

By Senator Campbell

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A bill to be entitled  
An act relating to legal actions by  
grandparents seeking the right of visitation;  
amending s. 752.01, F.S.; providing factors  
that the court must consider in deciding  
whether to grant visitation rights to  
grandparents; providing an effective date.

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

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

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

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

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

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

(c) A parent of the child has deserted the child;

(d) The minor child was born out of wedlock and not  
later determined to be a child born within wedlock as provided  
in s. 742.091; ~~or~~

(e) The minor is living with both natural parents who  
are still married to each other whether or not there is a

1 broken relationship between either or both parents of the  
2 minor child and the grandparents, and either or both parents  
3 have used their parental authority to prohibit a relationship  
4 between the minor child and the grandparents; or-

5 (f) A deceased parent has made a written testamentary  
6 statement requesting that there be visitation between a  
7 surviving child and the grandparent or grandparents.

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

11 (a) The willingness of the grandparent or grandparents  
12 to encourage a close relationship between the child and the  
13 parent or parents.

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

16 (c) The preference of the child if the child is  
17 determined to be of sufficient maturity to express a  
18 preference.

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

20 (e) The mental and physical health of the grandparent  
21 or grandparents.

22 (f) The extent to which the grandparent has been  
23 involved in providing care and support of the child.

24 (g) Whether the grandparent has established or  
25 attempted to establish ongoing personal contact with the  
26 child.

27 (h) The manner in which and the degree to which  
28 visitation is expected to improve, facilitate, or promote the  
29 mental health and development of the child. This provision  
30 does not require a finding of existing mental illness or the  
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1 potential for mental illness in order for visitation to be  
2 granted.

3 (i) If one parent is deceased, whether grandparent  
4 visitation is desirable in order to maintain or facilitate  
5 contact between the child and the deceased parent's extended  
6 family of origin.

7 (j) If there has been disruption in the family unit,  
8 such as by death, divorce, or disability of a parent, whether  
9 grandparent visitation will provide support and stability for  
10 the child.

11 (k) Whether grandparent visitation will enhance the  
12 parent-child relationship.

13 (l) If a parent is deceased, any written testamentary  
14 statement by the deceased parent requesting that visitation  
15 with the petitioning grandparent be granted or stating a  
16 belief that such visitation would be in the child's best  
17 interest. The absence of such a testamentary statement must  
18 not be construed as evidence that the deceased parent would  
19 have objected to the requested visitation.

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

22 (3) In determining whether granting visitation will  
23 materially harm the parent-child relationship, the court shall  
24 consider:

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

28 (b) Whether visitation will in a material manner  
29 interfere with or compromise parental authority.

30 (c) Whether visitation can be arranged in such a  
31 manner as not to materially detract from the parent-child

1 relationship, including the quantity of time available for  
2 enjoyment of the parent-child relationship and any other  
3 consideration related to disruption of the schedule and  
4 routines of the parents' and child's home lives.

5 (d) Whether visitation is being sought for the primary  
6 purpose of continuing or establishing a relationship with the  
7 child with the intent that the child benefit from the  
8 relationship.

9 (e) Whether the requested visitation will expose the  
10 child to undesirable conduct, moral standards, experiences, or  
11 other factors that are inconsistent with positive influences  
12 provided by the parents.

13 (f) The willingness and ability of the petitioners to  
14 facilitate and encourage a close and continuing relationship  
15 between the child and the other parties.

16 (g) The nature of the relationship between the parents  
17 and grandparents.

18 (h) The psychological toll of visitation disputes on  
19 the child.

20 (i) Such other factors as are necessary in the  
21 particular circumstances.

22 (4)(3) This act does not provide for grandparental  
23 visitation rights for children placed for adoption under  
24 chapter 63 except as provided in s. 752.07 with respect to  
25 adoption by a stepparent.

26 Section 2. This act shall take effect July 1, 1999.  
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SENATE SUMMARY

Extensively revises the list of factors that a court must consider in deciding whether to award visitation rights to grandparents of a minor child. Includes a requirement that the court find that the health or welfare of the child would be harmed unless the visitation is granted and a requirement that the court find that the granting of such visitation will not harm the parent-child relationship.