND OF THE COURT,
3 COURT CLERK, OR STATE DISBURSEMENT UNIT.

4 (B) MODIFY OR AMEND A PREVIOUS SUPPORT ORDER FOR PROPER
5 CAUSE OR BECAUSE OF A CHANGE OF CIRCUMSTANCES UNTIL THE CHILD
6 REACHES 18 YEARS OF AGE AND, SUBJECT TO SECTION 4A, UNTIL THE
7 CHILD REACHES 19 YEARS AND 6 MONTHS OF AGE.

8 (3) ~~-(2)-~~ Except as otherwise provided in this section, the
9 court shall order support in an amount determined by application
10 of the child support formula developed by the state friend of the
11 court bureau. The court may enter an order that deviates from
12 the formula if the court determines from the facts of the case
13 that application of the child support formula would be unjust or
14 inappropriate and sets forth in writing or on the record all of
15 the following:

16 (a) The support amount determined by application of the
17 child support formula.

18 (b) How the support order deviates from the child support
19 formula.

20 (c) The value of property or other support awarded in lieu
21 of the payment of child support, if applicable.

22 (d) The reasons why application of the child support formula
23 would be unjust or inappropriate in the case.

24 (4) ~~-(3)-~~ Subsection ~~-(2)-~~ (3) does not prohibit the court
25 from entering a support order that is agreed to by the parties
26 and that deviates from the child support formula, if the
27 requirements of subsection ~~-(2)-~~ (3) are met.

1 (5) ~~-(4)-~~ Beginning January 1, 1991, each support order
2 entered, modified, or amended by the court shall provide that
3 each party shall keep the office of the friend of the court
4 informed of both of the following:

5 (a) The name and address of his or her current source of
6 income. As used in this subdivision, "source of income" means
7 that term as defined in section 2 of the support and parenting
8 time enforcement act, 1982 PA 295, MCL 552.602.

9 (b) Any health care coverage that is available to him or her
10 as a benefit of employment or that is maintained by him or her;
11 the name of the insurance company, health care organization, or
12 health maintenance organization; the policy, certificate, or con-
13 tract number; and the names and birth dates of the persons for
14 whose benefit he or she maintains health care coverage under the
15 policy, certificate, or contract.

16 (6) ~~-(5)-~~ For the purposes of this act, "support" may
17 include payment of the expenses of medical, dental, and other
18 health care, child care expenses, and educational expenses. The
19 court shall require 1 or both parents of a child who is the
20 subject of a petition under this section to obtain or maintain
21 any health care coverage that is available to them at a reason-
22 able cost, as a benefit of employment, for the benefit of the
23 child. If a parent is self-employed and maintains health care
24 coverage, the court shall require the parent to obtain or main-
25 tain dependent coverage for the benefit of the child, if avail-
26 able at a reasonable cost.

1 (7) ~~(6)~~ A judgment or order entered under this act
2 providing for the support of a child is enforceable as provided
3 in the support and parenting time enforcement act, 1982 PA 295,
4 MCL 552.601 to 552.650.

5 Sec. 7a. (1) THIS SECTION DOES NOT APPLY IF A CHILD'S CUS-
6 TODAY IS NOT IN DISPUTE BECAUSE THE ISSUE IS RESOLVED IN A
7 COURT-APPROVED PARENTING PLAN AS PROVIDED IN SECTION 12.

8 (2) ~~(1)~~ Parenting time shall be granted in accordance with
9 the CHILD'S best interests. ~~of the child.~~ It is presumed to be
10 in the CHILD'S best interests ~~of a child~~ for the child to have
11 a strong relationship with both of his or her parents. Except as
12 otherwise provided in this section, parenting time shall be
13 granted to a parent in a frequency, duration, and type reasonably
14 calculated to promote a strong relationship between the child and
15 the parent granted parenting time.

16 (3) ~~(2)~~ If the parents of a child agree on parenting time
17 terms, the court shall order the parenting time terms unless the
18 court determines on the record by clear and convincing evidence
19 that the parenting time terms are not in the CHILD'S best
20 interests. ~~of the child.~~ ~~(3)~~ A child has a right to parenting
21 time with a parent unless it is shown on the record by clear and
22 convincing evidence that it would endanger the child's physical,
23 mental, or emotional health.

24 (4) Notwithstanding other provisions of this act, if a pro-
25 ceeding regarding parenting time involves a child who is con-
26 ceived as the result of acts for which 1 of the child's
27 biological parents is convicted of criminal sexual conduct as

1 provided in sections 520a to 520e and 520g of the Michigan penal
2 code, ~~Act No. 328 of the Public Acts of 1931, being~~
3 ~~sections 750.520a to 750.520e and 750.520g of the Michigan~~
4 ~~Compiled Laws~~ 1931 PA 328, MCL 750.520A TO 750.520E AND
5 750.520G, the court shall not grant parenting time to the con-
6 victed biological parent. This subsection does not apply to a
7 conviction under section 520d(1)(a) of ~~Act No. 328 of the Public~~
8 ~~Acts of 1931, being section 750.520d of the Michigan Compiled~~
9 ~~Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520D. This
10 subsection does not apply if, after the date of the conviction,
11 the biological parents cohabit and establish a mutual custodial
12 environment for the child.

