

By the Committee on Fiscal Policy; and Senators Abruzzo and Smith

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1 A bill to be entitled
2 An act relating to the rights of grandparents;
3 amending s. 752.001, F.S.; providing definitions;
4 repealing s. 752.01, F.S., relating to actions by a
5 grandparent for visitation rights; creating s.
6 752.011, F.S.; authorizing the grandparent of a minor
7 child to petition a court for visitation under certain
8 circumstances; requiring a preliminary hearing;
9 providing for the payment of attorney fees and costs
10 by a petitioner who fails to make a prima facie
11 showing of harm; authorizing the court to appoint a
12 guardian ad litem and requiring the court to refer the
13 matter to family mediation upon a specified court
14 finding; authorizing grandparent visitation if the
15 court makes specified findings; providing factors for
16 court consideration; providing applicability of the
17 Uniform Child Custody Jurisdiction and Enforcement
18 Act; encouraging the consolidation of certain
19 concurrent actions; providing for modification of an
20 order awarding grandparent visitation; limiting the
21 frequency of actions seeking visitation; limiting
22 applicability to a minor child placed for adoption;
23 providing for venue; repealing s. 752.07, F.S.,
24 relating to the effect of adoption of a child by a
25 stepparent on grandparent visitation rights; creating
26 s. 752.071, F.S.; providing conditions under which a
27 court may terminate a grandparent visitation order
28 upon adoption of a minor child by a stepparent or
29 close relative; amending s. 752.015, F.S.; conforming

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30 provisions and cross-references to changes made by the
31 act; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Section 752.001, Florida Statutes, is amended to
36 read:

37 752.001 Definitions.—As used in ~~For purposes of~~ this
38 chapter, the term:

39 (1) "Grandparent" shall include great-grandparent.

40 (2) "Missing" means having whereabouts that are unknown for
41 a period of at least 90 days and not being able to be located
42 after a diligent search and inquiry. Such search and inquiry for
43 a missing person must include, at a minimum, inquiries of all
44 relatives of the person who can reasonably be identified by the
45 petitioner, inquiries of hospitals in the areas where the person
46 last resided, inquiries of the person's recent employers,
47 inquiries of state and federal agencies likely to have
48 information about the person, inquiries of appropriate utility
49 and postal providers, a thorough search of at least one
50 electronic database specifically designed for locating persons,
51 and inquiries of appropriate law enforcement agencies.

52 (3) "Persistent vegetative state" has the same meaning as
53 provided in s. 765.101.

54 Section 2. Section 752.01, Florida Statutes, is repealed.

55 Section 3. Section 752.011, Florida Statutes, is created to
56 read:

57 752.011 Petition for grandparent visitation with a minor
58 child.—A grandparent of a minor child whose parents are

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59 deceased, missing, or in a persistent vegetative state, or whose
60 one parent is deceased, missing, or in a persistent vegetative
61 state and whose other parent has been convicted of a felony or
62 an offense of violence-evincing behavior that poses a
63 substantial threat of harm to the minor child's health or
64 welfare, may petition the court for court-ordered visitation
65 with the grandchild under this section.

66 (1) Upon the filing of a petition by a grandparent for
67 visitation, the court shall hold a preliminary hearing to
68 determine whether the petitioner has made a prima facie showing
69 of parental unfitness or significant harm to the child. Absent
70 such a showing, the court shall dismiss the petition and may
71 award reasonable attorney fees and costs to be paid by the
72 petitioner to the respondent.

73 (2) If the court finds that there is prima facie evidence
74 that a parent is unfit or that there is significant harm to the
75 child, the court may appoint a guardian ad litem and shall refer
76 the matter to family mediation as provided in s. 752.015. If
77 family mediation does not successfully resolve the issue of
78 grandparent visitation, the court shall proceed with a final
79 hearing.

80 (3) After conducting a final hearing on the issue of
81 visitation, the court may award reasonable visitation to the
82 grandparent with respect to the minor child if the court finds
83 by clear and convincing evidence that a parent is unfit or that
84 there is significant harm to the child, that visitation is in
85 the best interest of the child, and that the visitation will not
86 materially harm the parent-child relationship.

87 (4) In assessing the best interest of the minor child under

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88 subsection (3), the court shall consider the totality of the
89 circumstances affecting the mental and emotional well-being of
90 the child, including:

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

95 (b) The length and quality of the previous relationship
96 between the minor child and the grandparent, including the
97 extent to which the grandparent was involved in providing
98 regular care and support for the child.

