

By Representative Kelly

1                                   A bill to be entitled  
2           An act relating to grandparents' visitation  
3           rights; amending s. 752.01, F.S.; providing  
4           additional grounds for the award of visitation  
5           rights to grandparents; providing additional  
6           grounds for the court to consider in  
7           determining the best interest of the child with  
8           respect to the award of visitation to the  
9           grandparents; providing criteria for the court  
10          to consider in determining whether granting  
11          visitation to the grandparents will materially  
12          harm the parent-child relationship; providing  
13          an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. Section 752.01, Florida Statutes, is  
18 amended to read:

19           752.01 Action by grandparent for right of visitation;  
20 when petition shall be granted.--

21           (1) The court shall, upon petition filed by a  
22 grandparent of a minor child, award reasonable rights of  
23 visitation to the grandparent with respect to the child when  
24 the court finds that the health or welfare of the child would  
25 be harmed unless such visitation is granted, it is in the best  
26 interest of the minor child, and the granting of such  
27 visitation will not materially harm the parent-child  
28 relationship, if:

29           (a) One or both parents of the child are deceased;

30           (b) The marriage of the parents of the child has been  
31 dissolved;

1 (c) A parent of the child has deserted the child;  
2 (d) The minor child was born out of wedlock and not  
3 later determined to be a child born within wedlock as provided  
4 in s. 742.091; ~~or~~

5 (e) The minor is living with both natural parents who  
6 are still married to each other whether or not there is a  
7 broken relationship between either or both parents of the  
8 minor child and the grandparents, and either or both parents  
9 have used their parental authority to prohibit a relationship  
10 between the minor child and the grandparents; or

11 (f) A deceased parent has made a written testamentary  
12 statement requesting that there be visitation between a  
13 surviving child and grandparent.

14 (2) In determining the best interest of the minor  
15 child, and in assessing whether harm to the child will result  
16 if visitation is not granted, the court shall consider:

17 (a) The willingness of the grandparent or grandparents  
18 to encourage a close relationship between the child and the  
19 parent or parents.

20 (b) The length and quality of the prior relationship  
21 between the child and the grandparent or grandparents.

22 (c) The preference of the child if the child is  
23 determined to be of sufficient maturity to express a  
24 preference.

25 (d) The mental and physical health of the child.

26 (e) The mental and physical health of the grandparent  
27 or grandparents.

28 (f) The extent to which the grandparent or  
29 grandparents have been involved in the provision of care and  
30 support of the child.

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1       (g) Whether the grandparent or grandparents have  
2 established or attempted to establish ongoing personal contact  
3 with the child.

4       (h) The manner in which and the degree to which  
5 visitation is expected to improve, facilitate, or promote the  
6 mental health and development of the child. This paragraph  
7 should not be construed to require a finding of existing or  
8 the potential for mental illness in order for visitation to be  
9 granted.

10       (i) When one parent is deceased, whether grandparent  
11 visitation is desirable in order to maintain or facilitate  
12 contact between the child and the deceased parent's extended  
13 family of origin.

14       (j) Whether grandparent visitation will provide  
15 support and stability for the child when there has been  
16 disruption in the family unit, such as by death, divorce, or  
17 disability of a parent.

18       (k) Whether grandparent visitation will enhance the  
19 parent-child relationship.

20       (l) When one parent is deceased, any written  
21 testamentary statement by the deceased parent that visitation  
22 with the petitioning grandparent or grandparents be granted or  
23 a belief that such visitation would be in the child's best  
24 interest. The lack of such a testamentary statement shall not  
25 be construed as evidence that the deceased parent objects to  
26 the requested visitation.

27       (m)~~(f)~~ Such other factors as are necessary in the  
28 particular circumstances.

29       (3) In determining whether granting visitation will  
30 materially harm the parent-child relationship, the court shall  
31 consider:

1       (a) Whether there have been previous disputes between  
2 the grandparents and the parents over childrearing or other  
3 matters related to the care and upbringing of the child.

4       (b) Whether visitation will, in a material manner,  
5 supersede parental authority.

6       (c) Whether visitation can be arranged in such a  
7 manner as to not materially detract from the parent-child  
8 relationship, including the quantum of time available for  
9 enjoyment of the parent-child relationship, and any other  
10 consideration related to disruption of the schedule and  
11 routine of the parents and child's home lives.

12       (d) Whether visitation is being sought for the primary  
13 purpose of continuing or establishing a relationship with the  
14 child with the intent that the child benefit from the  
15 relationship.

16       (e) Whether the requested visitation will expose the  
17 child to adverse conduct, moral standards, experiences, or  
18 other such matters which are inconsistent with positive  
19 influences provided by the parents.

20       (f) The willingness and ability of the petitioner to  
21 facilitate and encourage a close and continuing relationship  
22 between the child and the other parties.

23       (g) The nature of the relationship between the parents  
24 and the grandparents.

25       (h) The psychological toll of visitation disputes on  
26 the child.

27       (i) Such other factors as are necessary in the  
28 particular circumstances.

29       ~~(4)~~<sup>(3)</sup> This act does not provide for grandparental  
30 visitation rights for children placed for adoption under  
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1 chapter 63 except as provided in s. 752.07 with respect to  
2 adoption by a stepparent.

3 Section 2. This act shall take effect July 1, 1999.

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6 HOUSE SUMMARY

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8 Revises a provision of law concerning an action by a  
grandparent for the right of visitation of a minor child  
to:

9 1. Provide for additional grounds to be considered  
10 by the court, including a finding by the court that the  
health or welfare of the child would be harmed unless the  
11 visitation is granted and a finding that the granting of  
such visitation will not materially harm the parent-child  
relationship.

12 2. Provide grounds for the court to consider in  
13 determining whether granting visitation will materially  
harm the parent-child relationship.

14 See bill for details.

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