

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 956

A bill to amend 1970 PA 91, entitled  
"Child custody act of 1970,"  
by amending sections 2, 4, and 7 (MCL 722.22, 722.24, and  
722.27), section 2 as amended by 1990 PA 245 and sections 4 and 7  
as amended by 1996 PA 19.

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

1       Sec. 2. As used in this act:

2       ~~-(a) "Child" means minor child and children. Subject to~~  
3 ~~section 4a, for purposes of providing support, child includes a~~  
4 ~~child and children who have reached 18 years of age.~~

5       (A) ~~-(b)-~~ "Agency" means any legally authorized ~~—~~ public  
6 or private organization, or governmental unit or official,  
7 whether of this state or of another state or country, concerned  
8 in the welfare of minor children, including a licensed child  
9 placement agency.

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1 (B) "ATTORNEY" MEANS, IF APPOINTED TO REPRESENT A CHILD  
2 UNDER THIS ACT, AN ATTORNEY SERVING AS THE CHILD'S LEGAL ADVOCATE  
3 IN A TRADITIONAL ATTORNEY-CLIENT RELATIONSHIP WITH THE CHILD, AS  
4 GOVERNED BY THE MICHIGAN RULES OF PROFESSIONAL CONDUCT. AN  
5 ATTORNEY DEFINED UNDER THIS SUBDIVISION OWES THE SAME DUTIES OF  
6 UNDIVIDED LOYALTY, CONFIDENTIALITY, AND ZEALOUS REPRESENTATION OF  
7 THE CHILD'S EXPRESSED WISHES AS THE ATTORNEY WOULD TO AN ADULT  
8 CLIENT.

9 (C) "CHILD" MEANS MINOR CHILD AND CHILDREN. SUBJECT TO  
10 SECTION 4A, FOR PURPOSES OF PROVIDING SUPPORT, CHILD INCLUDES A  
11 CHILD AND CHILDREN WHO HAVE REACHED 18 YEARS OF AGE.

12 (D) "GUARDIAN AD LITEM" MEANS AN INDIVIDUAL WHOM THE COURT  
13 APPOINTS TO ASSIST THE COURT IN DETERMINING THE CHILD'S BEST  
14 INTERESTS. A GUARDIAN AD LITEM DOES NOT NEED TO BE AN ATTORNEY.

15 (E) "LAWYER-GUARDIAN AD LITEM" MEANS AN ATTORNEY APPOINTED  
16 UNDER SECTION 4. A LAWYER-GUARDIAN AD LITEM REPRESENTS THE  
17 CHILD, AND HAS THE POWERS AND DUTIES, AS SET FORTH IN SECTION 4.

18 (F) ~~(c)~~ "Third person" means any individual other than a  
19 parent.

20 Sec. 4. (1) In all actions ~~now pending or hereafter filed~~  
21 ~~in a circuit court~~ involving dispute of A MINOR CHILD'S custody,  
22 ~~of a minor child,~~ the court shall declare the CHILD'S inherent  
23 rights ~~of the child~~ and establish the rights and duties as to  
24 THE CHILD'S custody, support, and parenting time ~~of the child~~  
25 in accordance with this act.

26 (2) IF, AT ANY TIME IN THE PROCEEDING, THE COURT DETERMINES  
27 THAT THE CHILD'S BEST INTERESTS ARE INADEQUATELY REPRESENTED, THE

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1 COURT MAY APPOINT A LAWYER-GUARDIAN AD LITEM TO REPRESENT THE  
2 CHILD. A LAWYER-GUARDIAN AD LITEM REPRESENTS THE CHILD AND HAS  
3 POWERS AND DUTIES IN RELATION TO THAT REPRESENTATION AS SET FORTH  
4 IN SECTION 17D OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.17D. ALL  
5 PROVISIONS OF SECTION 17D OF CHAPTER XIIIA OF 1939 PA 288,  
6 MCL 712A.17D, APPLY TO A LAWYER-GUARDIAN AD LITEM APPOINTED UNDER  
7 THIS ACT.

8 (3) IN A PROCEEDING IN WHICH A LAWYER-GUARDIAN AD LITEM REP-  
9 RESENTS A CHILD, HE OR SHE MAY FILE A WRITTEN REPORT AND  
10 RECOMMENDATION. THE COURT MAY READ THE REPORT AND  
11 RECOMMENDATION. THE COURT SHALL NOT, HOWEVER, ADMIT THE REPORT  
12 AND RECOMMENDATION INTO EVIDENCE UNLESS ALL PARTIES STIPULATE THE  
13 ADMISSION. THE PARTIES MAY MAKE USE OF THE REPORT AND RECOMMEN-  
14 DATION FOR PURPOSES OF A SETTLEMENT CONFERENCE.

15 (4) AFTER A DETERMINATION OF ABILITY TO PAY, THE COURT MAY  
16 ASSESS ALL OR PART OF THE COSTS AND REASONABLE FEES OF THE  
17 LAWYER-GUARDIAN AD LITEM AGAINST 1 OR MORE OF THE PARTIES  
18 INVOLVED IN THE PROCEEDINGS OR AGAINST THE MONEY ALLOCATED FROM  
19 MARRIAGE LICENSE FEES FOR FAMILY COUNSELING SERVICES UNDER SEC-  
20 TION 3 OF 1887 PA 128, MCL 551.103. A LAWYER-GUARDIAN AD LITEM  
21 APPOINTED UNDER THIS SECTION SHALL NOT BE PAID A FEE UNLESS THE  
22 COURT FIRST RECEIVES AND APPROVES THE FEE.