13 (5) 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 ~~Act No. 328 of the Public Acts~~
16 ~~of 1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A TO
17 750.520E AND 750.520G, and the victim is the individual's child,
18 the court shall not grant parenting time with that child or a
19 sibling of that child to that individual, unless both the child's
20 other parent and, if the court considers the child or sibling to
21 be of sufficient age to express his or her desires, the child or
22 sibling consent to the parenting time.

23 (6) The court may consider the following factors when deter-
24 mining the frequency, duration, and type of parenting time to be
25 granted:

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

1 (b) Whether the child is a nursing child less than 6 months
2 of age, or less than 1 year of age if the child receives substan-
3 tial nutrition through nursing.

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

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

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

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

12 (g) Whether a parent has frequently failed to exercise rea-
13 sonable parenting time.

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

20 (i) Any other relevant factors.

21 (7) Parenting time shall be granted in specific terms if
22 requested by either party at any time.

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

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

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

3 (c) Restrictions on the presence of third persons during
4 parenting time.

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

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

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

11 (g) Requirements that a party post a bond to assure compli-
12 ance with a parenting time order.

13 (h) Requirements of reasonable notice when parenting time
14 will not occur.

15 (i) Any other reasonable condition determined to be appro-
16 priate in the particular case.

17 (9) During the time a child is with a parent to whom parent-
18 ing time has been awarded, that parent shall decide all routine
19 matters concerning the child.

20 (10) ~~Prior to~~ BEFORE entry of a temporary order, a parent
21 may seek an ex parte interim order concerning parenting time. If
22 the court enters an ex parte interim order concerning parenting
23 time, the party on whose motion the ex parte interim order is
24 entered shall have a true copy of the order served on the friend
25 of the court and the opposing party.

26 (11) If the opposing party objects to the ex parte interim
27 order, he or she shall file with the clerk of the court within

1 14 days after receiving notice of the order a written objection
2 to, or a motion to modify or rescind, the ex parte interim
3 order. The opposing party shall have a true copy of the written
4 objection or motion served on the friend of the court and the
5 party who obtained the ex parte interim order.

6 (12) If the opposing party files a written objection to the
7 ex parte interim order, the friend of the court shall attempt to
8 resolve the dispute within 14 days after receiving it. If the
9 matter cannot be resolved, the friend of the court shall provide
10 the opposing party with a form motion and order with written
11 instructions for their use in modifying or rescinding the ex
12 parte order without assistance of counsel. If the opposing party
13 wishes to proceed without assistance of counsel, the friend of
14 the court shall schedule a hearing with the court that shall be
15 held within 21 days after the filing of the motion. If the
16 opposing party files a motion to modify or rescind the ex parte
17 interim order and requests a hearing, the court shall resolve the
18 dispute within 28 days after the hearing is requested.

19 (13) An ex parte interim order issued under this section
20 shall contain the following notice:

21 NOTICE:

22 1. You may file a written objection to this order or a
23 motion to modify or rescind this order. You must file the writ-
24 ten objection or motion with the clerk of the court within
25 14 days after you were served with this order. You must serve a
26 true copy of the objection or motion on the friend of the court
27 and the party who obtained the order.

1 2. If you file a written objection, the friend of the court
 2 must try to resolve the dispute. If the friend of the court
 3 cannot resolve the dispute and if you wish to bring the matter
 4 before the court without the assistance of counsel, the friend of
 5 the court must provide you with form pleadings and written
 6 instructions and must schedule a hearing with the court.

7 Sec. 7b. (1) Except as provided in this subsection, a
 8 grandparent of the child may seek an order for grandparenting
 9 time in the manner set forth in this section only if a child cus-
 10 tody dispute with respect to that child is pending before the
 11 court OR THE CHILD IS THE SUBJECT OF A COURT-APPROVED PARENTING
 12 PLAN. If a natural parent of an unmarried child is deceased, a
 13 parent of the deceased person may commence an action for grand-
 14 parenting time. Adoption of the child by a stepparent under
 15 chapter X of ~~Act No. 288 of the Public Acts of 1939, being~~
 16 ~~sections 710.21 to 710.70 of the Michigan Compiled Laws~~ THE PRO-
 17 BATE CODE OF 1939, 1939 PA 288, MCL 710.21 TO 710.70, does not
 18 terminate the right of a parent of the deceased person to com-
 19 mence an action for grandparenting time.

20 (2) As used in this section, "child custody dispute"
 21 includes a proceeding in which any of the following occurs:

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

25 (b) Legal custody of the child is given to a party other
 26 than the child's parent, or the child is placed outside of and
 27 does not reside in the home of a parent, excluding any child who

1 has been placed for adoption with other than a stepparent, or
2 whose adoption by other than a stepparent has been legally
3 finalized.