99 (c) Whether the grandparent established ongoing personal
100 contact with the minor child before the death of the parent,
101 before the onset of the parent's persistent vegetative state, or
102 before the parent was missing.

103 (d) The reasons cited by the respondent parent in ending
104 contact or visitation between the minor child and the
105 grandparent.

106 (e) Whether there has been significant and demonstrable
107 mental or emotional harm to the minor child as a result of the
108 disruption in the family unit, whether the child derived support
109 and stability from the grandparent, and whether the continuation
110 of such support and stability is likely to prevent further harm.

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

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

115 (h) The present mental, physical, and emotional health of
116 the grandparent.

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

119 (j) The result of any psychological evaluation of the minor
120 child.

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

123 (l) A written testamentary statement by the deceased or
124 missing parent or parent in a persistent vegetative state
125 regarding visitation with the grandparent. The absence of a
126 testamentary statement is not deemed to provide evidence that
127 the deceased or missing parent or parent in a persistent
128 vegetative state would have objected to the requested
129 visitation.

130 (m) Other factors that the court considers necessary to
131 making its determination.

132 (5) In assessing material harm to the parent-child
133 relationship under subsection (3), the court shall consider the
134 totality of the circumstances affecting the parent-child
135 relationship, including:

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

139 (b) Whether visitation would materially interfere with or
140 compromise parental authority.

141 (c) Whether visitation can be arranged in a manner that
142 does not materially detract from the parent-child relationship,
143 including the quantity of time available for enjoyment of the
144 parent-child relationship and any other consideration related to
145 disruption of the schedule and routine of the parent and the

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146 minor child.

147 (d) Whether visitation is being sought for the primary
148 purpose of continuing or establishing a relationship with the
149 minor child with the intent that the child benefit from the
150 relationship.

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

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

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

159 (h) The psychological toll of visitation disputes on the
160 minor child.

161 (i) Other factors that the court considers necessary in
162 making its determination.

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

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

169 (8) An order for grandparent visitation may be modified
170 upon a showing by the person petitioning for modification that a
171 substantial change in circumstances has occurred and that
172 modification of visitation is in the best interest of the minor
173 child.

174 (9) An original action requesting visitation under this

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175 section may be filed by a grandparent only once during any 2-
176 year period, except on good cause shown that the minor child is
177 suffering, or may suffer, significant and demonstrable mental or
178 emotional harm caused by a parental decision to deny visitation
179 between a minor child and the grandparent, which was not known
180 to the grandparent at the time of filing an earlier action.

181 (10) This section does not provide for grandparent
182 visitation with a minor child placed for adoption under chapter
183 63 except as provided in s. 752.071 with respect to adoption by
184 a stepparent or close relative.

185 (11) Venue shall be in the county where the minor child
186 primarily resides, unless venue is otherwise governed by chapter
187 39, chapter 61, or chapter 63.

188 Section 4. Section 752.07, Florida Statutes, is repealed.

189 Section 5. Section 752.071, Florida Statutes, is created to
190 read:

191 752.071 Effect of adoption by stepparent or close
192 relative.—After the adoption of a minor child by a stepparent or
193 close relative, the stepparent or close relative may petition
194 the court to terminate an order granting grandparent visitation
195 under this chapter which was entered before the adoption. The
196 court may terminate the order unless the grandparent is able to
197 show that the criteria of s. 752.011 authorizing the visitation
198 continue to be satisfied.

199 Section 6. Section 752.015, Florida Statutes, is amended to
200 read:

201 752.015 Mediation of visitation disputes.—It ~~is~~ shall be
202 the public policy of this state that families resolve
203 differences over grandparent visitation within the family. It is

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204 ~~shall be~~ the further public policy of this state that, when
205 families are unable to resolve differences relating to
206 grandparent visitation, ~~that~~ the family participate in any
207 formal or informal mediation services that may be available. If
208 ~~When~~ families are unable to resolve differences relating to
209 grandparent visitation and a petition is filed pursuant to s.
210 752.011 ~~s. 752.01~~, the court shall, if such services are
211 available in the circuit, refer the case to family mediation in
212 accordance with the Florida Family Law Rules of Procedure ~~rules~~
213 ~~promulgated by the Supreme Court.~~

214 Section 7. This act shall take effect July 1, 2015.