

HOUSE BILL No. 5163

November 10, 2011, Introduced by Reps. Damrow, Glardon, Callton, Hughes, Horn, Yonker, Rogers, MacGregor, Agema, Rendon, Jenkins, Gilbert, Heise, Potvin, Darany, Liss, Cavanagh, Haugh, Lyons, Kurtz, LaFontaine, Price, Muxlow, Forlini, Kowall and Johnson and referred to the Committee on Judiciary.

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending section 7 (MCL 722.27), as amended by 2005 PA 328, and
by adding section 7c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (a) Award the custody of the child to 1 or more of the parties
7 involved or to others and provide for payment of support for the
8 child, until the child reaches 18 years of age. Subject to section
9 5b of the support and parenting time enforcement act, 1982 PA 295,
10 MCL 552.605b, the court may also order support as provided in this

1 section for a child after he or she reaches 18 years of age. The
2 court may require that support payments shall be made through the
3 friend of the court, court clerk, or state disbursement unit.

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

8 (c) Modify or amend its previous judgments or orders for
9 proper cause shown or because of change of circumstances until the
10 child reaches 18 years of age and, subject to section 5b of the
11 support and parenting time enforcement act, 1982 PA 295, MCL
12 552.605b, until the child reaches 19 years and 6 months of age. The
13 court shall not modify or amend its previous judgments or orders or
14 issue a new order so as to change the established custodial
15 environment of a child unless there is presented clear and
16 convincing evidence that it is in the best interest of the child.
17 The custodial environment of a child is established if over an
18 appreciable time the child naturally looks to the custodian in that
19 environment for guidance, discipline, the necessities of life, and
20 parental comfort. The age of the child, the physical environment,
21 and the inclination of the custodian and the child as to permanency
22 of the relationship shall also be considered. ~~If a motion for~~
23 ~~change of custody is filed during the time a parent is in active~~
24 ~~military duty, the court shall not enter an order modifying or~~
25 ~~amending a previous judgment or order, or issue a new order, that~~
26 ~~changes the child's placement that existed on the date the parent~~
27 ~~was called to active military duty, except the court may enter a~~

~~1 temporary custody order if there is clear and convincing evidence
2 that it is in the best interest of the child. Upon a parent's
3 return from active military duty, the court shall reinstate the
4 custody order in effect immediately preceding that period of active
5 military duty. If a motion for change of custody is filed after a
6 parent returns from active military duty, the court shall not
7 consider a parent's absence due to that military duty in a best
8 interest of the child determination.~~

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

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

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

18 (2) A judgment or order entered under this act providing for
19 the support of a child is governed by and is enforceable as
20 provided in the support and parenting time enforcement act, 1982 PA
21 295, MCL 552.601 to 552.650. If this act contains a specific
22 provision regarding the contents or enforcement of a support order
23 that conflicts with a provision in the support and parenting time
24 enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act
25 controls in regard to that provision.

26 **(3) A MOTION FOR CHANGE OF CUSTODY THAT IS FILED DURING THE**
27 **TIME A PARENT IS IN ACTIVE MILITARY DUTY IS GOVERNED BY SECTION 7C.**

1 SEC. 7C. (1) IF A MOTION FOR CHANGE OF CUSTODY IS FILED DURING
2 THE TIME A PARENT IS IN ACTIVE MILITARY DUTY, THE COURT SHALL NOT
3 ENTER AN ORDER MODIFYING OR AMENDING A PREVIOUS JUDGMENT OR ORDER,
4 OR ISSUE A NEW ORDER, THAT CHANGES THE CHILD'S PLACEMENT THAT
5 EXISTED ON THE DATE THE PARENT WAS CALLED TO ACTIVE MILITARY DUTY,
6 EXCEPT THAT THE COURT MAY ENTER A TEMPORARY CUSTODY ORDER IF THERE
7 IS CLEAR AND CONVINCING EVIDENCE THAT IT IS IN THE BEST INTEREST OF
8 THE CHILD.