4 (3) A grandparent seeking a grandparenting time order may
5 commence an action for grandparenting time, by complaint or com-
6 plaint and motion for an order to show cause, in the circuit
7 court in the county in which the grandchild resides. If a child
8 custody dispute OR PARENTING PLAN is pending, the order shall be
9 sought by motion for an order to show cause. The complaint or
10 motion shall be accompanied by an affidavit setting forth facts
11 supporting the requested order. The grandparent shall give
12 notice of the filing to each party who has legal custody of the
13 grandchild. A party having legal custody may file an opposing
14 affidavit. A hearing shall be held by the court on its own
15 motion or if a party so requests. At the hearing, parties sub-
16 mitting affidavits shall be allowed an opportunity to be heard.
17 At the conclusion of the hearing, if the court finds that it is
18 in the CHILD'S best interests ~~of the child~~ to enter a grandpar-
19 enting time order, the court shall enter an order providing for
20 reasonable grandparenting time of the child by the grandparent by
21 general or specific terms and conditions. If a hearing is not
22 held, the court shall enter a grandparenting time order only upon
23 a finding that grandparenting time is in the CHILD'S best
24 interests. ~~of the child.~~ A grandparenting time order shall not
25 be entered for the parents of a putative father unless the father
26 has acknowledged paternity in writing, has been adjudicated to be
27 the father by a court of competent jurisdiction, or has

1 contributed regularly to the support of the child or children.
2 The court shall make a record of the reasons for a denial of a
3 requested grandparenting time order.

4 (4) A grandparent may not file more than once every 2 years,
5 absent a showing of good cause, a complaint or motion seeking a
6 grandparenting time order. If the court finds there is good
7 cause to allow a grandparent to file more than 1 complaint or
8 motion under this section in a 2-year period, the court shall
9 allow the filing and shall consider the complaint or motion. The
10 court may order reasonable attorney fees to the prevailing
11 party.

12 (5) The court shall not enter an order restricting the move-
13 ment of the grandchild if the restriction is solely for the pur-
14 pose of allowing the grandparent to exercise the rights conferred
15 in a grandparenting time order.

16 (6) A grandparenting time order entered in accordance with
17 this section shall not be considered to have created parental
18 rights in the person or persons to whom grandparenting time
19 rights are granted. The entry of a grandparenting time order
20 ~~shall~~ DOES not prevent a court of competent jurisdiction from
21 acting upon A PARENTING PLAN FOR THE CHILD, the custody of the
22 child, the parental rights of the child, or the adoption of the
23 child.

24 (7) The court may enter an order modifying or terminating a
25 grandparenting time order whenever such a modification or termi-
26 nation is in the CHILD'S best interests. ~~of the child.~~

1 Sec. 11. (1) A child whose parental custody is governed by
2 court order OR WHO IS THE SUBJECT OF A COURT-APPROVED PARENTING
3 PLAN has, for the purposes of this section, a legal residence
4 with each parent. Except as otherwise provided in this section,
5 a parent of a child whose custody is governed by court order
6 shall not change a legal residence of the child to a location
7 that is more than 100 miles from the child's legal residence at
8 the time of the commencement of the action in which the order is
9 issued.

10 (2) A parent's change of a child's legal residence is not
11 restricted by subsection (1) if the other parent consents to, or
12 if the court, after complying with subsection (4), permits, the
13 residence change. This section does not apply if the order gov-
14 erning the child's custody grants sole legal custody to 1 of the
15 child's parents.

16 (3) This section does not apply if, at the time of the com-
17 mencement of the action in which the custody order is issued, the
18 child's 2 residences were more than 100 miles apart. This sec-
19 tion does not apply if the legal residence change results in the
20 child's 2 legal residences being closer to each other than before
21 the change.

22 (4) Before permitting a legal residence change otherwise
23 restricted by subsection (1), the court shall consider each of
24 the following factors, with the child as the primary focus in the
25 court's deliberations:

1 (a) Whether the legal residence change has the capacity to
2 improve the quality of life for both the child and the relocating
3 parent.

4 (b) The degree to which each parent has complied with, and
5 utilized his or her time under, a court order governing parenting
6 time with the child OR A PARENTING PLAN, and whether the parent's
7 plan to change the child's legal residence is inspired by that
8 parent's desire to defeat or frustrate the parenting time sched-
9 ule OR THE PARENTING PLAN.

10 (c) The degree to which the court is satisfied that, if the
11 court permits the legal residence change, it is possible to order
12 a modification of the parenting time schedule OR PARENTING PLAN
13 and other arrangements governing the child's schedule in a manner
14 that can provide an adequate basis for preserving and fostering
15 the parental relationship between the child and each parent; and
16 whether each parent is likely to comply with the modification.

17 (d) The extent to which the parent opposing the legal resi-
18 dence change is motivated by a desire to secure a financial
19 advantage with respect to a support obligation.

20 (e) Domestic violence, regardless of whether the violence
21 was directed against or witnessed by the child.

22 (5) Each order determining or modifying custody or parenting
23 time of a child OR A PARENTING PLAN shall include a provision
24 stating the parent's agreement as to how a change in either of
25 the child's legal residences will be handled. If such a provi-
26 sion is included in the order OR PARENTING PLAN and a child's
27 legal residence change is done in compliance with that provision,

1 this section does not apply. If the parents do not agree on such
2 a provision, the court shall include in the order the following
3 provision: "A parent whose custody or parenting time of a child
4 is governed by this ~~order~~ ORDER/PARENTING PLAN shall not change
5 the legal residence of the child except in compliance with
6 section 11 of the "Child PARENTING PLAN OR Custody DISPUTE Act",
7 ~~of 1970",~~ 1970 PA 91, MCL 722.31."

8 (6) If this section applies to a change of a child's legal
9 residence and the parent seeking to change that legal residence
10 needs to seek a safe location from the threat of domestic vio-
11 lence, the parent may move to such a location with the child
12 until the court makes a determination under this section.

