

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 44*

Short Title: Grandparent Visitation.

(Public)

Sponsors: Senator Lucas.

Referred to: Children and Human Resources.

February 4, 1997

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:

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

1 A ~~biological~~ grandparent may institute an action or proceeding for visitation rights
2 with a ~~grandchild~~ child adopted by a stepparent or a relative of the child where a
3 ~~substantial relationship exists between the grandparent and the child.~~ under the
4 provisions of this section. Under no circumstances shall a biological grandparent of a
5 child adopted by adoptive parents, neither of whom is related to the child and where
6 parental rights of both biological parents have been terminated, be entitled to visitation
7 rights. A court may award such visitation rights if as it determines that visitation is to be
8 in the best interest of the child. ~~grandchild.~~ ~~An order awarding visitation rights shall~~
9 ~~contain findings of fact which support the determination by the judge of the best interest~~
10 ~~of the child.~~ An order awarding or denying visitation under this section shall contain
11 findings of fact supporting the award or denial of visitation based on the grandchild's best
12 interest. If the grandchild's legal parents are married and living together, the court shall
13 not award visitation unless the court determines the following by clear and convincing
14 evidence: (1)either that there is a preexisting relationship between the grandparent and
15 the grandchild that has engendered a bond, or that the grandparent has made a substantial
16 effort to establish a bond, such that visitation is in the best interest of the grandchild, and
17 (2) that the amount and circumstances of the visitation awarded will not substantially
18 interfere with the right of the parents to exercise their parental authority. Where the
19 grandchild's legal parents are married and living together, there is a presumption that may
20 be rebutted by clear and convincing evidence that visitation by a grandparent is not in the
21 best interest of the grandchild if the grandchild's legal parents agree that the grandparent
22 should not be granted visitation rights. Where the grandchild's legal parents either are not
23 married or are not living together, or both, there is no presumption on behalf of any party
24 to the action. Procedure, venue, and jurisdiction ~~shall be~~ are the same as in an action for
25 custody."

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

27 Section 5. This act becomes effective October 1, 1997.