

HOUSE BILL No. 5142

October 7, 2003, Introduced by Reps. Bieda, Spade, Lipsey, Shaffer, Minore, Sheltroun and Condino and referred to the Committee on Judiciary.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7b. (1) Except as provided in this subsection, a
2 grandparent of the child may seek an order for grandparenting
3 time in the manner set forth in this section only if a child
4 custody dispute with respect to that child is pending before the
5 court. If a natural parent of an unmarried child is deceased, a
6 parent of the deceased person may commence an action for
7 grandparenting time. Adoption of the child by a stepparent under
8 ~~chapter X of Act No. 288 of the Public Acts of 1939, being~~
9 ~~sections 710.21 to 710.70 of the Michigan Compiled Laws~~ **the**
10 **Michigan adoption code, chapter X of the probate code of 1939,**
11 **1939 PA 288, MCL 710.21 to 710.70, does not terminate the right**

1 of a parent of the deceased person to commence an action for
2 grandparenting time.

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

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

8 (b) Legal custody of the child is given to a party other than
9 the child's parent, or the child is placed outside of and does
10 not reside in the home of a parent, excluding ~~any~~ **a** child who
11 has been placed for adoption with other than a stepparent, or
12 whose adoption by other than a stepparent has been legally
13 finalized.

14 (3) A grandparent seeking a grandparenting time order may
15 commence an action for grandparenting time, by complaint or
16 complaint and motion for an order to show cause, in the circuit
17 court in the county in which the ~~grandchild~~ **child** resides. If
18 a child custody dispute is pending, the order shall be sought by
19 motion for an order to show cause. The complaint or motion shall
20 be accompanied by an affidavit setting forth facts supporting the
21 requested order. The grandparent shall give notice of the filing
22 to each party who has legal custody of the ~~grandchild~~ **child**. A
23 party having legal custody may file an opposing affidavit. A
24 hearing shall be held by the court on its own motion or if a
25 party so requests. At the hearing, parties submitting affidavits
26 shall be allowed an opportunity to be heard. ~~At the conclusion~~
27 ~~of the hearing, if the court finds that it is in the best~~

1 ~~interests of the child to enter a grandparenting time order~~ In
2 making a determination under this subsection, there is a
3 rebuttable presumption that a parent's actions and decisions
4 regarding grandparenting time are in the child's best interest.
5 The burden of proof regarding this rebuttable presumption is on
6 the grandparent filing a complaint or motion under this section.
7 At the conclusion of the hearing, if the court finds that the
8 parent's actions or decisions regarding grandparenting time are
9 not in the child's best interest, the court shall enter an order
10 providing for reasonable grandparenting time of the child by the
11 grandparent by general or specific terms and conditions. **If the**
12 **court orders grandparenting time, the court shall make specific**
13 **findings on the record that a parent's actions or decisions**
14 **regarding grandparenting time are not in the best interests of**
15 **the child because the parent's actions or decisions are harmful**
16 **to the child and that a grandparenting time order will alleviate**
17 **that harm. The court shall not find that a parent's actions or**
18 **decisions are not in the best interests of the child solely**
19 **because the court disagrees with the parent's actions or**
20 **decisions or because a parent's actions or decisions are**
21 **seemingly arbitrary or capricious.** If a hearing is not held, the
22 court shall enter a grandparenting time order only upon a finding
23 that grandparenting time is in the best interests of the child **as**
24 **provided in this subsection.** A grandparenting time order shall
25 not be entered for the parents of a putative father unless the
26 father has acknowledged paternity in writing, has been
27 adjudicated to be the father by a court of competent

1 jurisdiction, or has contributed regularly to the support of the
2 child or children. The court shall make a record of the reasons
3 for ~~a denial of~~ **granting or denying** a requested grandparenting
4 time order.

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

13 (5) The court shall not enter an order restricting the
14 movement of the ~~grandchild~~ **child** if the restriction is solely
15 for the purpose of allowing the grandparent to exercise the
16 rights conferred in a grandparenting time order.

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

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