13 SEC. 12. (1) BEFORE ENTERING A DECREE OF DIVORCE, SEPARATE
14 MAINTENANCE, OR ANNULMENT, THE COURT SHALL APPROVE A PARENTING
15 PLAN FOR A CHILD OF THE MARRIAGE THAT IS IN THE CHILD'S BEST
16 INTERESTS. A PARENTING PLAN SHALL HAVE THE FOLLOWING
17 OBJECTIVES:

18 (A) TO HAVE THE CHILD REARED BY BOTH THE CHILD'S FATHER AND
19 THE CHILD'S MOTHER UNLESS IT IS NOT IN THE CHILD'S BEST
20 INTERESTS.

21 (B) TO PROVIDE FOR THE CHILD'S CARE, INCLUDING THE SPECIFI-
22 CATION OF RESPONSIBILITY FOR HEALTH CARE EXPENSES AND HEALTH CARE
23 COVERAGE.

24 (C) TO SET FORTH THE AUTHORITY AND RESPONSIBILITIES OF EACH
25 PARENT WITH RESPECT TO THE CHILD, CONSISTENT WITH THE CRITERIA IN
26 SECTIONS 15 TO 17.

1 (D) TO ENCOURAGE THE PARENTS, WHERE APPROPRIATE UNDER
2 SECTIONS 15 TO 17, TO MEET THEIR RESPONSIBILITIES TO THEIR
3 CHILDREN THROUGH AGREEMENTS IN THE PARENTING PLAN, RATHER THAN BY
4 RELYING ON JUDICIAL INTERVENTION.

5 (2) A PARENTING PLAN ESTABLISHED UNDER THIS ACT DOES NOT
6 AFFECT THE RIGHT OF AN INDIVIDUAL WHO IS NOT A PARENT GOVERNED BY
7 THAT PARENTING PLAN TO PURSUE AND ESTABLISH PARENTING OR GRAND-
8 PARENTING TIME WITH A CHILD AS AUTHORIZED UNDER OTHER LAW OF THIS
9 STATE. IF A COURT-APPROVED PARENTING PLAN DOES NOT RESOLVE THE
10 ISSUE OF A CHILD'S CUSTODY, THE COURT SHALL DETERMINE THE CHILD'S
11 CUSTODY AS PROVIDED IN SECTION 5.

12 (3) THE STATE COURT ADMINISTRATIVE OFFICE SHALL DEVELOP AND
13 MAKE AVAILABLE A FORM FOR USE BY A PARENT IN COMPLETING A PARENT-
14 ING PLAN, WHICH FORM SHALL INDICATE THE SUBJECT MATTER THAT MUST
15 BE ADDRESSED IN A PARENTING PLAN AS REQUIRED BY THIS ACT. A FORM
16 DEVELOPED UNDER THIS SUBSECTION SHALL CONTAIN NOTICE THAT EITHER
17 PARTY MAY OBTAIN LEGAL COUNSEL.

18 SEC. 13. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, IN A
19 DIVORCE, SEPARATE MAINTENANCE, OR ANNULMENT ACTION INVOLVING A
20 CHILD'S PARENTS, THE PARENTS SHALL FILE WITH THE COURT A PROPOSED
21 PARENTING PLAN THAT IS AGREED ON BY THE PARENTS AND THAT CONFORMS
22 TO THE REQUIREMENTS OF THIS ACT. THE PARENTS SHALL FILE THE PAR-
23 ENTING PLAN REQUIRED BY THIS SUBSECTION BEFORE A HEARING ON OR
24 DETERMINATION OF ISSUES REGARDING A CHILD OF THE MARRIAGE.

25 (2) IF THERE IS EVIDENCE THAT EITHER PARENT HAS COMMITTED
26 DOMESTIC VIOLENCE OR THE PARENTS DO NOT AGREE ON A PARENTING
27 PLAN, EACH PARENT SHALL FILE WITH THE COURT AND SERVE ON THE

1 OTHER PARENT A PROPOSED PARENTING PLAN ON OR BEFORE THE EARLIER
2 OF THE FOLLOWING DATES:

3 (A) TWENTY-EIGHT DAYS AFTER EITHER PARENT FILES AND SERVES A
4 NOTICE REQUESTING A PRETRIAL CONFERENCE.

5 (B) TWENTY-SIX WEEKS AFTER COMMENCEMENT OF THE ACTION. THE
6 PARENTS MAY EXTEND THIS PERIOD BY STIPULATION.

7 (3) A PARENT WHO FILES A PROPOSED PARENTING PLAN IN COMPLI-
8 ANCE WITH SUBSECTION (2) MAY MOVE THE COURT FOR AN ORDER OF
9 DEFAULT ADOPTING THAT PARENT'S PARENTING PLAN IF THE OTHER PARENT
10 FAILS TO FILE A PROPOSED PARENTING PLAN AS REQUIRED IN
11 SUBSECTION (2).

12 SEC. 14. (1) A PARENT SUBMITTING A PROPOSED PARENTING PLAN
13 SHALL ATTACH A SWORN STATEMENT THAT THE PLAN IS PROPOSED BY THAT
14 PARENT IN GOOD FAITH. EITHER PARENT MAY FILE AND SERVE AN
15 AMENDED PROPOSED PARENTING PLAN ACCORDING TO THE RULES FOR AMEND-
16 ING PLEADINGS.

