

1 A bill to be entitled
2 An act relating to the rights of grandparents;
3 repealing s. 752.01, F.S., relating to actions by a
4 grandparent for visitation rights; creating s.
5 752.011, F.S.; authorizing the grandparent of a minor
6 child to petition a court for visitation under certain
7 circumstances; requiring a preliminary hearing;
8 providing for the payment of attorney fees and costs
9 by a petitioner who fails to make a prima facie
10 showing of harm; authorizing grandparent visitation if
11 the court makes specified findings; providing factors
12 for court consideration; providing applicability of
13 the Uniform Child Custody Jurisdiction and Enforcement
14 Act; encouraging the consolidation of certain
15 concurrent actions; providing for modification of an
16 order awarding grandparent visitation; limiting the
17 frequency of actions seeking visitation; limiting
18 applicability to a minor child placed for adoption;
19 providing for venue; repealing s. 752.07, F.S.,
20 relating to the effect of adoption of a child by a
21 stepparent on grandparent visitation rights; creating
22 s. 752.071, F.S.; providing conditions under which a
23 court may terminate a grandparent visitation order
24 upon adoption of a minor child by a stepparent or
25 close relative; amending s. 752.015, F.S.; conforming
26 provisions and cross-references to changes made by the

27 act; providing an effective date.

28

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

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31 Section 1. Section 752.01, Florida Statutes, is repealed.

32 Section 2. Section 752.011, Florida Statutes, is created
33 to read:

34 752.011 Petition for grandparent visitation of a minor
35 child.—A grandparent of a minor child whose parents are
36 deceased, missing, or in a permanent vegetative state, or whose
37 one parent is deceased, missing, or in a permanent vegetative
38 state and whose other parent has been convicted of a felony or
39 an offense of violence, may petition the court for court-ordered
40 visitation with the grandchild under this section.

41 (1) Upon the filing of a petition by a grandparent for
42 visitation, the court shall hold a preliminary hearing to
43 determine whether the petitioner has made a prima facie showing
44 of parental unfitness or significant harm to the child. Absent
45 such a showing, the court shall dismiss the petition and may
46 award reasonable attorney fees and costs to be paid by the
47 petitioner to the respondent.

48 (2) If the court finds that there is prima facie evidence
49 that a parent is unfit or that there is significant harm to the
50 child, the court shall proceed with a final hearing, may appoint
51 a guardian ad litem, and shall refer the matter to family
52 mediation as provided in s. 752.015.

53 (3) After conducting a final hearing on the issue of
54 visitation, the court may award reasonable visitation to the
55 grandparent with respect to the minor child if the court finds
56 by clear and convincing evidence that a parent is unfit or that
57 there is significant harm to the child, that visitation is in
58 the best interest of the minor child, and that the visitation
59 will not materially harm the parent-child relationship.

60 (4) In assessing the best interest of the child under
61 subsection (3), the court shall consider the totality of the
62 circumstances affecting the mental and emotional well-being of
63 the minor child, including:

64 (a) The love, affection, and other emotional ties existing
65 between the minor child and the grandparent, including those
66 resulting from the relationship that had been previously allowed
67 by the child's parent.

68 (b) The length and quality of the previous relationship
69 between the minor child and the grandparent, including the
70 extent to which the grandparent was involved in providing
71 regular care and support for the child.

72 (c) Whether the grandparent established ongoing personal
73 contact with the minor child before the death of the parent.

74 (d) The reasons cited by the surviving parent in ending
75 contact or visitation between the minor child and the
76 grandparent.

77 (e) Whether there has been significant and demonstrable
78 mental or emotional harm to the minor child as a result of the

79 disruption in the family unit, whether the child derived support
80 and stability from the grandparent, and whether the continuation
81 of such support and stability is likely to prevent further harm.

82 (f) The existence or threat to the minor child of mental
83 injury as defined in s. 39.01.

84 (g) The present mental, physical, and emotional health of
85 the minor child.

86 (h) The present mental, physical, and emotional health of
87 the grandparent.

88 (i) The recommendations of the minor child's guardian ad
89 litem, if one is appointed.

90 (j) The result of any psychological evaluation of the
91 minor child.

92 (k) The preference of the minor child if the child is
93 determined to be of sufficient maturity to express a preference.

