

ENROLLED

HB 1119, Engrossed 1

2022 Legislature

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An act relating to grandparent visitation rights;
amending s. 752.011, F.S.; creating a presumption for
maternal or paternal grandparent or stepgrandparent
visitation of a child under certain circumstances;
providing a burden for overcoming such presumption;
providing an effective date.

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

Section 1. Subsections (2) through (11) of section
752.011, Florida Statutes, are renumbered as subsections (3)
through (12), respectively, present subsections (4) and (5) are
amended, and a new subsection (2) is added to that section, to
read:

752.011 Petition for grandparent visitation with a minor
child.—A grandparent of a minor child whose parents are
deceased, missing, or in a persistent vegetative state, or whose
one parent is deceased, missing, or in a persistent vegetative
state and whose other parent has been convicted of a felony or
an offense of violence evincing behavior that poses a
substantial threat of harm to the minor child's health or
welfare, may petition the court for court-ordered visitation
with the grandchild under this section.

(2) Notwithstanding subsection (1), if the court finds

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26 | that one parent of a child has been held criminally liable for
 27 | the death of the other parent of the child or civilly liable for
 28 | an intentional tort causing the death of the other parent of the
 29 | child, there is a presumption for granting reasonable visitation
 30 | with the petitioning grandparent or stepgrandparent if he or she
 31 | is the parent of the child's deceased parent. This presumption
 32 | may only be overcome if the court finds that granting such
 33 | visitation is not in the best interests of the child.

34 | (5)-(4) In assessing the best interests ~~interest~~ of the
 35 | child under subsection (4)-(3), the court shall consider the
 36 | totality of the circumstances affecting the mental and emotional
 37 | well-being of the minor child, including:

38 | (a) The love, affection, and other emotional ties existing
 39 | between the minor child and the grandparent, including those
 40 | resulting from the relationship that had been previously allowed
 41 | by the child's parent.

42 | (b) The length and quality of the previous relationship
 43 | between the minor child and the grandparent, including the
 44 | extent to which the grandparent was involved in providing
 45 | regular care and support for the child.

46 | (c) Whether the grandparent established ongoing personal
 47 | contact with the minor child before the death of the parent,
 48 | before the onset of the parent's persistent vegetative state, or
 49 | before the parent was missing.

50 | (d) The reasons cited by the respondent parent in ending

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51 | contact or visitation between the minor child and the
52 | grandparent.

53 | (e) Whether there has been significant and demonstrable
54 | mental or emotional harm to the minor child as a result of the
55 | disruption in the family unit, whether the child derived support
56 | and stability from the grandparent, and whether the continuation
57 | of such support and stability is likely to prevent further harm.

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

60 | (g) The present mental, physical, and emotional health of
61 | the minor child.

62 | (h) The present mental, physical, and emotional health of
63 | the grandparent.

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

66 | (j) The result of any psychological evaluation of the
67 | minor child.

68 | (k) The preference of the minor child if the child is
69 | determined to be of sufficient maturity to express a preference.

70 | (l) A written testamentary statement by the deceased
71 | parent regarding visitation with the grandparent. The absence of
72 | a testamentary statement is not deemed to provide evidence that
73 | the deceased or missing parent or parent in a persistent
74 | vegetative state would have objected to the requested
75 | visitation.

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76 (m) Other factors that the court considers necessary to
 77 making its determination.

78 (6)~~(5)~~ In assessing material harm to the parent-child
 79 relationship under subsection (4)~~(3)~~, the court shall consider
 80 the totality of the circumstances affecting the parent-child
 81 relationship, including:

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

85 (b) Whether visitation would materially interfere with or
 86 compromise parental authority.

87 (c) Whether visitation can be arranged in a manner that
 88 does not materially detract from the parent-child relationship,
 89 including the quantity of time available for enjoyment of the
 90 parent-child relationship and any other consideration related to
 91 disruption of the schedule and routine of the parent and the
 92 minor child.

93 (d) Whether visitation is being sought for the primary
 94 purpose of continuing or establishing a relationship with the
 95 minor child with the intent that the child benefit from the
 96 relationship.

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

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

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

106 (h) The psychological toll of visitation disputes on the
107 minor child.

108 (i) Other factors that the court considers necessary in
109 making its determination.

110 Section 2. This act shall take effect July 1, 2022.