17 (2) IF EACH PARENT FILES A PARENTING PLAN OR THE PARENTING
18 PLAN IS OTHERWISE IN DISPUTE, THE PARENTS SHALL ATTEMPT TO ARRIVE
19 AT A MUTUALLY AGREED UPON PARENTING PLAN BY AN ALTERNATIVE DIS-
20 PUTE RESOLUTION PROCESS EITHER THROUGH THE FRIEND OF THE COURT
21 MEDIATION SERVICES OR THROUGH ANOTHER AGENCY OR AN INDIVIDUAL
22 THAT BOTH PARTIES AGREE UPON. THIS SUBSECTION DOES NOT APPLY IF
23 THERE IS EVIDENCE THAT EITHER PARENT HAS COMMITTED DOMESTIC
24 VIOLENCE.

25 (3) IF AN ALTERNATIVE DISPUTE RESOLUTION PROCESS IS UNSUC-
26 CESSFUL OR INAPPLICABLE, AND A MANDATORY SETTLEMENT CONFERENCE IS
27 PROVIDED BY COURT RULE, THE PARENTS SHALL ATTEND A MANDATORY

1 SETTLEMENT CONFERENCE. A JUDGE OR A FRIEND OF THE COURT REFEREE
2 SHALL PRESIDE OVER THE MANDATORY SETTLEMENT CONFERENCE AND SHALL
3 APPLY THE CRITERIA IN SECTIONS 15 TO 17. THE PARENTS SHALL
4 REVIEW IN GOOD FAITH THE PROPOSED TERMS OF THE PARENTING PLANS
5 AND OTHER ISSUES RELEVANT TO THE ACTION WITH THE JUDGE OR
6 REFEREE. A FACT OR LEGAL ISSUE THAT IS NOT IN DISPUTE AT THE
7 TIME OF THE SETTLEMENT CONFERENCE SHALL BE ENTERED AS STIPULATED
8 FOR PURPOSES OF FINAL HEARING OR TRIAL IN THE MATTER.

9 (4) THE COURT SHALL NOT ISSUE AN ORDER IMPLEMENTING A DIS-
10 PUTED PARENTING PLAN UNTIL THE COURT HOLDS A HEARING ON THE PRO-
11 POSED PLAN OR PLANS. AN ACTION INVOLVING A CHILD GOVERNED BY
12 THIS ACT HAS PRECEDENCE FOR HEARING AND ASSIGNMENT FOR TRIAL OVER
13 OTHER CIVIL ACTIONS.

14 SEC. 15. (1) THE PARENTING PLAN SHALL CONTAIN PROVISIONS
15 GOVERNING RESOLUTION OF FUTURE DISPUTES BETWEEN THE PARENTS.

16 (2) UNLESS PRECLUDED OR LIMITED BY THIS SECTION OR
17 SECTION 16 OR 17, THE COURT SHALL PROVIDE ALTERNATIVES TO COURT
18 ACTION FOR RESOLVING DISPUTES REGARDING THE ESTABLISHMENT OR MOD-
19 IFICATION OF A PARENTING PLAN, WHICH MAY INCLUDE COUNSELING,
20 MEDIATION, OR ARBITRATION BY A SPECIFIED INDIVIDUAL OR AGENCY,
21 INCLUDING THE FRIEND OF THE COURT. IF THE COURT FINDS THAT A
22 PARENT USES OR FRUSTRATES THE USE OF AN ALTERNATIVE DISPUTE RESO-
23 LUTION PROCESS WITHOUT GOOD CAUSE, THE COURT SHALL AWARD ATTORNEY
24 FEES AND FINANCIAL SANCTIONS TO THE OTHER PARENT. THE COURT
25 SHALL SET FORTH THE REQUIREMENTS OF THIS SUBSECTION IN THE ORDER
26 APPROVING THE PARENTING PLAN.

1 (3) THE COURT SHALL NOT ORDER AN ALTERNATIVE DISPUTE
2 RESOLUTION PROCESS IF THE COURT FINDS THAT A LIMITING FACTOR
3 UNDER THIS SECTION OR SECTION 16 OR 17 APPLIES OR THAT EITHER
4 PARENT IS UNABLE TO AFFORD THE COST OF THE PROPOSED DISPUTE RESO-
5 LUTION PROCESS. IF A DISPUTE RESOLUTION PROCESS IS NOT PRECLUDED
6 OR LIMITED, THEN, IN DESIGNATING THE PROCESS, THE COURT SHALL
7 CONSIDER ALL RELEVANT FACTORS, INCLUDING, BUT NOT LIMITED TO, ALL
8 OF THE FOLLOWING:

9 (A) DIFFERENCES BETWEEN THE PARENTS THAT WOULD SUBSTANTIALLY
10 INHIBIT THEIR EFFECTIVE PARTICIPATION IN A DESIGNATED PROCESS.

11 (B) THE PARENTS' WISHES OR AGREEMENTS AND, IF THE PARENTS
12 HAVE ENTERED INTO AGREEMENTS, WHETHER THE AGREEMENTS WERE MADE
13 KNOWINGLY AND VOLUNTARILY.

