

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH80246-LU-45 (3/20)

Short Title: Grandparent Visitation.

(Public)

Sponsors: Representative Culp (By Request).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN EXPANSION OF RIGHTS UNDER EXISTING
LAWS RELATING 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:

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

(a) ~~A biological grandparent may institute an action or proceeding for visitation rights with a child adopted by a stepparent or a relative of the child where a substantial relationship exists between the grandparent and the child.~~ grandchild under the provisions of this section. Where either or both of the parents of a minor child, residing within this State, is or are deceased, or where existing circumstances require otherwise, a grandparent of the child may apply to the court for visitation by commencing a special

1 proceeding or by writ of habeas corpus to have the child brought before the court. Under
2 no circumstances shall a biological grandparent of a child adopted by adoptive parents,
3 neither of whom is related to the child and where parental rights of both biological
4 parents have been terminated, be entitled to visitation rights. ~~After notice is given to~~
5 the parent or any other party having the care, custody, and control of the child in a
6 manner prescribed by the court, a court may award visitation rights ~~if to the grandparent~~
7 as it determines ~~that visitation is to be~~ in the best interest of the ~~child.~~ grandchild. ~~An~~
8 order awarding visitation rights shall contain findings of fact which support the
9 determination by the judge of the best interest of the child. For purposes of this section,
10 visitation shall not include custody.

11 (b) An order awarding or denying visitation under this section shall contain
12 findings of fact supporting the award or denial of visitation based on the grandchild's
13 best interest. In determining the best interest of the child, the court shall consider
14 awarding or denying visitation to the grandparent under the following circumstances:

15 (1) Where a parent has not allowed a grandparent to visit with or
16 communicate with the child and the grandparent has made good faith
17 attempts to visit or communicate with the child.

18 (2) Where the grandparent has had a preexisting relationship with the
19 child.

20 (3) Where the grandparent has not had a preexisting relationship with the
21 child because of the parent's refusal to allow the grandparent to
22 establish a relationship with the child.

23 (4) Any other relevant circumstances the court deems necessary in
24 determining the best interest of the child.

25 There is a rebuttable presumption that the parent's decision to deny the grandparent
26 visitation or communication with the child is in the best interest of the child. Procedure,
27 venue, and jurisdiction ~~shall be the same~~ as in an action for custody."

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

29 **SECTION 5.** This act is effective when it becomes law.