

**SUBSTITUTE FOR
HOUSE BILL NO. 5949**

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, 6b, 6c,
6e, 7, 7a, 8, 10, and 11 (MCL 722.21, 722.22, 722.23, 722.24,
722.25, 722.26, 722.26a, 722.26b, 722.26c, 722.26e, 722.27,
722.27a, 722.28, 722.30, and 722.31), the title and section 7a as
amended by 1996 PA 19, section 2 as amended by 2002 PA 9,
sections 3, 5, and 6 as amended and sections 6c and 6e as added
by 1993 PA 259, section 4 as amended by 1998 PA 482, section 6a
as added by 1980 PA 434, section 6b as amended by 2000 PA 60,
section 7 as amended by 2001 PA 108, section 10 as added by 1996
PA 304, and section 11 as added by 2000 PA 422.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to declare the inherent rights of minor children; to

1 establish ~~rights and duties to their custody, support, and~~
2 ~~parenting time~~ in disputed actions **rights and duties with**
3 **respect to the custody of, parental responsibility for, support**
4 **for, and parenting time with minor children;** to establish rights
5 and duties to provide support for a child after the child reaches
6 the age of majority under certain circumstances; to provide for
7 certain procedure and appeals; and to repeal ~~certain~~ acts and
8 parts of acts.

9 Sec. 1. This act shall be known and may be cited as the
10 "child ~~custody act of 1970~~ **parenting act**".

11 Sec. 2. As used in this act:

12 (a) "Agency" means a legally authorized public or private
13 organization, or governmental unit or official, whether of this
14 state or of another state or country, concerned in the welfare of
15 minor children, including a licensed child placement agency.

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

24 (c) "Child" means minor child and children. Subject to
25 section 5b of the support and parenting time enforcement act,
26 1982 PA 295, MCL 552.605b, for purposes of providing support,
27 child includes a child and children who have reached 18 years of

1 age.

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

5 (e) "Lawyer-guardian ad litem" means an attorney appointed
6 under section 4. A lawyer-guardian ad litem represents the
7 child, and has the powers and duties, as set forth in section 4.

8 (f) "Parental responsibility" means decision-making authority
9 as to the important decisions affecting the welfare of a child.
10 Unless otherwise provided in a judgment or order, a parent has
11 primary parental responsibility when a child resides with that
12 parent.

13 (g) "Parenting time" means the time designated in a court
14 order when a child will reside with a parent. Parenting time
15 includes what was considered physical custody before July 1,
16 2005.

17 (h) ~~(f)~~ "State disbursement unit" or "SDU" means the entity
18 established in section 6 of the office of child support act, 1971
19 PA 174, MCL 400.236.

20 (i) ~~(g)~~ "Third person" means an individual other than a
21 parent.

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

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

27 (b) The capacity and disposition of the parties involved to

1 give the child love, affection, and guidance and to continue the
2 education and raising of the child in his or her religion or
3 creed, if any.

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

8 (d) The length of time the child has lived in a stable,
9 satisfactory environment, and the desirability of maintaining
10 continuity.

11 (e) The permanence, as a family unit, of the existing or
12 proposed ~~custodial~~ **parental** home or homes.

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

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

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

16 (i) The reasonable preference of the child, if the court
17 considers the child to be of sufficient age to express
18 preference.

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

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

25 (l) Any other factor considered by the court to be relevant
26 to a particular child. ~~custody dispute.~~

27 Sec. 4. (1) In all actions involving ~~dispute of a minor~~

1 ~~child's custody~~ **disputes with respect to a child's time with**
2 **parents or decision-making for a child by parents**, the court
3 shall declare the child's inherent rights and establish the
4 rights and duties as to ~~the child's~~ custody, **parental**
5 **responsibility**, support, and parenting time in accordance with
6 this act.

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

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

23 (4) After a determination of ability to pay, the court may
24 assess all or part of the costs and reasonable fees of the
25 lawyer-guardian ad litem against 1 or more of the parties
26 involved in the proceedings or against the money allocated from
27 marriage license fees for family counseling services under

1 section 3 of 1887 PA 128, MCL 551.103. A lawyer-guardian ad
2 litem appointed under this section shall not be paid a fee unless
3 the court first receives and approves the fee.