14 (C) DIFFERENCES IN THE PARENTS' FINANCIAL CIRCUMSTANCES THAT
15 MAY AFFECT THEIR ABILITY TO PARTICIPATE FULLY IN A GIVEN DISPUTE
16 RESOLUTION PROCESS.

17 (4) A PARENTING PLAN SHALL NOT REQUIRE MUTUAL DECISION
18 MAKING OR DESIGNATION OF AN ALTERNATIVE DISPUTE RESOLUTION PRO-
19 CESS IF THE COURT FINDS THAT A PARENT HAS ENGAGED IN ANY OF THE
20 FOLLOWING CONDUCT:

21 (A) WILLFUL ABANDONMENT THAT CONTINUES FOR AN EXTENDED
22 PERIOD OF TIME OR SUBSTANTIAL REFUSAL TO PERFORM PARENTING
23 FUNCTIONS.

24 (B) PHYSICAL, SEXUAL, OR A PATTERN OF EMOTIONAL ABUSE OF A
25 CHILD.

1 (C) A HISTORY OF ACTS OF DOMESTIC VIOLENCE OR AN ASSAULT OR
2 SEXUAL ASSAULT THAT CAUSES GRIEVOUS BODILY HARM OR THE FEAR OF
3 THAT HARM.

4 SEC. 16. (1) SUBJECT TO SUBSECTION (3), THE COURT SHALL
5 LIMIT A PARENT'S PARENTING TIME WITH HIS OR HER CHILD IF THE
6 COURT FINDS THAT THE PARENT HAS ENGAGED IN ANY OF THE FOLLOWING
7 CONDUCT:

8 (A) WILLFUL ABANDONMENT THAT CONTINUES FOR AN EXTENDED
9 PERIOD OF TIME OR SUBSTANTIAL REFUSAL TO PERFORM PARENTING
10 FUNCTIONS.

11 (B) PHYSICAL, SEXUAL, OR A PATTERN OF EMOTIONAL ABUSE OF A
12 CHILD.

13 (C) A HISTORY OF ACTS OF DOMESTIC VIOLENCE OR AN ASSAULT OR
14 SEXUAL ASSAULT THAT CAUSES GRIEVOUS BODILY HARM OR THE FEAR OF
15 THAT HARM.

16 (2) SUBJECT TO SUBSECTION (3), A PARENT'S PARENTING TIME
17 WITH HIS OR HER CHILD SHALL BE LIMITED IF IT IS FOUND THAT THE
18 PARENT RESIDES WITH AN INDIVIDUAL WHO HAS ENGAGED IN ANY OF THE
19 FOLLOWING CONDUCT:

20 (A) PHYSICAL, SEXUAL, OR A PATTERN OF EMOTIONAL ABUSE OF A
21 CHILD.

22 (B) A HISTORY OF ACTS OF DOMESTIC VIOLENCE OR AN ASSAULT OR
23 SEXUAL ASSAULT THAT CAUSES GRIEVOUS BODILY HARM OR THE FEAR OF
24 THAT HARM.

25 (3) IF A PARENT IS CONVICTED AS AN ADULT OF CRIMINAL SEXUAL
26 CONDUCT AS PROVIDED IN SECTIONS 520B TO 520G OF THE MICHIGAN
27 PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, THE COURT

1 SHALL RESTRAIN THE PARENT FROM CONTACT WITH A CHILD THAT WOULD
2 OTHERWISE BE ALLOWED UNDER THIS ACT. IF A PARENT RESIDES WITH AN
3 ADULT WHO HAS BEEN CONVICTED OF, OR WITH A JUVENILE WHO HAS BEEN
4 ADJUDICATED TO HAVE COMMITTED, CRIMINAL SEXUAL CONDUCT AS PRO-
5 VIDED IN SECTIONS 520B TO 520G OF THE MICHIGAN PENAL CODE, 1931
6 PA 328, MCL 750.520B TO 750.520G, THE COURT SHALL RESTRAIN THE
7 PARENT FROM CONTACT WITH THE PARENT'S CHILD EXCEPT CONTACT THAT
8 OCCURS OUTSIDE THAT ADULT'S OR JUVENILE'S PRESENCE. IF THE COURT
9 FINDS THAT THE INDIVIDUAL DESCRIBED IN THIS SUBSECTION WHO
10 RESIDES WITH THE PARENT IS THE PARENT'S CHILD OR WARD, AND FINDS
11 THAT THE SAFETY AND WELFARE OF THE CHILD SUBJECT TO THE PARENTING
12 PLAN WILL BE ADEQUATELY PROTECTED, THE COURT MAY PERMIT CONTACT
13 WITH THAT PARENT IN THAT INDIVIDUAL'S PRESENCE.

14 (4) IN LIMITING PARENTING TIME BASED ON CONDUCT FOUND UNDER
15 SUBSECTION (1), THE COURT SHALL CONSIDER THE AMOUNT OF TIME THAT
16 HAS PASSED SINCE THE CONDUCT OCCURRED OR THE LAST OCCURRENCE OF
17 THE CONDUCT UPON WHICH THE LIMITATION IS BEING BASED.