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

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1 (a) Award the custody of the child to 1 or more of the  
2 parties involved or to others and provide for payment of support  
3 for the child, until the child reaches 18 years of age. Subject  
4 to section 4a, the court may also order support as provided in  
5 this section for a child after he or she reaches 18 years of  
6 age. The court may require that support payments shall be made  
7 through the friend of the court or COURT clerk. ~~of the court.~~

8 (b) Provide for reasonable parenting time of the child by  
9 the parties involved, BY the maternal or paternal grandparents,  
10 or by others, by general or specific terms and conditions.  
11 Parenting time of the child by the parents ~~shall be~~ IS governed  
12 by section 7a.

13 (c) Modify or amend its previous judgments or orders for  
14 proper cause shown or because of change of circumstances until  
15 the child reaches 18 years of age ~~—~~ and, subject to section 4a,  
16 until the child reaches 19 years and 6 months of age. The court  
17 shall not modify or amend its previous judgments or orders or  
18 issue a new order so as to change the established custodial envi-  
19 ronment of a child unless there is presented clear and convincing  
20 evidence that it is in the best interest of the child. The cus-  
21 todial environment of a child is established if over an apprecia-  
22 ble time the child naturally looks to the custodian in that envi-  
23 ronment for guidance, discipline, the necessities of life, and  
24 parental comfort. The age of the child, the physical environ-  
25 ment, and the inclination of the custodian and the child as to  
26 permanency of the relationship shall also be considered.

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1 (d) Utilize A GUARDIAN AD LITEM OR the community resources  
2 in behavioral sciences and other professions in the investigation  
3 and study of custody disputes and consider their recommendations  
4 for the resolution of the disputes.

5 ~~(e) Appoint a guardian ad litem or counsel for the child~~  
6 ~~and assess the costs and reasonable fees against 1 or more par-~~  
7 ~~ties involved, totally or partially.~~

8 (E) ~~(f)~~ Take any other action considered to be necessary  
9 in a particular child custody dispute.

10 (F) ~~(g)~~ Upon petition consider the reasonable grandparent-  
11 ing time of maternal or paternal grandparents AS PROVIDED IN SEC-  
12 TION 7B and, if denied, make a record of such denial.

13 (2) Except as otherwise provided in this section, the court  
14 shall order support in an amount determined by application of the  
15 child support formula developed by the state friend of the court  
16 bureau. The court may enter an order that deviates from the for-  
17 mula if the court determines from the facts of the case that  
18 application of the child support formula would be unjust or inap-  
19 propriate and sets forth in writing or on the record all of the  
20 following:

21 (a) The support amount determined by application of the  
22 child support formula.

23 (b) How the support order deviates from the child support  
24 formula.

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

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

3 (3) Subsection (2) does not prohibit the court from entering  
4 a support order that is agreed to by the parties and that devi-  
5 ates from the child support formula, if the requirements of sub-  
6 section (2) are met.

7 (4) Beginning January 1, 1991, each support order entered,  
8 modified, or amended by the court shall provide that each party  
9 shall keep the office of the friend of the court informed of both  
10 of the following:

11 (a) The name and address of his or her current source of  
12 income. As used in this subdivision, "source of income" means  
13 that term as defined in section 2 of the support and parenting  
14 time enforcement act, ~~Act No. 295 of the Public Acts of 1982,~~  
15 ~~being section 552.602 of the Michigan Compiled Laws~~ 1982 PA 295,  
16 MCL 552.602.

17 (b) Any health care coverage that is available to him or her  
18 as a benefit of employment or that is maintained by him or her;  
19 the name of the insurance company, health care organization, or  
20 health maintenance organization; the policy, certificate, or con-  
21 tract number; and the names and birth dates of the persons for  
22 whose benefit he or she maintains health care coverage under the  
23 policy, certificate, or contract.

24 (5) For the purposes of this act, "support" may include pay-  
25 ment of the expenses of medical, dental, and other health care,  
26 child care expenses, and educational expenses. The court shall  
27 require 1 or both parents of a child who is the subject of a

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1 petition under this section to obtain or maintain any health care  
2 coverage that is available to them at a reasonable cost, as a  
3 benefit of employment, for the benefit of the child. If a parent  
4 is self-employed and maintains health care coverage, the court  
5 shall require the parent to obtain or maintain dependent coverage  
6 for the benefit of the child, if available at a reasonable cost.

7 (6) A judgment or order entered under this act providing for  
8 the support of a child is enforceable as provided in ~~Act No. 295~~  
9 ~~of the Public Acts of 1982, being sections 552.601 to 552.650 of~~  
10 ~~the Michigan Compiled Laws~~ THE SUPPORT AND PARENTING TIME  
11 ENFORCEMENT ACT, 1982 PA 295, MCL 552.601 TO 552.650.

12 Enacting section 1. This amendatory act takes effect March  
13 1, 1999.