

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 639
Committee Substitute Favorable 4/23/99

Short Title: Grandparent Visitation.

(Public)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING
LAW PERTAINING TO GRANDPARENT VISITATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Unless a contrary intent is clear, the word 'custody' as it applies to parents of a minor child shall be deemed to include custody or visitation or both."

Section 2. G.S. 50-13.2(b1) reads as rewritten:

"(b1) An order for custody of a minor child may provide visitation rights for any grandparent of the child as the court, in its discretion, deems appropriate. ~~As used in this subsection, "grandparent" includes a biological grandparent of a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ Under no circumstances shall a biological grandparent of a child adopted by adoptive parents, neither of whom is related to the child and where parental rights of both biological parents have been terminated, be entitled to visitation rights."

Section 3. G.S. 50-13.2A reads as rewritten:

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1 **"§ 50-13.2A. Action for visitation of an adopted grandchild by grandparent.**

2 A ~~biological~~ grandparent may institute an action or proceeding for visitation rights
3 with a ~~grandchild~~ ~~child~~ ~~adopted~~ ~~by~~ ~~a~~ ~~stepparent~~ ~~or~~ ~~a~~ ~~relative~~ ~~of~~ ~~the~~ ~~child~~ ~~where~~ ~~a~~
4 ~~substantial~~ ~~relationship~~ ~~exists~~ ~~between~~ ~~the~~ ~~grandparent~~ ~~and~~ ~~the~~ ~~child.~~ ~~under~~ ~~the~~
5 ~~provisions~~ ~~of~~ ~~this~~ ~~section.~~ Under no circumstances shall a biological grandparent of a
6 child adopted by adoptive parents, neither of whom is related to the child and where
7 parental rights of both biological parents have been terminated, be entitled to visitation
8 rights. A court may award visitation rights ~~if~~ ~~as~~ it determines ~~that~~ ~~visitation~~ ~~is~~ ~~to~~ ~~be~~ in the
9 best interest of the ~~child.~~ ~~grandchild.~~ ~~An~~ ~~order~~ ~~awarding~~ ~~visitation~~ ~~rights~~ ~~shall~~ ~~contain~~
10 ~~findings~~ ~~of~~ ~~fact~~ ~~which~~ ~~support~~ ~~the~~ ~~determination~~ ~~by~~ ~~the~~ ~~judge~~ ~~of~~ ~~the~~ ~~best~~ ~~interest~~ ~~of~~ ~~the~~ ~~child.~~
11 ~~An~~ ~~order~~ ~~awarding~~ ~~or~~ ~~denying~~ ~~visitation~~ ~~under~~ ~~this~~ ~~section~~ ~~shall~~ ~~contain~~ ~~findings~~
12 ~~of~~ ~~fact~~ ~~supporting~~ ~~the~~ ~~award~~ ~~or~~ ~~denial~~ ~~of~~ ~~visitation~~ ~~based~~ ~~on~~ ~~the~~ ~~grandchild's~~ ~~best~~ ~~interest.~~
13 ~~If~~ ~~the~~ ~~grandchild's~~ ~~legal~~ ~~parents~~ ~~are~~ ~~married~~ ~~and~~ ~~living~~ ~~together,~~ ~~the~~ ~~court~~ ~~shall~~ ~~not~~ ~~award~~
14 ~~visitation~~ ~~unless~~ ~~the~~ ~~court~~ ~~determines~~ ~~the~~ ~~following:~~

- 15 (1) That there is a preexisting relationship between the grandparent and the
16 grandchild that has engendered a bond such that visitation is in the best
17 interest of the grandchild; and
18 (2) That the amount and circumstances of the visitation awarded will not
19 substantially interfere with the right of the parents to exercise their
20 parental authority.

21 Where the grandchild's biological parents are married and living together, there is a
22 presumption that may be rebutted by clear and convincing evidence that visitation by a
23 grandparent is not in the best interest of the grandchild if the grandchild's biological
24 parents agree that the grandparent should not be granted visitation rights. Where the
25 grandchild's biological parents either are not married or are not living together, or both,
26 there is no presumption on behalf of any party to the action. Procedure, venue, and
27 jurisdiction shall be are the same as in an action for custody."

28 Section 4. G.S. 50-13.5(j) is repealed.

29 Section 5. This act becomes effective October 1, 1999.