9 (2) EXCEPT AS PROVIDED IN THIS SECTION, A PARENT'S TEMPORARY
10 DUTY, MOBILIZATION, OR DEPLOYMENT TO ACTIVE MILITARY SERVICE AND
11 THE RESULTING TEMPORARY ABSENCE FROM THE CHILD SHALL NOT BE A
12 FACTOR IN THE COURT'S DECISION TO GRANT OR DENY A PETITION FOR
13 CUSTODY OR VISITATION.

14 (3) UPON A PARENT'S RETURN FROM ACTIVE MILITARY DUTY, THE
15 COURT SHALL REINSTATE THE CUSTODY ORDER IN EFFECT IMMEDIATELY
16 PRECEDING THAT PERIOD OF ACTIVE MILITARY DUTY. IF A MOTION FOR
17 CHANGE OF CUSTODY IS FILED AFTER A PARENT RETURNS FROM ACTIVE
18 MILITARY DUTY, THE COURT SHALL NOT CONSIDER A PARENT'S ABSENCE DUE
19 TO THAT MILITARY DUTY IN A BEST INTEREST OF THE CHILD
20 DETERMINATION.

21 (4) A PARENT CALLED TO ACTIVE MILITARY DUTY MAY PETITION THE
22 COURT TO ORDER DELEGATION OF HIS OR HER GUARDIANSHIP OR VISITATION
23 RIGHTS TO A THIRD PARTY WHEN THE PARENT IS ON ACTIVE MILITARY DUTY.
24 THE COURT MAY ENTER AN ORDER TO DELEGATE THE GUARDIANSHIP OR
25 VISITATION RIGHTS OF A PARENT WHO HAS BEEN CALLED TO ACTIVE
26 MILITARY DUTY IF THE COURT FINDS THAT THE THIRD PARTY RECEIVING THE
27 DELEGATION HAS AN EXISTING CLOSE RELATIONSHIP TO THE CHILD AND THE

1 DELEGATION IS IN THE BEST INTEREST OF THE CHILD. THERE IS A
2 REBUTTABLE PRESUMPTION THAT A PARENT CALLED TO ACTIVE MILITARY DUTY
3 MAY NOT DELEGATE HIS OR HER GUARDIANSHIP OR VISITATION RIGHTS TO A
4 THIRD PARTY WHO HAS A HISTORY OF PERPETRATING DOMESTIC VIOLENCE
5 AGAINST A SPOUSE, A CHILD, OR A DOMESTIC LIVING PARTNER OR TO A
6 THIRD PARTY WHO HAS AN INDIVIDUAL IN HIS OR HER HOUSEHOLD WHO HAS A
7 HISTORY OF PERPETRATING DOMESTIC VIOLENCE AGAINST A SPOUSE, A
8 CHILD, OR A DOMESTIC LIVING PARTNER.

9 (5) A HEARING ON A PETITION FILED UNDER THIS SECTION SHALL BE
10 EXPEDITED BY THE COURT UPON A MOTION FILED BY THE PARENT BEING
11 CALLED TO ACTIVE MILITARY DUTY.

12 (6) UPON A MOTION BY A PARENT WHO HAS BEEN CALLED TO ACTIVE
13 MILITARY DUTY, PROVIDED THAT REASONABLE ADVANCE NOTICE IS GIVEN AND
14 GOOD CAUSE IS SHOWN, THE COURT SHALL ALLOW THAT PARENT TO PRESENT
15 TESTIMONY AND EVIDENCE BY ELECTRONIC MEANS WITH RESPECT TO MATTERS
16 BEING DECIDED UNDER THIS SECTION WHEN THE PARENT'S DEPLOYMENT HAS A
17 MATERIAL EFFECT ON HIS OR HER ABILITY TO APPEAR IN PERSON AT A
18 REGULARLY SCHEDULED HEARING. AS USED IN THIS SUBSECTION,
19 "ELECTRONIC MEANS" INCLUDES COMMUNICATION BY TELEPHONE OR VIDEO
20 CONFERENCE.