

HOUSE BILL NO. 5211

November 04, 2025, Introduced by Reps. Johnsen, BeGole, Robinson, Meerman, Edwards, Roth, Prestin, Wozniak, Woolford, Alexander, Greene, Cavitt, Markkanen, Bohnak, Paquette, DeBoyer, Thompson, Linting, B. Carter, Beson, Arbit, Andrews, O'Neal, Neeley and Scott and referred to Committee on Judiciary.

A bill to amend 1970 PA 91, entitled
"Child custody act of 1970,"
by amending sections 3 and 5 (MCL 722.23 and 722.25), section 3 as
amended by 2016 PA 95 and section 5 as amended by 2016 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. **(1)** As used in this act, "best interests of the child"
2 means the sum total of the following factors to be considered,
3 evaluated, and determined by the court:
4 (a) The love, affection, and other emotional ties existing
5 between the parties involved and the child.

1 (b) The capacity and disposition of the parties involved to
2 give the child love, affection, and guidance and to continue the
3 education and raising of the child in ~~his or her~~ **the child's**
4 religion or creed, if any.

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

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

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

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

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

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

17 (i) The reasonable preference of the child, if the court
18 considers the child to be of sufficient age to express 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. A court may not consider negatively for the
23 purposes of this factor any reasonable action taken by a parent to
24 protect a child or that parent from sexual assault or domestic
25 violence by the child's other parent.

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

28 (l) Any other factor considered by the court to be relevant to
29 a particular child custody dispute.

1 (2) When making a determination of the best interests of the
2 child, the court must make findings and conclusions of law in
3 writing.

4 Sec. 5. (1) If a child custody dispute is between the parents,
5 there is a presumption that it is in the best interests of the
6 child to award equal or approximately equal parenting time to each
7 parent. The presumption may be rebutted only by clear and
8 convincing evidence placed on the record that equal or
9 approximately equal parenting time is not in the best interests of
10 the child. If a child custody dispute is between a parent and
11 ~~between~~ agencies, or between third persons, the best interests of
12 the child control. If the child custody dispute is between the
13 parent or parents and an agency or a third person, the court shall
14 presume that the best interests of the child are served by awarding
15 custody to the parent or parents, unless the contrary is
16 established by clear and convincing evidence.

17 (2) Notwithstanding ~~any other provisions~~ **provision** of this
18 act, if a child custody dispute involves a child who is conceived
19 as the result of acts for which 1 of the child's biological parents
20 is convicted of criminal sexual conduct as provided in sections
21 520a to 520e and 520g of the Michigan penal code, 1931 PA 328, MCL
22 750.520a to 750.520e and 750.520g, or a substantially similar
23 statute of another state or the federal government, or is found by
24 clear and convincing evidence in a fact-finding hearing to have
25 committed acts of nonconsensual sexual penetration, the court shall
26 not award custody to that biological parent. This subsection does
27 not apply to a conviction under section 520d(1)(a) of the Michigan
28 penal code, 1931 PA 328, MCL 750.520d. This subsection does not
29 apply if, after the date of the conviction, or the date of the

1 finding in a fact-finding hearing described in this subsection, the
2 biological parents cohabit and establish a mutual custodial
3 environment for the child.

4 (3) An offending parent is not entitled to custody of a child
5 described in subsection (2) without the consent of that child's
6 other parent or guardian.

7 (4) Notwithstanding **any** other ~~provisions~~**provision** of this
8 act, subsection (2) does not relieve an offending parent of any
9 support or maintenance obligation to the child. The other parent or
10 the guardian of the child may decline support or maintenance from
11 the offending parent.

12 (5) A parent may assert an affirmative defense of the
13 provisions of subsection (2) in a proceeding brought by the
14 offending parent regarding a child described in subsection (2).

15 (6) Notwithstanding **any** other ~~provisions~~**provision** of this
16 act, if an individual is convicted of criminal sexual conduct as
17 provided in sections 520a to 520e and 520g of the Michigan penal
18 code, 1931 PA 328, MCL 750.520a to 750.520e and 750.520g, and the
19 victim is the individual's child, the court shall not award custody
20 of that child or a sibling of that child to that individual, unless
21 both the child's other parent and, if the court considers the child
22 or sibling to be of sufficient age to express ~~his or her~~**the**
23 **child's or sibling's** desires, the child or sibling consent to the
24 custody.

25 (7) As used in this section, "offending parent" means a parent
26 who has been convicted of criminal sexual conduct as described in
27 subsection (2) or ~~who~~ has been found by clear and convincing
28 evidence in a fact-finding hearing to have committed acts of
29 nonconsensual sexual penetration as described in subsection (2).

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 103rd Legislature are
3 enacted into law:

4 (a) Senate Bill No. ____ (request no. S02657'25 *) or House
5 Bill No. 5212 (request no. H02657'25 *).

6 (b) Senate Bill No. ____ (request no. S02657'25 a *) or House
7 Bill No. 5213 (request no. H02657'25 a *).