4 Sec. 5. (1) If a ~~child custody~~ dispute **under this act** is
5 between the parents, between agencies, or between third persons,
6 the best interests of the child control. If the ~~child custody~~
7 dispute **under this act** is between the parent or parents and an
8 agency or a third person, the court shall presume that the best
9 interests of the child are served by ~~awarding~~ **ordering** custody
10 to the parent or parents, unless the contrary is established by
11 clear and convincing evidence.

12 (2) Notwithstanding other provisions of this act, if a ~~child~~
13 ~~custody~~ dispute **under this act** involves a child who is conceived
14 as the result of acts for which 1 of the child's biological
15 parents is convicted of criminal sexual conduct as provided in
16 sections 520a to 520e and 520g of the Michigan penal code, ~~Act~~
17 ~~No. 328 of the Public Acts of 1931, being sections 750.520a to~~
18 ~~750.520e and 750.520g of the Michigan Compiled Laws~~ **1931 PA 328,**
19 **MCL 750.520a to 750.520e and 750.520g,** the court shall not ~~award~~
20 ~~custody~~ **order parental responsibility or parenting time** to the
21 convicted biological parent. This subsection does not apply to a
22 conviction under section 520d(1)(a) of the Michigan penal code,
23 ~~Act No. 328 of the Public Acts of 1931, being section 750.520d~~
24 ~~of the Michigan Compiled Laws~~ **1931 PA 328, MCL 750.520d.** This
25 subsection does not apply if, after the date of the conviction,
26 the biological parents cohabit and establish a mutual ~~custodial~~
27 **home** environment for the child.

1 (3) Notwithstanding other provisions of this act, if an
2 individual is convicted of criminal sexual conduct as provided in
3 sections 520a to 520e and 520g of ~~Act No. 328 of the Public Acts~~
4 ~~of 1931~~ **the Michigan penal code, 1931 PA 328, MCL 750.520a to**
5 **750.520e and 750.520g**, and the victim is the individual's child,
6 the court shall not ~~award custody of~~ **order parental**
7 **responsibility for or parenting time with** that child or a sibling
8 of that child to that individual, unless both the child's other
9 parent and, if the court considers the child or sibling to be of
10 sufficient age to express his or her desires, the child or
11 sibling consent to the ~~custody~~ **parental responsibility or**
12 **parenting time.**

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
17 and actions **involving parental responsibility for, custody of, or**
18 **parenting time with a child**, whether original or incidental to
19 other actions. Those disputes and actions shall have precedence
20 for hearing and assignment for trial over other civil actions.

21 (2) Except as otherwise provided in section 6b or ~~6e~~ **6d**, if
22 the circuit court of this state does not have prior continuing
23 jurisdiction over a child, the action shall be submitted to the
24 circuit court of the county where the child resides or may be
25 found by complaint or complaint and motion for order to show
26 cause. An application for a writ of habeas corpus or for a
27 warrant in its place to obtain custody of, **parental**

1 **responsibility for, or parenting time with** a child shall not be
2 granted unless it appears that this act is inadequate and
3 ineffective to resolve the particular ~~child custody~~ dispute.

4 Sec. 6a. (1) In ~~custody~~ disputes **under this act** between
5 parents, the parents shall be advised of ~~joint custody~~ **mutual**
6 **parental responsibility and parenting time**. At the request of
7 either parent, the court shall consider ~~an award of joint~~
8 ~~custody~~ **ordering mutual parenting responsibility or parenting**
9 **time**, and shall state on the record the reasons for granting or
10 denying a request. In other cases, ~~joint custody~~ **mutual**
11 **parental responsibility or parenting time** may be considered by
12 the court. The court shall determine whether ~~joint custody~~
13 **mutual parental responsibility or parenting time** is in the best
14 interest of the child by considering the following factors:

15 (a) The factors enumerated in section 3.

