

INITIATION OF LEGISLATION

A bill to amend P.A. 1970, No. 91, ¶ 6a added by P.A. 1980, No. 434 ¶ 1, Imd. Eff. Jan.1, 2001, (MCL ¶ 722.26a), entitled as amended “ A bill to create a rebuttable presumption that the award of joint legal and joint physical custody to the parties of a divorce is in the best interest of a minor child of said parties.” The bill would amend the Child Custody Act of 1970 to require the Circuit Court to consider joint physical custody in determining the custody of a child. “Joint Physical Custody” would be defined as an order that awarded physical custody of a minor child to both parents. In an award of joint physical custody, the court will include a statement regarding when the child would reside with each parent, or will provide for physical custody to be shared by the parents in a manner which assures the child continuing contact with both. When there is dispute regarding residency, the court would have to state the basis for a residency award on the record, in writing This proposal is to be voted on November 2, 2004 General Election. **Full text of the proposal is on the reverse side.**

We, the undersigned qualified and registered electors, residents in the county of _____, State of Michigan, respectively petition for initiation of legislation.

WARNING- A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law.

INDICATE CITY OR TOWNSHIP IN WHICH REGISTERED TO VOTE	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
					MO	DAY	YEAR
CITY OF TOWNSHIP OF	1						
CITY OF TOWNSHIP OF	2						
CITY OF TOWNSHIP OF	3						
CITY OF TOWNSHIP OF	4						
CITY OF TOWNSHIP OF	5						
CITY OF TOWNSHIP OF	6						
CITY OF TOWNSHIP OF	7						
CITY OF TOWNSHIP OF	8						
CITY OF TOWNSHIP OF	9						
CITY OF TOWNSHIP OF	10						

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is qualified to circulate this petition and that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a qualified registered elector of the City or Township indicated preceding the signature, and the elector was qualified to sign the petition.

WARNING- A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

Paid for with regulated funds by: DADS OF MICHIGAN PAC, 6632 Telegraph Rd, Suite 110, Bloomfield Hills, MI 48301

CIRCULATOR-Do not sign or date certificate until after circulating petition.

(Signature of Circulator)

_____/_____/_____
(Date)

(Printed Name of Circulator)

(City or Township Where Qualified to be Registered)

Complete Residence Address (Street and Number or Rural Route)

(Zip Code)

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A bill to amend P.A. 1970, No. 91, ¶ 6a added by P.A. 1980, No. 434 ¶ 1, Imd. Eff. Jan.1, 2001, (MCL ¶ 722.26a), entitled as amended “ A bill to create a rebuttable presumption that the award of joint legal and joint physical custody to the parties of a divorce is in the best interest of a minor child of said parties.”

Language that will be stricken from M.C.L.A. ¶ 722.26a will have a line through it. Language that is to be added to M.C.L.A. ¶ 722.26a will be in all capital letters.

M.C.L.A. ¶ 722.26a Joint Legal and Joint Physical Custody

HOUSE BILL NO.:

A bill to amend P.A. 1970, No.91, ¶ 6a added by P.A. 1980, No. 434 ¶ 1, Imd. Eff. January1, 2001, (MCL ¶ 722.26a), entitled as amended “A bill to create a rebuttable presumption that the award of joint legal and joint physical custody to the parties of a divorce is in the best interests of a minor child of said parties.”

The People of the State of Michigan enact:

Section 1. P.A. 1970, No.91, ¶ 6a added by P.A. 1980, No. 434 ¶ 1, being section 722.26a of the Michigan Compiled Laws, is amended to read as follows:

M.C.L.A. ¶ 722.26a. Joint Legal and Joint Physical Custody

Sec. 6a(1) In custody disputes between parents, the parents will be advised of joint custody. THERE SHALL BE A REBUTTABLE PRESUMPTION THAT IT IS IN THE BEST INTERESTS OF THE MINOR CHILDREN FOR THE PARTIES TO BE AWARDED JOINT LEGAL AND JOINT PHYSICAL CUSTODY. At the request of either parent, OR UPON THE FILING OF A COMPLAINT FOR DIVORCE BY EITHER PARTY, the court shall consider an award of joint LEGAL AND JOINT PHYSICAL custody, and shall state on the record the reasons for granting or denying a request. In other cases, joint LEGAL AND JOINT PHYSICAL custody may be considered by the court. The court shall determine whether joint LEGAL AND JOINT PHYSICAL custody PREDICATED UPON THIS REBUTTABLE PRESUMPTION AND the best interests of the child by considering the following factors:

(a) The factors enumerated in section 3, (being MCL ¶ 722.23)

(b) Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child. IF ONE PARTY IS UNWILLING TO COOPERATE WITH THE OTHER IN TERMS OF PARENTING DECISIONS AND MATERIAL ISSUES AFFECTING THE WELFARE OF THE MINOR CHILD FOR NO OR LITTLE MERITORIOUS REASON, THEN THE COURT SHALL CONSIDER AWARDING SOLE CUSTODY TO THE PARTY WHO IS MORE INCLINED TO BE WILLING TO COOPERATE WITH THE OTHER.

(2) If the parents agree on joint LEGAL AND JOINT PHYSICAL custody, the court shall award joint LEGAL AND JOINT PHYSICAL custody unless the court determines on the record based upon clear and convincing evidence, that joint legal and joint physical custody is not in the best interests of the child PREDICATED UPON PROOFS PROVIDED AND ASSERTED DURING A COURT PROCEEDING.

(3) If the court awards joint LEGAL AND JOINT PHYSICAL custody, the court will include in its award a statement regarding when the child shall reside with each parent, or may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents.

(4) During the time a child resides with a parent, that parent shall decide all routine matters concerning the child IN A MANNER THAT IS NOT DISRUPTIVE IN STYLE OR SUBSTANCE OF THE OTHER PARENT.

(5) If there is a dispute regarding residency, the court shall state the basis for a residency award on the record or in writing. IN LIGHT OF THE NEED FOR CONTINUITY OF THE PARENT/CHILD RELATIONSHIP, RELOCATING THE RESIDENCE OF THE CHILD SHALL NOT OCCUR OUTSIDE OF CLEAR AND CONVINCING EVIDENCE OF PETITIONING PARTY.

(6) As used in this section, “joint LEGAL custody” means an order of the court in which 1or both the following is specified:

(a) That the parents shall share decision-making authority as to the important decisions affecting the welfare of the child.

“JOINT PHYSICAL CUSTODY,” MEANS AN ORDER OF THE COURT IN WHICH ONE OR BOTH OF THE FOLLOWING ARE SPECIFIED:

(a) That the child shall reside alternately for specific periods with each of the parents.

(B) THAT ONE PARENT SHALL HAVE DECISION-MAKING AUTHORITY AS TO THE IMPORTANT DECISIONS AFFECTING THE WELFARE OF THE CHILD WHEN THE CHILD RESIDED WITH THAT PARENT.

STATUTORY INTERPRETATION

THIS STATUTE IS TO BE STRICTLY INTERPRETED.