18 (5) THE LIMITATIONS IMPOSED BY THE COURT UNDER
19 SUBSECTION (1) OR (2) SHALL BE REASONABLY CALCULATED TO PROTECT
20 THE CHILD FROM PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE OR HARM THAT
21 COULD RESULT IF THE CHILD HAS CONTACT WITH THE PARENT REQUESTING
22 PARENTING TIME. IF THE COURT EXPRESSLY FINDS, BASED ON THE EVI-
23 DENCE AND ON THE RECORD, THAT LIMITATION ON THE PARENTING TIME
24 WITH THE CHILD DOES NOT ADEQUATELY PROTECT THE CHILD FROM THE
25 HARM OR ABUSE THAT COULD RESULT IF THE CHILD HAS CONTACT WITH THE
26 PARENT REQUESTING PARENTING TIME, THE COURT SHALL RESTRAIN THE

1 PARENT REQUESTING PARENTING TIME FROM ALL CONTACT WITH THE CHILD
2 FOR A COURT-DETERMINED PERIOD OF TIME.

3 (6) THE COURT SHALL NOT ENTER AN ORDER UNDER SUBSECTION (5)
4 ALLOWING A PARENT TO HAVE CONTACT WITH A CHILD IF THE PARENT IS
5 FOUND BY CLEAR AND CONVINCING EVIDENCE IN A CIVIL ACTION OR BY A
6 PREPONDERANCE OF THE EVIDENCE IN AN ACTION UNDER CHAPTER XIIA OF
7 THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32, TO
8 HAVE SEXUALLY ABUSED THE CHILD. THE COURT SHALL NOT ENTER AN
9 ORDER ALLOWING A PARENT TO HAVE CONTACT WITH THE CHILD IF THE
10 PARENT RESIDES WITH AN INDIVIDUAL WHO IS FOUND BY CLEAR AND CON-
11 VINCING EVIDENCE IN A CIVIL ACTION OR BY A PREPONDERANCE OF THE
12 EVIDENCE IN AN ACTION UNDER THE CHAPTER XIIA OF THE PROBATE CODE
13 OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32, TO HAVE SEXUALLY
14 ABUSED A CHILD. IF THE COURT FINDS THAT THE INDIVIDUAL DESCRIBED
15 IN THIS SUBSECTION WHO RESIDES WITH THE PARENT IS THE PARENT'S
16 CHILD OR WARD, AND FINDS THAT THE SAFETY AND WELFARE OF THE CHILD
17 SUBJECT TO THE PARENTING PLAN WILL BE ADEQUATELY PROTECTED, THE
18 COURT MAY PERMIT CONTACT WITH THAT PARENT.

19 (7) IF THE COURT LIMITS PARENTING TIME UNDER SUBSECTION (1)
20 OR (2) BY REQUIRING SUPERVISED CONTACT BETWEEN THE CHILD AND THE
21 PARENT, THE COURT SHALL NOT APPROVE OF A SUPERVISOR WHO HAS
22 ENGAGED IN PHYSICAL, SEXUAL, OR A PATTERN OF EMOTIONAL ABUSE OF A
23 CHILD. THE COURT SHALL NOT APPROVE OF A SUPERVISOR UNLESS THE
24 SUPERVISOR ACCEPTS THAT THE HARMFUL CONDUCT UNDER SUBSECTION (1)
25 OR (2) OCCURRED AND IS WILLING TO AND CAPABLE OF PROTECTING THE
26 CHILD FROM HARM. THE COURT SHALL REVOKE COURT APPROVAL OF THE
27 SUPERVISOR UPON FINDING, BASED ON THE EVIDENCE AND ON THE RECORD,

1 THAT THE SUPERVISOR HAS FAILED TO PROTECT THE CHILD OR IS NO
2 LONGER WILLING TO OR CAPABLE OF PROTECTING THE CHILD.

3 (8) IF THE COURT EXPRESSLY FINDS, BASED ON THE EVIDENCE AND
4 ON THE RECORD, THAT CONTACT BETWEEN THE PARENT AND THE CHILD WILL
5 NOT CAUSE PHYSICAL, SEXUAL, OR EMOTIONAL ABUSE OR HARM TO THE
6 CHILD AND THAT THE PROBABILITY THAT THE PARENT'S OR ANOTHER
7 INDIVIDUAL'S HARMFUL OR ABUSIVE CONDUCT WILL RECUR IS SO REMOTE
8 THAT IT WOULD NOT BE IN THE CHILD'S BEST INTERESTS TO APPLY A
9 LIMITATION PRESCRIBED BY THIS SECTION, THEN THE COURT NEED NOT
10 APPLY THOSE LIMITATIONS. THIS SUBSECTION DOES NOT APPLY IF
11 SUBSECTION (5) APPLIES.

12 SEC. 17. (1) THE COURT MAY PRECLUDE OR LIMIT THE PARENTING
13 PLAN IF A PARENT'S INVOLVEMENT OR CONDUCT COULD HAVE AN ADVERSE
14 EFFECT ON THE CHILD'S BEST INTERESTS AS EVIDENCED BY THE EXIS-
15 TENCE OF 1 OR MORE OF THE FOLLOWING FACTORS:

16 (A) A PARENT'S NEGLIGENCE OR SUBSTANTIAL NONPERFORMANCE OF PAR-
17 ENTING FUNCTIONS.

18 (B) A LONG-TERM IMPAIRMENT RESULTING FROM DRUG, ALCOHOL, OR
19 OTHER SUBSTANCE ABUSE THAT INTERFERES WITH THE PERFORMANCE OF
20 PARENTING FUNCTIONS.