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

19 (2) If the parents agree on ~~joint custody~~ **mutual parental**
20 **responsibility or parenting time**, the court shall ~~award joint~~
21 ~~custody~~ **order mutual parental responsibility or parenting time**
22 unless the court determines on the record, based upon clear and
23 convincing evidence, that ~~joint custody~~ **mutual parental**
24 **responsibility or parenting time** is not in the best interests of
25 the child.

26 (3) If the court ~~awards joint custody~~ **orders mutual**
27 **parental responsibility or parenting time**, the court may include

1 in its ~~award~~ **order** a statement regarding when the child shall
2 reside with each parent, or may provide that ~~physical custody~~
3 **parenting time** be shared by the parents in a manner to assure the
4 child continuing contact with both parents.

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

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

10 (6) ~~Joint custody shall~~ **Mutual parental responsibility or**
11 **parenting time does** not eliminate the responsibility for child
12 support. Each parent shall be responsible for child support
13 based on the needs of the child and the actual resources of each
14 parent. If a parent would otherwise be unable to maintain
15 adequate housing for the child and the other parent has
16 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
19 receiving support. An order of ~~joint custody~~ **mutual parental**
20 **responsibility for or parenting time with a child**, in and of
21 itself, ~~shall~~ **does** not constitute grounds for modifying a
22 support order.

23 (7) As used in this section: ~~,"joint custody" means an~~
24 ~~order of the court in which 1 or both of the following is~~
25 ~~specified: (a) That the child shall reside alternately for~~
26 ~~specific periods with each of the parents. (b) That the parents~~
27 ~~shall~~

1 (a) "Mutual parental responsibility" means that a child's
2 **parents** share decision-making authority as to the important
3 decisions affecting the welfare of the child **as specified in a**
4 **court order.**

5 (b) "Mutual parenting time" means that a child resides
6 **alternately for specific periods with each of his or her parents**
7 **as specified in a court order.**

8 Sec. 6b. (1) Except as otherwise provided in subsection
9 (2), a guardian or limited guardian of a child has standing to
10 bring an action ~~for custody of the child as provided in~~ **under**
11 this act.

12 (2) A limited guardian of a child does not have standing to
13 bring an action ~~for custody of the child~~ **under this act** if the
14 parent or parents of the child have substantially complied with a
15 limited guardianship placement plan regarding the child entered
16 into as required by section 5205 of the estates and protected
17 individuals code, 1998 PA 386, MCL 700.5205, or section 424a of
18 former 1978 PA 642.

19 (3) If the circuit court does not have prior continuing
20 jurisdiction over the child, ~~a child custody~~ **an** action brought
21 **under this act** by a guardian or limited guardian of the child
22 shall be filed in the circuit court in the county in which the
23 probate court appointed the guardian.

24 (4) Upon the filing of ~~a child custody~~ **an** action brought
25 **under this act** by a child's guardian or limited guardian,
26 guardianship proceedings concerning that child in the probate
27 court are stayed until disposition of the ~~child custody~~ action

1 **under this act.** A probate court order concerning the
2 guardianship of the child continues in force until superseded by
3 a circuit court order. If the circuit court ~~awards custody of~~
4 ~~the child~~ **enters an order under this act**, it shall send a copy
5 of the judgment or order of disposition to the probate court in
6 the county that appointed the child's guardian or limited
7 guardian.

8 (5) If a child's guardian or limited guardian brings ~~a child~~
9 ~~custody action~~ **an action under this act**, the circuit court shall
10 request the supreme court in accordance with section 225 of the
11 revised judicature act of 1961, 1961 PA 236, MCL 600.225, to
12 assign the probate court judge who appointed that guardian or
13 limited guardian to serve as the circuit court judge and hear the
14 ~~child custody~~ **action under this act.**

15 Sec. 6c. (1) A third person may bring an action for custody
16 of a child if the court finds either of the following:

17 (a) Both of the following:

18 (i) The child was placed for adoption with the third person
19 under the adoption laws of this or another state, and the
20 placement order is still in effect at the time the action is
21 filed.

