

By Senator Perry

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1 A bill to be entitled
2 An act relating to grandparent rights in dependency
3 proceedings; amending s. 39.01, F.S.; revising the
4 definition of the term "party"; amending s. 39.509,
5 F.S.; creating a presumption for granting a maternal
6 or paternal grandparent or stepgrandparent reasonable
7 visitation of a dependent child under certain
8 circumstances; providing a burden for overcoming such
9 presumption; authorizing the maternal or paternal
10 grandparent or stepgrandparent of a dependent child to
11 file a motion to intervene in a dependency proceeding
12 under certain circumstances; requiring the court to
13 automatically grant standing in a dependency
14 proceeding to the maternal or paternal grandparent or
15 stepgrandparent under certain circumstances; providing
16 an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsection (58) of section 39.01, Florida
21 Statutes, is amended to read:

22 39.01 Definitions.—When used in this chapter, unless the
23 context otherwise requires:

24 (58) "Party" means the parent or parents of the child, the
25 petitioner, the department, the guardian ad litem or the
26 representative of the guardian ad litem program when the program
27 has been appointed, and the child. The maternal or paternal
28 grandparent or stepgrandparent of the child may become a party,
29 but only to the extent permitted under s. 39.509(2). The

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30 presence of the child may be excused by order of the court when
31 presence would not be in the child's best interest. Notice to
32 the child may be excused by order of the court when the age,
33 capacity, or other condition of the child is such that the
34 notice would be meaningless or detrimental to the child.

35 Section 2. Section 39.509, Florida Statutes, is amended to
36 read:

37 39.509 Grandparents rights.—

38 (1) Notwithstanding any other provision of law, a maternal
39 or paternal grandparent as well as a stepgrandparent is entitled
40 to reasonable visitation with his or her grandchild who has been
41 adjudicated a dependent child and taken from the physical
42 custody of the parent unless the court finds that such
43 visitation is not in the best interests ~~interest~~ of the child or
44 that such visitation would interfere with the goals of the case
45 plan. If the court finds that one parent of the dependent child
46 has been held criminally or civilly liable for the death of the
47 other parent of the dependent child, there is a presumption for
48 granting reasonable visitation with the petitioning grandparent
49 or stepgrandparent if he or she is the parent of the dependent
50 child's deceased parent. This presumption may be overcome only
51 if the court finds that granting such visitation is not in the
52 best interests of the child. Reasonable visitation may be
53 unsupervised and, where appropriate and feasible, may be
54 frequent and continuing. Any order for visitation or other
55 contact must conform to ~~the provisions of~~ s. 39.0139.

56 (a) ~~(1)~~ Grandparent visitation may take place in the home of
57 the grandparent unless there is a compelling reason for denying
58 such a visitation. The department's caseworker shall arrange the

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59 visitation to which a grandparent is entitled under ~~pursuant to~~
60 this section. The state may ~~shall~~ not charge a fee for any costs
61 associated with arranging the visitation. However, the
62 grandparent must ~~shall~~ pay for the child's cost of
63 transportation when the visitation is to take place in the
64 grandparent's home. The caseworker must ~~shall~~ document the
65 reasons for any decision to restrict a grandparent's visitation.

66 (b)(2) A grandparent entitled to visitation under ~~pursuant~~
67 ~~to~~ this section is ~~shall~~ not ~~be~~ restricted from appropriate
68 displays of affection to the child, such as appropriately
69 hugging or kissing his or her grandchild. Gifts, cards, and
70 letters from the grandparent and other family members may ~~shall~~
71 not be denied to a child who has been adjudicated a dependent
72 child.

73 (c)(3) Any attempt by a grandparent to facilitate a meeting
74 between the child who has been adjudicated a dependent child and
75 the child's parent or legal custodian, or any other person in
76 violation of a court order shall automatically terminate future
77 visitation rights of the grandparent.

78 (d)(4) When the child has been returned to the physical
79 custody of his or her parent, the visitation rights granted
80 under ~~pursuant to~~ this section ~~shall~~ terminate.

81 (e)(5) The termination of parental rights does not affect
82 the rights of grandparents unless the court finds that such
83 visitation is not in the best interest of the child or that such
84 visitation would interfere with the goals of permanency planning
85 for the child.

86 (f)(6) In determining whether grandparental visitation is
87 not in the child's best interest, consideration may be given to

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88 the following:

89 1.~~(a)~~ The finding of guilt, regardless of adjudication, or
90 entry or plea of guilty or nolo contendere to charges under the
91 following statutes, or similar statutes of other jurisdictions:
92 s. 787.04, relating to removing minors from the state or
93 concealing minors contrary to court order; s. 794.011, relating
94 to sexual battery; s. 798.02, relating to lewd and lascivious
95 behavior; chapter 800, relating to lewdness and indecent
96 exposure; s. 826.04, relating to incest; or chapter 827,
97 relating to the abuse of children.

98 2.~~(b)~~ The designation by a court as a sexual predator as
99 defined in s. 775.21 or a substantially similar designation
100 under laws of another jurisdiction.

101 3.~~(c)~~ A report of abuse, abandonment, or neglect under ss.
102 415.101-415.113 or this chapter and the outcome of the
103 investigation concerning such report.

104 (2) Notwithstanding any other provision of law, once a
105 child has been adjudicated a dependent child and is taken from
106 the physical custody of the parent, the maternal or paternal
107 grandparent or stepgrandparent of that child may file a motion
108 to intervene in the dependency proceeding. If the court has
109 terminated parental rights, the maternal or paternal grandparent
110 or stepgrandparent of the child shall automatically become a
111 party to the dependency proceeding unless the court finds that
112 allowing the grandparent or stepgrandparent standing is not in
113 the best interests of the child.

114 Section 3. This act shall take effect July 1, 2022.