21 (C) THE ABSENCE OR SUBSTANTIAL IMPAIRMENT OF EMOTIONAL TIES
22 BETWEEN THE PARENT AND THE CHILD.

23 (D) THE ABUSIVE USE OF CONFLICT BY THE PARENT THAT CREATES
24 THE DANGER OF SERIOUS DAMAGE TO THE CHILD'S PSYCHOLOGICAL
25 DEVELOPMENT.

26 (E) A PARENT'S WITHHOLDING OF ACCESS TO THE CHILD FROM THE
27 OTHER PARENT FOR A PROTRACTED PERIOD WITHOUT GOOD CAUSE.

1 (F) OTHER FACTORS THE COURT EXPRESSLY FINDS ADVERSE TO THE
2 CHILD'S BEST INTERESTS.

3 (2) IN DETERMINING WHETHER CONDUCT DESCRIBED IN THIS SECTION
4 HAS OCCURRED, THE COURT SHALL APPLY THE CIVIL RULES OF EVIDENCE,
5 PROOF, AND PROCEDURE.

6 SEC. 18. (1) IF A PARENT FAILS TO COMPLY WITH THE PARENTING
7 PLAN OR A CHILD SUPPORT ORDER, THE OTHER PARENT'S OBLIGATIONS
8 UNDER THE PARENTING PLAN OR THE CHILD SUPPORT ORDER ARE NOT
9 AFFECTED. THE COURT MAY HOLD A PARENT WHO FAILS TO COMPLY WITH A
10 PARENTING PLAN IN CONTEMPT OF COURT.

11 (2) A PARENT SEEKING MODIFICATION OF A PARENTING PLAN SHALL
12 SUBMIT, TOGETHER WITH HIS OR HER PETITION, A SWORN STATEMENT SET-
13 TING FORTH FACTS SUPPORTING THE REQUESTED MODIFICATION AND SHALL
14 GIVE NOTICE, TOGETHER WITH A COPY OF HIS OR HER SWORN STATEMENT,
15 TO OTHER PARTIES TO THE PROCEEDINGS, WHO MAY FILE OPPOSING SWORN
16 STATEMENTS. THE COURT SHALL DENY THE PETITION UNLESS IT FINDS
17 THAT PROPER CAUSE FOR HEARING THE MOTION IS ESTABLISHED BY THE
18 SWORN STATEMENTS, IN WHICH CASE IT SHALL SET A DATE FOR HEARING
19 ON AN ORDER TO SHOW CAUSE WHY THE REQUESTED MODIFICATION SHOULD
20 NOT BE ORDERED. A PARENT MAY FILE A PETITION FOR MODIFICATION OF
21 A PARENTING PLAN ONLY IN THE COUNTY OF THE COURT THAT HAS JURIS-
22 DICTION OVER THE CASE.

23 (3) EXCEPT AS OTHERWISE PROVIDED IN SECTION 15, THE COURT
24 SHALL NOT MODIFY A PARENTING PLAN UNLESS THE MOVING PARTY SHOWS
25 PROPER CAUSE FOR A MODIFICATION OR A CHANGE OF CIRCUMSTANCES
26 SINCE ENTRY OF THE ORDER APPROVING THE PARENTING PLAN ORDER. IF
27 THE MOVING PARTY MAKES THE SHOWING REQUIRED BY THIS SUBSECTION

1 AND IF THE COURT FINDS THAT THE MODIFICATION IS IN THE CHILD'S
2 BEST INTERESTS, THE COURT SHALL MODIFY THE PARENTING PLAN.

3 (4) IF THE COURT FINDS THAT A PETITION TO MODIFY AN EARLIER
4 PARENTING PLAN IS BROUGHT, OR A REFUSAL TO AGREE TO A MODIFICA-
5 TION IS MADE, IN BAD FAITH, THE COURT SHALL ASSESS ATTORNEY FEES
6 AND COURT COSTS OF THE NONMOVING PARENT AGAINST THE MOVING
7 PARTY.

8 SEC. 19. SOLELY FOR THE PURPOSES OF OTHER STATE OR FEDERAL
9 STATUTES OR OTHER LEGAL REQUIREMENTS THAT REQUIRE A DESIGNATION
10 OR DETERMINATION OF LEGAL OR PHYSICAL CUSTODY FOR PURPOSES SUCH
11 AS, BY WAY OF EXAMPLE AND NOT LIMITATION, TAX EXEMPTIONS OR
12 HEALTH CARE BENEFITS, THE COURT MAY DESIGNATE IN THE PARENTING
13 PLAN OR BY SEPARATE ORDER A CHILD'S LEGAL OR PHYSICAL CUSTODIAN
14 OR CUSTODIANS. THIS DESIGNATION DOES NOT AFFECT EITHER PARENT'S
15 RIGHTS AND RESPONSIBILITIES UNDER THE PARENTING PLAN OR ANOTHER
16 PROVISION OF THIS ACT. IN THE ABSENCE OF SUCH A DESIGNATION, THE
17 PARENT WITH WHOM THE CHILD IS SCHEDULED TO RESIDE THE MAJORITY OF
18 THE TIME SHALL BE CONSIDERED THE CHILD'S CUSTODIAN FOR THOSE
19 PURPOSES.

20 Enacting section 1. This amendatory act takes effect
21 January 1, 2002.