

# HOUSE BILL No. 5267

October 6, 2005, Introduced by Reps. Mortimer, Gosselin, Hoogendyk, Sheen, Vander Veen, Huizenga, Hummel, Ward, Taub, Caswell and Gaffney and referred to the Committee on Family and Children Services.

A bill to amend 1970 PA 91, entitled "Child custody act of 1970," by amending section 6a (MCL 722.26a), as added by 1980 PA 434.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6a. (1) IN A CUSTODY DISPUTE BETWEEN PARENTS, THE COURT  
2 SHALL ORDER JOINT CUSTODY UNLESS EITHER OF THE FOLLOWING APPLIES:

3           (A) THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT  
4 A PARENT IS UNFIT, UNWILLING, OR UNABLE TO CARE FOR THE CHILD.

5           (B) A PARENT MOVES HIS OR HER RESIDENCE OUTSIDE THE SCHOOL  
6 DISTRICT THAT THE CHILD HAS ATTENDED DURING THE PREVIOUS 1-YEAR  
7 PERIOD PRECEDING THE INITIATION OF THE ACTION AND IS UNABLE TO  
8 MAINTAIN THE CHILD'S SCHOOL SCHEDULE WITHOUT INTERRUPTION. IF A  
9 PARENT IS UNABLE TO MAINTAIN THE CHILD'S SCHOOL SCHEDULE, THE COURT  
10 SHALL ORDER THAT THE PARENTS SUBMIT TO MEDIATION TO DETERMINE A

1 CUSTODY AGREEMENT THAT MAXIMIZES BOTH PARENTS' ABILITY TO  
 2 PARTICIPATE EQUALLY IN A RELATIONSHIP WITH THEIR CHILD WHILE  
 3 ACCOMMODATING THE CHILD'S SCHOOL SCHEDULE. A PARENT MAY RESTORE  
 4 JOINT CUSTODY BY DEMONSTRATING THE ABILITY TO MAINTAIN THE CHILD'S  
 5 SCHOOL SCHEDULE.

6 (2) ~~(1) In~~ IF SUBSECTION (1) DOES NOT APPLY IN A custody  
 7 ~~disputes~~ DISPUTE between parents, the parents shall be advised of  
 8 joint custody. At the request of either parent, the court shall  
 9 consider an award of joint custody, and shall state on the record  
 10 the reasons for granting or denying a request. In other cases joint  
 11 custody may be considered by the court. The court shall determine  
 12 whether joint custody is in the best interest of the child by  
 13 considering the following factors:

14 (a) The factors enumerated in section 3.

15 (b) Whether the parents will be able to ~~cooperate~~ MAINTAIN  
 16 THE CHILD'S SCHOOL SCHEDULE and generally agree concerning  
 17 important decisions affecting the welfare of the child.

18 (3) ~~(2) If the parents agree on joint~~ IN WRITING TO A  
 19 custody ARRANGEMENT, the court shall ~~award joint~~ GRANT THAT  
 20 custody ~~unless the court determines on the record, based upon~~  
 21 ~~clear and convincing evidence, that joint custody is not in the~~  
 22 ~~best interests of the child~~ ARRANGEMENT.

23 (4) ~~(3) If the court awards joint custody, the court may~~  
 24 SHALL include in its award a statement regarding when the child  
 25 ~~shall reside~~ RESIDES with each parent ~~, or may~~ AND SHALL provide  
 26 that physical custody ~~be~~ IS shared by the parents ~~in a manner to~~  
 27 ~~assure the child continuing contact with both parents~~ ALTERNATELY

1 **FOR SPECIFIC AND SUBSTANTIALLY EQUAL PERIODS OF TIME.**

2 (5) ~~-(4)-~~ During the time a child resides with a parent, that  
3 parent shall decide all routine matters concerning the child.

4 (6) ~~-(5)-~~ If there is a dispute regarding residency, the court  
5 shall state the basis for a residency award on the record or in  
6 writing.

7 (7) ~~-(6)-~~ Joint custody ~~shall~~ **DOES** not eliminate the  
8 responsibility for child support. Each parent ~~shall be~~ **IS**  
9 responsible for child support based on the needs of the child and  
10 the actual resources of each parent. If a parent would otherwise be  
11 unable to maintain adequate housing for the child and the other  
12 parent has sufficient resources, the court may order modified  
13 support payments for a portion of housing expenses even during a  
14 period when the child is not residing in the home of the parent  
15 receiving support. An order of joint custody, in and of itself,  
16 ~~shall~~ **DOES** not constitute grounds for modifying a support order.

17 (8) ~~-(7)-~~ As used in this section, "joint custody" means an  
18 order of the court in which ~~1 or~~ both of the following ~~is~~ **ARE**  
19 specified:

20 (a) That the child ~~shall reside~~ **RESIDES** alternately for  
21 specific **AND SUBSTANTIALLY EQUAL** periods **OF TIME** with each ~~of the~~  
22 ~~parents~~ **PARENT**.

23 (b) That the parents ~~shall~~ share decision-making authority  
24 as to **ALL OF** the important decisions affecting the welfare of the  
25 child, **INCLUDING, BUT NOT LIMITED TO, THE CHILD'S EDUCATION,**  
26 **RELIGIOUS TRAINING, AND MEDICAL TREATMENT.**