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BEST INTERESTS OF THE CHILD – MICHIGAN LAW

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The information contained below came from Michigan Legal Help in April of 2014 (link below) and is provided to give the legal assistance client an idea of what a court might look for when making custody and parenting time decisions. Keep in mind that this is based on Michigan law, but it is a great outline to use when thinking about child custody and visitation.

<http://michiganlegalhelp.org/self-help-tools/family/best-interests-child-factors#the-best-interests-of-the-child-factors>

The “Best Interests of the Child” Factors

There are 12 factors the court uses when deciding what custody and parenting time arrangements are in the “best interests of the child.” Here are the factors with sample questions the court might ask about each one. Each factor is important, but the court doesn’t have to weigh them all equally. The court might decide some of the factors in your case are more important than others. The court must consider and make a decision about each factor.

But the court may also look at the whole picture to decide what custody and parenting time arrangements are in the best interests of your child.

Factor (a). The love, affection, and other emotional ties existing between the parties involved and the child:

- Who is the child bonded with?
- Who does the child go to with a problem?
- How does each parent relate with the child?
- How much time does each parent spend with the child each day?
- How often does each parent make the child’s meals?
- How often does each parent bathe the child, put the child to bed, and read the child stories?
- Are the parents able to separate the child’s needs from their own?
- How affectionate is the child with each parent?

Factor (b). The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any:

- Who stays home from work if the child is sick?
- Who usually handles school and homework issues?
- Who usually handles sports and other activities?
- How does each parent discipline the child?
- How does each parent talk to the child?
- How often does each parent involve the child with grandparents, uncles, aunts, and others?
- Who takes the child to church or other religious events?

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

- Who buys clothes, toys, food, etc. for the child?
- Who attends to any special needs of the child?
- What is the earning capacity of each parent?
- Who has flexibility in their work hours?
- How stable is the job of each parent?
- Who can provide health insurance for the child?
- Who makes doctor's appointment for the child and takes the child to the doctor?
- Who arranges for childcare?
- If one parent earns more than the other, can child support be used to make things more equal?
- If there is a child support order, is the parent paying support? If there is no order, are the parents providing for the child's needs?

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

- Who provides a stable, secure, and safe home environment for the child?
- Who can provide more stability for the child?
- Has either parent moved recently and, if so, why? How has the child adjusted to the move?

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

- Who is in each parent's family unit?
- Will the child live with siblings or half-siblings?

Factor (f). The moral fitness of the parties involved:

- Has either parent had an extra-marital affair the child knew about?
- Has there been physical or verbal abuse, alcohol or drug abuse, poor driving records, physical or sexual abuse of the child, criminal records, or other negative behaviors by either parent?
- How have these behaviors affected the child?
- Have these behaviors had a significant influence on that parent's parenting skills?

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

- Does either party have a physical or mental health problem that significantly interferes with their ability to care for the child?

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

- How does each parent encourage and influence attendance at school?
- Who goes to school conferences and activities?
- Who will make sure the child sees and talks to their friends?
- Who supervises the child's home responsibilities, like chores?
- Who helps the child with homework?

Factor (i). The reasonable preference of the child, if the court considers the child to be of sufficient age to express a preference:

- It is up to the court to decide whether a child is old enough to state a preference. Courts have considered children as young as eight old enough. The court will give more weight to this factor with children who are older or more mature. There is no age at which a child can decide where he or she wants to live.
- The preference of the child will not be shared with anyone, including attorneys, parents or siblings.

Factor (j). The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents (assuming a relationship with each parent is good for the child):

- How will each parent cooperate with the parenting time schedule?
- Does either parent criticize the other parent in front of the child?
- Will each parent encourage a relationship between the child and the other parent?

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

- Has either parent been threatening, emotionally abusive, verbally abusive or physically violent?
- Has there been a pattern of domestic violence, including physical and non-physical abuse?

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

- If a child has special needs, how does each parent take care of those needs?
- Has either parent threatened to kidnap the child?
- Has either parent missed visits with the child or failed to return the child from visits?
- Are there siblings or other children whose custody is relevant to this child's custody arrangement?
- Are there significant others or new spouses whose relationship with the child affects the child's best interest?
- Is there a possibility that two or more of the children may be separated?
- How far apart do the parents live? (Especially with regard to parenting time schedules).