

Senate File 2306

S-5153

1 Amend Senate File 2306 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 600C.1, Code 2009, is amended
5 by striking the section and inserting in lieu thereof
6 the following:

7 **600C.1 Grandparent and great-grandparent visitation.**

8 1. The grandparent or great-grandparent of a
9 minor child may petition the court for grandchild or
10 great-grandchild visitation when the parent of the
11 minor child, who is the child of the grandparent or the
12 grandchild of the great-grandparent, is deceased.

13 2. The court shall consider a fit parent's
14 objections to granting visitation under this section.
15 A rebuttable presumption arises that a fit parent's
16 decision to deny visitation to a grandparent or
17 great-grandparent is in the best interest of a minor
18 child.

19 3. The court may grant visitation to the
20 grandparent or great-grandparent under this section
21 if the court finds all of the following by clear and
22 convincing evidence:

23 a. It is in the best interest of the child to grant
24 such visitation.

25 b. The grandparent or great-grandparent has
26 established a substantial relationship with the child
27 prior to the filing of the petition.

28 c. That the presumption that the parent who is
29 being asked to temporarily relinquish care, custody,
30 and control of the child to provide visitation is fit
31 to make the decision regarding visitation is overcome
32 by demonstrating one of the following:

33 (1) The parent is unfit to make such decision.

34 (2) The parent's judgment has been impaired and the
35 relative benefit to the child of granting visitation
36 greatly outweighs any effect on the parent-child
37 relationship. Impaired judgment of a parent may be
38 evidenced by any of, but not limited to, the following:

39 (a) Neglect of the child.

40 (b) Abuse of the child.

41 (c) Violence toward the child.

42 (d) Indifference or absence of feeling toward the
43 child.

44 (e) Demonstrated unwillingness and inability to
45 promote the emotional and physical well-being of the
46 child.

47 (f) Drug abuse.

48 (g) A diagnosis of mental illness.

49 4. In determining the best interest of the child,
50 the court shall consider all of the following:

1 a. The prior interaction and interrelationships of
2 the child with the child's parents, siblings, and other
3 persons related by consanguinity or affinity, compared
4 to the child's relationship with the grandparent or
5 great-grandparent.

6 b. The geographical location of the grandparent's
7 or great-grandparent's residence and the distance
8 between the grandparent's or great-grandparent's
9 residence and the child's residence.

10 c. The child's and parent's available time,
11 including but not limited to the parent's employment
12 schedule, the child's school schedule, the amount of
13 time that will be available for the child to spend with
14 siblings, and the child's and the parent's holiday and
15 vacation schedules.

16 d. The age of the child.

17 e. If the court has interviewed the child in
18 chambers as provided in this section regarding the
19 wishes and concerns of the child as to visitation
20 by the grandparent or great-grandparent or as to a
21 specific visitation schedule, the wishes and concerns
22 of the child, as expressed to the court.

23 f. The health and safety of the child.

24 g. The mental and physical health of all parties.

25 h. Whether the grandparent or great-grandparent
26 previously has been convicted of or pleaded guilty to
27 any criminal offense involving any act that resulted
28 in a child being an abused child or a neglected child;
29 whether the grandparent or great-grandparent previously
30 has been convicted of or pleaded guilty to a crime
31 involving a victim who at the time of the commission
32 of the offense was a member of the family or household
33 that is the subject of the current proceeding; and
34 whether there is reason to believe that the grandparent
35 or great-grandparent has acted in a manner resulting in
36 a child having ever been found to be an abused child
37 or a neglected child.

38 i. The wishes and concerns of the child's parent,
39 as expressed by the parent to the court.

40 j. Any other factor in the best interest of the
41 child.

42 5. For the purposes of this subsection "substantial
43 relationship" includes but is not limited to any of the
44 following:

45 a. The child has lived with the grandparent or
46 great-grandparent for at least six months.

47 b. The grandparent or great-grandparent has
48 voluntarily and in good faith supported the child
49 financially in whole or in part for a period of not
50 less than six months.

1 c. The grandparent or great-grandparent has had
2 frequent visitation including occasional overnight
3 visitation with the child for a period of not less than
4 one year.

5 6. If the court interviews any child concerning
6 the child's wishes and concerns regarding parenting
7 time or visitation, the interview shall be conducted
8 in chambers, and only the child, the child's attorney,
9 the judge, any necessary court personnel, and, in the
10 judge's discretion, the attorney of the parent shall
11 be permitted to be present in the chambers during the
12 interview. A person shall not obtain or attempt to
13 obtain from a child a written or recorded statement or
14 affidavit setting forth the wishes and concerns of the
15 child regarding parenting time or visitation.

16 7. For the purposes of this section, "court" means
17 the district court or the juvenile court if that court
18 currently has jurisdiction over the child in a pending
19 action. If an action is not pending, the district
20 court has jurisdiction.

21 8. Notwithstanding any provision of this chapter
22 to the contrary, venue for any action to establish,
23 enforce, or modify visitation under this section shall
24 be in the county where the child resides if no final
25 custody order determination relating to the grandchild
26 or great-grandchild has been entered by any other
27 court. If a final custody order has been entered by
28 any other court, venue shall be located exclusively in
29 the county where the most recent final custody order
30 was entered. If any other custodial proceeding is
31 pending when an action to establish, enforce, or modify
32 visitation under this section is filed, venue shall be
33 located exclusively in the county where the pending
34 custodial proceeding was filed.

35 9. Notice of any proceeding to establish, enforce,
36 or modify visitation under this section shall be
37 personally served upon the parent of the child
38 whose interests are affected by a proceeding brought
39 pursuant to this section and all grandparents or
40 great-grandparents who have previously obtained a final
41 order or commenced a proceeding under this section.

42 10. The court shall not enter any temporary order
43 to establish, enforce, or modify visitation under this
44 section.

45 11. An action brought under this section is subject
46 to chapter 598B, and in an action brought to establish,
47 enforce, or modify visitation under this section,
48 each party shall submit in its first pleading or in an
49 attached affidavit all information required by section
50 598B.209.

1 12. A grandparent or great-grandparent shall not
2 petition for visitation under this section more than
3 once every two years absent a showing of good cause.
4 13. The court shall not issue an order restricting
5 the movement of the child if such restriction is
6 solely for the purpose of allowing the grandparent
7 or great-grandparent the opportunity to exercise the
8 grandparent's or great-grandparent's visitation under
9 this section.>

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