

By the Committee on Judiciary; and Senators Perry and Rouson

590-02248-22

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1 A bill to be entitled
2 An act relating to grandparent visitation rights;
3 amending s. 752.011, F.S.; creating a presumption for
4 maternal or paternal grandparent or stepgrandparent
5 visitation of a child under certain circumstances;
6 providing a burden for overcoming such presumption;
7 providing an effective date.

8

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

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

16 752.011 Petition for grandparent visitation with a minor
17 child.—A grandparent of a minor child whose parents are
18 deceased, missing, or in a persistent vegetative state, or whose
19 one parent is deceased, missing, or in a persistent vegetative
20 state and whose other parent has been convicted of a felony or
21 an offense of violence evincing behavior that poses a
22 substantial threat of harm to the minor child's health or
23 welfare, may petition the court for court-ordered visitation
24 with the grandchild under this section.

25 (2) Notwithstanding subsection (1), if the court finds that
26 one parent of a child has been held criminally or civilly liable
27 for the death of the other parent of the child, there is a
28 presumption for granting reasonable visitation with the
29 petitioning grandparent or stepgrandparent if he or she is the

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30 parent of the child's deceased parent. This presumption may be
31 overcome only if the court finds that granting such visitation
32 is not in the best interests of the child.

33 (5)~~(4)~~ In assessing the best interests ~~interest~~ of the
34 child under subsection (4) ~~(3)~~, the court shall consider the
35 totality of the circumstances affecting the mental and emotional
36 well-being of the minor child, including:

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

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

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

49 (d) The reasons cited by the respondent parent in ending
50 contact or visitation between the minor child and the
51 grandparent.

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

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

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

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

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

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

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

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

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

77 (6) ~~(5)~~ In assessing material harm to the parent-child
78 relationship under subsection (4) ~~(3)~~, the court shall consider
79 the totality of the circumstances affecting the parent-child
80 relationship, including:

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

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

86 (c) Whether visitation can be arranged in a manner that
87 does not materially detract from the parent-child relationship,

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88 including the quantity of time available for enjoyment of the
89 parent-child relationship and any other consideration related to
90 disruption of the schedule and routine of the parent and the
91 minor child.

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

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

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

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

104 (h) The psychological toll of visitation disputes on the
105 minor child.

106 (i) Other factors that the court considers necessary in
107 making its determination.

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