

By Senator Thompson

15-01265-24

2024956__

1 A bill to be entitled
2 An act relating to grandparent visitation; amending s.
3 752.011, F.S.; revising the criteria required for the
4 grandparent of a minor child to petition the court for
5 grandparent visitation; conforming provisions to
6 changes made by the act; making technical changes;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 752.011, Florida Statutes, is amended to
12 read:

13 752.011 Petition for grandparent visitation with a minor
14 child.—A grandparent of a minor child ~~whose parents are~~
15 ~~deceased, missing, or in a persistent vegetative state, or whose~~
16 ~~one parent is deceased, missing, or in a persistent vegetative~~
17 ~~state and whose other parent has been convicted of a felony or~~
18 ~~an offense of violence evincing behavior that poses a~~
19 ~~substantial threat of harm to the minor child's health or~~
20 ~~welfare,~~ may petition the court for court-ordered visitation
21 with the grandchild under this section if one or both of the
22 minor child's parents are deceased, missing, or in a persistent
23 vegetative state.

24 (1) Upon the filing of a petition by a grandparent for
25 visitation, the court shall hold a preliminary hearing to
26 determine whether the petitioner has made a prima facie showing
27 that one or both of the minor child's parents are deceased,
28 missing, or in a persistent vegetative state ~~of parental~~
29 ~~unfitness or significant harm to the child.~~ Absent such a

15-01265-24

2024956__

30 showing, the court shall dismiss the petition and may award
31 reasonable attorney fees and costs to be paid by the petitioner
32 to the respondent.

33 ~~(2) Notwithstanding subsection (1), if the court finds that~~
34 ~~one parent of a child has been held criminally liable for the~~
35 ~~death of the other parent of the child or civilly liable for an~~
36 ~~intentional tort causing the death of the other parent of the~~
37 ~~child, there is a presumption for granting reasonable visitation~~
38 ~~with the petitioning grandparent or stepgrandparent if he or she~~
39 ~~is the parent of the child's deceased parent. This presumption~~
40 ~~may only be overcome if the court finds that granting such~~
41 ~~visitation is not in the best interests of the child.~~

42 (2)~~(3)~~ If the court finds that there is prima facie
43 evidence that one or both of the minor child's parents are
44 deceased, missing, or in a persistent vegetative state ~~a parent~~
45 ~~is unfit or that there is significant harm to the child~~, the
46 court may appoint a guardian ad litem and must ~~shall~~ refer the
47 matter to family mediation as provided in s. 752.015. If family
48 mediation does not successfully resolve the issue of grandparent
49 visitation, the court must ~~shall~~ proceed with a final hearing.

50 (3)~~(4)~~ After conducting a final hearing on the issue of
51 visitation, the court may award reasonable visitation to the
52 grandparent with respect to the minor child if the court finds
53 by clear and convincing evidence that one or both of the minor
54 child's parents are deceased, missing, or in a persistent
55 vegetative state ~~a parent is unfit or that there is significant~~
56 ~~harm to the child~~, that visitation is in the best interest of
57 the minor child, and that the visitation will not materially
58 harm the parent-child relationship, if one exists.

15-01265-24

2024956__

59 (4)~~(5)~~ In assessing the best interests of the child under
60 subsection (3)~~(4)~~, the court shall consider the totality of the
61 circumstances affecting the mental and emotional well-being of
62 the minor child, including:

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

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

71 (c) Whether the grandparent established ongoing personal
72 contact with the minor child before the death of the parent,
73 before the onset of the parent's persistent vegetative state, or
74 before the parent was missing.

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

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

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

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

87 (h) The present mental, physical, and emotional health of

15-01265-24

2024956__

88 the grandparent.

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

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

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

95 (l) A written testamentary statement by the deceased parent
96 regarding visitation with the grandparent. The absence of a
97 testamentary statement is not deemed to provide evidence that
98 the deceased or missing parent or parent in a persistent
99 vegetative state would have objected to the requested
100 visitation.

101 (m) Other factors that the court considers necessary to
102 making its determination.

103 (5)~~(6)~~ In assessing material harm to the parent-child
104 relationship under subsection (3)~~(4)~~, the court shall consider
105 the totality of the circumstances affecting the parent-child
106 relationship, including:

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

110 (b) Whether visitation would materially interfere with or
111 compromise parental authority.

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

15-01265-24

2024956__

117 minor child.

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

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

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

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

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

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

134 (6)~~(7)~~ Part II of chapter 61 applies to actions brought
135 under this section.

136 (7)~~(8)~~ If actions under this section and s. 61.13 are
137 pending concurrently, the courts are strongly encouraged to
138 consolidate the actions in order to minimize the burden of
139 litigation on the minor child and the other parties.

140 (8)~~(9)~~ An order for grandparent visitation may be modified
141 upon a showing by the person petitioning for modification that a
142 substantial change in circumstances has occurred and that
143 modification of visitation is in the best interest of the minor
144 child.

145 (9)~~(10)~~ An original action requesting visitation under this

15-01265-24

2024956__

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

152 (10)~~(11)~~ This section does not provide for grandparent
153 visitation with a minor child placed for adoption under chapter
154 63 except as provided in s. 752.071 with respect to adoption by
155 a stepparent or close relative.

156 (11)~~(12)~~ Venue shall be in the county where the minor child
157 primarily resides, unless venue is otherwise governed by chapter
158 39, chapter 61, or chapter 63.

159 Section 2. This act shall take effect July 1, 2024.