22 (ii) After the placement, the child has resided with the
23 third person for a minimum of 6 months.

24 (b) All of the following:

25 (i) The child's biological parents have never been married to
26 one another.

27 (ii) The child's parent who has ~~custody of~~ **parental**

1 **responsibility for or parenting time with** the child dies or is
2 missing and the other parent has not been granted ~~legal custody~~
3 **parental responsibility or parenting time** under court order.

4 (iii) The third person is related to the child within the
5 fifth degree by marriage, blood, or adoption.

6 (2) A third person shall include with an action filed under
7 this section both of the following:

8 (a) An affidavit setting forth facts relative to the
9 existence of the prerequisites required by subsection (1)(a) or
10 (b).

11 (b) Notice that a defense or objection to a third person's
12 right to bring an action for custody may be raised as an
13 affirmative defense or by a motion for summary disposition based
14 on lack of standing as provided in the Michigan court rules.

15 Sec. 6e. (1) A third person filing an action under section
16 6c shall send notice of the action to each party who has ~~legal~~
17 ~~custody of~~ **parental responsibility for or parenting time with**
18 the child and to each parent whose parental rights have not been
19 terminated.

20 (2) In addition to other powers of the court, in an action
21 under section 6c, the court may do any of the following:

22 (a) Appoint an attorney for a parent.

23 (b) Order that a necessary and reasonable amount of money be
24 paid to the court for reimbursement of a party's attorney. A
25 party may request an order under this subdivision. The moving
26 party shall allege facts showing that the party is otherwise
27 unable to bear the expense of the action. The court shall

1 require the disclosure of attorney fees or other expenses paid.

2 (c) The court may award costs and fees as provided in
3 section 2591 of the revised judicature act of 1961, ~~Act No. 236~~
4 ~~of the Public Acts of 1961, being section 600.2591 of the~~
5 ~~Michigan Compiled Laws— 1961 PA 236, MCL 600.2591.~~

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

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

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

27 (c) Modify or amend its previous judgments or orders for

1 proper cause shown or because of change of circumstances until
2 the child reaches 18 years of age and, subject to section 5b of
3 the support and parenting time enforcement act, 1982 PA 295, MCL
4 552.605b, until the child reaches 19 years and 6 months of age.
5 The court shall not modify or amend its previous judgments or
6 orders or issue a new order so as to change the established
7 ~~custodial~~ **home** environment of a child unless there is presented
8 clear and convincing evidence that it is in the best interest of
9 the child. The ~~custodial~~ **home** environment of a child is
10 established if over an appreciable time the child naturally looks
11 to the ~~custodian~~ **parent or person** 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~~ **parent or person** and the child as
15 to permanency of the relationship shall also be considered.

16 (d) Utilize a guardian ad litem or the community resources in
17 behavioral sciences and other professions in the investigation
18 and study of ~~custody~~ disputes **under this act** and consider their
19 recommendations for the resolution of the disputes.

20 (e) Take any other action considered to be necessary in a
21 particular ~~child custody~~ dispute **under this act**.

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

25 (2) A judgment or order entered under this act providing for
26 the support of a child is governed by and is enforceable as
27 provided in the support and parenting time enforcement act, 1982

1 PA 295, MCL 552.601 to 552.650. If this act contains a specific
2 provision regarding the contents or enforcement of a support
3 order that conflicts with a provision in the support and
4 parenting time enforcement act, 1982 PA 295, MCL 552.601 to
5 552.650, this act controls in regard to that provision.

6 **(3) Judgments or orders entered under this act before July 1,**
7 **2005 that govern custody or parenting time remain in force and,**
8 **if subject to modification, shall be modified according to the**
9 **law in effect after June 30, 2005.**

10 Sec. 7a. (1) Parenting time shall be granted in accordance
11 with the best interests of the child. It is presumed to be in
12 the best interests of a child for the child to have a strong
13 relationship with both of his or her parents. Except as
14 otherwise provided in this section, parenting time shall be
15 granted to a parent in a frequency, duration, and type reasonably
16 calculated to promote a strong relationship between the child and
17 the parent granted parenting time.