94 (l) A written testamentary statement by the deceased
95 parent regarding visitation with the grandparent. The absence of
96 a testamentary statement is not deemed to provide evidence that
97 the deceased parent would have objected to the requested
98 visitation.

99 (m) Other factors that the court considers necessary to
100 making its determination.

101 (5) In assessing material harm to the parent-child
102 relationship under subsection (3), the court shall consider the
103 totality of the circumstances affecting the parent-child
104 relationship, including:

105 (a) Whether there have been previous disputes between the
106 grandparent and the parent over childrearing or other matters
107 related to the care and upbringing of the minor child.

108 (b) Whether visitation would materially interfere with or
109 compromise parental authority.

110 (c) Whether visitation can be arranged in a manner that
111 does not materially detract from the parent-child relationship,
112 including the quantity of time available for enjoyment of the
113 parent-child relationship and any other consideration related to
114 disruption of the schedule and routine of the parent and the
115 minor child.

116 (d) Whether visitation is being sought for the primary
117 purpose of continuing or establishing a relationship with the
118 minor child with the intent that the child benefit from the
119 relationship.

120 (e) Whether the requested visitation would expose the
121 minor child to conduct, moral standards, experiences, or other
122 factors that are inconsistent with influences provided by the
123 parent.

124 (f) The nature of the relationship between the child's
125 parent and the grandparent.

126 (g) The reasons cited by the parent in ending contact or
127 visitation between the minor child and the grandparent which was
128 previously allowed by the parent.

129 (h) The psychological toll of visitation disputes on the
130 minor child.

131 (i) Other factors that the court considers necessary in
 132 making its determination.

133 (6) Part II of chapter 61 applies to actions brought under
 134 this section.

135 (7) If actions under this section and s. 61.13 are pending
 136 concurrently, the courts are strongly encouraged to consolidate
 137 the actions in order to minimize the burden of litigation on the
 138 minor child and the other parties.

139 (8) An order for grandparent visitation may be modified
 140 upon a showing by the person petitioning for modification that a
 141 substantial change in circumstances has occurred and that
 142 modification of visitation is in the best interest of the minor
 143 child.

144 (9) An original action requesting visitation under this
 145 section may be filed by a grandparent only once during any 2-
 146 year period, except on good cause shown that the minor child is
 147 suffering, or may suffer, significant and demonstrable mental or
 148 emotional harm caused by a parental decision to deny visitation
 149 between a minor child and the grandparent, which was not known
 150 to the grandparent at the time of filing an earlier action.

151 (10) This section does not provide for grandparent
 152 visitation with a minor child placed for adoption under chapter
 153 63 except as provided in s. 752.071 with respect to adoption by
 154 a stepparent or close relative.

155 (11) Venue shall be in the county where the minor child
 156 primarily resides, unless venue is otherwise governed by chapter

157 39, chapter 61, or chapter 63.

158 Section 3. Section 752.07, Florida Statutes, is repealed.

159 Section 4. Section 752.071, Florida Statutes, is created
160 to read:

161 752.071 Effect of adoption by stepparent or close
162 relative.—After the adoption of a minor child by a stepparent or
163 close relative, the stepparent or close relative may petition
164 the court to terminate an order granting grandparent visitation
165 under this chapter which was entered before the adoption. The
166 court may terminate the order unless the grandparent is able to
167 show that the criteria of s. 752.011 authorizing the visitation
168 continue to be satisfied.

169 Section 5. Section 752.015, Florida Statutes, is amended
170 to read:

171 752.015 Mediation of visitation disputes.—It is ~~shall be~~
172 the public policy of this state that families resolve
173 differences over grandparent visitation within the family. It is
174 ~~shall be~~ the further public policy of this state that, when
175 families are unable to resolve differences relating to
176 grandparent visitation, ~~that~~ the family participate in any
177 formal or informal mediation services that may be available. If
178 ~~When~~ families are unable to resolve differences relating to
179 grandparent visitation and a petition is filed pursuant to s.
180 752.011 ~~s. 752.01~~, the court shall, if such services are
181 available in the circuit, refer the case to family mediation in
182 accordance with the Florida Family Law Rules of Procedure ~~rules~~

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183 | ~~promulgated by the Supreme Court.~~

184 | Section 6. This act shall take effect July 1, 2015.