18 (2) If the parents of a child agree on parenting time terms,
19 the court shall order the parenting time terms unless the court
20 determines on the record by clear and convincing evidence that
21 the parenting time terms are not in the best interests of the
22 child.

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

27 ~~(4) Notwithstanding other provisions of this act, if a~~

~~1 proceeding regarding parenting time involves a child who is
2 conceived as the result of acts for which 1 of the child's
3 biological parents is convicted of criminal sexual conduct as
4 provided in sections 520a to 520e and 520g of the Michigan penal
5 code, Act No. 328 of the Public Acts of 1931, being
6 sections 750.520a to 750.520e and 750.520g of the Michigan
7 Compiled Laws, the court shall not grant parenting time to the
8 convicted biological parent. This subsection does not apply to a
9 conviction under section 520d(1)(a) of Act No. 328 of the Public
10 Acts of 1931, being section 750.520d of the Michigan Compiled
11 Laws. This subsection does not apply if, after the date of the
12 conviction, the biological parents cohabit and establish a mutual
13 custodial environment for the child.~~

~~14 ——— (5) Notwithstanding other provisions of this act, if an
15 individual is convicted of criminal sexual conduct as provided in
16 sections 520a to 520e and 520g of Act No. 328 of the Public Acts
17 of 1931 and the victim is the individual's child, the court shall
18 not grant parenting time with that child or a sibling of that
19 child to that individual, unless both the child's other parent
20 and, if the court considers the child or sibling to be of
21 sufficient age to express his or her desires, the child or
22 sibling consent to the parenting time.~~

~~23 (4) —(6)—~~ The court may consider the following factors when
24 determining the frequency, duration, and type of parenting time
25 to be 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
3 substantial 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 on,
9 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
13 reasonable 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~~ **parenting time with**
17 **the child. ~~A custodial parent's~~ If a parent granted parenting**
18 **time seeks** temporary residence with the child in a domestic
19 violence shelter, ~~shall not be construed as~~ **that temporary**
20 **residence is not** evidence of the ~~custodial~~ parent's intent to
21 retain or conceal the child from the other parent **or third**
22 **person.**

23 (i) Any other relevant factors.

24 (5) ~~-(7)-~~ Parenting time shall be granted in specific terms
25 if requested by either party at any time.

26 (6) ~~-(8)-~~ A parenting time order may contain any reasonable
27 terms or conditions that facilitate the orderly and meaningful

1 exercise of parenting time by a parent, including 1 or more of
2 the following:

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

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

5 (c) Restrictions on the presence of third persons during
6 parenting time.

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

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

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

13 (g) Requirements that a party post a bond to assure
14 compliance with a parenting time order.

15 (h) Requirements of reasonable notice when parenting time
16 will not occur.

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

19 **(7) ~~-(9)-~~** During the time a child is with a parent to whom
20 parenting time has been awarded, that parent shall decide all
21 routine matters concerning the child.

22 **(8) Unless otherwise provided in an order granting parenting**
23 **time to both parents, the parent having a majority of parenting**
24 **time under the order is the custodial parent and has custody for**
25 **the purposes of federal, interstate, and international statutes**
26 **that base remedies or enforcement on 1 of the parties being the**
27 **custodial parent or having custody.**

1 (9) ~~-(10)-~~ Prior to entry of a temporary order, a parent may
2 seek an ex parte interim order concerning parenting time. If the
3 court enters an ex parte interim order concerning parenting time,
4 the party on whose motion the ex parte interim order is entered
5 shall have a true copy of the order served on the friend of the
6 court and the opposing party.

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

14 (11) ~~-(12)-~~ If the opposing party files a written objection
15 to the ex parte interim order, the friend of the court shall
16 attempt to resolve the dispute within 14 days after receiving
17 it. If the matter cannot be resolved, the friend of the court
18 shall provide the opposing party with a form motion and order
19 with written instructions for ~~their~~ **his or her** use in modifying
20 or rescinding the ex parte order without assistance of counsel.
21 If the opposing party wishes to proceed without assistance of
22 counsel, the friend of the court shall schedule a hearing with
23 the court that shall be held within 21 days after the filing of
24 the motion. If the opposing party files a motion to modify or
25 rescind the ex parte interim order and requests a hearing, the
26 court shall resolve the dispute within 28 days after the hearing
27 is requested.

1 **(12)** ~~-(13)-~~ An ex parte interim order issued under this
 2 section shall contain the following notice:

3 NOTICE:

4 1. You may file a written objection to this order or a
 5 motion to modify or rescind this order. You must file the
 6 written objection or motion with the clerk of the court within 14
 7 days after you were served with this order. You must serve a
 8 true copy of the objection or motion on the friend of the court
 9 and the party who obtained the order.

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

16 Sec. 8. To expedite the resolution of a ~~child custody~~
 17 dispute **under this act** by prompt and final adjudication, all
 18 orders and judgments of the circuit court shall be affirmed on
 19 appeal unless the trial judge made findings of fact against the
 20 great weight of evidence or committed a palpable abuse of
 21 discretion or a clear legal error on a major issue.

22 Sec. 10. Notwithstanding ~~any other~~ **another** provision of
 23 law, a parent shall not be denied access to records or
 24 information concerning his or her child because the parent ~~is~~
 25 ~~not the child's custodial parent~~ **does not have parental**
 26 **responsibility for the child**, unless the parent is prohibited
 27 from having access to the records or information by a protective

1 order. As used in this section, "records or information"
2 includes, but is not limited to, medical, dental, and school
3 records, day care provider's records, and notification of
4 meetings regarding the child's education.

5 Sec. 11. (1) A child whose ~~parental custody~~ **parenting**
6 **time** is governed by court order has, for the purposes of this
7 section, a legal residence with each parent. Except as otherwise
8 provided in this section, a parent of a child whose ~~custody~~
9 **parenting time** is governed by court order shall not change a
10 legal residence of the child to a location that is more than
11 100 miles from the child's legal residence at the time of the
12 commencement of the action in which the order is issued.

13 (2) A parent's change of a child's legal residence is not
14 restricted by subsection (1) if the other parent consents to, or
15 if the court, after complying with subsection (4), permits, the
16 residence change. This section does not apply if the order
17 governing ~~the child's custody~~ **parenting time with the child**
18 grants ~~sole legal custody~~ **parenting time** to **only** 1 of the
19 child's parents.

20 (3) This section does not apply if, at the time of the
21 commencement of the action in which the ~~custody~~ order **under**
22 **this act** is issued, the child's 2 residences were more than
23 100 miles apart. This section does not apply if the legal
24 residence change results in the child's 2 legal residences being
25 closer to each other than before the change.

26 (4) Before permitting a legal residence change otherwise
27 restricted by subsection (1), the court shall consider each of

1 the following factors, with the child as the primary focus in the
2 court's deliberations:

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

6 (b) The degree to which each parent has complied with, and
7 utilized his or her time under, a court order governing parenting
8 time with the child, and whether the parent's plan to change the
9 child's legal residence is inspired by that parent's desire to
10 defeat or frustrate the parenting time schedule.

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

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

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

23 (5) Each order determining or modifying custody or parenting
24 time of a child shall include a provision stating the parent's
25 agreement as to how a change in either of the child's legal
26 residences will be handled. If such a provision is included in
27 the order and a child's legal residence change is done in

1 compliance with that provision, this section does not apply. If
2 the parents do not agree on ~~such~~ a provision, the court shall
3 include in the order the following provision: "A parent whose
4 custody **of** or parenting time ~~of~~ **with** a child is governed by
5 this order shall not change the legal residence of the child
6 except in compliance with section 11 of the "Child ~~Custody Act~~
7 ~~of 1970~~ **Parenting Act**", 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
11 violence, the parent may move to ~~such~~ a **safe** location with the
12 child until the court makes a determination under this section.

13 Enacting section 1. This amendatory act takes effect July
14 1, 2005.